



**TO:** Senate Committee on Government Operations, Technology & Consumer Protection

**FROM:** Jason Culotta  
President  
Midwest Food Products Association

**DATE:** January 29, 2020

**RE:** Support for Senate Bill 708

The Midwest Food Products Association (MWFP) appreciates the opportunity to testify in support of Senate Bill 708, which would create a public comment period for proposed regulations of substances with potential public health impact to groundwater governed by Chapter 160 of the Wisconsin State Statutes.

MWFP is the trade association representing food processors and their allied industries throughout Illinois, Minnesota, and Wisconsin. As Governor Evers noted last week, Wisconsin is among the leading growers and processors, ranking second in the nation in vegetable production - only behind California. Many of our food processors and their contract growers, along with others in the agricultural industry, are directly impacted by the Chapter 160 rule-writing process.

Water is an essential ingredient for the agriculture and food industries. Food manufacturers use water in many products but also utilize it to clean, peel, heat, and steam raw products. Purchasing, pumping, and treating water represents a major cost to food manufacturers. While we support efforts to manage and ensure access to clean, healthy water – including groundwater, we recognize the need to proceed deliberately to ensure new regulations are effective in addressing problems where they exist.

Under the current Chapter 160 process, the Department of Health Services (DHS) develops proposed enforcement standards for substances identified by the Department of Natural Resources (DNR) as potential public health concerns impacting groundwater. These standards are developed in cycles, which we are presently in the tenth round of and plans for the eleventh are well under way.

This process would work best if the two employees at DHS who develop these standards adhered to a peer review by which the standards are established, but they do not.

A case in point is the treatment in Cycle 8 of a substance called alachlor. In 2005, the Natural Resources Board (NRB), acting on DHS' recommendation, adopted a very strict limit for this corn herbicide. The Joint Committee for Review of Administrative Rules requested that this proposed standard have an external, independent, and unbiased scientific peer review. NRB rejected this recommendation and the very low standard for alachlor was adopted in 2007.

The current Cycle 10 list covers twenty-seven substances – including eleven agricultural pesticides – which are proposed by DNR and DHS to have a lower enforcement standard or create such a standard for the first time. Most of the proposed standards are reasonable for the agriculture industry to comply with but several are lower than the guidelines recommended by national experts, particularly for imidacloprid. This crop management tool is used widely in agriculture across Wisconsin and the proposed standard, ultra-low as in the past, will likely remove this tool from the industry's toolbox.

Unfortunately, industry and other interested parties are not given an opportunity to have input on the proposed regulation of these substances, leaving those regulated by the standards to guess how a particularly standard was arrived at by the agencies and perhaps meaning that something other than science was used in making those determinations. Adopting a peer review standard, such as has been done in other large agricultural production states like California and Idaho, would be most fair.

Our group and others in the “Ag Coalition” have petitioned the NRB to challenge the proposed standard for imidacloprid, but as we have seen in the past, the Board is under no obligation to abide by this input.

Senate Bill 708 provides the public an opportunity to comment on proposed groundwater enforcement standards initially brought forward by DNR as well as when proposed standards are offered by DHS. This is transparency-in-government legislation that allows public input.

MWFPA supports adoption of this legislation, but it is only a first step in improving the Chapter 160 process. We appeal to the authors and others on this Committee to consider introducing subsequent legislation to provide a peer review component to the Chapter 160 process to fairly and scientifically proceed with proposed new standards.

Thank you for the opportunity to comment.