

# 07hr\_SC-ENR\_sb0197\_pt03



(FORM UPDATED: 08/11/2010)

## WISCONSIN STATE LEGISLATURE ... PUBLIC HEARING - COMMITTEE RECORDS

### 2007-08

(session year)

### Senate

(Assembly, Senate or Joint)

### Committee on ... Environment and Natural Resources (SC-ENR)

### COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

### INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... **HR** ... **bills and resolutions** (w/Record of Comm. Proceedings)
  - (**ab** = Assembly Bill)                      (**ar** = Assembly Resolution)                      (**ajr** = Assembly Joint Resolution)
  - (**sb** = Senate Bill)                              (**sr** = Senate Resolution)                              (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

\* Contents organized for archiving by: Mike Barman (LRB) (August 2012)

June-2014



Preserving The Environment •  
Improving Water Quality

May 23, 2007

SB 197  
File

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Garey Bies, State Representative  
Wisconsin State Capital  
P.O. Box 8952  
Madison, WI 53172

Milorganite® suggested improvements to  
2007 Assembly Bill \_\_ LRB - 1926/1 and 2007 Senate Bill \_\_ LRB 2674/1.  
An Act to create 94.643 of the statutes; relating to: restrictions on the use and  
sale of fertilizer containing phosphorus and other lawn fertilizer and providing  
a penalty.

Dear Representative Bies,

Enclosed are some improvements respectfully suggested for the  
phosphorus turf fertilizer bill.

My point-by-point discussion highlights the reasoning for the changes  
contained the "Milorganite® substitute" (for lack of a LRB number or author).

Greg Hubbard of Broydrick & Associates is the registered lobbyist for  
the Milwaukee Metropolitan Sewerage District on this issue.

Thank you for taking the time from your schedule to listen to the  
adverse impact on Milorganite® of the bill as introduced. We look forward to  
supporting your efforts to eliminate needless phosphorus fertilizer use. Please  
do not hesitate to call upon us if we can be of further assistance or information.

Sincerely,

Thomas J. Crawford  
Senior Staff Attorney



Preserving The Environment •  
Improving Water Quality

Date: May 23, 2007

To: Representative Garey Bies

From: Thomas J. Crawford  
Senior Staff Attorney  
Milwaukee Metropolitan Sewerage District and Milorganite®

Re: Discussion of the "Milorganite®" substitute amendment to Representative Bies  
LRB - 1926/1, 2007 A.B. \_\_\_\_.

I drafted a Substitute Amendment which accomplishes the goals of the bill's supporters without unintended consequences, such as putting Milorganite® out of business in our home state. Your consideration of the improvements is appreciated.

The goals are: (1) reduce phosphorus runoff to improve water quality, (2) make the law simple, clear and uniform, and (3) reduce "needless" phosphorus fertilizer use. The goals weave together the newest urban stormwater regulations (NR 151 and NR 216), with longstanding state fertilizer regulations and protect the unsophisticated consumer from paying for nutrient concentrations they do not need. The Milorganite® substitute amendment accomplishes each goal with an added emphasis on the civil responsibility that "each before his own door sweep and the village will be clean."

1. The definitions are deleted. "Turf" is already used in §94.38(10). Turf is not a new technical word or a term with a different meaning than the dictionary. The turf definition includes land use exemptions (wrong place for agricultural exemptions, redundant and repetitious with later expressions of the same exemptions). The bill defined turf as "closely mowed, managed grass" and thereby exempts "unkept" lawns that do not achieve "perfect lawn" quality standards.<sup>1/</sup> "Loosely" and "infrequently" mowed grass is plainly exempt and outside the special meaning given to turf. Words are not interpreted as meaningless, referred to as "surplusage," in statutes. The Legislature is assumed to give meaning to each and every word. The descriptive adjectives are not helpful.
2. The descriptive phrase "closely mowed, managed grass" appears in the Minnesota Phosphorous turf fertilizer law, 18C.60(1), Minn. Stats. Minnesota's law is the source of the poor drafting. There is no reason to copy a definition at odds with the plain meaning, when one really means the plain every day meaning of turf, an "area covered by grass."

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<sup>1/</sup> See, David Mello, *Picture Perfect* or Ted Steinberg, *American Green: The Obsessive Quest for the Perfect Lawn* (2006).

3. Preemption of local government regulation of the fertilizer business is added and is germane under the relating clause. Minnesota preempts local government regulation because the goals of the law are statewide and uniformity is required. Replacing the handful of existing local ordinances on phosphorus content of fertilizers with a state-wide policy will ensure that no-phosphorus fertilizers are carried at all lawn and garden stores without regard to municipal boundary.
4. Prohibited practices are in one section and apply broadly to all nonagricultural fertilizer materials, not limited to low phosphorus fertilizers. The prohibited practices are pathways for urban nutrients to be transported to surface waters from lawn care activities. Behavior modification is necessary to encourage on-site composting of yard waste (the end product of fertilizer use), better care and clean up by the home applicator, and respecting a safety buffer between fertilizer application and water. Municipalities with new urban stormwater permits have a duty to educate the public on these practices.
5. A prohibition on fertilizer use within 20 feet of turf subject to flooding and the waters of the state is added. There is no specific science for a twenty feet buffer rather than 25 or 50 feet. Twenty feet is suggested as an effective buffer.
6. A 3% phosphorus restriction is inserted which provides a *de minimis* enforcement standard that is not misleading and promotes beneficial use of recycled organic materials. Minnesota defines phosphorus-free as meaning less than 0.67% phosphate (= 0.29% total phosphorus).<sup>2/</sup> This is the standard adopted by the American Association of Plant Food Control Officials (AAPFCO), the organization that recommends uniform state fertilizer regulations and definitions. Organic materials always contain some phosphorus. To focus on lawn fertilizers, Minnesota excludes from phosphorus-free enforcement products that obviously are intended for garden or other non-turf uses.<sup>3/</sup> The rule-of-thumb is that products with less than 18% nitrogen were not competitive as turf fertilizers. Milorganite® 6-2-0 was not classified by Minnesota as exclusively a turf fertilizer. True enough, slow release nitrogen Milorganite® with 4% Iron has many non-turf uses, but it is advertised as an “idiot proof” grass fertilizer.
7. The requirement that phosphorus soil testing be limited to state certified labs is deleted.

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<sup>2/</sup> N-P-K% = fertilizer system of comparing of primary nutrients quantity, expressed as a percentage “as is” by weight in the bag, according to uniform state fertilizer labeling laws.

N means Total Nitrogen;

P (Phosphorus) means available phosphoric acid, P<sub>2</sub>O<sub>5</sub>, a/k/a phosphorus pentoxide; and,

K (Potassium) means Potassium oxide (K<sub>2</sub>O), a/k/a soluble Potash.

Phosphorus and Potassium are labeled as oxides, the effective plant nutrient.

<sup>3/</sup> *Report to the Minnesota Legislature: Effectiveness of the Minnesota Phosphorus Lawn Fertilizer Law* (March 15, 2007) Minnesota Department of Agriculture Fertilizer Division, page 11 (noting the market shift from 44% to 82% phosphorus-free lawn fertilizer between 2003 and 2006).

Lab certification is important to assure accuracy of evidence in environmental enforcement, a consideration not present in the case of individual lawn care. Nutrient soil testing kits are available for lawn and garden. The kits are simple to use and provide data that is reliable enough for top soil gardening. Some kits allow many tests of soil nutrients in different areas of the yard, providing more representative sampling.<sup>4/</sup> The requirement of a certified lab will discourage testing. The turn-around for a residential soil sample submitted to a certified lab is 2 to 3 months in the spring. People not likely to wait half of the growing season to address a nutrient deficiency. A soil testing kit is proof of due care by an individual conscientiously seeking to avoid needless application of phosphorus.

8. Section (4)(a) excludes from the phosphorus limit agricultural uses and production. It is not necessary to "laundry list" examples of agricultural use or production because the terms are broadly defined in the Right to Farm law, §823.08, and Farmland Preservation law, §91.01(1), Wis. Stats.
9. Biosolids and other organics are exempt to achieve the dual policy goals of prompting beneficial use while minimizing needless phosphorus application to turf. The Dane County Ordinance exempts biosolids from phosphorus restrictions, the City of Madison Ordinance does not. As a matter of practice, Minnesota does not enforce phosphorus free limits against biosolids.
10. Professionals in the management of turf are exempt because the risk of needless application of phosphorus is minimal. Under the new stormwater regulations, municipalities are required to have a nutrient management plan for publicly owned turf, e.g., schools, playgrounds, parks, boulevards, etc.
11. The prohibition on retail display of a one-ton-skid of turf fertilizer with trace levels of phosphorus is deleted. Milorganite® 6-2-0 is displayed prominently as a sale item to draw consumers into lawn and garden centers. Prohibiting public display would destroy Milorganite® sales in Wisconsin.
12. The distinction between intentional and accidental prohibited fertilizer use is deleted. Proof the mental state should not be an element of these crimes. Strict liability applies. Reckless disregard for the consequences of phosphorus fertilizer application is an appropriate consideration at the penalty stage, after a violation has been proven.
13. The penalty clause is altered. Department of Agriculture, Trade and Consumer Protection (DATCP) general enforcement authority over fertilizer use is referenced with two caveats. First, educational is put before punishment. A warning is required as a precondition to prosecution. Minnesota and its local governments have not reported a single instance of enforcement since phosphorus free fertilizers became universally available at lawn and garden retailers. Secondly, the duty to clean-up your mess and

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<sup>4/</sup> Rapitest™ Soil Test Kit (\$16.99) contains 40 tests, 10 each for pH, nitrogen, phosphorus and potassium.

mitigate harm to the waters of the state is a factor to be considered in imposing a forfeiture within the range of discretion permitted by §94.64(12)(a).

14. An exemption is added to the effective date section to avoid wasting fertilizer already in the possession of consumers. Minnesota found that consumers brought phosphorus fertilizers (without a herbicide ingredient) to household hazardous waste collections, an expensive disposal option. Phasing out high phosphorus fertilizers by application to soil is better environmental management than “disposal” as a solid or hazardous waste.

Assembly Substitute Amendment 1 to  
2007 Assembly Bill \_\_\_\_\_ LRB - 1926/1

An Act to create 94.643 of the statutes; relating to: restrictions on the use and sale of fertilizer containing phosphorus and other lawn fertilizer and providing a penalty.

Section 1. 94.643 of the statutes is created to read:

**94.643 Restrictions on Turf Fertilization.**

(1) Local Government Fertilizer Regulation Prohibited.

(a) Local governments are prohibited from regulating distribution [94.64 (1)(d)] or labeling [94.64 (1)(j)] of fertilizers and prohibited from regulating fertilizer use when in accordance with agronomic directions. Regulation of fertilizer distribution and labeling is a subject of exclusive statewide concern and uniformity.

(b) Local governments are prohibited from requiring that grass clippings, leaves or other organic landscaping wastes be placed in the street or other stormwater drainage system for collection, except in accordance with best management practices to control nutrient run-off from stormwater.

(2) Prohibited Consumer Fertilizer Practices. No person may:

(a) sweep, rake, blow or otherwise place organic landscaping wastes into a street or other stormwater drainage system,

(b) apply any fertilizer to turf when the ground is frozen or over-cast fertilizer on to pavement or impervious surfaces, or,

(c) apply any fertilizer to turf subject to flooding or less than 20 feet from any waters of the state.

(3) Phosphorus Limits for Nonagricultural Use. No person may apply to turf a fertilizer that contains more than 3% phosphorus except:

(a) to establish grass, using seed or sod, or

(b) to supplement soils deficient in phosphorus, as shown by a soil test.

(4) Exclusions from Phosphorus Limits. The 3% phosphorus limit shall not apply to:

(a) any fertilizer marketed for agricultural use or production,

(b) golf courses, plant nurseries, sports field maintenance, home gardens, trees, ornamental plants or turf subject to a nutrient management plan, and,

(c) compost, fertilizer or soil amendments that derive phosphorus nutrients from biosolids or other organic materials.

(5) Penalty. Any person who violates this section shall first be given a warning regarding proper fertilizer use or yard waste management, and may thereafter be subject to forfeiture under §94.64(12)(a). A person who misapplies fertilizer has a duty to mitigate

the adverse effects on the waters of the state as may be practical under the circumstances. The failure to mitigate shall be considered when forfeitures are imposed.

Section 2 . Effective Date. This act takes effect on the first day of the 12<sup>th</sup> month beginning after publication. Section 3 of this act does not apply to any phosphorus fertilizer in the possession of a consumer if purchased before the effective date.





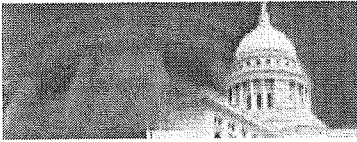
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Improving Water Quality

**Thomas J. Crawford**  
Senior Staff Attorney

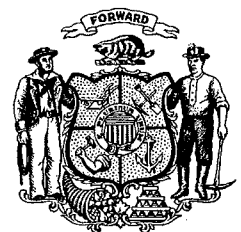
Milwaukee Metropolitan  
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# WISCONSIN STATE LEGISLATURE



**June 4, 2007**

**To: Environment and Natural Resources Committee  
Senator Mark Miller (Chair)  
Senator Robert Jauch (Vice-Chair)  
Senator Robert Wirch  
Senator Neal Kedzie  
Senator Dale Schultz**

**From:**

**Wisconsin Farm Bureau  
Wisconsin Federation of Cooperatives  
Wisconsin Agribusiness Council  
Midwest Food Processors Association  
Wisconsin Merchants Federation  
Midwest Hardware Association  
Wisconsin Sod Producers Association  
Wisconsin Landscape Contractors  
Assoc.  
Wisconsin Nursery Association  
Lawns of Wisconsin Network  
Commercial Flower Growers of WI**

**Gardens Beautiful Garden Centers  
Wisconsin State Cranberry Growers  
Assoc.  
Wisconsin Green Industry Federation  
Wisconsin Crop Production Assoc.  
Syngenta  
Wisconsin Soybean Association  
Wisconsin Agri-Service Association  
Responsible Industry for a Sound  
Environment (RISE)  
Wisconsin Golf Course Supt. Assoc.**

**Re: SB-197, Restrictions on Phosphorous in Lawn Fertilizer**

In 1993 Wisconsin passed the Pesticide Preemption Law due to a patchwork of ordinances around the state that were creating not only an enforcement nightmare, but also created a problem with landowners/farmers whose property crossed more than one county, town or village that might have all had different restrictions. The law has been working very well without any adverse impact to Wisconsin's natural resources or to the health and safety of its citizens. Our groundwater protection law, and now the nonpoint source pollution law have provided for a comprehensive approach that is regulated by the DNR and DATCP at the state level.

The amendment we are recommending will accomplish the same goal; to ensure that fertilizer regulations in the state are science based and consistent. There are local ordinances that have recently passed in Wisconsin that not only create a patchwork approach for fertilizers, but may attempt to regulate weed and feed products that are

registered and regulated as pesticides. This clear violation of the Pesticide Preemption Law further demonstrates the need to implement fertilizer preemption to clarify this issue.

Local fertilizer use restrictions are unnecessary and burdensome to commerce and to the strength of Wisconsin's agricultural industry. We strongly believe that the Department of Agriculture, Trade and Consumer Protection should have the authority of how fertilizers are regulated.

This amendment generally prohibits political subdivisions from regulating fertilizers. The bill allows a political subdivision to regulate fertilizer use on property it owns; zone areas with respect to fertilizer manufacturing, distribution, and disposal; and implement any regulation of fertilizers that the political subdivision is required by federal law or state law to implement.

#### Amendment

SECTION 2. 94.643 of the statutes is created to read:

94.643 Fertilizer; local regulation. (1) This section is an enactment of statewide concern for the purpose of providing uniform regulation of fertilizers.

2) In this section:

a) "Fertilizer" has the meaning given in s. 94.64 (1) (e).

b) "Political subdivision" means a city, village, town, or county.

3) (a) Except as provided in par. (b), a political subdivision may not prohibit the use of or otherwise regulate fertilizers.

(b) A political subdivision may enact an ordinance that does any of the following:

1. Regulates fertilizer use on property in which the political subdivision has a fee simple ownership interest.

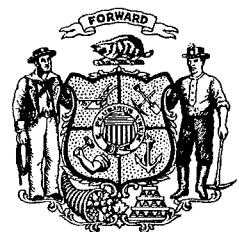
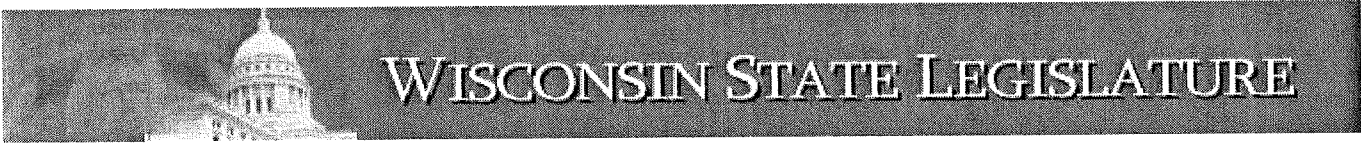
2. Zones areas with respect to fertilizer manufacturing, distribution, and disposal.

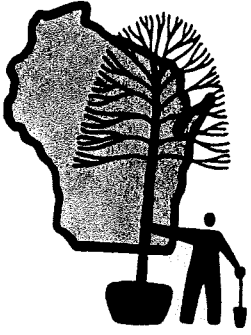
3. Implements any regulation of fertilizers that the political subdivision is required by federal law or state law to implement.

(4) (a) No later than the first day of the 3rd month beginning after the effective date of this paragraph .... [revisor inserts date], a political subdivision shall provide the department with a copy of any ordinance that is authorized under sub. (3) and that is enacted before the effective date of this paragraph .... [revisor inserts date].

(b) A political subdivision may not enact an ordinance that is authorized under sub. (3) until it consults with the department. If a political subdivision enacts an ordinance that is authorized under sub. (3), it shall provide the department with a copy of the ordinance no later than 60 days after enactment.

Please amend this bill to establish statewide consistency for fertilizer regulation.





12342 WEST LAYTON AVENUE  
GREENFIELD, WISCONSIN 53228  
PHONE (414) 529-4705  
FAX (414) 529-4722

## wisconsin green industry federation, inc.

June 4, 2007

The Honorable Representative Garey Bies  
State Capitol  
Room 125 W  
P.O. Box 8952  
Madison, WI 53708

**Re: LRB 1926/1, SB-197: Restrictions on the use and sale of fertilizer containing phosphorus and other lawn fertilizer.**

Thank you for meeting with us on May 9. We appreciate you inviting us to provide comments on your proposed bill. We are happy to work with you to create a bill that will have the desired effect and will have support of the consumers, retailers, fertilizer manufacturers and distributors, landscape professionals, lake and watershed organizations, and others. We offer the following suggested amendments germane to the bill, which will create statewide consistency and improve the existing ability of the WDATCP in the regulation of fertilizer:

**Amendment #1**

In 1993 Wisconsin passed the Pesticide Preemption Law due to a patchwork of ordinances around the state that were creating not only an enforcement nightmare, but also created a problem with landowners/farmers whose property crossed more than one county, town or village that might have all had different restrictions. The law has been working very well without any adverse impact to Wisconsin's natural resources or to the health and safety of its citizens. Our groundwater protection law, and now the nonpoint source pollution law have provided for a comprehensive approach that is regulated by the DNR and DATCP at the state level.

Amendment # will accomplish the same goal; to ensure that fertilizer regulations in the state are science based and consistent. There are local ordinances that have recently passed in Wisconsin that not only create a patchwork approach for fertilizers, but may attempt to regulate weed and feed products that are registered and regulated as pesticides. This clear violation of the Pesticide Preemption Law further demonstrates the need to implement fertilizer preemption to clarify this issue.

Local fertilizer and use restrictions are unnecessary and burdensome to commerce and to the strength of Wisconsin's agricultural industry. We strongly believe that the Department of Agriculture, Trade and Consumer Protection should have the authority of how fertilizers are regulated.

**MEMBER ASSOCIATIONS**

Commercial Flower Growers of Wisconsin • Gardens Beautiful Garden Centers • Lawns of Wisconsin Network  
Wisconsin Landscape Contractors Association • Wisconsin Nursery Association • Wisconsin Sod Producers Association

This amendment generally prohibits political subdivisions from regulating fertilizers. The bill allows a political subdivision to regulate fertilizer use on property it owns; zone areas with respect to fertilizer manufacturing, distribution, and disposal; and implement any regulation of fertilizers that the political subdivision is required by federal law or state law to implement. SECTION 2. 94.643 of the statutes is created to read:

94.643 Fertilizer; local regulation. (1) This section is an enactment of statewide concern for the purpose of providing uniform regulation of fertilizers.

2) In this section:

a) "Fertilizer" has the meaning given in s. 94.64 (1) (e).

b) "Political subdivision" means a city, village, town, or county.

3) (a) Except as provided in par. (b), a political subdivision may not prohibit the use of or otherwise regulate fertilizers.

(b) A political subdivision may enact an ordinance that does any of the following:

1. Regulates fertilizer use on property in which the political subdivision has a fee simple ownership interest.

2. Zones areas with respect to fertilizer manufacturing, distribution, and disposal.

3. Implements any regulation of fertilizers that the political subdivision is required by federal law or state law to implement.

(4) (a) No later than the first day of the 3rd month beginning after the effective date of this paragraph .... [revisor inserts date], a political subdivision shall provide the department with a copy of any ordinance that is authorized under sub. (3) and that is enacted before the effective date of this paragraph .... [revisor inserts date].

(b) A political subdivision may not enact an ordinance that is authorized under sub. (3) until it consults with the department. If a political subdivision enacts an ordinance that is authorized under sub. (3), it shall provide the department with a copy of the ordinance no later than 60 days after enactment.

## **Amendment #2**

Option 1: Delete (4) *Restriction on Display*. Some products labeled for use on lawns, also may be labeled for use on trees, shrubs, flowers, vegetable gardens, etc. This restriction would present problems for manufacturers who register, label, package, and distribute products labeled for multiple sites, which is very common. This would cause manufactures financial hardship, and retailers with limited products to offer customers, let alone display.

Current language holds retailers in violation if they display lawn fertilizers containing phosphorus, although it is legal for a merchant to sell the product to any customer upon request. A large part of marketing products to the public is having the product on display, and this would severely limit the ability to market a perfectly legal product. In addition many stores have very limited amounts of storage area for pallets of lawn fertilizer which is out of the customer's sight, or could be readily accessible to the merchant or clerk to obtain for the customer. This also puts the retailer in the position of being a violator subject to the penalties noted.

Option 2: Amend as follows: ~~(4) RESTRICTION ON DISPLAY. No person who sells fertilizer at retail may display lawn fertilizer that is labeled as containing phosphorus.~~ A person who sells fertilizer at retail may must post a sign advising customers that lawn fertilizer containing phosphorus is available ~~upon request~~ for uses permitted by sub. (2) (b).

Merchants in Wisconsin are already required to have lawn signs and pesticide information sheets available free of charge to retail consumers at the point of sale of pesticide products. ATCP 29.41(3) (a) Wis. Admin Code. Posting of this additional sign at the point of sale of phosphorus-containing lawn fertilizers would insure that the public is notified of the restrictions on the use of phosphorus-containing fertilizers.

Thank you for allowing us to provide comments on your proposed bill. We hope we can work with you in this endeavor.

Sincerely,

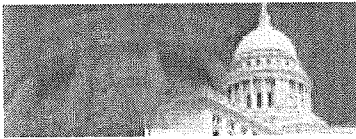
The Wisconsin Green Industry Federation

A handwritten signature in black ink, appearing to read 'B. Swingle', with a stylized flourish at the end.

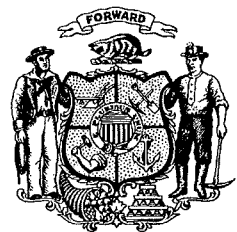
Brian Swingle  
Executive director

Cc: Representative Mark Honadel  
Senator Mark Miller





# WISCONSIN STATE LEGISLATURE





R&J Partnership, LLC  
N6550 Center Road ♦ Beaver Dam, WI 53916

Mr. John Weiss  
R & J Partnership, LLC  
N6550 Center Road  
Beaver Dam, WI 53916

June 12, 2007

Senator Kathleen Vinehout  
State Capitol Room 104 South  
PO Box 7882  
Madison, WI 53707-7882

SB 197  
File

Dear Senator Vinehout:

I am writing to you concerning the upcoming legislation regarding a statewide ban on the application of phosphorus on residential lawns. I am writing to express my concern over the detrimental effects such a ban would have on the burgeoning organic lawn care industry of which I am a part of. Nearly eight years ago, my father and I purchased a poultry farm near Kewaskum where we raise nearly 1 million chickens each year for egg laying operations throughout the Midwest. Since our inception, we have been working with various technologies to eliminate landspreading of the raw chicken manure on nearby farm fields. We have spent nearly \$200,000 of our own money for the research and development of a value-added product that would no longer require us to spread manure and risk the environmental concern of potential run-off and the bothersome odors associated with land application. With the help of a Wisconsin Department of Agriculture Diversification and Development Grant, we developed an in-vessel composting technology that created such a product. Further, we received a \$250,000 grant from the federal government through the non-profit organization Farm Pilot Project Coordination, Inc. This entity funds projects for the specific purpose of developing and finding technologies that will remove the nutrient overload associated with raw manure application in order to create bio-based value-added products. In February of 2007, our company purchased Creekwood Farms Fertilizer Division of Lake Mills, Wisconsin. Together with our technology, Creekwood's patented process allows us to process 80% of the manure produced on a chicken farm of 1.4 million chickens. By 2008, we will process 100% of the manure coming from the farm. According to Mark Cain of the Department of Natural Resources, Creekwood Farms will be the first farm in Wisconsin's history in which a large confined animal feeding operation (CAFO) will not spread any raw manure on farm fields over the course of a year. This possibility has received a great deal of attention and plaudits from environmental as well as business communities. (Please read the enclosed article which was the lead story in the business section of the *Wisconsin State Journal* on May 13, 2007.)

The products we create with our two technologies are a granulated and fined composted product that competes with synthetic fertilizers on lawns, gardens, golf courses, sports fields and parks. It is a completely child and pet safe, 100 % organic product that we are now selling throughout Wisconsin as well as seven other states. We have worked with landscapers, lawn care companies and environmental advocates to change lawns over to a natural, organic nutrient program and away from a synthetic, chemical program. The changeover to such a program has numerous environmental and health benefits.

Tel: 920-648-4041 ♦ Fax: 920-887-9540  
Email: [moreinfo@chickitydoodoo.com](mailto:moreinfo@chickitydoodoo.com) ♦ Website: [www.chickitydoodoo.com](http://www.chickitydoodoo.com)



R&J Partnership, LLC  
N6550 Center Road ♦ Beaver Dam, WI 53916

The statewide ban on phosphorus, as it is presently being proposed, would cut the benefits of an organic lawn care program off at the knees. Unlike synthetic fertilizers which can be chemically manipulated to remove phosphorus, organic fertilizers from sludge (Milorganite®), grains or manures cannot remove phosphorus. In the case of our product, the phosphorus comes from the required nutritional diet developed for the chickens. Our product contains only 3% phosphorus which is common for most organic fertilizers. However, if the ban on phosphorus creates a zero percent tolerance, products like ours which offer the benefits described above, will be outlawed. Consequently, the burgeoning business of organic lawn care will be eliminated from the state.

Moreover, the effort to eliminate land application of raw manure by creating a bio-based value added product, an effort the state of Wisconsin has funded with tax dollars, would be eliminated. Not only does this not make sense based on the fact that the state of Wisconsin offers programs through the DNR and DATCP that push and fund such efforts, but the effort to eliminate phosphorus runoff from farm fields would be undermined. As Professor John Stier from the University of Wisconsin has pointed out, "We measure runoff from farm fields in **pounds** per acre while we measure runoff from residential lawns in **grams** per acre." Our business vision has been based on the need to end the high concentration of manure and the corresponding nutrient overload on our farm fields by creating a product through innovation and government grant money that will disperse the nutrients over a wide area with low concentration. We have done just that. Our business exemplifies the forward thinking of the state of Wisconsin by creating a scenario in which our agricultural resources are recycled in an environmentally friendly manner while developing a value-added business. What was once considered a pure waste product is now part of a sustainable, environmentally friendly program. This scenario is a winner for all involved – the environment, the economy, children and pets and the state of Wisconsin. The proposed 0% phosphorus limit destroys that winning scenario.

We propose that the ban has an "organic" or "bio-based" exemption that will allow the use of organic fertilizers on all lawns in the state of Wisconsin. We request that the state of Wisconsin go one step further by actually promoting the use of these fertilizers as the state has, specifically in our case, help fund their existence. Our vision is to take our technology to all of the poultry farms in the state of Wisconsin as the demand for our finished product grows over the next few years. In 2008 we will remove 20,000 tons of raw chicken manure from Wisconsin's farm fields. By 2010, we could remove an additional 80,000 tons of raw manure applied to our farm fields and curb the associated runoff concerns. Moreover, by creating an organic or bio-based exemption to the phosphorus ban, you would assure the continuation of the winning scenario that these safe and environmentally friendly products have to offer.

Thank you for considering the exemption we have proposed.

Sincerely,

A handwritten signature in black ink that reads "John R. Weiss".

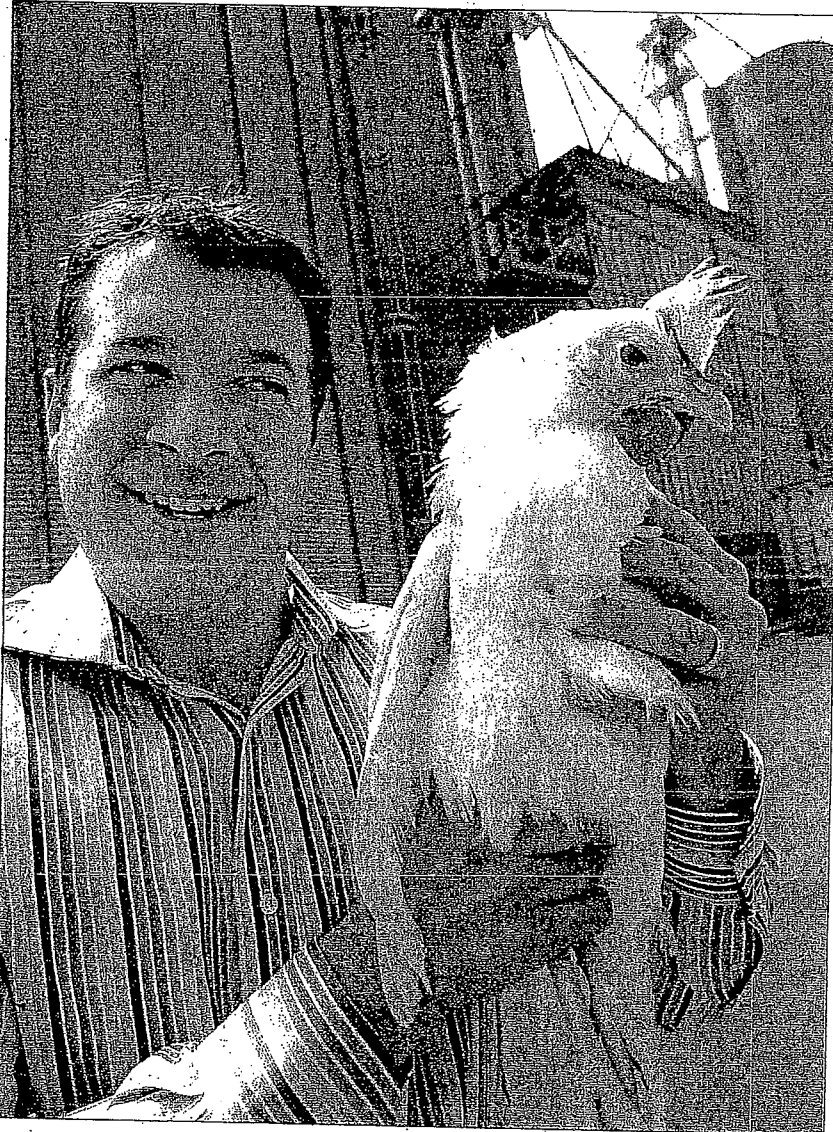
John R. Weiss  
R & J Partnership

# BUSINESS

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PAGE C

PERSONAL FINANCE: EXPERTS WARN NOT TO FIXATE ON DOW

## SHOWING THEIR 'CAN-DOO DOO' SPIRIT



JOSEPH W. JACKSON III — State Journal

The 1.5 million chickens like this one at Creekwood Farms, south of Lake Mills, are important to John Weiss' business of selling Chickity Doo Doo organic lawn fertilizer.

By MARV BALOUSEK  
mbalousek@madison.com  
608-252-6135

**T**wo former teachers hope to turn chicken manure into cash. John Weiss and John Nortman are marketing Chickity Doo Doo, an organic lawn and garden fertilizer that comes from composted chicken manure.

Weiss, who still coaches basketball at Watteodo High School but gave up his teaching duties, and Nortman, a former Beaver Dam High School biology teacher who left that job

### Two teachers hope chicken manure lawn fertilizer is profitable.

in February, formed R&J Partnership. Their business processes chicken manure at Creekwood Farms, an egg farm with about 1.5 million chickens. The farm is south of Lake Mills, about 30 miles east of Madison.

Weiss said he expects this year the com-

pany, which has nine employees, to generate about \$800,000 in revenue, and he hopes that will double next year. By 2010, he hopes the annual revenue will rise to \$4 million.

The process is fairly simple, and Creekwood gets paid by R&J for the raw material.

The manure is collected on conveyor belts that run below the bird cages. The manure then is spread on a hard floor inside open-air, covered buildings, where it dries for several days.

The next step is putting the manure into

Please see DOO DOO, Page C4

# Doo Doo

Continued from Page C1

compost piles for three to nine weeks so temperatures of at least 155 degrees can kill e-coli and other harmful bacteria while preserving helpful bacteria.

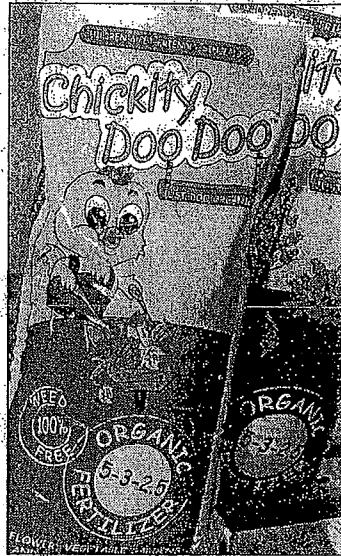
The compost is dried to a 12 percent moisture content and compressed into pellets, which are crushed into granules and packed in bags with the Chickity Doo Doo brand name.

"The hardest part is to get it dried down to the right moisture level," Weiss said.

Some uncrushed pellets are sold to farmers as fertilizer. A fine powder that's produced during the process is sold to golf courses and hydroponic gardeners.

David Staples, a former owner of Creekwood Farms, developed the process of converting chicken manure into fertilizer. Farm general manager Lee Felmlee came up with the Chickity Doo Doo name as an answer to the chief competitive organic product — Cockadoodle Doo.

But the farm's current owner, ESL Holding Corp., didn't want to pursue the fertilizer business,



JOSEPH W. JACKSON III — State Journal

Two former teachers are marketing Chickity Doo Doo, an organic lawn fertilizer they produce at Creekwood Farms south of Lake Mills.

so Weiss and Nortman jumped at the opportunity to take it over.

Cockadoodle Doo is the product of a New Hampshire company that also produces lawn fertilizer from chicken manure. That company uses natural gas to heat the manure and kill bacteria instead of relying on the composting method.

Please see FERTILIZER, Page C5

BUS

# Fertilizer

Continued from Page C4

Chickity Doo Doo is sold at several area garden stores and others in several Midwestern states. Weiss said he's working on wider distribution.

"This is the first year we've had it and we are promoting it as an organic fertilizer," said Jane Gahlman, nursery manager at Schönheit Garden Center near Sun Prairie.

Jim Sommerfeld, of Happy Grass, an environmentally sensitive lawn and landscape company in Cambridge, said he's been using Chickity Doo Doo for a while.

"It's good," he said. "The rest

lot of customers who use it and they've been very happy with it."

The state Department of Natural Resources is supportive of the Chickity Doo Doo business because it reduces the need for spreading chicken manure on farmland.

"They're on the right track in getting a product they can market that will allow them to stop land spreading at bad times of the year," said Mark Cain, a DNR wastewater engineer.

Subdivision development has made land spreading raw manure on farm fields more difficult because of the odors.

"The idea of taking it from the barn right to the field, I think those days are numbered," Weiss said.

The company has received a

Project Coordination of Tampa, Fla., to incorporate dead chickens into the fertilizer product.

Weiss grew up on a farm and his father, Ray, still operates a farm with about 50,000 chickens in eastern Wisconsin. Weiss said that farm soon will be converting to a cage-free egg operation.

Next year, R&J Partnership also will sell a corn gluten product that helps reduce weeds by coating seeds and preventing them from germinating.

But the company's greatest potential may be in expanding the fertilizer production process to other egg farms. Weiss said he's had inquiries from about 10 farmers across the country.

"That's really our vision is to be able to take the process and replicate it as the market

# It challenges bans on phosphorus

By **MARV BALOUSEK**  
mbalousek@madison.com  
608-252-6135

Chickity Doo Doo helps the environment by finding an alternative use for chicken manure, but, like other brands of organic fertilizer, it challenges the phosphorus bans in Madison and Dane County.

Chickity Doo Doo (with a formulation code of 5-3-2.5) contains 3 percent phosphorus, which the city and county banned in lawn fertilizers in 2004. It also contains 5 percent nitrogen and 2.5 percent potassium.

But Jim Clark, Dane County director of environmental health, said the ban has enough exemptions to allow Chickity Doo Doo to be sold.

"It's not illegal to sell, but they can't put it on the sales floor and they need to put up a sign saying it's available upon request," he said. "They need to make sure it's being used for the right purpose."

Under the ordinance, lawn fertilizer with phosphorus can be used for new turf during the first growing season or where recent soil tests show deficient phosphorus levels. It also can be used on agricultural lands or vegetable and flower gardens.

Clark said he receives about three complaints a year about stores in Dane County putting phosphorus-based fertilizers on the sales floor.

Organic lawn fertilizers aren't new, but demand for them is rising.

"There's a growing sense that something that is natural is better than something synthetic," said



JOSEPH W. JACKSON III — State Journal

John Nortman, production manager for R&J Partnership, checks composted manure that will be processed into lawn fertilizer.

John Stier, a UW-Madison associate horticulture professor. "Probably the real driving force is the fact that we are becoming aware that we generate waste from producing things and we've got to do something with it."

He said synthetic and organic fertilizers work differently.

Organic fertilizers, which sometimes are more expensive than synthetics, release nutrients more slowly, but they remain longer in the soil. So getting a sports field ready in early spring or late fall is a job done better by synthetic fertilizers, Stier said.

"You sterilize your soil when you add synthetics," said John Nortman, production manager of R&J Partnership, which makes Chickity Doo Doo. "It's like the junk food for plants."

Synthetic fertilizers can burn grass if too much is poured on a single patch, he said, adding that Chickity Doo Doo is so safe that a

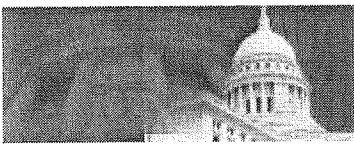
half-dozen sample packets were eaten without any health consequences by Charlotte, a border collie owned by R&J Partnership manager John Weiss.

But Nortman said organic and synthetic fertilizers both can be used as part of an overall plan.

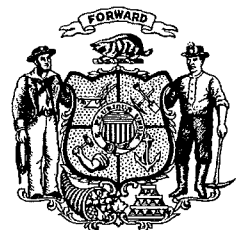
Whether fertilizers are organic or synthetic, they all contain some of the same components — nitrogen, phosphorus and potassium — said Bruce Agustina, director of environmental agronomy for Scott's Co., which manufactures the popular Turf Builder lawn fertilizer and also has sold a line of organic fertilizers since 2003.

Organic fertilizers contain lower percentages of chemicals, he said, so it might take a 75-pound bag of organic fertilizer to achieve the same coverage as a 15-pound bag of conventional fertilizer.

"It's not really a divisive issue," he said. "It's more of a choice."



# WISCONSIN STATE LEGISLATURE





June 29, 2007

SB 197  
file

Honorable Governor James Doyle  
Honorable State Senator Alan Lasee  
Honorable Senator Mark Miller  
Honorable Representative Garey Bies  
Secretary Scott Hassett, Wisconsin Department of Natural Resources  
Secretary Rod Nilsestuen, DATCP

Gentlemen:

Enclosed is a copy of the Town of Sevastopol (Door County, Wisconsin) Resolution No. 11-2007 TB in reference to "Phosphate Awareness to Improve Water Quality. This Resolution was adopted on June 25, 2007 by the Town Board of Supervisors to support the ban/reduction on the sale and use of lawn fertilizers and dishwasher detergents containing phosphorus.

Thank you for your consideration and support of this Resolution.

Sincerely,

BOARD OF SUPERVISORS  
TOWN OF SEVASTOPOL

  
Linda Wait, Clerk/Treasurer

Enclosure



**Town of Sebastopol  
Resolution No. 11-2007 TB  
"PHOSPHATE AWARENESS TO IMPROVE WATER QUALITY"**

**RESOLUTION SUPPORTING THE BAN/REDUCTION ON SALE AND USE OF LAWN  
FERTILIZERS AND DISHWASHER DETERGENTS CONTAINING PHOSPHORUS**

**To the Town Board of Supervisors:**

**WHEREAS**, it is vital for the Town of Sebastopol to protect the quality of its ground and surface water, including all of its lakes, rivers, streams and the adjacent Great Lakes; and

**WHEREAS**, the application of commercial fertilizer on parks, residential properties, and other non-agricultural areas and the use of dishwasher detergents containing phosphorus, cause excess phosphorus runoff into lakes, rivers, and streams; and

**WHEREAS**, the main household sources of phosphate are lawn fertilizer and the detergents formulated for automatic dishwashers (containing up to 8% phosphate); in both applications the use of phosphate is unnecessary; and

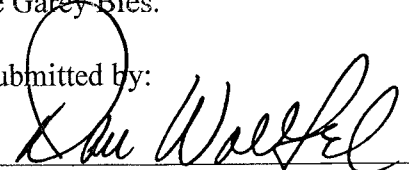
**WHEREAS**, the ban on phosphorus lawn fertilizer sales would be in effect unless soil tests show that phosphorus is necessary or the fertilizer is intended for newly-established turf and lawns during their first growing season; and

**WHEREAS**, a bill banning the sale and use of lawn fertilizers that contain phosphorus is being introduced at the State level for approval by the legislature;

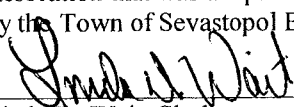
**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Supervisors support the statewide ban prohibiting the sale and use of lawn fertilizers and dishwasher detergents containing phosphorus; and

**BE IT FURTHER RESOLVED**, that the Clerk send a copy of this resolution to Governor Doyle, DNR Secretary Scott Hassett, DATCP Secretary Rod Nilsestuen, Senator Alan Lasee, Senator Mark Miller and Representative Garey Bies.

Submitted by:

  
\_\_\_\_\_  
Dan Woelfel  
and Citizens: Charles Jarman  
Pat Miller  
Bob Stracka

I, Linda D. Wait, Clerk of the Town of Sebastopol, certify that the above is a true and correct copy of a Resolution that was adopted on the 25<sup>th</sup> day of June, 2007, by the Town of Sebastopol Board of Supervisors.

  
\_\_\_\_\_  
Linda D. Wait, Clerk  
Town of Sebastopol

**INFORMATIONAL ADDENDUM**

**RESOLUTION SUPPORTING THE BAN/REDUCTION ON SALE AND USE OF LAWN FERTILIZERS AND DISHWASHER DETERGENTS CONTAINING PHOSPHORUS**

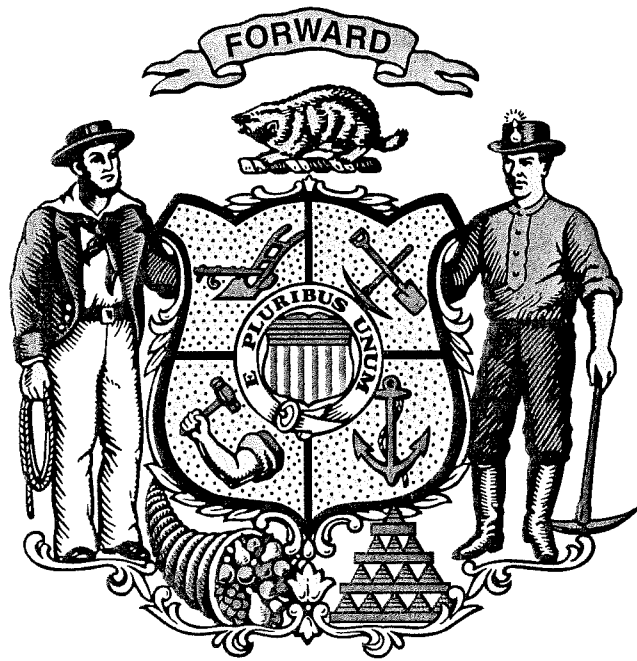
1. The Lake Michigan and Green Bay beaches and shoreline in Sevastopol and Door County have been plagued with cladophora/algae washing ashore. Algae contains e-coli which produces bacteria which can be harmful to health. Phosphorus is a known cause of algae. The Environmental Protection Agency attributes most of the phosphate load to “non-point” sources, runoff from farmland, lawns and failing septic systems. Reduction and/or elimination of phosphorus from lawn fertilizer and dishwasher detergent will reduce the presence of algae in Door County waters and help to improve water quality. Water quality is the key to the economic, environmental, and social health of a community.

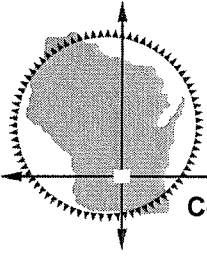
2. Runoff from a lawn can carry up to eight times more phosphorus than runoff from a similarly-sized wooded area.

3. A single pound of phosphorus in runoff can cause up to 500 pounds of algae growth, and the accelerated growth of weeds and algae causes deterioration in water quality.

4. Sewage treatment plants employ dilution and expensive additional treatment with aluminum or iron salts to reduce phosphate content of the outflow to an acceptable concentration, but the amount of discharged phosphate remains significant.

5. Door County has over 250 miles of shoreline, in addition to inland lakes, where the introduction of excess phosphorus can adversely affect water quality.





# COLUMBIA COUNTY

County Clerk

608-742-9654

FAX: 608-742-9602

E-MAIL: [county.clerk@co.columbia.wi.us](mailto:county.clerk@co.columbia.wi.us)

WEBSITE: [www.co.columbia.wi.us](http://www.co.columbia.wi.us)

Susan M. Moll  
400 DeWitt Street  
Portage, WI 53901

July 17, 2007

SB 197  
folder

Mark Miller  
Room 106 South, State Capitol  
PO Box 7882  
Madison, WI 53707-7882

Dear Sir/Madam:

Enclosed is a certified copy of Resolution No.19-07, which, was adopted by the Columbia County Board of Supervisors at their meeting held on June 20, 2007.

Yours truly,

Shanna L. Herrick  
Chief Deputy

Enclosures

T:/CountyBoard/2007/Letters/LetterLegislatorsState&FederalMerge

1 **RESOLUTION NO. 19-07**

2 **SYNOPSIS: Phosphorus Prohibition Related to Lawn Fertilizer**  
3 **INTRODUCED BY: Columbia County Land and Water Conservation Committee**

4  
5 **To the Honorable Board of Supervisors of Columbia County:**

6  
7 WHEREAS, phosphorus delivered to public waterways causes excessive plant and  
8 algae growth, with one pound of phosphorus producing up to 500 pounds of algae, and

9 WHEREAS, such plant and algae growth causes murky water clarity, weed choked  
10 recreational areas and low dissolved oxygen levels, harming fish and aquatic life, and

11 WHEREAS, such diminished water quality from phosphorus pollution lowers property  
12 values and harms the tourism and outdoor recreation industry, and

13 WHEREAS, phosphorus discharges from industry, wastewater treatment plants and  
14 agriculture are limited by regulation, while unnecessary phosphorus enters the waters of the  
15 State from the use of lawn fertilizers, and

16 WHEREAS, statutory authority to limit the sale or application of lawn fertilizers  
17 containing phosphorus requires each local government in an affected area to enact similar  
18 regulatory ordinances, and

19 WHEREAS, a water body negatively affected by phosphorus is often not in the same  
20 municipality as the point of sale or use of lawn fertilizer which may affect the water body,  
21 and

22 WHEREAS, regulation in Wisconsin is patchwork at best, because of limited authority  
23 to regulate phosphorus uses,

24 NOW, THEREFORE, BE IT RESOLVED, that the Columbia County Board requests its  
25 legislative delegation to sponsor new state law similar to laws of the State of Minnesota  
26 concerning this issue which prohibits the sale or application of lawn fertilizers containing  
27 unnecessary phosphorus components.

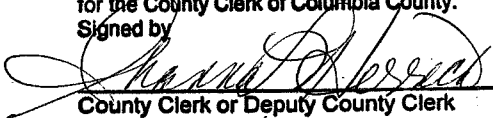
28 BE IT FURTHER RESOLVED, that we, the Columbia County Land and Water  
29 Conservation Committee, do hereby certify that the foregoing is a true and correct copy of a  
30 resolution adopted by the Columbia County Board of Supervisors at its meeting held on  
31 June 20, 2007. A copy will be forwarded to the Governor's office and the Columbia County  
32 Legislative Representatives. Land and Water Conservation Director will forward copies to all  
33 municipalities, lake districts and lake associations located in Columbia County.

34  
35 Fiscal Note: NONE


36  
37 Fiscal Impact: NONE

38  
39  
40  
41  
42  
43 STATE OF WISCONSIN  
44 COUNTY OF COLUMBIA  
45 CERTIFIED COPY

46  
47 I certify that this is a true and exact copy  
48 of the original of which I am legal custodian  
49 for the County Clerk of Columbia County.  
50 Signed by

51   
52 County Clerk or Deputy County Clerk

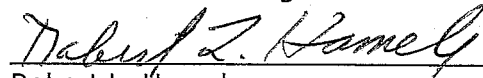
53  
54 Date 7/17/07  
55

  
John G. Stevenson

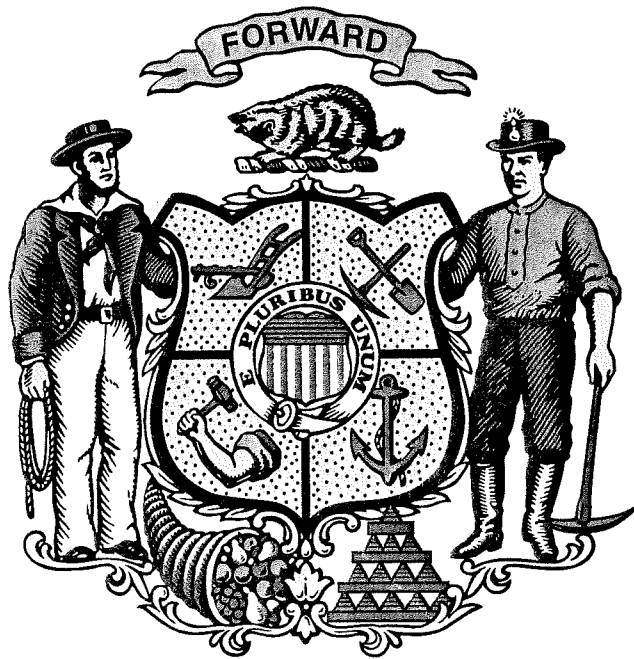
  
Donald P. Nelson

  
John H. Healy

Robert J. Stoltenberg

  
Robert L. Hamele

LAND & WATER CONSERVATION COMMITTEE



Christiane W. Schmenk  
Director, Government Affairs

July 20, 2007

The Honorable Garey Bies  
Wisconsin State Assembly  
Room 125 West  
PO Box 8952  
Madison, WI 435708

The Honorable Mark Miller  
Wisconsin State Senate  
Room 409 South  
State Capitol  
Madison, WI 53707-7882

***Re: Restrictions on Phosphorus in Lawn Fertilizer (AB-396, SB-197)***

Dear Representative Bies and Senator Miller:

I am writing on behalf of The Scotts Miracle-Gro Company ("Scotts") on legislation pending before the Wisconsin State Legislature that would restrict the use and sale of fertilizer containing phosphorus. Scotts would appreciate the opportunity to meet with you in the near future to discuss the rationale for this legislation and to share data regarding actual lawn care practices in your state. We will call your office soon to see if we can schedule such a meeting.

Scotts has the largest and most comprehensive consumer based, do-it-yourself focused Lawn and Garden Research and Development (R&D) program in the world. Established in 1941, Scotts R&D covers the disciplines of agronomy, horticulture, entomology, plant breeding, formulation, process development, packaging, and applicator development with state of the art facilities. The lawn and garden products we produce are some of the most tested and well-understood consumer products on the market.

The focal point of our research efforts has always been on continuous product improvement and innovation. We strive to optimize products for a) consumer performance (meet consumer needs and expectations), b) economics, and c) environmental factors (healthy benefits of turf: reduced run-off and soil erosion, while reducing off-target application and impact). As such, today's products are significantly different than those of 30 or more years ago. Current nitrogen rates in one product application have been reduced by over 25% versus similar products from the 1960s and early 70s. Phosphorus application rates, the subject of your legislation, have been reduced in excess of 70% using new technology and delivery methods.

Scotts consumer research and market share data (when considering all 50 states) shows only half of all households apply lawn fertilizers. Of those that do treat their lawn, 84% use one or two

applications a year. The data shows less than four percent of homeowners apply four applications per year. Wisconsin sales data confirms your state as typical of national usage data. Simply put, it is unlikely that excessive amounts of phosphorus are being added to the waterways based on the frequency of fertilizer applications by homeowners and the low phosphorus content in this fertilizer.

Generally, university best management practices for turf grass are based on highly managed turf (golf courses, sports fields and lawn care serviced home lawns) that receive multiple nutrient applications throughout the year. **This means that typical Wisconsin homeowners using fertilizer are applying phosphorus at application rates that are well below (50 to 70% below) best management practices as stated by universities.** High nutrient management terms do not apply to the typical homeowner who only applies fertilizer one or two times per year.

Scotts shares your concerns about water quality and the impact that phosphorus originating in fertilizers may play in this situation. For several years, Scotts has had a focused environmental stewardship program that has concentrated on protecting our nation's waterways by ensuring that our products are environmentally responsible and that our customers apply our products in an environmentally responsible manner.

We understand it is imperative to identify actions that will create positive results, are able to be used by typical homeowners and promote good stewardship. Positive steps that will enhance sound environmental management and reduce the level of phosphorus being used by consumers could include:

- 1) Eliminating the use of non-turf analysis products (the 12-12-12 and 10-10-10 products). These are commonly identified as "all purpose lawn and garden", but are almost exclusively used on lawns. These products deliver more phosphorus in one application than all other DIY products in a combined annual lawn maintenance program. Lawn products developed by Scotts R&D define optimal nutrient levels for turf establishment and maintenance to deliver the benefits (reduced run-off and soil erosion) of a healthy lawn.
- 2) Offering tools to reduce off-target application of fertilizers to hard surfaces which is the primary means of unintended nutrient flow by a typical homeowner. Scotts' EdgeGuard Broadcast Spreader was designed specifically to help consumers keep fertilizer off hard surfaces to assist in this goal.
- 3) Continually communicating to the public about good environmental stewardship whether by selecting the right product, using it at the right time of year or following directions on the label.

We have learned through our partnerships at the state and local level that properly educated consumers are the best allies in protecting and enhancing our environment. As a result, we have looked for innovative ways to give our customers the tools to best understand how to care for their lawns. Through labeling initiatives advising consumers of good environmental practices, to print and radio spots reinforcing these messages, to



over 3,000,000 brochures on best management practices handed out with the help of Keep America Beautiful, Scotts knows the importance of educating consumers.

Scotts continues to focus on these issues, and we would very much like to work with your state as we have done in the New York City Watershed and in the Chesapeake Bay area. Enclosed is a copy of a Memo of Understanding that we entered into with various Chesapeake Bay stakeholders so you can better understand how serious we are on these issues.

While we appreciate your efforts through this pending legislation to address increased phosphorus within Wisconsin's waterways, we would respectfully ask you to consider information from all sectors about the importance of phosphorus in healthy lawns and how this contributes to a healthy environment as you deliberate these measures.

We would also appreciate the opportunity to sit down with you to further discuss our ideas about this legislation prior to the hearing process. Our office will be in contact to arrange these meetings at your convenience.

If I can be of any assistance or if you have any questions about this letter, please don't hesitate to contact me at (937) 644-7606.

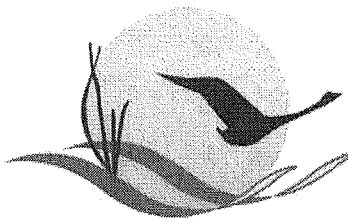
Sincerely,



Christiane W. Schmenk  
Director, Government and Community Affairs

Cc: Assembly Natural Resources Committee  
Senate Committee on Environment and Natural Resources  
Wisconsin Green Industry Federation

Enclosure: Chesapeake Bay Program Memorandum of Understanding (2007)



**Chesapeake Bay Program**  
*A Watershed Partnership*

# MEMORANDUM OF UNDERSTANDING

AMONG

**Chesapeake Executive Council, Headwater State Jurisdictions  
and Members of the Lawn Care Product Manufacturing Industry**

REGARDING

**The Healthy Lawns and Clean Water Initiative:  
Reducing Nutrient Losses from Lawns Through a Public-Private Stewardship Partnership**

**W**HEREAS, nutrient losses from all contributing activities on developed lands account for about one quarter of the excess phosphorus and one eighth of the excess nitrogen loads entering the Chesapeake Bay;

WHEREAS, nutrient losses from developed lands are continuing to increase due to low- to medium-density development consuming lands at rates five times the rate of population growth;

WHEREAS, much of the loss of nutrients from fertilization of lawns occurs due to misapplication onto drives, sidewalks and curbs, which can best be prevented by a Stewardship Program approach that reduces the amount of material applied/misapplied so it cannot be lost due to off-target application, and

WHEREAS, Members of the Lawn Care Product Manufacturing Industry, represented by The Scotts Company LLC, have been working diligently with the Chesapeake Bay Program and the Land Grant Universities of the watershed to develop a scientifically based, environmentally beneficial and economically viable Stewardship Program to reduce nutrient losses from homeowner fertilized lawns.

**N**OW, THEREFORE, WE, THE UNDERSIGNED MEMBERS OF THE LAWN CARE PRODUCT MANUFACTURING INDUSTRY, DO HEREBY COMMIT TO:

➤ Achieve a 50 percent reduction in pounds of phosphorus applied in lawn care products in the Chesapeake Watershed by 2009 as compared to a 2006 base year. The Manufacturers will self-report to the Chesapeake Bay Program at the end of each calendar year after 2006 the pounds of phosphorus sold at the retail level by state as the measure of achievement of this commitment. Each manufacturer shall decide how it will achieve this goal. This goal and agreement are not endorsements of any lawn care product by any signatories to this Memorandum, but represent a commitment by signatory corporations to achieve a 50 percent reduction in phosphorus application to lawns in the Chesapeake Bay states from use of their products by 2009.

**F**URTHERMORE, WE THE UNDERSIGNED SIGNATORIES TO THIS MEMORANDUM, COMMIT TO:

➤ Convene a technical group co-led by Members of the Lawn Care Product Manufacturing Industry and the Chesapeake Bay Program to develop a Stewardship Program to reduce nitrogen nutrient losses by recommending possible changes in product content, form, or application method in lawn care.

- The recommended Stewardship Program for lawn care products will be finalized by September 2007 to allow the Executive Council and Members of the Lawn Care Product Manufacturing Industry to sign a second Memorandum of Understanding regarding nitrogen at the 2007 Executive Council meeting.

- Initiate a similar dialogue to recommend by September 2008 possible changes regarding pesticide use through implementation of Integrated Pest Management principles that could result in substantial reduction in pesticide loadings to the Chesapeake Bay watershed.
- Develop, in cooperation with Land Grant Universities of the watershed jurisdictions, consumer messaging and education about best application and management practices for use of lawn care products, through such means as mass media campaigns and point-of-sale consumer education programs at major retailers.
- Use the reduction in phosphorus application resulting from this Memorandum of Understanding, in

combination with proposed Tributary Strategy stormwater and urban nutrient management programs and other actions, to achieve nutrient reductions from developed lands.

- Continue to work together to promote public-private cooperation and partnerships to further address Chesapeake Bay water quality and living resource goals.
- Use the strong public-private partnership established through this joint initiative as a model for additional cooperative efforts with other business and industry sectors.

September 22, 2006

CHESAPEAKE EXECUTIVE COUNCIL

FOR THE STATE OF MARYLAND



*Robert S. Elph*

FOR THE CHESAPEAKE BAY COMMISSION



*Scott H. Hays*

FOR THE DISTRICT OF COLUMBIA



*Gregory A. Williams*

FOR THE COMMONWEALTH OF PENNSYLVANIA



*Edward G. Rendell*

FOR THE COMMONWEALTH OF VIRGINIA



*Mark W. Warner*

FOR THE UNITED STATES OF AMERICA



\* \* \* \* \*

FOR THE STATE OF DELAWARE



*Ruth Ann Minner*

FOR THE STATE OF WEST VIRGINIA



*Paul H. Marshall*

FOR THE SCOTTS COMPANY LLC



*Richard Martney*

FOR THE LEBANON SEABOARD COMPANY



*Thomas J. Pealy*