

# Agriculture, Trade and Consumer Protection

(LFB Budget Summary Document: Page 51)

## LFB Summary Items for Which an Issue Paper Has Been Prepared

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1 (part) & 11	Nonpoint Account Management and Conservation Staffing (Paper #136)
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## Legislative Fiscal Bureau

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May 12, 2015

Joint Committee on Finance

Paper #135

### Standard Budget Adjustments -- State Agriculture Laboratory (Agriculture, Trade and Consumer Protection)

[LFB 2015-17 Budget Summary: Page 51, #1 (part)]

#### CURRENT LAW

The Department of Agriculture, Trade and Consumer Protection (DATCP) maintains the State Agriculture Laboratory to provide scientific services to several DATCP programs. As of January, 2014, the State Agriculture Lab began occupying a new building adjacent to DATCP's Madison central offices and co-located with State Laboratory of Hygiene facilities. The State Agriculture Lab includes facilities of: (a) the Bureau of Laboratory Services (BLS), primarily serving the DATCP food safety and agricultural chemical programs; and (b) the Plant Industry Bureau, which tests soils and crops for plant pathogens. BLS charges the food safety and agricultural chemical programs for services; these are counted as expenditures to each program area and as program revenues (PR) for the laboratory. The laboratory, in turn, uses these revenues to cover costs such as staffing, equipment purchases and maintenance, and facilities rent payable to the Department of Administration. DATCP also receives general purpose revenues (GPR) and federal funds (FED) for a share of the State Agriculture Lab rent.

#### GOVERNOR

Provide the following standard adjustments to the DATCP budget to reflect lease costs of the State Agriculture Laboratory: (a) \$136,100 GPR in 2015-16 and \$144,400 GPR in 2016-17; and (b) -\$132,000 PR in 2015-16 and -\$126,400 PR in 2016-17.

#### DISCUSSION POINTS

1. 2013 Act 20 provided DATCP with GPR funding of \$220,100 in 2013-14 and \$267,500 in 2014-15 to cover anticipated increases in lease costs for the new State Agriculture Laboratory. The act also deleted base funding of \$100,100 PR beginning in 2014-15 from the BLS

general operations PR appropriation. The changes were intended to reflect full lease costs of the new facility, with GPR providing 50% of lease costs, consistent with how lease costs are budgeted for the State Laboratory of Hygiene. GPR increases were designated as one-time funding in 2013-15, and the bill removes \$267,500 GPR in base funding under standard budget adjustments.

2. However, the standard budget adjustments also include additions of \$403,600 GPR in 2015-16 and \$411,900 GPR in 2016-17 for State Agriculture Lab lease costs, resulting in the Governor's recommended net increase. As a result, total available GPR may account for perhaps two thirds of annual lease costs for the State Agriculture Laboratory under the bill.

3. Currently, total annualized State Agriculture Laboratory rent is approximately \$680,300. Under assumptions of 2% annual increases for lease costs of state facilities, total State Agriculture Laboratory lease costs are estimated at \$693,900 in 2015-16 and \$707,800 in 2016-17. The Committee could consider modifying the Governor's recommendation to provide 50% GPR funding for the State Agriculture Laboratory [Alternative 2]. A corresponding amount of PR would be provided to reflect the balancing of costs. The following table shows estimated rent amounts under Alternative 2, as well as bill changes necessary to accomplish the funding split. The Committee could also consider adopting the Governor's recommendation [Alternative 1]. Additional GPR would reduce costs charged to food safety and agricultural chemical programs, each of which derives substantial revenues for its program operations from industry fees.

### Summary of Alternative 2

Fund	Alternative 2		Change to Bill	
	2015-16	2016-17	2015-16	2016-17
GPR	\$347,000	\$353,900	-\$104,400	-\$106,700
FED	30,000	30,000	0	0
PR*	<u>316,900</u>	<u>323,900</u>	<u>91,700</u>	<u>93,800</u>
Total	\$693,900	\$707,800	-\$12,700	-\$12,900

\* Consists of charges assessed to food safety and agricultural management programs.

### ALTERNATIVES

1. Adopt the Governor's recommendation.

2. Modify the Governor's recommendation as follows to reestimate lease costs of the State Agriculture Laboratory based on 50% GPR funding: (a) delete \$104,400 GPR in 2015-16 and \$106,700 GPR in 2016-17; and (b) provide \$91,700 PR in 2015-16 and \$93,800 PR in 2016-17.

ALT 2	Change to Bill
GPR	-\$211,100
PR	<u>185,500</u>
Total	-\$25,600

Prepared by: Paul Ferguson



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May 12, 2015

Joint Committee on Finance

Paper #136

### **Nonpoint Account Management and Conservation Staffing (Agriculture, Trade and Consumer Protection)**

[LFB 2015-17 Budget Summary: Page 51, #1 (part) and Page 60, #11]

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#### **CURRENT LAW**

*Nonpoint Account.* The nonpoint account is one of two components of the segregated (SEG) environmental fund, the other account being the environmental management account. The nonpoint account supports state and local programs to identify and address nonpoint source water pollution, which is water pollution not from a defined source such as a wastewater treatment plant. Nonpoint source pollution abatement programs are intended to address runoff in rural or agricultural settings, as well as in urban settings from lawns, parking lots and other areas of development.

The nonpoint account funds two basic types of grants to assist local governments. First, the Department of Agriculture, Trade and Consumer Protection (DATCP) makes grants to county land conservation departments for costs associated with land and water conservation staff. Grants are generally intended to provide for costs of up to three staff persons at rates of 100% funding for a county's first position, 70% funding for a county's second position, and 50% for a third or subsequent position.

Second, DATCP and the Department of Natural Resources (DNR) make grants to landowners through counties, or directly to municipalities in some programs, for the installation of structures and practices to abate nonpoint source water pollution. In most cases, state law requires a minimum offer of cost-sharing if agricultural landowners are to be required to modify existing practices or structures to abate nonpoint source water pollution. This share typically must be at least 70% of the cost of installation. Construction projects for the management of urban storm water runoff are generally cost-shared at 50% of eligible project costs, while urban planning projects are eligible for 70% cost sharing.

In addition, the nonpoint account supports approximately 38 positions in DATCP and DNR related to state regulation of nonpoint source water pollution and the administration of nonpoint source-related grant programs. DNR also is appropriated nonpoint SEG for contracts with the University of Wisconsin–Extension and other organizations for educational and research activities related to nonpoint source water pollution.

*Agricultural Chemical Cleanup Fund.* The agricultural chemical cleanup program (ACCP) provides reimbursements to commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites that require remediation of fertilizer or non-household pesticide spills or soil contamination. The cleanup program is supported by the segregated agricultural chemical cleanup fund, often referred to as the ACCP fund. ACCP fund revenues consist primarily of surcharges on annual licenses or product registrations required of manufacturers or users of fertilizers or pesticides, as well as a surcharge on each ton of fertilizer sold in Wisconsin.

## **GOVERNOR**

Transfer \$1,000,000 each year from the ACCP fund to the nonpoint account in the 2015-17 biennium. Also, standard budget adjustments would remove from base funding \$815,900 nonpoint SEG each year for county conservation staff, which was part of one-time funding provided for those purposes in the 2013-15 biennium under 2013 Act 20.

In addition, the administration reports DATCP and DNR will be directed to reduce administrative expenditures by 10% from appropriated levels in each year of the biennium. These amounts would reduce nonpoint SEG expenditures by approximately \$460,000 annually.

## **DISCUSSION POINTS**

### **Nonpoint Account Background**

1. The interfund SEG transfer and other expenditure reductions recommended by the Governor for nonpoint account appropriations are intended to address a structural imbalance between base account expenditures and typical annual revenues. Table 1 shows the structural condition of the nonpoint account on the basis of: (a) 2014-15 revenues and budgeted expenditures, including one-time funding of approximately \$0.8 million for county conservation staffing grants; and (b) base revenues and 2016-17 expenditures under the bill, not including reductions in administrative operations that may be required from DATCP and DNR, as these would not affect base appropriation levels. As shown in Table 1, the reduction in the nonpoint account structural imbalance estimated under the bill would be attributable to \$2.4 million in reductions in grants and contracts. These amounts include approximately \$0.8 million for each of county conservation staffing grants, DNR nonpoint source contracts, and DNR urban nonpoint source abatement grants. (DNR grant and contract reductions are discussed in a separate budget paper.)

**TABLE 1**

**Nonpoint Account Structural Condition**

	Amount (Millions \$)	
	Base (2014-15)	Bill (2016-17)
Revenues		
GPR Transfer	\$11.1	\$11.1
Tipping Fees	<u>17.2</u>	<u>17.1</u>
Subtotal	\$28.3	\$28.2
Expenditures		
Debt Service	- \$16.0	- \$15.9
Grants and Contracts	- 10.7	- 8.3
Administrative Costs	<u>- 4.4</u>	<u>- 4.5</u>
Subtotal	- \$31.1	- \$28.7
Structural (Revenues less Expenditures)	- \$2.8	- \$0.5

2. The estimated nonpoint account condition under the bill is shown in the attachment. The account is estimated to begin the 2015-17 biennium with a cash balance of approximately \$18.1 million and an available balance of approximately \$5.4 million, the latter of which accounts for \$12.7 million already obligated to grantees or other pledged expenditures. The June 30, 2017, cash balance under the bill would be estimated at \$18.5 million, with an available balance of \$5.8 million. Despite a projected structural imbalance of \$0.5 million in 2016-17, the one-time interfund transfers would be estimated to result in an overall nonpoint balance increase of perhaps \$0.4 million during the 2015-17 biennium. Given the expected balance, the 10% administrative reductions identified by the administration would not be required. However, if these reductions were implemented, the June 30, 2017, balance would increase by approximately \$920,000.

**Agricultural Chemical Funds Background**

3. The ACCP fund condition is shown in Table 2. The ACCP fund is anticipated to have annual surpluses continuing into the 2015-17 biennium. It should be noted DATCP is directed by statute to adjust surcharges in the ACCP fund through administrative rule to maintain a balance of no more than \$2.5 million at the end of each fiscal year. Under both current law and the bill, DATCP would be anticipated to exceed the \$2.5 million threshold. Although the \$2.5 million threshold has been exceeded since June 30, 2014, DATCP has not begun the administrative rule process to reduce ACCP fees.

**TABLE 2****Agricultural Chemical Cleanup Fund Condition**

	Actual <u>2013-14</u>	Estimated <u>2014-15</u>	Bill <u>2015-16</u>	Bill <u>2016-17</u>
Opening Balance	\$1,863,600	\$3,826,800	\$4,676,800	\$4,326,800
Total Revenue	3,038,100	2,350,000	2,150,000	2,150,000
Cleanup Expenditures	- 1,074,900	- 1,500,000	- 1,500,000	- 1,500,000
Transfers	<u>0</u>	<u>0</u>	<u>- 1,000,000</u>	<u>- 1,000,000</u>
Closing Balance	\$3,826,800	\$4,676,800	\$4,326,800	\$3,976,800

4. The agrichemical management (ACM) fund condition is shown in Table 3. Like the ACCP fund, the ACM fund receives revenues from several fees on annual licenses or product registrations required of manufacturers or other uses of fertilizers, pesticides, and other agricultural chemicals. However, ACM revenues derive from a larger number of fees than do those of the ACCP fund. The ACM fund primarily supports DATCP agricultural chemical regulatory programs, but it also in part supports DATCP animal health programs, the UW Discovery Farms program, and other grants. The ACM fund supports 47.45 positions in 2014-15, including 42.25 positions for DATCP agricultural chemical regulatory responsibilities, 4.0 positions for DATCP animal health inspectors, and 1.2 positions for Discovery Farms. As shown in Table 3, the June 30, 2017, available balance of the ACM fund would be estimated at \$7.2 million.

**TABLE 3****Agrichemical Management Fund Condition**

	Actual <u>2013-14</u>	Estimated <u>2014-15</u>	Bill <u>2015-16</u>	Bill <u>2016-17</u>
Opening Balance	\$6,090,300	\$6,322,200	\$6,709,400	\$7,010,100
Total Revenue	\$7,975,100	\$7,880,000	\$7,880,000	\$7,880,000
Expenditures				
Agrichemical program operations	5,979,900	6,668,000	6,875,700	6,880,900
DATCP animal health staff	352,500	352,500	359,900	359,900
Discovery Farms	247,900	248,400	249,800	0
Grants and miscellaneous	<u>412,900</u>	<u>223,900</u>	<u>93,900</u>	<u>93,900</u>
Subtotal	\$6,993,200	\$7,492,800	\$7,579,300	\$7,334,700
Transfers	<u>- 750,000</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Balance	\$6,322,200	\$6,709,400	\$7,010,100	\$7,555,400
Encumbrances	-480,900	-350,000	-350,000	-350,000
Available Balance	\$5,841,300	\$6,359,400	\$6,660,100	\$7,205,400



5. Table 4 shows the structural condition of the ACM and ACCP funds under the bill, based on anticipated annual revenues and the Governor's expenditure recommendations for 2016-17. The ACM fund would be estimated to have annual revenues exceed base expenditures by about \$545,000 annually. However, this amount would be reduced to approximately \$300,000, if the UW Discovery Farms program were restored. The ACCP fund would be estimated to have annual revenues exceed annual expenditures (cleanup reimbursements) by about \$650,000 annually under the bill.

**TABLE 4**

**Agricultural Chemical Funds Structural Condition**

	<u>Amount</u>	
	<u>ACM</u>	<u>ACCP</u>
Revenues	\$7,880,000	\$2,150,000
Expenditures	<u>- 7,335,000</u>	<u>- 1,500,000</u>
Structural (Revenues less Expenditures)	\$545,000	\$650,000

**County Conservation Staffing Grants**

6. Each county by statute is to have a land conservation committee. A land conservation committee may provide for staffing to carry out the powers and responsibilities of the land conservation committee. These functions include the creation of a county plan, known as a land and water resource management (LWRM) plan, by which the county will achieve state standards for water quality and soil erosion. Counties with a DATCP-approved LWRM plan may obtain state cost-sharing funds to assist with funding: (a) county staff engaged in land and water conservation activities; and (b) the implementation or construction of conservation practices, primarily by agricultural landowners, to prevent soil erosion or limit runoff of nutrients or pollutants to the waters of the state. County conservation staff generally identify sites at which conservation practices would generate benefits for water quality or soil conservation, and arrange for funding for landowners from available sources.

7. County conservation staffing grants are funded by GPR and nonpoint SEG appropriations. Table 5 shows the recent appropriations levels for each fund source. Included in the table are reductions DATCP made administratively in the 2011-13 biennium to meet required lapses from GPR and PR appropriations. Also, \$998,600 SEG in 2013-14 and \$815,900 SEG in 2014-15 were appropriated to offset GPR reductions of the same amounts made in those years. The additional nonpoint SEG funding was, in turn, offset by transfers of \$650,000 in 2013-14 and \$1,300,000 in 2014-15 from the environmental management account of the environmental fund. It should be noted the base-level GPR and nonpoint SEG amounts budgeted totaled \$9,307,000 in each fiscal year from 2006 to 2009.

**TABLE 5**

**County Conservation Staffing Grant Funding**

	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
GPR	\$3,843,100	\$3,843,100	\$2,844,500	\$3,027,200	\$3,027,200	\$3,027,200
GPR Lapse	- 1,100,400	- 280,400	0	0	0	0
Nonpoint SEG	<u>5,036,900</u>	<u>5,036,900</u>	<u>6,035,500</u>	<u>5,852,800</u>	<u>5,036,900</u>	<u>5,036,900</u>
Net Amount	\$7,779,600	\$8,599,600	\$8,880,000	\$8,880,000	\$8,064,100	\$8,064,100

8. For 2014, the most recent year for which county reporting has been made, DATCP reports counties supported 112 full-time equivalent positions with state funding. (Staffing levels for the 2014 calendar year would have used funding primarily from the 2013-14 fiscal year.) Counties report 193 positions were funded locally, such as through local property taxes or other revenues, and 36 positions were funded with miscellaneous other sources. Total county staffing has ranged from 335 positions to 366 positions since 2006, while state-funded county conservation positions have ranged from 107 positions to 148 positions.

**General Discussion**

9. DATCP officials and others have argued in the past against transferring or appropriating ACCP SEG for purposes other than agricultural chemical cleanups. Supporters of this position argue that as surcharges are imposed on a limited number of products, business licenses or activities, and as resulting cleanup reimbursements are limited generally to the same industries or facilities involved, diverting ACCP fund revenues is inappropriate. Several appropriations changes under 2013 Act 20 diverted former ACCP SEG appropriations for DATCP animal health staff and the UW Discovery Farms program to the agrichemical management (ACM) fund. It was argued by DATCP officials and others at that time that the ACM fund was more appropriate for supporting various purposes, as its revenues from agricultural chemical-related licenses or product sales are more diverse than the surcharges funding the ACCP fund.

10. On the other hand, it could be argued the ACCP fund is appropriate to provide support for the nonpoint account. Goals of nonpoint SEG-funded programs and grants include addressing the management and application of nutrients, including both synthetic fertilizers and animal manure, which can be detrimental to surface-water quality if improperly applied or insufficiently contained by filtration or containment mechanisms on agricultural fields. From this perspective, collections from fertilizer production and use may be appropriate to direct toward nonpoint source programs. The ACCP fund could further be argued as an appropriate transfer source, given the ACCP fund is projected to generate significant annual surpluses.

11. Preserving funding for the SWRM grants for county staffing retains personnel that provide landowners with expertise and technical assistance. Continuity in conservation staffing also may allow for available staff, in some cases, to arrange for alternate cost-sharing funding for landowners, including: (a) the state-federal Conservation Reserve Enhancement Program, which

provides landowners with federal rental payments for land retired from production, as well as state-funded cost-sharing to establish cover vegetation to prevent soil loss on the land; and (b) the federal Environmental Quality Incentives Program, which provides cost-sharing to landowners for establishment of best management practices.

12. It should be noted current law allows for arrangements under which entities with wastewater discharge permits covering phosphorus content in discharges can meet permit requirements by providing funding to reduce phosphorus discharges elsewhere in the area of their discharge. Such arrangements are intended to facilitate achievement of water-quality standards by reducing phosphorus discharges from areas, such as agricultural operations, at which measures such as agricultural conservation practices would be more cost-effective for achieving water-quality standards than upgrades to facilities of a permitted point source. Administrative rule NR 217 (phosphorus effluent standards) allows for an adaptive management option for permit holders. DNR reports this option has been little used to date, although it anticipates permitted entities will consider adaptive management in the future, particularly as a general permit renewal takes place in 2016.

13. Also, 2013 Act 378 established provisions under which a statewide water quality variance may be made for state point sources, such as wastewater treatment plants, that are required to limit discharges of phosphorus to state waters. The act provides that if the Department of Administration (DOA) determines point sources cannot achieve water quality standards for phosphorus without undertaking major facility upgrades that would cause widespread adverse social and economic impacts, DNR is to seek a variance from water quality standards for phosphorus from the U.S. Environmental Protection Agency (EPA). If such a variance were granted, eligible point sources would be permitted to achieve interim phosphorus effluent limits while also providing financial and other support to achieve phosphorus runoff reductions elsewhere in the point source's watershed basin. One option for point sources to support in-basin phosphorus reductions would be to make payments to counties to support the county land and water conservation programs, particularly to achieve phosphorus runoff reductions at agricultural operations. Under an Act 378 variance, payments from point sources would begin at \$50 for each pound of phosphorus by which the point source exceeded the level of phosphorus discharges it was to achieve in the preceding year. Future adjustments would be made for inflation. Payments per point source would be capped at \$640,000 per year. Counties would be allowed to allocate variance payments to staffing costs, but at least 65% of payments from point sources would have to be allocated to cost-sharing grants to install runoff management practices at agricultural operations.

14. One could argue that the bill modifications to nonpoint-related funding are appropriate, given that counties may be able to realize additional funding for staffing and cost-sharing grants under existing provisions allowing adaptive management. However, NR 217 adaptive management has been seldom used to date, and DNR reports DOA is still in the process of making a preliminary determination required under Act 378 regarding the economic feasibility of current phosphorus water quality standards. A 30-day public comment period must follow the determination, followed by as much as a 30-day period for DOA to make a final determination. It remains unclear when the EPA would grant a variance, or if it would be granted at all. It is further unclear as to when point sources may begin making payments and in what amount payments would be.

15. The Committee could consider restoring some or all of the reductions the bill would

make in county staffing grant appropriations [Alternative A1]. The Committee could consider one of the following amounts: (a) \$535,500 annually, to restore the net 2012-13 amount of \$8,599,600 [Alternative A1a]; (b) \$815,900 annually, to restore the base reductions under the bill, and which would appropriate a total of \$8,880,000 annually [Alternative A1b]; or (c) \$1,242,900 annually, to restore the \$9,307,000 provided in 2010-11 [Alternative A1c].

16. If the Committee were to restore funding for county conservation staff, the Committee could also consider providing funding from either GPR [Alternative A2a] or nonpoint SEG [Alternative A2b], which are the current sources for funding. Additionally, the Committee also could consider providing funding from ACCP SEG [Alternative A2c] or ACM SEG [Alternative A2d]. Either could be viewed as appropriate, given the projected balances of each fund, and given the relationship between agricultural chemical-based surcharges and nonpoint programs intended to encourage proper uses of agricultural chemicals including fertilizers and pesticides. Providing ACCP or ACM SEG appropriations could allow for ongoing base funding for county conservation staffing commensurate with past appropriation levels, but without committing nonpoint SEG or GPR to future base funding.

17. However, the restoration of county conservation staffing funding may worsen, or result in, structural imbalances in each of the segregated funds, depending on the amount restored and future action the Committee may take regarding each fund. Consideration could be given to specifying funding provided under Alternatives A1 and A2 as one-time funding in 2015-17 [Alternative A3]. This would allow for the Committee to restore some county conservation staffing funding in the biennium but reevaluate subsequent funding in future budget legislation. Specifying one-time funding also would limit impacts to each fund's structural condition. However, similar to 2013-15 provisions, providing one-time funding would likely mean county conservation staffing grant levels would again need to be addressed in the next biennium.

18. The Committee could consider adopting the Governor's recommendation for transferring \$1,000,000 each year in the 2015-17 biennium from the ACCP fund to the nonpoint account [Alternative B1]. Transferring the full amount of ACCP funding may give the Committee greater ability to consider restoring part or all of the funding for various nonpoint-related grants, including county conservation staff and DNR grants and contracts discussed in a separate paper.

19. The Committee also could consider modifying the Governor's recommendation in several ways. For instance, if the Committee were to provide nonpoint SEG for conservation staffing grants, the Committee could also consider providing for a transfer to the nonpoint account in the same amount appropriated for grants [Alternative B2]. Transfers could be made from either the ACCP fund or the ACM fund [Alternative B3].

20. Because the nonpoint account would be projected to maintain a structural imbalance under the bill, and because the agricultural chemical funds would be projected to continue generating annual surpluses, consideration also could be given to permanently depositing portions of current agricultural chemical fees to the nonpoint account instead of the agricultural chemical funds. Further, because DATCP and DNR nonpoint regulatory and grant programs address factors such as fertilizer, pesticide and manure management, particular fees that could be considered may include those for the related agricultural inputs of feed (manure), fertilizer and nonhousehold

pesticides.

21. Table 6 shows several fees currently deposited to the ACM or ACCP funds under current law, and possible fee amounts that could be permanently transferred to the nonpoint account without creating structural imbalances in either of the agricultural chemical funds. The effective dates shown in Table 6 would begin the fee transfers to the nonpoint account in the 2015-16 fiscal year. The annual increase to the nonpoint account would be estimated at \$680,000 annually, if all transfers were made. The annual revenue decreases would be \$280,000 for the ACM fund and \$400,000 for the ACCP fund. The Committee could consider transferring all the fees shown, or any of the individual categories [Alternative B4].

**TABLE 6**

**Agricultural Chemical Fee Transfers to Nonpoint Account [Alternative B4]**

<u>Fee Category (Fund)</u>	<u>Current Fee</u>	<u>Fee Transfer</u>	<u>Annual Revenue (Est.)</u>	<u>Effective Date</u>
Commercial feed tonnage (ACM)	23¢/ton	2.5¢/ton	\$110,000	Sales begin. Jan. 1, 2015
Fertilizer tonnage (ACM)	23¢/ton	10¢/ton	170,000	Sales begin. July 1, 2014
Fertilizer tonnage (ACCP)	35¢/ton	15¢/ton	250,000	Sales begin. July 1, 2014
Nonhousehold pesticides (ACCP)	Various	10% of receipts	<u>150,000</u>	Sales est. w/ 2016 license year
		Total	\$680,000	

22. As the nonpoint account is estimated to have sufficient revenues and available balances to accommodate the total expenditures recommended by the Governor, the Committee could consider deleting the transfer [Alternative B5]. This would be estimated to reduce the June 30, 2017, available nonpoint account balance by \$2 million. However, were the Committee to delete the transfer and provide nonpoint SEG for county conservation staffing or other DNR programs for which funding reductions have been recommended, the available balance would decrease further.

**ALTERNATIVES**

**A. County Conservation Staffing Grants**

1. Restore one of the following amounts to appropriations for county conservation staffing grants:

- a. \$535,500 annually;
- b. \$815,900 annually; or
- c. \$1,242,900 annually.

2. In addition to one of Alternative A1, specify funding for county conservation staffing grants is to come from one of the following:

- a. GPR;
- b. Nonpoint SEG;
- c. ACCP SEG; or
- d. ACM SEG.

3. In addition to Alternatives A1 and A2, specify funding for 2015-17 is designated as one-time financing. (The amounts would be removed as a standard budget adjustment in the 2017-19 budget, and total continuing funding for conservation staffing grants would remain \$8.1 million.)

4. Take no action. (County conservation staffing grants would be appropriated a total of \$8,064,100 annually in 2015-17 as recommended by the Governor, including \$3,027,200 GPR and \$5,036,900 nonpoint SEG.)

**B. Transfer to Nonpoint Account**

1. Adopt the Governor's recommendation to transfer \$1,000,000 each year from the agricultural chemical cleanup fund in the 2015-17 only. (Total transfers would be \$2,000,000.)

2. Adopt Alternative A2b. Modify the Governor's recommendation by specifying one of the following transfers to the nonpoint account of the environmental fund in the 2015-17 biennium:

- a. \$535,500 annually (commensurate with Alternative A1a);
- b. \$815,900 annually (commensurate with Alternative A1b); or
- c. \$1,242,900 annually (commensurate with Alternative A1c).

3. In addition to one of Alternative B2, specify the transfer is to be made from one of the following:

- a. The agricultural chemical cleanup (ACCP) fund; or
- b. The agrichemical management (ACM) fund.

4. In addition to the alternatives above, decrease one or more of the following fees from the fund indicated, and instead specify the fee is to be deposited to the nonpoint account of the environmental fund:

a. 2.5¢ per ton of commercial feed from the ACM fund, for sales January 1, 2015, or after (revenue of \$110,000 annually would be shifted to the nonpoint account);

b. 10¢ per ton of fertilizer from the ACM fund, for sales July 1, 2014, or after (revenue of \$170,000 annually would be shifted to the nonpoint account);

c. 15¢ per ton of fertilizer from the ACCP fund, for sales July 1, 2014, or after (revenue of \$250,000 annually would be shifted to the nonpoint account); or

d. 10% of annual collections of cleanup surcharges on nonhousehold pesticides from the ACCP fund, beginning with sales estimates for the pesticide license year beginning January 1, 2016 (revenue of \$150,000 would be shifted to the nonpoint account).

5. Delete provision. (No transfer from the ACCP fund to the nonpoint account would occur.)

Prepared by: Paul Ferguson  
Attachment





## ATTACHMENT

### Nonpoint Account Condition

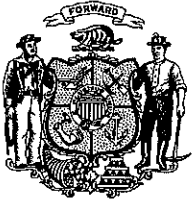
	Actual 2013-14	Estimated 2014-15	Bill 2015-16	Bill 2016-17	2016-17 Staff
Opening Balance	\$18,320,600	\$16,741,200	\$18,071,000	\$18,025,500	
<b>Revenue:</b>					
GPR Transfer	\$11,143,600	\$11,143,600	\$11,143,600	\$11,143,600	
Tipping Fee	13,432,800	19,950,000*	17,100,000	17,100,000	
Interest and Miscellaneous Income	27,000	10,000	10,000	10,000	
Other Transfers **	<u>650,000</u>	<u>1,300,000</u>	<u>1,000,000</u>	<u>1,000,000</u>	
<b>Total Revenue</b>	<b>\$25,253,400</b>	<b>\$32,403,600</b>	<b>\$29,253,600</b>	<b>\$29,253,600</b>	
Total Available	\$43,574,000	\$49,144,800	\$47,324,600	\$47,279,100	
<b>Expenditures:</b>					
<i>Agriculture, Trade and Consumer Protection</i>					
Soil and water management					
administration	\$2,176,000	\$2,187,900	\$2,286,100	\$2,297,300	20.30
County staffing grants	4,981,100	5,852,800	5,036,900	5,036,900	0.00
Soil and water management grants	1,581,700	2,500,000	2,500,000	2,500,000	0.00
Debt service	3,555,500	3,707,600	3,967,200	4,087,700	0.00
<i>Natural Resources</i>					
Enforcement and science operations	--	--	\$37,500	\$37,500	0.38
Integrated science services	\$454,700	\$423,800	445,200	445,200	4.00
Nonpoint source contracts	31,800	997,600	227,600	227,600	0.00
TMDL and Wisconsin Waters	729,800	806,900	820,800	820,800	4.25
Animal feeding operations admin.	575,200	582,100	619,700	619,700	7.00
Urban nonpoint source grants	287,400	1,313,200	500,000	500,000	0.00
Debt service – Facilities	109,300	114,200	103,000	103,700	0.00
Debt service – Priority watershed	7,851,600	7,931,700	7,767,600	6,910,300	0.00
Debt service – TRM	1,226,800	1,283,700	1,523,800	1,722,400	0.00
Debt service – UNPS	2,894,700	2,988,000	3,132,800	3,152,500	0.00
Administrative operations	211,800	214,600	200,700	203,600	0.08
Customer assistance and communication	<u>165,400</u>	<u>170,500</u>	<u>130,200</u>	<u>130,200</u>	<u>0.60</u>
<b>Total Expenditures</b>	<b>\$26,832,800</b>	<b>\$31,073,800</b>	<b>\$29,299,100</b>	<b>\$28,795,400</b>	<b>36.61</b>
<b>Cash Balance</b>	<b>\$16,741,200</b>	<b>\$18,071,000</b>	<b>\$18,025,500</b>	<b>\$18,483,700</b>	
Encumbrances/Continuing	<u>-12,705,100</u>	<u>-12,705,100</u>	<u>-12,705,100</u>	<u>-12,705,100</u>	
<b>Available Balance</b>	<b>\$4,036,100</b>	<b>\$5,365,900</b>	<b>\$5,320,400</b>	<b>\$5,778,600 ***</b>	

\* Tipping fee revenues for 2014-15 include \$17.2 million in current year (base) collections, and an estimated \$2.7 million in prior year collections.

\*\* Transfers include \$1.95 million from the environmental management account in the 2013-15 biennium and \$2.0 million recommended by the Governor for the 2015-17 biennium from the agricultural chemical cleanup fund.

\*\*\* The June 30, 2017, balance would increase to approximately \$6.7 million if the administration implemented suggested 10% reductions to DATCP and DNR operations expenditures.





## Legislative Fiscal Bureau

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May 12, 2015

Joint Committee on Finance

Paper #137

### **Long-Term Vacancy Reductions (Agriculture, Trade and Consumer Protection)**

[LFB 2015-17 Budget Summary: Page 52, #2]

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#### **CURRENT LAW**

The Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for multiple programs related to state agricultural industries, including food safety, animal health, agricultural marketing and development, land and water conservation, and plant health. The Department also administers programs and enforces laws protecting consumers and businesses from fraudulent or unfair practices in commercial activity. DATCP is authorized 623.89 positions in its adjusted base budget for 2014-15 for the administration of its programs.

#### **GOVERNOR**

Delete 12.30 vacant positions, including 1.60 supported by general purpose revenues (GPR), 0.35 supported by federal funds (FED), 9.40 supported by program revenues (PR), and 0.95 supported by segregated funds (SEG). Additionally, delete associated GPR funding of \$120,700 annually, including \$68,500 for livestock premises registration and \$52,200 for DATCP central administrative operations.

#### **DISCUSSION POINTS**

1. The following table shows the positions that would be deleted by appropriation and fund source. Most positions have been vacant for one year or longer. The bill [Alternative 1] would delete funding only for the salary and fringe benefits associated with the 1.6 GPR positions, while FED, PR and SEG appropriations would not have funding reduced. The table shows associated amounts of salaries and fringe benefits for affected positions.

## DATCP Long-Term Vacancy Reductions

<u>Appropriation</u>	<u>Fund Source</u>	<u>Positions</u>	<u>Annual Funding</u>
Livestock premises registration	GPR	1.00	See below*
Central administrative operations	GPR	0.60	See below*
Grain inspection and certification	PR	4.00	\$195,600
Dog licensing and dog breeder regulation	PR	2.00	126,100
Computer system equipment, staff and services	PR	1.00	87,500
Agricultural resource management services	PR	1.00	68,800
Fruit and vegetable inspection and grading	PR	0.65	34,300
Dairy trade regulation	PR	0.40	32,200
Public warehouse regulation	PR	0.35	28,200
Soil and water resource management operations	SEG	0.70	48,200
Unfair sales act enforcement	SEG	0.25	20,100
Federal funds – U.S. Department of Agriculture aids	FED	0.30	20,600
Federal indirect cost reimbursements	FED	<u>0.05</u>	<u>2,600</u>
	Total	12.30	\$664,200

\* Removed under the bill.

2. In general, past deletions of vacant positions have been accompanied by reductions in associated salary and fringe benefit costs of the positions. The Committee could consider reducing the funding shown in the table for appropriations affected by the provision [Alternative 2].

### **Livestock Premises Registration**

3. The statutes require any person keeping livestock to register the premises at which the animals are kept. The law, which took effect in 2005, is primarily intended to allow DATCP animal health staff to respond to potential disease outbreaks by being able to quickly trace animals identified as potential carriers of pathogens. There is no fee for registration of premises, and registrant information is kept confidential with limited exceptions. Premises registration currently is carried out under a contract between DATCP and the Wisconsin Livestock Identification Consortium (WLIC), a nonprofit organization with membership including farmer trade organizations, processors, agricultural lenders, and other agribusiness entities. Currently, the premises registry includes approximately 62,600 active premises. Renewals are conducted on a statewide basis every three years, and the next statewide renewal will occur in July, 2016.

4. Following the enactment of the premises registration law, DATCP received earmarked federal funding for program administration. That funding has since expired. To partially offset the expiring federal funding, 2011 Act 278 provided base funding of \$250,000 GPR beginning in 2012-13 for DATCP to continue administering the livestock premises registration law. Further, although DATCP at the time indicated it intended to continue administering the program through WLIC, the act provided 1.0 GPR position in the event the contractual arrangement could not be continued. In such an event, the position would allow DATCP to administer the premises registration program internally. The position has never been filled.

5. The DATCP contract with WLIC requires DATCP to make payment of \$250,000 annually. DATCP-WLIC contracts typically run one year, with a provision allowing extensions by written amendment. The current contract expires June 30, 2015, unless extended. Although extensions have been routine in recent years, DATCP also reports WLIC has not indicated whether it would remain party to the contract if funding were reduced.

6. The bill would delete the 1.0 position created as a contingency for the livestock premises registration and delete associated GPR funding. If the provision were enacted, it likely would be incumbent on DATCP to: (a) execute a contract with the remaining annual funding of \$183,800; (b) allocate available funding from other program areas sufficient to continue purchasing services through a contract vendor; or (c) administer the program internally with existing resources. It is not clear whether another contract vendor could be secured with funding the bill would provide. DATCP also reports it would be difficult to provide funding from existing resources, either for supplemental contractual funds or for internal administration of the program. It should be noted DATCP in the past has explored the feasibility of the state using a federal premises registration system administered by the U.S. Department of Agriculture. However, DATCP reports it is uncertain whether the federal registry can provide the same degree of registrant confidentiality as is required by state law.

7. The Committee could adopt the Governor's recommendation to delete 1.0 GPR livestock premises registration position and associated funding of \$68,500 [Alternatives 1 or 2]. Such an alternative would be consistent with the administration's intention to delete positions for which it appears agencies have no significant continuing need.

8. However, as the vacant premises registration position would likely continue to be unnecessary were sufficient funding available for a contract, consideration could be given to deleting 1.0 position but restoring funding of \$66,200 GPR annually to maintain \$250,000 for the contract [Alternative 3a]. The Committee also could consider providing funding from either of the segregated agricultural chemical funds administered by DATCP. The agricultural management (ACM) and agricultural chemical cleanup (ACCP) fund each are projected to generate annual surpluses under the bill. The Committee could consider providing ongoing funding from ACM SEG [Alternative 3b] or ACCP SEG [Alternative 3c].

### **Computer System Equipment, Staff and Services**

9. DATCP reports the 1.0 PR position the bill would delete under computer system equipment, staff and services has been filled since the bill's introduction. However, another 1.0 position became vacant in the same appropriation. DATCP indicates the newly vacant position is a high priority, and the Department would immediately seek to recruit the position. Because the previous long-term vacancy in the appropriation is filled, the Committee could consider deleting the Governor's recommendation as it affects the appropriation [Alternative 4]. On the other hand, because the appropriation continues to have 1.0 vacant position, the Committee could retain the deletion.

**ALTERNATIVES**

1. Adopt the Governor's recommendation to delete 12.30 positions, including 1.60 GPR, 0.35 FED, 9.40 PR, and 0.95 SEG, and delete \$120,700 GPR annually.

2. Adopt the Governor's recommendation. In addition, delete annual funding of \$23,200 FED, \$572,700 PR, and \$68,300 SEG.

ALT 2	Change to Bill
FED	- \$46,400
PR	- 1,145,400
SEG	- 136,600
Total	- \$1,328,400

3. Adopt Alternative 2. In addition, restore \$66,200 annually for livestock premises registration from one of the following sources:

a. GPR;

ALT 3a	Change to Bill
GPR	\$132,400

b. A new appropriation from the agrichemical management fund; or

ALT 3b	Change to Bill
SEG	\$132,400

c. A new appropriation from the agricultural chemical cleanup fund.

ALT 3c	Change to Bill
SEG	\$132,400

4. In addition to Alternative 2 or 3, restore 1.0 PR position and the associated \$87,500 PR annually for computer system equipment, staff and services.

ALT 4	Change to ALT 2 Funding Positions
PR	\$175,000 1.00

5. Delete provision. (12.30 positions and \$120,700 GPR annually would be restored.)

ALT 5	Change to Bill	
	Funding	Positions
GPR	\$241,400	1.60
FED	0	0.35
PR	0	9.40
SEG	0	0.95
Total	\$241,400	12.30

Prepared by: Paul Ferguson







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May 12, 2015

Joint Committee on Finance

Paper #138

### **Fertilizer Research Fees and the Fertilizer Research Council (Agriculture, Trade and Consumer Protection and University of Wisconsin System)**

[LFB 2015-17 Budget Summary: Page 58, #8 and Page 464, #19]

#### **CURRENT LAW**

The Department of Agriculture, Trade and Consumer Protection (DATCP) collects various fees and surcharges on the production, sale and use of agricultural chemicals, including fertilizers, pesticides, commercial animal feed, and other additives to soils and plants. Fee and surcharge collections are deposited to various segregated (SEG) funds or other accounts, including the agrichemical management (ACM) fund, the agricultural chemical cleanup (ACCP) fund, the environmental fund, and a DATCP program revenue (PR) appropriation for weights and measures regulatory programs. Additionally, portions of certain fees are distributed to the University of Wisconsin System for research or outreach on fertilizer use, nutrient management or pest management.

The Fertilizer Research Council (FRC) is attached to DATCP and is responsible for allocating certain fees collected for fertilizer research projects in the UW System. By statute, FRC-administered funds are to be used "for research on soil management, soil fertility, plant nutrition problems and for research on surface water and groundwater problems which may be related to fertilizer usage; for dissemination of the results of the research; and for other designated activities tending to promote the correct usage of fertilizer materials."

#### **GOVERNOR**

Repeal the following fees: (a) 27¢ per ton of fertilizer sold or distributed in Wisconsin; and (b) 10¢ per ton of soil or plant additive sold in Wisconsin. Repeal the statutory authorization of the Fertilizer Research Council, and repeal provisions directing: (a) 17¢ of the fertilizer tonnage

fee and the 10¢ soil and plant additive fee to UW soils and fertilizer research, as determined by the FRC; and (b) 10¢ of the fertilizer tonnage fee to UW-Extension for outreach on nutrient and pest management. Repeal a DATCP PR continuing appropriation providing for the use of the fertilizer research fees, and delete \$255,600 PR each year in estimated expenditures. Specify the repeals take effect July 1, 2016.

Table 1 shows, for all agricultural chemical fees forwarded to the UW System, the budgeted collections under current law (2014-15) and under the bill. Agencies under which each fee is budgeted are shown in parentheses; for example, FRC-administered fees are budgeted under DATCP but forwarded to UW, while UW outreach fees are forwarded to UW without appearing on the DATCP budget. Included in Table 1 are the research and outreach fees the bill would repeal, as well as proceeds of a 1.25¢ per-ton fee on agricultural liming material sold in Wisconsin annually. (Liming materials are calcium- or magnesium-containing compounds applied to neutralize soil acidity.) Liming material tonnage fees are forwarded to the UW System for research on use of such materials. The statutes provide the liming tonnage fee collections are to be forwarded to the UW-Madison College of Agricultural and Life Sciences (CALs) for research on liming materials and crop responses to liming agents. The bill would not affect the collection or forwarding of lime tonnage fees.

**TABLE 1**

**Agricultural Chemical Fees Collected for UW System Purposes**

<u>Fee Type (Budgeted Agency)</u>	Base	Bill	
	<u>2014-15</u>	<u>2015-16</u>	<u>2016-17</u>
Fertilizer Research Council (DATCP)	\$255,600	\$255,600*	\$0
Nutrient and pest outreach (UW System)	166,300	166,300	0
Liming material (DATCP)	<u>11,800</u>	<u>11,800</u>	<u>11,800</u>
Total	\$433,700	\$433,700	\$11,800

\*As corrected.

**DISCUSSION POINTS**

1. The bill could be further clarified to reflect the administration’s intended effective date of the fee repeals. The administration intends for the fees to be collected in 2015-16, which would be prior to the July 1, 2016, effective date of provisions that would convert the UW System into an authority. The bill as introduced would specify a general effective date of July 1, 2016, for the fee repeals. However, DATCP collects agricultural chemical fees at various points throughout the year. Specifically, fertilizer tonnage fees are payable annually by August 14 on the basis of fertilizer sold in the preceding state fiscal year, and soil and plant additive tonnage fees are payable by March 31 annually on the basis of sales in the preceding calendar year. The bill language could be clarified to specify: (a) the fertilizer tonnage fee repeal takes effect with sales beginning July 1, 2015; and (b) the soil and plant additive tonnage repeal takes effect with sales beginning January 1, 2016. The appropriations schedule for 2015-17 also would be modified from the bill as introduced to reflect

the collection and disbursement of research fees by DATCP in 2015-16. These are budgeted at \$255,600 under current law.

2. Currently, the statutes impose a fee of 97¢ on each ton of fertilizer sold or distributed annually. In addition to the 27¢ per ton that would be repealed by the bill, the per-ton total consists of the following components: (a) 35¢ per ton deposited to the ACCP fund for cleanups of agricultural chemical spills or contamination at eligible farm or business sites; (b) 23¢ per ton deposited to the ACM fund for agricultural chemical management programs in DATCP; (c) 10¢ deposited to the environmental management account of the environmental fund; and (d) 2¢ per ton deposited to the DATCP PR appropriation for weights and measures. The total fertilizer tonnage fee would decrease to 70¢ per ton under the bill.

3. The statutes currently impose fees of 45¢ for each ton of soil and plant additives sold or distributed in Wisconsin annually. In addition to the 10¢ affected by the bill, 25¢ per ton is deposited to the ACM fund for agricultural chemical management programs in DATCP, and 10¢ is deposited to the environmental management account of the environmental fund. The soil and plant additive tonnage fee would decrease to 35¢ per ton under the bill.

4. The portion of the fertilizer tonnage fee dedicated for research was enacted in 1977 Act 418 at a level of 10¢ per ton. 2011 Act 32 provided a one-time increase for fertilizer research equal to 7¢ per ton in 2012-13, which was transferred from the ACM fund. 2013 Act 20 permanently increased the fertilizer research portion of the tonnage fee to 17¢ per ton, while permanently reducing the ACM portion of the fertilizer tonnage fee from 30¢ per ton to 23¢ per ton. The UW-Extension outreach fee on fertilizer tonnage (10¢) was enacted in 1989 Act 31, and the soil and plant additive research fee (10¢) was enacted in 1985 Act 147; the amounts of these fees have not changed since their enactment.

5. The Fertilizer Research Council was created in Chapter 418, Laws of 1977, on a temporary basis and made permanent under Chapter 57, Laws of 1981. The FRC consists of seven voting members serving three-year terms. Six members are jointly appointed by the DATCP Secretary and the Dean of the College of Agricultural and Life Sciences (CALS) at UW-Madison. Three members are to be representatives of the fertilizer industry, selected from a list of candidates recommended by the industry. Three other members are to represent farmers who are crop producers. The other voting member is appointed by the Secretary of the Department of Natural Resources (DNR) and is to have knowledge about water quality. DATCP agrichemical management program staff and UW staff each provide administrative support to the FRC.

6. The statutes provide the FRC is to meet at least once annually to determine awards of research funds. Awards are determined by a majority vote of the Council. DATCP reports total funding of approximately \$4.5 million has been awarded to 176 fertilizer research projects since 1978. According to awards listings on the Fertilizer Research Council website, most funding since the Council's inception has been awarded to projects conducted by UW-Madison faculty. If the UW System is unable to carry out research, the Council is authorized by statute to recommend "other appropriate nonprofit research institutions or agencies for receipt of funds."

7. The 27¢ (17¢ per fertilizer ton and 10¢ per soil and plant additive ton) for research supports projects studying such subjects as: (a) timing and techniques used in applying fertilizer and

manure; (b) the effect of cover crops on soil characteristics and soil nutrient content; and (c) measuring nutrient needs of typical commodity crops. The 10¢ per ton for UW-Extension outreach supports the UW Nutrient and Pest Management (NPM) program, which provides education and assistance to farmers. The NPM program includes software development and training for farmers in the areas of nutrient management planning, a practice to help determine optimal application of nutrients and fertilizer on fields.

8. Table 2 shows the collections made since 2009-10 both for FRC-awarded research funds and UW-Extension outreach. It should be noted that the statutes allow DATCP to retain 3.5% of research funds collected for expenses incurred in the administration of fee collections, including costs of staffing the FRC. These annual amounts are noted below.

**TABLE 2**

**Fertilizer and Soil and Plant Additive Research Tonnage Fees**

	<u>2009-10</u>	<u>2010-11</u>	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>
UW System Research					
Fertilizer (17¢)	\$118,600	\$138,900	\$163,900	\$303,100	\$280,400
Soil and plant adds. (10¢)	<u>7,300</u>	<u>18,400</u>	<u>22,500</u>	<u>18,200</u>	<u>14,300</u>
Subtotal	\$125,900	\$157,300	\$186,400	\$321,300	\$294,700
DATCP Admin. (3.5%)	-\$4,400	-\$5,500	-\$6,500	-\$6,900	-\$10,300
Research Funds Forwarded	\$121,500	\$151,800	\$179,900	\$314,400	\$284,400
UW Outreach Funds (10¢)	<u>118,600</u>	<u>138,900</u>	<u>163,900</u>	<u>178,300</u>	<u>166,300</u>
Total Research/Outreach Funds	\$240,100	\$290,700	\$343,800	\$492,700	\$450,700

9. The Committee could consider adopting the Governor's recommendation, as modified to clarify the administration's intended effective dates [Alternative 1]. One could argue typical amounts forwarded to the UW System for research are small in relation to the System's total research funding, the GPR portion of which the UW System reported was \$96.9 million in 2013-14, and that funding for fertilizer research could be provided by other sources. Further, although fertilizer research activities funded by the FRC are viewed by certain agricultural industry groups, environmental groups and others as a preferred use of the fee collections, industry participants or related groups could still donate funding on their own accord for research and outreach, either in the UW System or through other entities, were the repeals to take effect.

10. On the other hand, the research and outreach activities funded in the UW System are supported by agricultural and environmental interests. UW soils staff also report the funds awarded by FRC constitute substantial portions of the UW research done on soil fertility, typically 10% to 40% of research funding in an average year for each faculty member conducting the research. UW staff also report other state funding has not typically been allocated to research in the area. Some have argued such research, as well as research conducted by the Discovery Farms program in the UW System, provides valuable information that may enhance farm profitability and assist state, local or federal agencies in developing regulatory programs and best management practices that have broad acceptance, both by regulated entities and by other interested parties. Further, the bill

also retains transfers of liming material tonnage fees to UW-Madison CALS, despite deleting a number of other transfers from state agencies to the proposed authority. It could be argued that retaining the research funding awarded by the FRC is consistent with the retention of liming material research provisions and funding. The Committee could delete the Governor's recommendation [Alternative 4].

11. Consideration also could be given to restoring one category of the fees. The Committee could consider: (a) restoring only research fees of 17¢ per fertilizer ton and 10¢ per soil and plant additive ton [Alternative 2a]; or (b) restoring only the 10¢ per fertilizer ton UW-Extension outreach fees [Alternative 2b]. Restoring one fee category could provide for continued programming in the area, but also reduce per-ton fee levels paid by agricultural industry participants.

12. Consideration could also be given to restoring fertilizer research and outreach fees but specifying their deposit to the nonpoint account of the environmental fund [Alternative 3]. The nonpoint account, which is discussed in greater detail in separate Legislative Fiscal Bureau issue papers, funds DATCP and DNR grant programs and staff associated with addressing nonpoint source water pollution. Nonpoint source pollution addressed by such programs includes nutrient runoff that may occur following fertilizer applications at agricultural operations. DATCP and DNR each under current law and practice contract with the UW System for education, research or outreach related to nonpoint source water pollution. This funding would generally be expected to continue under the bill, although perhaps in lesser amounts, as DNR's nonpoint source contracts appropriation would decrease from base funding of \$997,600 to \$227,600 under the bill. Further, the nonpoint account is estimated under the bill to have annual base expenditures exceed typical annual revenues by about \$500,000 annually, based on figures estimated for 2016-17. Restoring the fees recommended for repeal, but depositing them to the nonpoint account of the environmental fund, would allow for: (a) stabilization of the account; and (b) DATCP and DNR to use existing mechanisms to direct the funds to fertilizer- or nutrient-related research and outreach at the UW System or other organizations. The Committee could specify the redirection of fees to the nonpoint account is to occur: (a) in the second year of the biennium, at which point the bill would repeal the fees [Alternative 3a]; or (b) immediately in 2015-16 [Alternative 3b].

## ALTERNATIVES

1. Adopt the Governor's recommendation to repeal 27¢ in fertilizer tonnage fees and 10¢ per ton of soil and plant additive tonnage fees beginning in 2016-17. In addition, specify the fertilizer tonnage fee repeals take effect with sales beginning July 1, 2015, and the soil and plant additive tonnage fee repeals take effect with sales beginning January 1, 2016. (These technical modifications would clarify the bill to reflect the administration's intention for research fees to be collected in 2015-16 but not thereafter.) Further, provide an additional \$255,600 PR under DATCP in 2015-16 to reflect the collection and disbursement of fertilizer research funds in the first year of the biennium.

ALT 1	Change to Bill
PR	\$255,600

2. Modify the Governor's recommendation to restore one of the following fee categories, beginning in 2016-17:

a. Research fees of 17¢ per fertilizer ton and 10¢ per soil and plant additive ton with \$255,600 in 2016-17; or

ALT 2a	Change to Bill
PR	\$255,600

b. UW-Extension outreach fees of 10¢ per fertilizer ton with \$166,300 in 2016-17.

ALT 2b	Change to Bill
PR	\$166,300

3. Restore fees recommended for repeal by the Governor. However, specify the fees are to be deposited to the nonpoint account of the environmental fund, and specify one of the following:

a. The change takes effect beginning with fertilizer sold July 1, 2015, and with soil and plant additives beginning January 1, 2016 (fee collections in 2015-16 would occur as under current law, but be deposited to the nonpoint account beginning in 2016-17); or

ALT 3a	Change to Bill
SEG-REV	\$421,900

b. The change takes effect beginning with fertilizer sold July 1, 2014, and with soil and plant additives beginning January 1, 2015 (collections for sales beginning on each date would be deposited to the nonpoint account beginning in 2015-16); or

ALT 3b	Change to Bill
SEG-REV	\$843,800
PR-REV	- 421,900

4. Delete the Governor's recommendation. (Fertilizer tonnage fees of 27¢ per ton, and soil and plant additive fees of 10¢ per ton, would be restored, as would the Fertilizer Research Council with \$255,600 to DATCP for receipt of the research fees awarded by the FRC and \$166,300 to UW System in 2016-17).

ALT 4	Change to Bill
PR	\$421,900

Prepared by: Paul Ferguson



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May 12, 2015

Joint Committee on Finance

Paper #139

### **Producer-Led Watershed Grants (Agriculture, Trade and Consumer Protection)**

[LFB 2015-17 Budget Summary: Page 60, #12]

#### **CURRENT LAW**

The Department of Agriculture, Trade and Consumer Protection (DATCP) administers two primary grant types under its soil and water resource management (SWRM) program. One grant provides funds to counties for support of their land and water conservation staff. The other category provides funding to counties to assist rural and agricultural landowners with costs of installing structures or other management practices to prevent soil erosion and nutrient runoff to waters of the state. State law in general requires landowners must receive an offer of cost-sharing of at least 70% of the cost of installing a structure or practice if the landowner is to be required to modify an existing structure or operation.

SWRM cost-sharing grants are supported by two sources: (a) \$2,500,000 SEG annually from the nonpoint account of the environmental fund; and (b) nonpoint SEG-supported general obligation bonding, for which DATCP has been authorized additional bonding authority of \$7,000,000 in each of the last four biennia.

The Department of Natural Resources (DNR) also grants funds for nonpoint source pollution abatement under its targeted runoff management (TRM) program. The program provides financial assistance to projects addressing water quality concerns or impairments, primarily in rural or agricultural settings. TRM is funded under current law at approximately \$8 million to \$9 million per biennium using nonpoint SEG-supported general obligation bonding, federal funds, and state general purpose revenues (GPR). A general state cost-share rate of 70% applies for most conservation practices installed under TRM, up to \$150,000 or \$1 million per project, depending on the size of the project.

## GOVERNOR

Require DATCP to make watershed protection grants to producer-led organizations assisting other agricultural producers in a watershed in voluntarily conducting nonpoint source water pollution abatement activities. Specify an eligible producer-led group is to include at least five agricultural producers, each of whom operates within the watershed a farm that had gross farm revenues of \$6,000 in the preceding tax year, or at least \$18,000 in gross farm revenues combined in the preceding three tax years. Specify that producer-led groups may include additional producers not meeting income-eligibility standards, provided the five-farm minimum is met. Specify that the group must collaborate with at least one of the following entities: (a) DATCP; (b) DNR; (c) a county land conservation committee; (d) the University of Wisconsin System; or (e) a nonprofit conservation organization. Require the producer-led group to form under a memorandum of understanding with its collaborating entities.

Further, specify grants are to be made directly to the producer-led group, except that if the group is not a legal entity, DATCP is to grant funds to a legal entity acting on the producers' behalf. Require any producer-led group receiving funds under the provision to report annually to DATCP on activities carried out with funding and the resulting impacts on water quality in the watershed. Provide DATCP emergency rule-making authority, without the finding of an emergency, for the following purposes: (a) to define eligible legal entities; (b) specifying an application process for producer-led watershed protection grants; and (c) specifying eligible grant activities.

Require DATCP to allocate not more than \$250,000 annually for producer-led watershed protection grants. Specify expenditures are to be made from DATCP's existing appropriation for cost-sharing grants to landowners from the nonpoint account of the segregated (SEG) environmental fund; the bill would continue this appropriation's base-level funding of \$2,500,000 annually.

## DISCUSSION POINTS

1. DATCP reports the provision is intended to create incentives for farmers to collaborate on addressing soil conservation and water quality concerns in proximity to their areas of operation. It has been argued that peer producers can counsel one another on effective ways of adopting conservation practices, and perhaps as much or more so than farmers consulting with governmental bodies or agents. Further, producers at risk of having operations be out of compliance with soil and water conservation performance standards may be more open to seeking assistance from other farmers than from a governmental agency, as some may perceive discussing compliance issues with state or county agents may put them at risk of future enforcement proceedings.

2. Farmer-led, watershed-focused groups currently exist in at least two areas of Wisconsin. The Wisconsin Farmer-Led Watershed Council Project includes four watersheds of the St. Croix and Red Cedar Rivers basin in Polk, St. Croix, Pierce, Dunn and Barron Counties. Farmers in the watersheds design programs of funding incentives to encourage adopting of conservation practices by other farmers in the watershed. Staff persons from UW-Extension and



county land and water conservation departments provide technical assistance, education and monitoring of how well projects are achieving conservation goals. Similarly, Dane County-area farmers have formed Yahara Pride Farms, a farmer-led organization offering cost-sharing, certification of operations with verified conservation practices, education and outreach. Each producer-led organization has received support of private business donors or charitable foundations to fund cost-sharing programs. The Wisconsin Farmer-Led Watershed Council Project also has received nonpoint SEG funding from DNR under an existing appropriation allowing DNR to enter into contracts with entities implementing nonpoint source-related information, education and training programs. Allocations to the project have been approximately \$100,000 each year since 2011-12.

3. The bill would require not more than \$250,000 annually to be granted to producer-led watershed groups. Funding would be expended from an existing annual appropriation of \$2,500,000 nonpoint SEG for cost-sharing for landowners to install best management practices to address soil erosion or nutrient runoff concerns. The nonpoint SEG funding typically is used to cost-share nonstructural practices, such as nutrient management planning, which helps farmers determine the optimal times to apply nutrients such as fertilizer and manure to fields, and in what amounts nutrients should be applied. Funds are disbursed to counties for subsequent distribution to landowners.

4. The bill would authorize DATCP to grant funds directly to a producer-led group, or a legal entity acting on behalf of the group. DATCP has authority under current law to grant funds to counties, which could in turn provide funds to members of producer-led watershed groups. It is also possible producer-led groups under current law could receive funds: (a) from the DNR appropriation for nonpoint source-related contracts, as the Northwest Wisconsin watershed groups have; or (b) under contract with DATCP for training and education services such groups may provide. However, DATCP contends the bill language and subsequent rule-making would more thoroughly specify grantee terms and conditions to ensure consistent application of funding decisions. (The bill would provide emergency rule-making authority for DATCP to clarify application requirements, eligible activities, match requirements, if any, and legal entities eligible to act as fund recipients, among other program provisions.)

5. Further, DATCP reports funding to producer-led watershed groups would not be provided for standard practices that are currently eligible for SWRM cost-sharing. Instead, the Department expects funding may support such costs as: (a) preliminary start-up and organizational costs, such as for soliciting participation by area farmers, or generating possible conservation approaches for the group and the area watershed; (b) hiring staff for support and coordination of the group and its activities, including seeking funding for a group's efforts through existing programs for soil and water conservation practice installation; or (c) incentive payments to encourage participants to engage in data collection or water quality monitoring in conjunction with conservation practices that would be, or have been, installed.

6. SWRM nonpoint SEG funding for nutrient management and other nonstructural conservation practices has been reduced by several budget acts from \$6.5 million in base funding in 2008-09 to \$2.5 million beginning in 2013-14. It could be argued that the bill would place

additional obligations on the remaining \$2,500,000 nonpoint SEG cost-sharing appropriation, which may further diminish the ability of the state to fund nutrient management or other soft practices that the funding was originally intended to address. On the other hand, annual nonpoint SEG funds also have been routinely transferred to the general fund or lapsed to the nonpoint account balance, such that annual net appropriations have often been less than \$2 million. It is also likely producer-led watershed groups would have nutrient management as significant or primary goals of their organizations, which is generally the case for the groups currently operating in Dane County and Northwest Wisconsin.

7. DATCP SWRM grant activity generally is governed by provisions of Chapter 92 (soil and water conservation and animal waste management). Among provisions of Chapter 92 is the restriction on counties providing state funding in an amount more than 70% of the cost of a project. As the bill would create the producer-led watershed grant program in Chapter 93 (general DATCP provisions), it does not appear the standard cost-sharing rate would apply for grants to producer-led watershed initiatives. Other DATCP grant programs have varying matches, as shown in the following table. Certain programs also may have maximum grant amounts specified by statute, administrative rule, or in annual grant guidelines issued by the Department. These amounts are also shown in the table.

#### DATCP Grant Program Provisions

<u>Grant Program</u>	<u>2014-15 Appropriation</u>	<u>Maximum Grant</u>	<u>Recipient Match</u>
Clean Sweep	\$750,000	Various*	25% of project (S)
Ag. development and diversification	0	\$50,000/project (S)	33% of project (S)
Buy Local, Buy Wisconsin	200,000	50,000/grant/bien. (R)	50% of project (S)
Grow Wisconsin Dairy Producer	200,000	50,000/biennium (R)	See Below**
Grow Wisconsin Dairy Processor	200,000	50,000/biennium (R)	See Below**

Note: (S) refers to statutory requirement and (R) refers to requirement of administrative rule.

\* While not specified by statute or rule, DATCP administers the agricultural chemical and household hazardous waste, or "clean sweep" program, by declaring a maximum grant each year for each grant type. For 2015, maximum grants are between \$2,000 and \$18,000, depending on event type.

\*\* Conditions shown are those specified by administrative rule ATCP 161. However, DATCP has implemented the Grow Wisconsin programs based on a \$5,000 maximum grant with a recipient match of 20% of the grant amount (\$1,000 on a maximum grant).

8. The producer-led watershed grant would continue state funding for implementation of nonpoint source water pollution abatement, and the means of using direct DATCP funding to producers collaborating with governmental or nonprofit organizations would not necessarily be available under current DATCP programs. One could argue the proposal is an appropriate use of nonpoint SEG for these reasons. The Committee could consider adopting the Governor's recommendation [Alternative 1].

9. On the other hand, the program would redirect funding from the existing SWRM program in DATCP, which has been subject to base funding reductions in past biennia. Further, because producer-led groups in place in Wisconsin have generated support both from private organizations and existing public resources, it could be argued it is not necessary to provide

additional state funding. The Committee could consider deleting the provision [Alternative 4].

10. The Committee also could specify maximum state matches, as recipient matches generally help ensure recipients have a financial stake in, and adequate commitment to, a project. The Committee could consider levels of: (a) a 70% state match (30% local), generally consistent with other nonpoint source programs [Alternative 2a]; (b) a 50% state match, which would require at least an equal amount of non-state funding to be provided by recipients [Alternative 2b]; or (c) a 33% state match, meaning every \$1 in state funding would match at least \$2 in recipient funding [Alternative 2c]. The Committee could also take no action on a match requirement. Such an alternative would not preclude DATCP from specifying a match by administrative rule. Also, one could argue specifying no match may allow DATCP flexibility in administering the program, as the size and means of producer-led groups may vary significantly across the state. For instance, as DATCP may consider creating distinct grant categories, it could be argued a uniform statutory match provision may not be most appropriate for each grant type. Not requiring a match could allow awards to smaller projects with lesser financial means, but that may have potential for significant nonpoint source pollution reductions.

11. The Committee also could consider specifying maximum grant amounts, which may help ensure available grant funds are not concentrated in a small number of recipients. One of the following amounts could be considered: (a) \$20,000 in a state fiscal year [Alternative 3a]; (b) \$30,000 in a state fiscal year [Alternative 3b]; (c) \$40,000 in a state fiscal year [Alternative 3c]; or (d) 20% of the amount available in a fiscal year [Alternative 3d]. Limiting grants to 20% of the annual available amount would result in a \$50,000 annual maximum, assuming DATCP made up to \$250,000 available each year under the bill. A \$50,000 maximum grant would be consistent with several existing programs noted earlier. A 20% limit would also automatically adjust the annual maximum if DATCP elected to offer less than \$250,000 in a year. The Committee could also take no action on a maximum grant, as similar arguments would apply to consideration of a minimum recipient match. For instance, specifying no maximum grant may allow additional funding to be directed to projects with particularly significant pollution-reduction potential.

## ALTERNATIVES

1. Adopt the Governor's recommendation to establish a grant program for producer-led watershed grants, with DATCP required to allocate not more than \$250,000 nonpoint SEG from existing funding for the grants.

2. Specify one of the following maximum state matching rates:

a. 70% of eligible costs (recipients must provide at least 30% of project funds);

b. 50% of eligible costs (recipients must provide amounts at least equal to state funding); or

c. 33% of eligible costs (recipients must provide at least \$2 in funding for every \$1 in state funds).

3. Specify one of the following maximum grants in a state fiscal year:
  - a. \$20,000;
  - b. \$30,000;
  - c. \$40,000; or
  - d. 20% of the annual funding available.
  
4. Delete provision. (The producer-led watershed grant program would be removed from the bill. No DATCP funding would be affected.)

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May 12, 2015

Joint Committee on Finance

Paper #140

### Ozone-Depleting Refrigerants Positions (Agriculture, Trade and Consumer Protection)

#### CURRENT LAW

The statutes contain several restrictions and requirements on the sale, use or handling of ozone-depleting refrigerants (ODRs) in mobile air conditioners, such as those in automobiles or refrigerated trucks and trailers. The statutes also require automobile servicers to be trained, in accordance with federal provisions, on the proper containment and recovery of ODRs during the servicing of mobile air conditioners. The Department of Agriculture, Trade and Consumer Protection (DATCP) is responsible for administering the statutory provisions, and DATCP has promulgated administrative rule ATCP 136 to further specify certain standards and provisions for the program. In 2014-15, the DATCP is authorized 6.05 positions and program revenues (PR) of \$470,400 for carrying out its ODR regulatory responsibilities.

These functions are under the jurisdiction of the DATCP Bureau of Weights and Measures (BWM), which also conducts: (a) inspections for the accuracy of weighing and measuring devices in commercial use in Wisconsin, including motor vehicle fuel pumps, retail scales and price scanners, and other large commercial or industrial scales or meters; and (b) inspection of petroleum storage tanks and delivery systems, as well as testing the content of petroleum products. DATCP created BWM following 2013 Act 20, which transferred petroleum product testing and petroleum system inspections from the Department of Safety and Professional Services (DSPS). DATCP subsequently merged the petroleum systems inspectors with existing DATCP weights and measures staff, and inspectors are trained to conduct inspections in both regulatory areas.

#### GOVERNOR

No provision.

## DISCUSSION POINTS

1. The DATCP ODR regulatory program has been subject to multiple statutory and administrative rule changes since 2012. Notably, a \$120 annual registration fee and other related surcharges imposed on servicers that handle ODRs have been effectively removed beginning in 2014. The annual registration fee was the primary revenue source for the DATCP appropriation supporting the program, generating about \$420,000 PR annually.

2. The DATCP ODR regulation PR appropriation began the 2013-15 biennium with a balance of \$249,100. However, minimal program revenues (\$12,300 in 2013-14 only) have been realized thus far in 2013-15 due to the statutory and administrative rule changes. Although the statutes still contain allowances for DATCP to assess fees for costs of administering the program, DATCP is in the process of making permanent revisions to administrative rule ATCP 136 that would repeal all current fees. Table 1 shows the condition of the ODR regulation PR appropriation through 2013-14. DATCP anticipates expending the remaining \$102,000 by June 30, 2015.

**TABLE 1**

### **DATCP Ozone-Depleting Refrigerants Regulation Appropriation Condition**

	Actual <u>2011-12</u>	Actual <u>2012-13</u>	Actual <u>2013-14</u>
Opening Balance	\$261,400	\$377,200	\$249,100
Revenues	448,700	451,300	12,300
Expenditures	- 297,900	- 344,400	- 159,400
Transfers	<u>- 35,000</u>	<u>- 235,000</u>	<u>0</u>
Closing Balance	\$377,200	\$249,100	\$102,000

3. Currently authorized positions in the ODR appropriation include: (a) 3.0 weights and measures/petroleum system specialists; (b) 1.0 regulatory specialist; (c) 1.0 operations program associate; (d) 0.5 license/permitting program specialist; (e) 0.35 weights and measures field program chief; and (f) a portion (0.2 position) of the Division of Trade and Consumer Protection division administrator, of which BWM is a part. As of May 1, 2015, all positions were filled.

4. In 2013-14, DATCP reallocated \$201,000 in salary and fringe benefit costs that otherwise would have been expended from the ODR regulation appropriation. DATCP instead transferred these costs to a BWM appropriation for petroleum product and storage tank inspection, funded by the segregated (SEG) petroleum inspection fund.

5. DATCP reports it plans to submit a 14-day passive-review request for the Committee's consideration in the near future, but has not completed the request. DATCP is expected to propose to effectively transfer 6.05 positions from the ODR regulation appropriation to another PR appropriation for weights and measures regulation. The appropriation DATCP has identified to receive the ODR-related positions is funded primarily by: (a) license fees on persons operating

weighing and measuring devices; (b) a 2¢ fee on each ton of fertilizer or commercial animal feed sold in Wisconsin; (c) charges for services provided by the state metrology laboratory; and (d) service charges assessed to municipalities that are required by statute to conduct weights and measures inspection in their jurisdictions, but that have elected to procure those services under contract with DATCP. The weights and measures PR account condition is shown in Table 2.

**TABLE 2**

**DATCP Weights and Measures Regulation Appropriation Condition**

	Actual <u>2012-13</u>	Actual <u>2013-14</u>	Estimated <u>2014-15</u>	Bill <u>2015-16</u>
Opening Balance	\$566,300	\$926,700	\$1,536,000	\$1,855,800
Revenues	1,689,800	1,726,300	1,700,000	1,700,000
Expenditures	- 1,224,100	- 1,011,700	- 1,274,900	- 1,429,800
General Fund Transfers	<u>- 105,300</u>	<u>- 105,300</u>	<u>- 105,300</u>	<u>- 105,300</u>
Closing Balance	\$926,700	\$1,536,000	\$1,855,800	\$2,020,700

6. As there are insufficient balances and revenues to continue funding the positions authorized for the ODR regulatory program, the Committee could consider deleting the positions and \$525,100 PR annual base funding for the appropriation [Alternative 1]. Under such an alternative, DATCP and the administration would still be able to request PR position authority under the passive-review process. However, deleting filled positions without specifying a substitute funding source could risk layoff of incumbents if no substitute sources were found prior to the deletion taking effect.

7. Consideration could be given to deleting expenditure authority for ODR regulation and: (a) transferring 6.05 positions with \$427,400 to weights and measures PR, consistent with DATCP's intention [Alternative 2]. Such an alternative would result in net PR reductions of \$97,700 annually, associated mostly with supplies and services. Although the weights and measures PR account has a substantial balance, transferring all 6.05 additional positions would put the account into structural imbalance with \$1.7 million in revenues shown in Table 2 and \$1.85 million annual appropriation under Alternative 2.

8. The Committee also could consider dividing existing positions among weights and measures PR and petroleum inspection SEG, which are the primary fund sources for BWM operations. Consideration could be given to transferring: (a) 2.05 positions to petroleum inspection SEG with associated funding of \$162,100; and (b) 4.0 positions to weights and measures PR with associated funding of \$265,300 [Alternative 3]. Dividing the current positions could spread ongoing BWM costs more equally among the Bureau's primary fund sources. Also, transferring program costs to petroleum inspection SEG would be consistent with DATCP reallocating costs in 2013-14, while additional obligations on weights and measures PR would be more aligned with expected revenues. The Committee also could delete \$162,100 petroleum inspection SEG annually from supplies and services to offset the costs of positions added.

9. If the Committee adopted Alternatives 1, 2, or 3, it could consider also deleting 1.0 vacant weights and measures/petroleum system inspector in the petroleum inspection SEG appropriation, and associated costs of \$62,000 SEG annually [Alternative 4]. Eliminating a current vacancy would further reduce ongoing obligations of the petroleum inspection fund, and offset some of the additional positions under Alternative 2 or 3. On the other hand, one could argue that as DATCP's weights and measures/petroleum system inspectors under 2013 Act 20 are fewer than the combined DATCP-DSPS total prior to 2013 Act 20, reducing positions further may reduce DATCP's ability to conduct weights and measures and petroleum-related inspections at current frequencies. Also, the position became vacant in April, 2015, and DATCP expects it would seek to fill the position in the near future.

10. The Committee also could take no action [Alternative 5]. ODR regulation PR positions would remain authorized, and DATCP and the administration could still proceed with a passive review request to adjust PR position totals.

## ALTERNATIVES

1. Delete \$525,100 PR annually with 6.05 positions for regulation of ozone-depleting refrigerants and servicers of mobile air conditioners.

ALT 1	Change to Bill	
	Funding	Positions
PR	-\$1,050,200	- 6.05

2. Delete \$525,100 PR annually with 6.05 positions for regulation of ozone-depleting refrigerants, and provide \$427,400 PR annually with 6.05 positions under the DATCP PR appropriation for weights and measures regulation.

ALT 2	Change to Bill	
PR	-\$195,400	

3. Delete \$525,100 PR annually with 6.05 positions for regulation of ozone-depleting refrigerants, and provide the following: (a) \$162,100 petroleum inspection SEG annually with 2.05 positions; and (b) \$265,300 weights and measures PR with 4.0 positions. Additionally, delete \$162,100 petroleum inspection SEG from supplies and services.

ALT 3	Change to Bill	
	Funding	Positions
PR	-\$519,600	- 2.05
SEG	<u>324,200</u>	<u>2.05</u>
Total	-\$195,400	0.00



4. In addition to Alternatives 1, 2, or 3, delete \$62,000 petroleum inspection SEG annually with 1.0 vacant position.

ALT 4	Change to Bill	
	Funding	Positions
SEG	-\$124,000	- 1.00

5. Take no action. (The Committee could defer action on the issue to an expected DATCP passive review request for position adjustments.)

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May 12, 2015

Joint Committee on Finance

Paper #141

### Nonpoint Source Program Grants and Contracts (DNR -- Environmental Quality)

[LFB 2015-17 Budget Summary: Page 322, #4]

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#### CURRENT LAW

The Department of Natural Resources (DNR) administers several grant programs to prevent or reduce nonpoint source water pollution. The targeted runoff management (TRM) program provides financial assistance to projects addressing water quality concerns or impairments, primarily in rural or agricultural settings. TRM projects are funded mostly through general obligation bonding revenues (BR) by the nonpoint account of the segregated (SEG) environmental fund. Additional program funds also come from federal funds (FED) under the Clean Water Act and state general purpose revenues (GPR). These fund sources also support grants under a companion program to TRM, which makes grants to animal feeding operations that have received a notice of discharge (NOD) or a notice of intent (NOI) to issue a notice of discharge for animal waste runoff that has entered state waters.

The urban nonpoint source and storm water management (UNPS) grant program provides financial assistance for planning or practices undertaken by urban municipalities, including those responsible for managing storm water discharges to waters of the state. The program is funded by a combination of nonpoint SEG-supported general obligation bonding and nonpoint SEG appropriations, which have annual base funding of \$1,313,200.

Also, DNR is appropriated funds for contracts with entities providing research, education and outreach related to nonpoint source water pollution abatement programs. DNR is appropriated \$997,600 each year for these purposes. The statutes require at least \$500,000 be allocated each year to programs of the University of Wisconsin-Extension related to nonpoint source water pollution.

**GOVERNOR**

Delete \$3,566,400 over the biennium for nonpoint source grant programs, as shown in Table 1:

**TABLE 1**

**DNR Nonpoint Program Funding Changes -- AB 21 / SB 21**

<u>Appropriation</u>	<u>Fund Source</u>	<u>Base (Annual)</u>	<u>Bill (Annual)</u>	<u>Annual Change</u>
Targeted runoff management grants	GPR	\$200,000	\$0	- \$200,000
Nonpoint source contracts	SEG	997,600	227,600	- 770,000
Urban nonpoint source grants	SEG	<u>1,313,200</u>	<u>500,000</u>	<u>- 813,200</u>
	Total	\$2,510,800	\$727,600	- \$1,783,200

**DISCUSSION POINTS**

1. The bill contains several recommendations by the Governor to align the expenditures of the nonpoint account with anticipated ongoing revenues. Several of these provisions are addressed in other Legislative Fiscal Bureau budget papers. The following sections discuss the Governor’s recommendations for nonpoint-related expenditure reductions budgeted under DNR. Alternatives for each program or appropriation are included in each section.

**A. Targeted Runoff Management Grants**

2. The GPR appropriation for nonpoint programs, which is primarily allocated to the targeted runoff management, or TRM program, has been subject to both reductions in base funding and transfers to the general fund in the last several biennia. Table 2 shows the GPR appropriated biennially for nonpoint programs since 2009-11, including expenditure reductions made under past requirements to lapse amounts to the general fund. Although past lapses have reduced or eliminated GPR funding for individual years, the bill would eliminate future GPR base funding for DNR TRM grants.

**TABLE 2**

**TRM Program GPR Appropriations**

	<u>2009-11</u>	<u>2011-13</u>	<u>2013-15</u>	<u>2015-17 (Bill)</u>
Appropriated	\$1,625,800	\$1,418,200	\$400,000	\$0
Agency Reductions/ Transfers	- <u>1,420,400</u>	- <u>1,217,100</u>	<u>0</u>	<u>0</u>
Total Available	\$205,400	\$201,100	\$400,000	\$0

3. The GPR TRM grant appropriation primarily supports certain costs under the TRM program, but also under the NOD/NOI grant programs. TRM grants currently are awarded in one of four project areas. Projects are classified either as large-scale or small-scale, and are also classified as addressing TMDL (total maximum daily load) plans or being non-TMDL related. (The federal Clean Water Act generally requires waters that states have identified as impaired to undergo TMDL planning. A TMDL plan specifies maximum amounts of pollutants that can be introduced to the water, accounting for all point and nonpoint sources.) Large-scale TRM projects are to address agricultural nonpoint sources, and may be eligible for funding up to \$1,000,000 over three years. Small-scale projects focus on agricultural or certain urban sources, and may be eligible for up to \$150,000 in funding over two years. In addition to funding maximums, projects are subject to other provisions limiting the state's portion of cost-sharing grants. The typical state share for conservation practices funded by TRM grants is 70%, which requires at least a 30% recipient match of eligible project costs. TRM project activities, as well as those for NOD/NOI grants, may include both: (a) structural improvements to improve water quality, such as stream bank stabilization or manure storage structures; or (b) nonstructural practices such as changes in cropping techniques or nutrient management planning for optimizing applications of fertilizer, manure or other nutrients to agricultural lands. Large-scale TRM projects also may include local planning, education and outreach in a project area; state funds for these activities are termed local assistance grants.

4. Most funding for TRM grants is from nonpoint SEG-supported general obligation bonding revenues, and each of the last four biennial budgets authorized an additional \$7 million BR for TRM grants. Approximately \$1.6 million to \$2 million of this biennial authority has been reserved for NOD/NOI grants in each of the last two biennia. The bill would provide an additional \$7 million BR for TRM and NOD/NOI grants in 2015-17.

5. In addition to bond proceeds, DNR allocates federal funding awarded to the state to TRM and NOD/NOI grants. This funding, known as Section 319 funding for the part of the Clean Water Act authorizing it, provides funding for state programs addressing nonpoint source water pollution. DNR budgeted \$800,000 FED and \$1,000,000 FED, respectively, for TRM grant awards made for the 2014 and 2015 calendar years, which were the calendar years in which state funding available in the 2013-15 biennium generally would have been awarded.

6. The uses of bond proceeds for water pollution-abatement programs are restricted by provisions of the Wisconsin Constitution; such funds are largely restricted to use on structural improvements that would benefit state waters. Therefore, Section 319 FED or GPR are often needed to support TRM or NOD/NOI projects that include local assistance activities or nonstructural practices, as bond proceeds cannot fund these activities.

7. Nationally, annual appropriations of Section 319 funds have decreased by about 20% since the 2010 federal fiscal year, according to the U.S. Environmental Protection Agency (EPA). DNR also reports Section 319 awards to Wisconsin are not expected to significantly change in the next biennium. However, regardless of Section 319 funding levels, Section 319 funds can only be awarded to TRM or NOD/NOI projects to the extent the project would occur in an area that has in place a watershed plan that meets EPA guidelines for containing certain comprehensive watershed planning elements. DNR maps and data indicate most of the state is not under a qualifying plan as

of February, 2015, although recent changes to local conservation planning requirements by the Department of Agriculture, Trade and Consumer Protection (DATCP) are intended to align future local plans with federal guidelines. For areas that do not yet have in place such watershed-based plans, GPR would be a possible fund source for TRM or NOD/NOI projects with nonstructural or other planning components.

8. Similar DATCP nonpoint SEG appropriations also would be a possible source of funding for nonstructural practices or for limited staffing costs for projects that may otherwise seek TRM funding. DATCP funding for cost-sharing for nonstructural practices would continue at \$2,500,000 SEG annually under the bill. However, the bill also would require \$250,000 of this amount to be allocated to grants to producer-led groups conducting nonpoint source pollution abatement in watersheds throughout the state. This provision could reduce funding otherwise generally available for nonstructural practices. Further, DATCP reports it generally distributes its funding for voluntary changes landowners undertake for their operations. DNR funds, particularly for NOD/NOI grants, are more similar to regulatory actions for more apparent discharges or significant violations of performance standards. Such differences in agency funding suggest funds available outside DNR may not function as substitutes for DNR funding in all instances. Also, the bill would reduce base funding for county conservation staffing grants by the \$815,900 nonpoint SEG each year provided on a one-time basis in 2013-15.

9. It could be argued the general fund is an appropriate source to continue providing for nonpoint source pollution abatement activities, as the diffuse nature of nonpoint source water pollution suggests the possibility of many not easily defined sources. Entities that are considered point sources discharges, such as industrial activities, wastewater treatment plants, municipal storm water sewer systems or concentrated animal feeding operations, generally must fund their own pollution abatement systems and practices. Conversely, GPR support of nonpoint programs generally reflects the diverse nature of activities that contribute to nonpoint source water pollution, as well as the general benefits to water quality that accrue from pollution prevention or abatement practices. Under current law and the bill, GPR funding for nonpoint programs includes: (a) a transfer of \$11,143,600 from the general fund to the nonpoint account, which is one of the nonpoint account's primary annual revenue sources, behind state solid waste "tipping fees"; and (b) \$3,027,200 GPR annually for DATCP grants to counties for support of land and water conservation staff. DNR Water Division staff assigned to nonpoint program areas also are funded in part by GPR. DNR also reports it has budgeted approximately \$842,700 GPR with 8.0 positions for administration of nonpoint-related activities in 2014-15.

10. The \$400,000 GPR biennial reduction for DNR nonpoint programs represents approximately 5% or less of the total bonding, FED and GPR amounts customarily available biennially to DNR for TRM and NOD/NOI grants. (These amounts totaled approximately \$9.2 million for grants in the 2013-15 biennium.) Further, other funding, such as from DATCP nonpoint SEG appropriations, would remain available under the bill for support of nonstructural practices to prevent or limit agricultural-based nonpoint source water pollution. The Committee could therefore give consideration to adopting the Governor's recommendation [Alternative A1].

11. Conversely, because GPR can support certain practices that bond proceeds cannot, and

because GPR has fewer restrictions than certain federal funds available for similar purposes, it could be argued the GPR reduction may impede the awarding of TRM grants in certain geographic areas to otherwise worthwhile projects. Some may also argue that the GPR and other nonpoint-related reductions under the bill would reduce funding for nonpoint source water pollution abatement at times when nonpoint source pollution-related occurrences, including nutrient-driven algal blooms and hypoxic zones in Wisconsin and U.S. water bodies, have generated attention and, at times, presented public health concerns. The Committee could give consideration to deleting the Governor's recommendation [Alternative A4].

12. The Committee could also give consideration to restoring a portion of funding for DNR nonpoint programs. The affected appropriation is a biennial appropriation, meaning DNR can expend all monies appropriated for the biennium at any point in the biennium, including transferring funding between fiscal years. For instance, the Committee could restore \$400,000 in 2015-16 only [Alternative A2a]. Such an alternative would maintain current funding for 2015-17, but no funding would be provided as base funding in compiling the 2017-19 budget. Further GPR funding, if any, could be considered at that time. The Committee could also consider providing \$200,000 in 2015-16 [Alternative A2b], providing \$200,000 in 2016-17 to restore base-level funding for the 2017-19 biennium [Alternative A2c], or providing \$100,000 annually [Alternative A2d], which would provide base funding for 2017-19 but in a lower amount than currently.

13. If the Committee wished to restore funding for TRM and NOD/NOI grants under Alternative A2, the Committee could specify whether to retain funding as GPR [Alternative A3a] or transfer the funding source to nonpoint SEG [Alternative A3b]. Although the nonpoint account has a structural imbalance under current law, the structural condition is expected to improve under the bill. The account also would have sufficient balances and income in 2015-17 to support the options under Alternative A2. However, if the funding were transferred to nonpoint SEG, it also could be argued that funding additional appropriations with nonpoint SEG would further stress the ability of the account to support future grants.

## **B. Urban Nonpoint Source and Municipal Flood Control Grants**

14. The UNPS program provides financial assistance for municipalities implementing practices in urban areas to achieve water quality standards, protect groundwater, and meet storm water permit conditions of NR 216. (Municipal discharges from storm sewers are regulated as point source discharges under provisions of the federal Clean Water Act.) UNPS grants may be construction grants or planning grants. Construction grants may fund such projects as (a) stream bank stabilization; (b) structural practices for abating runoff from government, transportation, commercial, recreational or certain industrial facilities, including costs of land acquisition, storm sewer rerouting, and structure removal; and (c) other activities, such as improved street sweeping, identified by DNR rule. Planning grants, on the other hand, involve nonstructural activities such as engineering designs not specific to a project, feasibility studies, public information initiatives, ordinance drafting, and ordinance enforcement. Construction grants may be eligible for 50% state funding up to \$150,000, while planning grants may be eligible for 70% state funding up to \$85,000. Property acquisition may receive 50% funding, up to \$50,000.

15. The DNR municipal flood control and riparian restoration (MFC) program provides

municipalities with local assistance grants to conduct planning for flood control or mitigation projects, or grants to support acquisition and development activities. Acquisition and development activities may include: (a) property acquisition and removal; (b) floodproofing of structures; and (c) construction of facilities to collect, store, retain or convey water for flood control purposes. MFC acquisition and development grants and local assistance grants may be eligible for 70% state cost-sharing. In any fiscal year, the Department may not award more than 20% of the program's available funding to any one applicant.

16. UNPS and MFC grants may be funded by nonpoint SEG-supported general obligation bonding revenue, or by nonpoint SEG biennial appropriations. The programs' bonding authority was authorized \$5 million BR in new authority under 2013 Act 20; the bill would provide an additional \$5 million BR in 2015-17. The nonpoint SEG appropriation has base funding of \$1,313,200 each year. It may be used to fund either UNPS or MFC grants, although in the last five full fiscal years, \$2.0 million (71%) of the \$2.8 million in total expenditures from the appropriation were for UNPS planning grants.

17. The bill would reduce nonpoint SEG for the UNPS and MFC programs from \$1,313,200 each year to \$500,000 each year. Although the bill would continue additional UNPS/MFC bonding authority, funding limitations on UNPS planning grants and MFC local assistance grants are similar to those for local assistance or other nonstructural practices grants under the TRM program. As UNPS/MFC planning or local assistance grants do not implement structural practices, they cannot use bonding authority and are therefore dependent on nonpoint SEG funding.

18. Under current law, the nonpoint account is projected to have a structural imbalance. Expenditure reductions under the bill would be estimated to improve, and perhaps eliminate, the structural imbalance of the account. However, restoring all or a portion of base funding would likely increase the account's structural imbalance. Because of concerns about the nonpoint account condition, and because the bill would continue to provide bonding authority and some level of nonpoint SEG for UNPS and MFC nonstructural grants, the Committee could consider adopting the Governor's recommendation [Alternative B1].

19. UNPS construction grants generally cannot fund practice installation in conjunction with new construction, or with areas that have undergone significant land-use changes such that runoff is no longer controlled. UNPS planning grants, however, are designed to support organization and preparation activities for municipalities that are becoming more urbanized and that are considering infrastructure needs or development patterns. These areas may be more likely to be experiencing new growth that is not eligible for UNPS construction grants, and reducing nonpoint SEG funding may tend to affect such municipalities more so than others. It is likely reduced funding for municipal planning, both in the UNPS and MFC programs, could require such activities to compete for funding with other expenditures in the general budgets of municipalities or storm water utilities. Further, recent demand for UNPS planning grants has typically exceeded the \$500,000 that would be available under the bill. The Committee could give consideration to restoring funding of: (a) \$200,000 each year [Alternative B2a]; (b) \$400,000 each year [Alternative B2b]; or (c) \$813,200 each year, which would maintain current law [Alternative B2c].



20. The Committee also could consider modifying the state match for UNPS planning grants, which is currently set by statute at 70% state funding, or equal to a recipient matching share of at least 30% of eligible project costs. Reducing the state portion of funding may allow funds to be distributed to more recipients than would be possible under a higher state share at the recommended funding level. A maximum state match of 50% could be considered [Alternative B3a], which would require recipients to match state funding at least dollar-for-dollar. A 50% state share would be consistent with the 50% recipient match required for UNPS construction grants. If the Committee wished to reduce the maximum state share for UNPS grants to 50%, it also could consider reducing the state portion for MFC grants to 50% [Alternative B3b]. This would make UNPS and MFC grants, both of which are made primarily to urban areas, and which share the same nonpoint SEG and BR funding sources, consistent in their maximum state cost-share rates. The Committee also could retain the current UNPS planning grant and MFC grant recipient match of 30% [Alternative B3c].

### **C. Nonpoint Source Contracts**

21. DNR is currently appropriated \$997,600 nonpoint SEG annually for contracts to any person providing services to administer or implement nonpoint source pollution abatement programs, including information, education or training services. Further, the statute providing for DNR contracts requires the Department to allocate \$500,000 in each fiscal year to the UW-Extension. At least a portion of UW-Extension funding has customarily gone to the Natural Resources Education (NRE) program, which was previously known as the basin education program. For each year in the previous two biennia, allocations to the NRE program have been approximately \$350,000.

22. Base funding for nonpoint source contracts has been \$997,600 since 2003-04. However, appropriated amounts have occasionally been transferred to the general fund; for instance, no contracts were awarded in 2009-10 or 2010-11. The bill would reduce funding for nonpoint source contracts by \$770,000 each year, to a level of \$227,600.

23. The bill would not change the requirement for a \$500,000 annual allocation to UW-Extension. However, the administration has submitted an erratum stating the bill should be amended to repeal the \$500,000 annual allocation to UW-Extension.

24. Most nonpoint contracts historically have funded projects of UW-Extension or other UW System institutions. In recent years, research funds directed to the UW System have funded studies on various aspects of nutrient management and fertilizer or manure application. Other entities receiving funds in recent years have included the U.S. Geological Survey and the Wisconsin Land and Water Conservation Association, a group of county land and water conservation staff and county land conservation committees.

25. DNR has indicated two statewide efforts that have customarily received contract funding would be strongly considered for continued funding under the bill. These include: (a) development and maintenance of online software for assisting farmers with nutrient management planning; and (b) nonpoint source education and outreach through the NRE program. In addition, a farmer-led watershed initiative in the area of the St. Croix and Red Cedar Rivers has received

funding in recent years, and DNR reports it would be considered for future allocations.

26. Given the structural condition of the nonpoint account, it could be argued a reduction in nonpoint source contract funding is appropriate to better align account expenditures and revenues, particularly as some amount of funding would continue. DATCP also has customarily awarded a portion of its nonpoint SEG appropriations for soil and water resource management to the UW-Extension for various statewide initiatives related to nonpoint source pollution abatement. This practice would be expected to continue under the bill. The Committee could consider adopting the Governor's recommendation [Alternative C1].

27. However, it also could be argued the nonpoint source contracts are appropriate to fund at levels closer to current law. Increased funding would allow DNR to pursue additional research and outreach with statewide benefits for soil conservation, nutrient management and water quality. Also, other bill provisions that may reduce UW System appropriations could decrease the UW System's ability to fund nonpoint-related research using its own funds. The Committee could consider restoring one of the following portions of the funding: (a) \$200,000 each year [Alternative C2a]; (b) \$385,000 each year, or half of the recommended reduction [Alternative C2b]; or (c) \$770,000 each year, which would maintain current law [Alternative C2c].

28. Consideration also could be given to the Governor's recommendation to repeal the minimum \$500,000 allocation per fiscal year to UW-Extension. If the Committee adopted the Governor's recommendation, or retained a level of funding not exceeding \$500,000, it could repeal the minimum \$500,000 annual allocation to UW-Extension [Alternative C3]. If the Committee wished to restore funding to a level more than \$500,000, it could consider taking no action.

## **ALTERNATIVES**

### **A. Targeted Runoff Management Funding**

1. Adopt the Governor's recommendation to delete \$200,000 GPR annually for nonpoint source TRM grants.
2. Restore one of the following amounts:
  - a. \$400,000 in 2015-16 only;
  - b. \$200,000 in 2015-16 only;
  - c. \$200,000 beginning in 2016-17; or
  - d. \$100,000 each year.
3. In addition to Alternative A2, specify one of the following funding sources:
  - a. GPR; or
  - b. the nonpoint account of the environmental fund.

4. Delete the Governor's recommendation. (\$200,000 GPR would be restored each year.)

<b>ALT A4</b>	<b>Change to Bill</b>
GPR	\$400,000

**B. Urban Nonpoint Source and Storm Water Management Grants**

1. Adopt the Governor's recommendation to delete \$813,200 nonpoint SEG each year for the urban nonpoint source and storm water management program and municipal flood control and riparian restoration program.

2. Restore one of the following amounts for urban nonpoint source/municipal flood control grants:

- a. \$200,000 nonpoint SEG each year;

<b>ALT B2a</b>	<b>Change to Bill</b>
SEG	\$400,000

- b. \$400,000 nonpoint SEG each year; or

<b>ALT B2b</b>	<b>Change to Bill</b>
SEG	\$800,000

- c. \$813,200 nonpoint SEG each year. (Delete the Governor's recommendation.)

<b>ALT B2c</b>	<b>Change to Bill</b>
SEG	\$1,626,400

3. In addition to Alternative B1 or B2, specify one or more of the following maximum state funding levels:

a. Up to 50% of eligible project costs for urban nonpoint source (UNPS) planning grants (at least a dollar-for-dollar recipient match on state funds);

b. Up to 50% of eligible project costs for all grants under the municipal flood control and riparian restoration program (requiring at least a dollar-for-dollar recipient match on state funds); or

c. Take no action (maintain the current 70% state maximum for UNPS planning grants and MFC grants).

**C. Nonpoint Source Contracts**

1. Adopt the Governor's recommendation to delete \$770,000 nonpoint SEG annually for nonpoint source contracts.

2. Restore one of the following amounts:

a. \$200,000 each year;

<b>ALT C2a</b>	<b>Change to Bill</b>
SEG	\$400,000

b. \$385,000 each year; or

<b>ALT C2b</b>	<b>Change to Bill</b>
SEG	\$770,000

c. \$770,000 each year. (Delete the Governor's recommendation.)

<b>ALT C2c</b>	<b>Change to Bill</b>
SEG	\$1,540,000

3. Delete the requirement that DNR allocate \$500,000 in each fiscal year for contracts with the University of Wisconsin-Extension.

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May 12, 2015

Joint Committee on Finance

Paper #142

### Nonpoint Source Program Bonding (DNR -- Environmental Quality)

[LFB 2015-17 Budget Summary: Page 323, #5 and 6]

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#### CURRENT LAW

The Department of Natural Resources (DNR) administers several grant programs to prevent or reduce nonpoint source water pollution. The targeted runoff management (TRM) program provides financial assistance to projects addressing water quality concerns or impairments, primarily in rural or agricultural settings. TRM projects are funded mostly through general obligation bonding revenues (BR), the principal and interest payments on which are supported by the nonpoint account of the segregated (SEG) environmental fund. Additional program funds also come from federal funds (FED) under the Clean Water Act and state general purpose revenues (GPR). These sources also support a companion program to TRM that makes grants to animal feeding operations that have received a notice of discharge (NOD) or a notice of intent (NOI) to issue a notice of discharge for animal waste runoff that has entered state waters.

The urban nonpoint source and storm water management (UNPS) grant program provides financial assistance for planning or practices undertaken by urban municipalities, including those responsible for managing storm water discharges to waters of the state. The program is funded by a combination of nonpoint SEG-supported general obligation bonding and nonpoint SEG appropriations. The nonpoint SEG and bonding authority for the UNPS program each are shared with the DNR municipal flood control and riparian restoration (MFC) program, which provides municipalities with local assistance grants to conduct planning for flood control or mitigation projects, or grants to support acquisition and development activities. Acquisition and development activities may include: (a) property acquisition and removal; (b) floodproofing of structures; and (c) construction of facilities to collect, store, or convey water for flood control.

## GOVERNOR

Provide \$7,000,000 in new general obligation bonding authority for TRM-NOD/NOI grants, and \$5,000,000 for UNPS-MFC grants.

## DISCUSSION POINTS

1. The following table shows the additional amounts that have been provided to DNR for the TRM-NOD/NOI and UNPS-MFC bonding authorizations since the 2007-09 biennium. (Also included are amounts authorized in 2007-09 for priority watersheds, a nonpoint grant program that has since expired.) The bonding amounts recommended by the Governor for 2015-17 would be in line with amounts provided in the preceding biennia for the programs.

### Nonpoint Program New Bonding Authorizations

	<u>2007-09</u>	<u>2009-11</u>	<u>2011-13</u>	<u>2013-15</u>	<u>2015-17</u>
Targeted runoff management	\$7,000,000	\$7,000,000	\$7,000,000	\$7,000,000	\$7,000,000
Priority watersheds	5,000,000	0	0	0	0
Urban nonpoint-municipal flood	<u>6,000,000</u>	<u>6,000,000</u>	<u>6,000,000</u>	<u>5,000,000</u>	<u>5,000,000</u>
Total Available	\$18,000,000	\$13,000,000	\$13,000,000	\$12,000,000	\$12,000,000

2. In general, new bonding authority allows DNR to commit funding to new projects, which are completed over generally two- to three-year terms. State payments are made on a reimbursement basis. DNR reports it expects to begin the 2015-17 biennium with unobligated bonding authority of approximately \$1.1 million for the TRM-NOD/NOI programs and \$2.0 million for the UNPS-MFC programs, which would be available to commit to future projects.

3. TRM grants are issued in approximately equal amounts each year of a biennium. NOD/NOI grants are awarded from a reserve established for the calendar year, and DNR awards NOD/NOI grants in up to four grant cycles each year. MFC grants are issued once each biennium, and bonds issued for UNPS and MFC grants may vary annually and with available nonpoint SEG funding. However, average annual bond revenues expended for each program have been approximately equal in the last five full fiscal years.

4. The uses of bond proceeds for water pollution-abatement programs are restricted by provisions of the Wisconsin Constitution; such funds are largely restricted to use on structural improvements that would benefit state waters. Such practices may typically include: (a) stream bank restorations or facilities for manure storage under the TRM or NOD/NOI programs; (b) storm water detention ponds or infiltration systems under the UNPS program; and (c) structure flood-proofing, detention ponds or riparian improvements such as dam removal under the MFC program. The programs' bond proceeds also may fund acquisition of property or easements in some instances. In general, projects under the TRM, NOD/NOI, MFC and UNPS planning grants require a recipient match of at least 30% against the typical state maximum cost-share rate of 70%. UNPS construction

projects require at least a 50% match on up to 50% state funding. Certain maximum grant amounts also may apply.

5. The bill would reduce appropriations for TRM grants by \$200,000 GPR each year and appropriations for UNPS-MFC grants by \$813,200 nonpoint SEG each year. Without additional bonding authority, remaining funding for TRM and NOD/NOI grants likely would consist of federal grants to states under the Clean Water Act for nonpoint source pollution abatement. DNR allocated approximately \$1.8 million of these funds for TRM and NOD/NOI grants in the 2013-15 biennium. This funding varies, but it is not expected to increase in the future. Without additional bonding authority for UNPS-MFC grants, remaining funding for the programs under the bill would be \$1,000,000 nonpoint SEG over the biennium. In the absence of additional bonding authority, DNR would offer significantly less grant funding in 2015-17. (Other DNR nonpoint grant and contract appropriations are discussed in a separate budget paper.)

6. Assuming new bonds are issued with 20-year terms, principal and interest payments (debt service) on \$12 million in new debt would total approximately \$17 million over the life of the bonds, depending on interest rates at the time of issuance. Annual debt service would average approximately \$855,000 once all bonds are issued. Debt service on the bonds is paid from nonpoint SEG. However, overall nonpoint-related debt service is not expected to change substantially during the 2015-17 biennium. New bond issues are expected to be largely offset by debt service reductions for the former priority watershed program, as the bonds issued for this program are retired.

7. The Committee could adopt the Governor's recommendation [Alternative 1]. New bonding authority for the programs under the bill would be consistent with authorizations in recent biennia for DNR nonpoint source pollution abatement grants. Consideration also could be given to reducing the Governor's recommendation by the amounts available under each program. This would provide \$5,900,000 for the TRM-NOD/NOI bonding authority and \$3,000,000 for the UNPS-MFC bonding authority [Alternative 2]. Either alternative would allow DNR to continue offering annual grants at or near levels customary for the programs.

8. Deleting the Governor's recommendation would reduce bond issuance and future debt service obligations, which are currently supported by nonpoint SEG [Alternative 3]. However, with available bonding authority at \$1.1 million for the TRM programs and \$2.0 million for the UNPS-MFC programs, reductions in available DNR grant funding would be significant during 2015-17, which may slow or impair local land and water conservation projects.

## ALTERNATIVES

1. Adopt the Governor's recommendation to provide \$7,000,000 in additional bonding authority for the targeted runoff management program and \$5,000,000 for the urban nonpoint source and storm water management and municipal flood control and riparian restoration programs.

2. Modify the Governor's recommendation in one or both of the following ways:

- a. Provide \$5,900,000 in bonding authority for the TRM-NOD/NOI programs; or

<b>ALT 2a</b>	<b>Change to Bill</b>
BR	- \$1,100,000

- b. Provide \$3,000,000 in bonding authority for the UNPS-MFC programs.

<b>ALT 2b</b>	<b>Change to Bill</b>
BR	- \$2,000,000

3. Delete one or both of the following:

- a. \$7,000,000 for TRM program bonding; or

<b>ALT 3a</b>	<b>Change to Bill</b>
BR	- \$7,000,000

- b. \$5,000,000 for UNPS-MFC bonding.

<b>ALT 3b</b>	<b>Change to Bill</b>
BR	- \$5,000,000

Prepared by: Paul Ferguson



## **AGRICULTURE, TRADE AND CONSUMER PROTECTION**

### **LFB Summary Items for Which No Issue Paper Has Been Prepared**

<u>Item #</u>	<u>Title</u>
9	Bulk Milk Tanker Licensing and Permitting
10	Soil and Water Resource Management Bonding
13	Computer Equipment Systems, Staff and Services
14	Working Lands Program Administration
18	Program Revenue Reestimates
19	Federal Revenue Reestimates
21	Lapse Requirement

### **LFB Summary Items Addressed in a Separate Paper**

<u>Item #</u>	<u>Title</u>
6	Transfer of Regulation of Food, Lodging, and Recreational Establishments to DATCP (Paper #381)
16	Educational Approval Board (Paper #723)

### **LFB Summary Items to be Addressed in a Subsequent Paper**

<u>Item #</u>	<u>Title</u>
3	State Laboratory of Hygiene
4	Wisconsin Veterinary Diagnostic Laboratory
5	Veterinary Examining Board
15	Consolidate Marketing Services in Tourism
17	Debt Service Reestimate
20	Discovery Farms Funding

### **LFB Summary Item for Introduction as Separate Legislation**

<u>Item #</u>	<u>Title</u>
7	Convert Board of Agriculture, Trade and Consumer Protection to an Advisory Council

