



Agricultural Chemical Fees and Programs

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Introduction

The statutes provide the Department of Agriculture, Trade and Consumer Protection (DATCP) with regulatory responsibility over the composition, labeling, storage and use of materials and substances involved in agricultural production. These materials include animal feed, fertilizers, herbicides and pesticides. DATCP's regulatory activities include sampling and review of products and product labels, licensing or permitting of regulated products and entities, and inspection of most production, storage and distribution facilities. These activities are primarily funded by fees and surcharges on regulated entities.

In 1993 Wisconsin Act 16, an agricultural chemical cleanup program was created in DATCP. The act transferred responsibility for the investigation and remediation of agricultural chemical spills from the Department of Natural Resources (DNR) to DATCP. The act also established a reimbursement program to fund a portion of cleanup costs and increased DATCP pesticide and fertilizer fees to partially fund the program. 1997 Wisconsin Act 27 split agrichemical revenues into base fees deposited to the segregated agrichemical management (ACM) fund and surcharges deposited to the segregated agricultural chemical cleanup program (ACCP) fund.

Under section 94.73 of the statutes, DATCP is authorized to order any of the following actions for the cleanup of an agricultural chemical: (a) the investigation of a site to determine the extent and severity of contamination; (b) containment, removal, treatment or monitoring of contaminated materials; and (c) transportation, storage, land application or disposal of contaminated materials. DATCP actions must be in compliance with

cleanup standards set in the statutes and DNR administrative rules. DATCP and DNR signed a memorandum of understanding beginning in August, 1994, to establish their respective responsibilities.

DNR is authorized to take corrective actions or issue orders related to agricultural chemical discharges if one of the following conditions apply: (a) when necessary, in an emergency to prevent or mitigate an imminent hazard to public health, safety or welfare or to the environment; (b) DATCP requests DNR take an action or issue an order; (c) the DNR Secretary approves the action or order in advance, after providing notice to DATCP; (d) DNR takes corrective action after a responsible party fails to comply with an order issued by DNR; or (e) the action or order is authorized under the DNR and DATCP memorandum of understanding.

Agricultural Chemical Management Fund

The agrichemical management (ACM) fund receives revenues from several feed, fertilizer and pesticide license and tonnage fees. In fiscal year 2015-16, ACM revenues totaled \$8.3 million from fees and interest. Expenditures were \$6.8 million. Fund revenues are used for: (a) DATCP administration of the cleanup reimbursement program; (b) inspection and regulation of the individuals and businesses that manufacture, store or distribute feed, fertilizer and pesticide products in Wisconsin; (c) DATCP administration of environmental quality programs related to groundwater; (d) administration of the collection program for agricultural chemical containers and wastes, which is known as clean sweep; (e) inspector po-

sitions in the DATCP Division of Animal Health; and (f) various grant programs, which are described later in greater detail. DATCP is authorized 46.25 positions in 2016-17 from the ACM, including 42.25 positions for agricultural chemical regulatory responsibilities and 4.0 positions for animal health inspectors. The University of Wisconsin System is also authorized 1.2 ACM-funded positions for the Discovery Farms program.

Agricultural chemical fee revenues deposited into the ACM fund are from the following sources:

- \$30 annual license fees for fertilizer manufacturers and distributors operating in Wisconsin;
- fees of 23¢ per ton of fertilizer sold or distributed in Wisconsin;
- \$25 permits for special or non-agricultural fertilizers distributed in Wisconsin;
- \$25 annual licenses for soil or plant additive manufacturers and distributors;
- \$100 one-time permits for each soil or plant additive product to be distributed in Wisconsin;
- fees of 25¢ per ton of soil or plant additive distributed in Wisconsin;
- annual license fees of \$10 for sellers or distributors of agricultural liming materials;
- \$25 annual licenses for commercial feed manufacturers and distributors;
- inspection fees of 23¢ per ton of commercial feed sold or distributed in Wisconsin;
- annual license fees of \$60 for a dealer or distributor of pesticides with uses restricted by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA);
- annual pesticide applicator licenses of \$40 for individuals and \$70 for businesses;
- annual nonresident commercial pesticide applicator reciprocal certificate fees of \$75;
- household, nonhousehold and industrial pesticide annual registration fees ranging from

Table 1: ACM Fund Condition

	Actual 2013-14	Actual 2014-15	Actual 2015-16	Estimated 2016-17
Opening Balance	\$6,090,300	\$6,322,200	\$6,978,200	\$8,493,700
Fee Revenue	7,939,500	7,457,200	8,237,900	7,950,000
Interest and Misc. Income	<u>35,600</u>	<u>12,800</u>	<u>58,400</u>	<u>30,000</u>
Total Revenue	\$7,975,100	\$7,470,000	\$8,296,300	\$8,000,000
Total Available	\$14,065,400	\$13,792,200	\$15,274,500	\$16,493,000
Expenditures	-\$6,993,200	-\$6,814,000	-\$6,780,800	-\$7,584,500
Transfers	<u>-750,000*</u>	<u>0</u>	<u>0</u>	<u>0</u>
Cash Balance	\$6,322,200	\$6,978,200	\$8,493,700	\$8,909,200
Encumbrances	-\$480,900	-\$221,900	-\$198,500	-\$198,500
Available Balance	\$5,841,300	\$6,756,300	\$8,295,200	\$8,710,700

* One-time transfer of \$750,000 to the environmental fund under 2013 Act 20 for clean sweep grants.

\$141 to over \$3,000, depending on the quantity sold; and

- \$250 for registrations of pesticides for special local applications or emergencies.

These fee levels are set in the statutes, except for the registration of an emergency or special local use, which is established in administrative rule. The 23¢ fertilizer tonnage fee took effect with 2013 Act 20 for fees received beginning in 2013-14. All other current statutory ACM fee levels have been in place since at least 1999 Act 9, aside from temporary fee holidays in 2000-01 and 2001-02. Table 1 shows the ACM fund condition for 2013-14 through 2016-17, and the Appendix shows all agricultural chemical fees.

Agrichemical Management

Programs related to agricultural chemicals and their use are administered by the DATCP Bureau of Agrichemical Management. In addition to overseeing agricultural chemical cleanups and cleanup reimbursements, the Bureau administers programs related to: (a) household and commercial pesticides; (b) fertilizers; (c) soil or plant additives; (d) commercial animal feed; (e) water quality in areas in which applications of agricultural chemicals occur; and (f) administration of the clean sweep program.

Pesticides. Pesticide regulation in the Bureau includes multiple activities related to the marketing, sale and distribution of pesticides and the effects of pesticide use on humans and the environment.

As noted above, the statutes require any producer of pesticides to be licensed in the state, as well as businesses and individuals who apply pesticides as part of a commercial operation, and any dealer or distributor of a restricted-use product under FIFRA. License fees fund several program duties, which are briefly described in the following paragraphs.

Inspections and Enforcement. DATCP conducts inspections of facilities such as pesticide manufacturers and sellers, farms and other businesses to ensure compliance with state and federal regulations. Inspections, which may occur on either a routine basis or as the result of a complaint, are intended to ensure compliance with national worker protection standards established by the U.S. Environmental Protection Agency (EPA), and state and federal laws for preventing pesticide misuse that could harm agricultural crops, the environment or public health. Violations may result in special orders, as well as civil or criminal penalties.

Landscape Registry. DATCP administers a statewide registry for persons who wish to be notified of commercial landscape applications of pesticides near their residence. DATCP registers members of the general public and provides a list to commercial pesticide applicators operating in the state. These applicators are subsequently required to provide notification of pesticide applications to registered parties.

Special and Experimental Uses. DATCP issues permits both for experimental pesticide uses intended to gather scientific data and for special uses in local areas for unique or emergency pest issues. As of August, 2016, 20 special local needs, experimental or emergency authorizations were in effect for applications against several weeds, fungal infestations and insect or animal pests.

The Bureau also issues special use permits for certain highly toxic pesticides, including strychnine and sodium fluoroacetate. Five special use permits for strychnine were recently in effect for control of pocket gophers in western Wisconsin, but these permits expired December 31, 2016.

Fertilizer and Other Additives. The Bureau is responsible for enforcement of labeling and quality of fertilizer, agricultural lime and other soil or plant additives. Persons manufacturing,

distributing or selling these compounds must be licensed by DATCP. Additionally, the statutes require permits for persons selling soil or plant additives and for persons distributing certain special-use or nonagricultural fertilizers. (The fees for these licenses and permits are noted above.) The statutes also specify required information that must appear on labels or invoices of these compounds. DATCP regulatory actions include reviewing product labels, as well as sampling compounds to ensure consistency between labeling and the marketed product.

Containment. In addition to the regulatory responsibilities noted above for pesticides, fertilizers and other additives, the agrichemical management program is also responsible for enforcement of requirements relating to secondary containment structures for bulk fertilizer and pesticide storage. The statutes require DATCP to adopt standards for containment structures that capture spills or overflow of fertilizers and pesticides to prevent groundwater and soil contamination and allow for easier recovery and cleaning. Containment violations may be discovered through inspections or complaints, and DATCP may enforce standards through warnings or compliance orders. It should be noted that the EPA considers Wisconsin's containment regulations to be equivalent to federal requirements.

Animal Feed. Similar to program activities for fertilizer and other additives, the Bureau's responsibilities relating to animal feed are intended to ensure that feed ingredients are properly disclosed to purchasers and that marketed feed is unadulterated and consistent with its labeling. For example, DATCP inspects feed mills and samples feed to ensure the facility has practices to ensure medicines or other substances do not mix among feed batches; some substances beneficial to certain animals may be poisonous in feed for other animals. In the past, the Department has also assisted the U.S. Food and Drug Administration on rules governing the use of rendered bovine products in animal feed; the rules are in-

tended to prevent bovine spongiform encephalopathy (BSE), commonly known as mad cow disease.

Environmental Programs. Agrichemical management environmental programs include efforts to minimize pesticide impacts and limit groundwater contamination by agricultural chemicals. These are described below.

Groundwater. The Bureau conducts groundwater monitoring throughout the state for possible infiltration of agricultural chemicals to groundwater. The Bureau typically collects samples for laboratory analysis and further investigates sites whose samples had excessive levels of pesticides or other substances such as nitrates or ammonium. Investigations attempt to explain how chemicals were introduced to the groundwater, with possible regulatory actions to follow including enforcement of illegal applications or special orders and rules prohibiting applications in certain geographic areas. The Department's most notable regulatory action of this sort is the 101 areas in which the herbicide atrazine is prohibited. These areas cover 1.2 million acres in the state and exist in parts of 35 counties.

Manure Management Advisory System. DATCP established an online manure management advisory system during the 2007-09 biennium with \$115,000 from the segregated (SEG) ACM fund. 2007 Act 20 provided: (a) \$75,000 in 2007-08 as one-time funding for the system's startup; and (b) \$40,000 annually beginning in 2008-09 for maintenance costs and printing of materials for those unable to access information electronically. The manure management advisory system contains information that assists farmers and manure applicators in determining fields and times that are most suitable for manure spreading.

Clean Sweep. 2003 Act 33 transferred funding of agricultural chemical and pesticide collection grants, known as the "clean sweep" program,

from the ACM fund to what is now the environmental fund beginning with the 2003-04 fiscal year. For the 2015-17 biennium, clean sweep grants have base funding of \$750,000 SEG each year from the environmental management account of the environmental fund.

A 0.75 ACM SEG position was authorized under 2009 Act 28 for staffing the clean sweep program. DATCP reports this amount of full-time equivalent staffing was allocated in 2015-16 at an estimated cost of about \$67,000 SEG each year. Additional information on the clean sweep program can be found in the Legislative Fiscal Bureau informational papers entitled, "Environmental Management Account" and "Recycling Financial Assistance Programs."

Grants and Other Programs

Besides DATCP regulatory and administrative functions related to agricultural chemicals, the ACM funds several other programs and organizations.

Animal Health Inspections. DATCP is provided \$359,900 ACM SEG in 2016-17 with 4.0 inspector positions under DATCP's animal health program. This funding was supported by ACCP SEG from 2009-10 through 2012-13. DATCP's animal health program is responsible for enforcing state laws for inter- and intrastate movements of animals. The program is charged with preventing disease outbreaks in Wisconsin animal herds that could be detrimental to human and animal health and livestock productivity. In addition to ACM-supported positions, DATCP is budgeted the following for field staff and expenditures in 2016-17 for animal health inspection and enforcement activities: (a) \$1,114,500 with 11.0 positions from the state's general fund; and (b) \$336,100 in program revenue (PR) with 4.0 positions from various fees charged to the rearing and moving of livestock and other animals.

Discovery Farms. The Discovery Farms pro-

gram, operated by the University of Wisconsin–Extension and UW–Madison, evaluates nutrient management strategies and nonpoint source runoff reduction practices by monitoring such practices in place at commercial farms throughout the state. In 2016-17, the program is authorized \$249,800 ACM SEG with 1.2 positions. Discovery Farms funding was converted from federal funding to ACCP SEG in 2007-08, and then to ACM SEG beginning in 2013-14. In addition to ACM SEG funding, the Discovery Farms budget typically includes other state general fund or program revenue funding appropriated through the UW System, as well as contributions from other nonprofit or charitable organizations. Primary annual expenditures include staff salaries and fringe benefits, research and equipment costs, grants to participating producers for assisting in the projects, and costs for publishing research findings.

Agriculture in the Classroom. DATCP awards grants for the agriculture in the classroom program, which is a national program coordinated by the U.S. Department of Agriculture (USDA) for educating students about agriculture. ACM funding is disbursed to the Wisconsin Farm Bureau Federation, which administers the Wisconsin program. 2001 Act 16 first authorized grants for the program. The 2015-17 budget appropriates \$93,900 each year.

Agricultural Chemical Cleanup Program Fund

The agricultural chemical cleanup program (ACCP) fund supports the cleanup of fertilizers and nonhousehold pesticides, including spills occurring at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. DATCP reports cleanup cases are most commonly begun following: (a) a reported spill; (b) sampling during inspection of a property being sold; or (c) DATCP-initiated sampling at a

site, including sampling that shows discharges were insufficiently removed following an initial cleanup project. 2013 changes repealed DATCP's authority to initiate sampling, which historically has accounted for the largest portion of cases, although this authority had become necessary as old or abandoned sites in need of cleanup were discovered and remediated. Currently, most cases are initiated through property transactions. Cleanup costs are eligible for reimbursement if a party applies within three years of incurring the costs. Further, reimbursements may be provided for first and subsequent spills at the same site, although an applicant may submit only one application per year for one site, and presumptive reimbursement rates decrease for subsequent cleanups.

The ACCP requires a one-time deductible of \$3,000 for farms and small businesses and \$7,500 for larger commercial businesses or licensed pesticide handlers. Since 2003, the reimbursement rate has been 75% for costs between the deductible and a \$400,000 limit on eligible costs. Both the statutes and DATCP administrative code establish cleanup costs eligible for reimbursement. Table 2 shows the maximum ACCP reimbursement amounts for which the two types of facilities are eligible at various cleanup cost levels.

Revenues deposited to the ACCP were approximately \$2.0 million in 2015-16, including

Table 2: ACCP Maximum Reimbursements

Costs Incurred	Percent Reimbursed	Maximum State Reimbursement
Licensed Commercial Facilities		
Up to \$7,500	0%	\$0
\$7,500 to \$100,000	75	69,375
\$100,000 to \$400,000*	75	294,375
Over \$400,000	--	294,375
Non-Licensed Facilities		
Up to \$3,000	0%	\$0
\$3,000 to \$100,000	75	72,750
\$100,000 to \$400,000*	75	297,750
Over \$400,000	--	297,750

*Provided that DATCP orders groundwater remediation or approves a soil contamination reimbursement amount prior to incurring costs over \$100,000.

fee revenues and interest on the fund balance. Fee revenues consist of the following fertilizer and pesticide license and tonnage surcharges: (a) a fertilizer tonnage surcharge of 35¢ per ton; (b) a pesticide registration surcharge of \$2.80 per product for nonhousehold pesticides with Wisconsin sales of less than \$25,000, \$96 per product for nonhousehold pesticides with Wisconsin sales from \$25,000 to \$74,999, or 0.60% of sales per product for nonhousehold pesticides with Wisconsin sales greater than \$75,000; (c) a \$11.20 annual license surcharge for fertilizer manufacturers and distributors; (d) a \$22.40 annual surcharge for dealers of pesticides whose use is restricted by FIFRA; (e) a \$30.40 annual surcharge

Table 3: ACCP Fund Statutory Maximum License and Tonnage Fees with Current Levels

ACCP Surcharge	2013 Act 20		Prior Law	Maximum Fee
	Amount	Effective Date		
Fertilizer Manufacturer/Distributor	\$11.20	Aug. 14, 2013	\$14	\$20
Fertilizer Tonnage	35¢/ton	Sales beg. July 1, 2014	44¢/ton	63¢/ton
Pesticide Dealer - Restricted-Use	\$22.40	Jan. 1, 2014	\$28	\$40
Pesticide Application - Business	\$30.40	Jan. 1, 2014	\$38	\$55
Pesticide Application - Individual	\$11.20	Jan. 1, 2014	\$14	\$20
Non-Household Pesticide Product				
Annual Sales under \$25,000	\$2.80	Sales beginning Oct. 1, 2013	\$3.50	\$5
Annual Sales \$25,000 - \$74,999	\$96	Sales beginning Oct. 1, 2013	\$120	\$170
Annual Sales \$75,000 and Over	0.60%	Sales beginning Oct. 1, 2013	0.75%	1.1%

for commercial application businesses; and (f) a \$11.20 annual surcharge for individual commercial applicators.

Current fee levels were established under 2013 Act 20, which reduced all ACCP surcharges by approximately 20%. Table 3 shows the surcharge levels established by 2013 Act 20, relative to prior law. Table 3 also shows the effective dates of the 2013 changes. The lower surcharges took effect beginning with the 2013-14 fiscal year, with the exception of the surcharge on fertilizer tonnage, which took first effect for revenues received in 2015-16.

Surcharge levels prior to 2013 Act 20 had been in place since 2007 Act 20. That Act established the surcharges in place at that time as maximum amounts, which are also shown in Table 3,

and reduced those ACCP surcharges by approximately 30%. DATCP remains authorized to increase, by administrative rule, ACCP surcharges up to the maximum amounts specified in statute. DATCP also is directed to adjust surcharges to maintain a balance of not more than \$2.5 million.

Table 4 provides an historical overview of agricultural chemical cleanup reimbursements from the ACCP fund, which generally have decreased from a high of over \$3.9 million in 2000-01. Table 5 shows the condition of the ACCP fund. DATCP attributes recent reductions in reimbursements, as well as relatively low estimated future reimbursement activity, primarily to fewer sites needing remediation of long-term agricultural chemical contamination. The Department reports that in addition to many sites having discontinued use of potentially contaminating sub-

Table 4: Agricultural Chemical Cleanup Reimbursements by Site

Year	<u>Commercial Sites Reimbursements</u>			<u>Non-Commercial Sites Reimbursements</u>		
	New	Follow-Up*	Expenditures	New	Follow-Up*	Expenditures
1994-95	18	0	\$764,100	2	0	\$11,700
1995-96	24	8	904,700	4	0	86,000
1996-97	27	16	1,265,100	1	0	69,400
1997-98	19	25	1,333,500	7	1	130,900
1998-99	24	24	2,805,000	4	1	70,100
1999-00	22	18	2,072,300	3	1	71,800
2000-01	36	27	3,913,700	2	1	50,300
2001-02	34	62	3,467,300	3	1	91,300
2002-03	27	42	3,760,800	0	1	103,400
2003-04	16	69	2,564,300	1	1	35,800
2004-05	16	64	2,493,000	0	1	29,600
2005-06	12	62	2,085,000	2	1	29,100
2006-07	22	71	2,085,800	0	1	400
2007-08	23	60	2,162,600	3	1	24,500
2008-09	15	69	2,398,600	0	1	10,100
2009-10	8	50	1,347,700	4	0	209,500
2010-11	6	54	2,125,500	3	1	5,800
2011-12	8	36	1,005,500	0	0	0
2012-13	5	31	957,700	2	2	59,300
2013-14	3	51	1,048,700	1	0	26,200
2014-15	5	34	1,383,800	1	0	26,500
2015-16	<u>0</u>	<u>30</u>	<u>780,100</u>	<u>3</u>	<u>0</u>	<u>48,200</u>
Total	370	903	\$42,724,800	46	15	\$1,189,900

*Follow-up reimbursements are those monies given for further reimbursements to sites previously receiving funding.

Table 5: ACCP Fund Condition

	Actual 2014-15	Actual 2015-16	Estimated 2016-17
Opening Balance	\$3,826,800	\$5,374,800	\$5,567,400
Total Revenue	2,958,300	2,020,900	2,000,000
Cleanup Expenditures	-1,410,300	-828,300	-1,000,000
Transfers	<u>0</u>	<u>-1,000,000</u>	<u>-1,000,000</u>
Closing Balance	\$5,374,800	\$5,567,400	\$5,567,400

stances, most long-term contaminated sites already have been identified and resolved over the cleanup program's history and are no longer significant risks for contamination. Other sites have reached the current limit on eligible reimbursement.

Provisions of 2013 Act 20 also may have the effect of limiting future ACCP claims. The act discontinued eligibility for reimbursement of agricultural chemical discharge cleanup costs under the agricultural chemical cleanup program for bulk storage facilities owned or operated by manufacturers or distributors of fertilizer or pesticides at any property that, prior to July 2, 2013, had not been used to store agricultural chemicals, unless the party had filed a construction plan with DATCP by that date. Under the provision, commercial properties at which bulk storage of agricultural chemicals already occurs, as well as bulk storage at both existing and new noncommercial sites, such as those occurring mostly at farms, would continue to have ACCP reimbursement eligibility.

DATCP projects annual reimbursements would average perhaps \$1.0 million or lower under current law, as the number of sites requiring cleanup continues to lag historical trends.

Agricultural Chemical Pollution Prevention

Under 2007 Act 20, businesses are eligible for capital-improvement grants that will limit the likelihood of agricultural chemical spills. This pollution prevention program may expend up to

\$250,000 annually from the ACCP fund. Grantees may receive up to \$500,000 for pollution prevention and agricultural chemical cleanup, meaning a licensed commercial facility receiving a maximum cleanup reimbursement of \$294,375 could receive up to \$205,625 in pollution prevention funds. A non-licensed facility receiving \$297,750 in cleanup funds could receive \$202,250 in pollution prevention grants. Act 20 also specified that pollution prevention grants could not exceed 50% of a project's costs. DATCP is required to create administrative rules defining eligible recipients, projects and costs. The Department in 2008 had begun working with an industry advisory council to develop rules to implement the program. However, no draft administrative rule was advanced and the process has been discontinued. No grants were awarded.

ACCP Revenues and Balances

ACCP fund balances have fluctuated since the fund's creation in 1997. In the late 1990s and early 2000s, shortly after the fund was created, ACCP surcharge holidays were implemented periodically due to large balances in the fund, similar to holidays on fees deposited to the ACM fund. Fund revenues reached a high of \$3.7 million in 2005-06, while the fund balance reached a high of \$5.6 million at the close of 2015-16.

Table 6 shows summary information for the ACCP fund since 2005-06, including annual surcharge revenues and reimbursement expenditures, as well as year-end balances. Table 7 displays fertilizer and pesticide surcharge amounts during recent biennia. ACCP revenue decreases since 2005-06 have occurred mostly in the categories for fertilizer tonnage fees and pesticide registration fees, although these categories remain the fund's largest revenue sources. DATCP reports that these revenue reductions have been attributable both to lower fee levels and to occasionally lower sales volumes, particularly around the 2007-09 recession. Interest earnings also have significantly declined from approximately

Table 6: ACCP Fund Summary Information by Year (Millions \$)

Year Ending June 30	Surcharge Revenues	Reimbursement Expenditures	Year-End Cash Balance
2006	\$3.69	\$2.11	\$2.84
2007	3.28	2.09	4.25
2008	3.05	2.19	4.40
2009	2.59	2.41	2.67
2010	1.81	1.56	1.48
2011	1.96	2.13	0.01
2012	2.37	1.01	0.94
2013	2.60	1.02	1.86
2014	2.40	1.07	3.83
2015	2.96	1.41	5.37
2016	2.01	0.83	5.57
2017 (est.)	1.98	1.00	5.57

Table 7: Changes in ACCP Surcharges

	2003-05	2005-07	2007-13	Beginning 2013/2014 ^d
Fertilizer License	\$20	\$20	\$14	\$11.20
Fertilizer Tonnage	38¢/86¢ ^a	63¢	44¢ ^b	35¢
Pesticide Applicator - Business	\$55	\$55	\$38	\$30.40
Pesticide Applicator - Individual	\$20	\$20	\$14	\$11.20
Pesticide Dealer - Restricted Use	\$40	\$40	\$28	\$22.40
Pesticide Registration - Non-Household Product				
Under \$25,000	\$5	\$5	\$3.50 ^c	\$2.80
\$25,000 - \$74,999	\$170	\$170	\$120 ^c	\$96
\$75,000 and Over	1.1%	1.1%	0.75% ^c	0.60%

^a 38¢ for fertilizer sold in 2003-04, and 86¢ for fertilizer sold in 2004-05.

^b Effective beginning with products sold on July 1, 2007.

^c Effective beginning with products sold on October 1, 2007.

^d See Table 3 for effective dates of changes.

\$190,000 annually in the mid-2000s. Year-end fund balances have also been reduced by transfers to the state general fund and by non-ACCP expenditures in some years. These are discussed later in greater detail.

ACCP Balance Requirements

2003 Act 33 specifies that DATCP maintain an ACCP fund balance of not more than \$2.5 million. DATCP is required to adjust surcharge amounts as necessary in the ACCP fund in order

to end each fiscal year with a balance of not more than \$2.5 million. Also, the Department may not exceed the statutory maximum fees shown in Table 3. As shown in Table 6, the ACCP fund has regularly exceeded the maximum balance requirement.

If the fund balance exceeds, or is expected to exceed, \$2.5 million at the end of a fiscal year, DATCP can either promulgate a revised administrative rule reducing fees, or reduce fees by emergency rule until a permanent rule is promul-

gated. Under s. 227.24 of the statutes, an agency may promulgate an emergency rule without full administrative rule notice, hearing, and publication requirements if the rule is necessary to preserve public peace, health, safety or welfare. However, any DATCP proposal to adjust agricultural surcharges via emergency rule procedures in order to maintain an ACCP balance of not more than \$2.5 million must first be submitted to the Joint Committee on Finance under a 14-day passive review process. If the Committee does not object to the proposed emergency rule within 14 working days, DATCP may begin the emergency rule procedures. If, within 14 working days, the Co-Chairs of the Committee notify the Secretary that a meeting is being scheduled to review the proposed rule, DATCP may not begin emergency rule procedures until the Committee approves the rule.

Fund Transfers and Other Appropriations

Balances of the two agricultural chemical funds have been transferred to the state's general fund since the 1990s, due both to anticipated shortfalls in other funds, particularly the state general fund, and to available balances in the agricultural chemical funds. As shown in Table 8, a total of \$14.6 million, consisting of \$7,956,500 from the ACM fund and \$6,604,800 from the ACCP fund, has been transferred to the state's general fund since 1997-98. No general-fund transfers have been made since 2010-11. It should be noted that the general fund provided \$4.1 million from 1994-95 through 1998-99 for agricultural chemical cleanup reimbursements.

In addition to general-fund transfers and other appropriations noted earlier, the agricultural chemical funds have supported certain one-time transfers and appropriations under past budget acts. 2013 Act 20 transferred \$750,000 from the ACM fund to the environmental fund in 2013-14

Table 8: Transfers to General Fund from ACM and ACCP Funds

Fiscal Year	Transfer Amount	Fund
1997-98	\$506,900	ACCP
1998-99	479,300	ACCP
1999-00	1,500,000	ACCP
	1,000,000	ACM
2000-01	500,000	ACCP
2002-03	200	ACM
2003-04	116,200	ACM
2004-05	1,900	ACM
2006-07	1,537,800	ACM
2007-08	266,000	ACCP
	82,000	ACM
2008-09	640,000	ACM
	1,525,000	ACCP
2009-10	1,555,300	ACM
	1,143,500	ACCP
2010-11	3,023,100	ACM
	<u>684,100</u>	ACCP
Total	\$14,561,300	

to resolve a timing discrepancy in the awarding of grants under the clean sweep program.

Additionally, ACM SEG has been appropriated in past biennia under programs that have since ended. A grant program for the Wisconsin Grazing Lands Conservation Initiative (WGLCI) was enacted in 2007 Act 20 and repealed under 2013 Act 20. From 2008 through 2012, \$2,068,800 ACM SEG was awarded for WGLCI grants to expand use of rotational grazing and other conservation practices for land and herd management. The program provided grants on a competitive basis for technical assistance for managed grazing operations, grazing research and outreach efforts. The following one-time ACM SEG appropriations also have occurred: (a) \$1,000,000 in 2005-06 for grants to research and develop technologies to limit agricultural waste, or use agricultural products or waste as energy sources; and (b) \$71,000 in each year of the 2007-09 biennium for an International Crane Foundation project studying non-toxic methods of deterring sandhill cranes' feeding on agricultural crops.

Further, the ACM fund loaned \$2 million as

startup funding in 2001-02 for the segregated agricultural producer security (APS) fund, which repays farmers for their agricultural goods in the event the purchaser of the goods defaults on payment. The APS fund is supported by license fees and other assessments on processors and marketers of agricultural products. The APS fund repaid the ACM loan by 2005-06.

2013 Act 20 transferred the funding for animal health inspectors and the Discovery Farms program to ACM SEG. As a result, ACCP reimbursements are the only expenditure supported by the ACCP fund. However, ACCP SEG has supported other transfers and expenditures in recent biennia. 2015 Act 55 required the transfer of \$1,000,000 ACCP SEG each year of the 2015-17 biennium to the nonpoint account of the environmental fund to balance anticipated nonpoint SEG revenues with budgeted expenditures in the 2015-17 biennium. 2007 Act 20 transferred in the 2007-09 biennium a total of \$600,000 from the ACCP fund to separate PR appropriations in DATCP's food regulation and animal health programs. The transfers were intended to prevent shortfalls in the PR appropriations, which otherwise are funded by license and other fees on the regulated industries. The appropriations have since stabilized. 2009 Act 28 appropriated \$20,000 ACCP SEG each year of the 2009-11 biennium for aids to county and district fairs, which are disbursed to local fairs to use as prizes in agricultural shows. One-time ACCP funding was intended to offset a \$24,500 annual reduction

during that biennium in a general fund appropriation for fair aids.

Other Deposits of Agricultural Chemical Fees

As shown in Table 9 and the Appendix, agricultural chemical fee revenues are deposited into five places aside from the ACM and ACCP funds. These include: (a) the environmental management account (EMA) of the environmental fund; (b) DATCP's fertilizer research appropriation account; (c) the University of Wisconsin-Extension nutrient and pest management outreach appropriation account; (d) DATCP's weights and measures inspection appropriation account; and (e) DATCP's liming material research appropriation account.

Environmental Management Account. The EMA, along with the nonpoint account, constitute the segregated environmental fund. These two accounts are tracked separately, but are statutorily maintained as one fund. The environmental management account primarily receives revenues from state solid waste tonnage fees, but also from a variety of other sources, including petroleum inspection fees and hazardous spills reimbursements from responsible parties, in addition to the agricultural chemical fees shown in Table 9 and the Appendix. EMA revenues are used primarily for: (a) recycling grants to local governments; (b) grants under DNR and other agencies for various programs related to solid waste management and contaminated land remediation; (c) debt service on general obligation bonds issued for state-funded cleanups of contaminated lands and abatement of water pollution; and (d) DNR administrative activities related to recycling and environmental response/repair programs. Additional information on this account can be found in the Legislative Fiscal Bureau informational paper entitled, "Environmental Management Account." As shown in Table 10, agricultural chem-

Table 9: Agricultural Chemical Fee Revenue

Fund/Purpose	2015-16 Fee Revenue
ACM	\$8,237,900
ACCP	2,007,000
EMA	1,591,800
Fertilizer Research	341,000
UW-Extension	188,900
Weights and Measures	140,600
Liming Research	<u>13,400</u>
Total	\$12,520,600

Table 10: 2015-16 Environmental Management Account Agricultural Chemical-Related Revenues

License/Fee	Fee Amount	2015-16 Revenue
Fertilizer Tonnage	10¢	\$188,900
Soil or Plant Additive Tonnage	10¢	19,800
Primary Producer Fee	\$150	24,900
Household Pesticide Registrations	\$124	706,200
Industrial Pesticide Registrations	\$94	95,600
Non-Household Pesticide Registrations	\$94	521,700
Wood Preservative Surcharge	*	<u>34,700</u>
Total		\$1,591,800

*For pesticide products with annual sales of less than \$25,000, the annual fee is \$5. For pesticide products with annual sales between \$25,000 and \$74,999, the annual fee is \$170. For pesticide products with annual sales of \$75,000 or more, the annual fee is 1.1% of sales.

ical-related revenues to the environmental fund totaled approximately \$1.6 million in 2015-16.

Fertilizer Research. DATCP's fertilizer research appropriation account collects revenue from tonnage fees on fertilizer and soil or plant additives sold or distributed in the state. The soil or plant additive fee is 10¢ per ton. Beginning in 2013-14, the fertilizer fee is 17¢ per ton. 2013 Act 20 increased the portion of the fertilizer tonnage fee for research from 10¢ per ton to 17¢ per ton and decreased the fertilizer tonnage fee deposited to the ACM fund from 30¢ per ton to 23¢ per ton. This change had the effect of making permanent a transfer made under 2011 Act 32, which required an additional 7¢ per ton for fertilizer research to be transferred as one-time funding in 2012-13 from the ACM fund to the fertilizer research PR account.

Revenues from this account are forwarded to the University of Wisconsin System to be used for research on soil management, soil fertility and plant nutrition problems, as well as for research on surface water and groundwater problems that may be related to fertilizer usage. In addition, the funding may be used to disseminate the results of the research and other activities that promote the correct usage of fertilizer materials. Although the

statutes do not limit which UW System institutions may receive funding, funds have gone to researchers at UW-Madison in recent years. The DATCP Fertilizer Research Council may recommend other nonprofit research institutions to receive funds if the University of Wisconsin System is unable to carry out the projected research.

Revenues in this category totaled \$341,000 in 2015-16. However, the statutes allow DATCP to retain 3.5% of all revenues to assist with the administrative costs of collecting these fees. The Department retained \$10,200 in 2015-16 under this provision, forwarding, approximately \$330,700 to the UW System for research.

DATCP's Fertilizer Research Council recommends projects to be financed by this appropriation. The Council, created by Chapter 57, Laws of 1981, consists of seven voting members, three of whom are fertilizer industry representatives and three of whom are crop producers. They are appointed jointly by DATCP's Secretary and the Dean of the University of Wisconsin-Madison's College of Agricultural and Life Sciences. A seventh member is appointed by the DNR Secretary, and is to be knowledgeable about water quality issues. Members serve three-year terms, but no member may serve more than two consecutive terms.

UW-Extension Outreach. DATCP collects 10¢ per ton of fertilizer sold and deposits the revenues into the University of Wisconsin-Extension's Outreach appropriation account. This revenue supports UW-Extension's nutrient and pest management program, which provides education and outreach to farmers and other businesses on the efficient use of fertilizers. Revenue from this surcharge was \$188,900 in 2015-16.

Weights and Measures Inspection. In addition to receiving 2¢ per ton fertilizer and commercial feed tonnage fees, DATCP's weights and measures inspection appropriation account also receives revenue from the following sources: (a)

contracts with municipalities for the testing of weights and measures machines; (b) weights and measures tests performed by the Department at its metrology laboratory; (c) license fees from operators of vehicle scales, vehicle tank meters and liquefied petroleum gas meters; (d) licenses for people who install, test or calibrate weights and measures equipment; (e) inspection fees from retail food establishments; and (f) reinspections of noncompliant weights and measures. This account in part funds the Department's weights and measures inspection, testing and enforcement responsibilities under Chapter 98 of the statutes. Revenues from fertilizer and feed tonnage fees were \$140,600 in 2015-16.

Liming Material Research. DATCP's liming material research appropriation supports: (a) research by the University of Wisconsin-Madison College of Agricultural and Life Sciences related to liming materials or crop response to liming materials; and (b) the dissemination of results of such research, and dissemination of other activities that promote the correct use of liming materials. Funding may be allocated to other entities if UW is unable to carry out research. The 1.25¢ tonnage fee on all liming materials sold in the state is the only revenue deposited into this account. Revenues totaled \$13,400 in 2015-16.

Agricultural Chemical Funds and Programs Review

In late 2015, DATCP began a review of state agricultural chemical fees and DATCP's fee-supported regulatory and cleanup programs. The review is commonly known as the "RevEx Project," alluding to the review of agricultural chemical fee revenues and program expenditures. To advise the review process and to suggest provisions to include in any future legislation or rules changes, DATCP convened a group of agricultural industry stakeholders, including agricultural

chemical manufacturers, distributors and various groups representing farmers at large and crop-specific growers.

The review and its final proposal was intended to provide for: (a) annual ACM and ACCP revenues and fund balances sufficient to support annual expenditures; (b) reduced volatility and greater predictability in fee and surcharge revenues; (c) revenues derived from a particular industry segment or product being commensurate with DATCP's regulatory costs in overseeing that portion of the industry; and (d) modification of licensing and fee collection procedures, such that DATCP costs of collecting and auditing fees, and industry costs of accounting and compliance, could be reduced while maintaining informational disclosures necessary for DATCP to carry out regulatory activities required by law. The review extended only to fees deposited to the ACM and ACCP, and not fees forwarded to the UW System, the environmental fund, or the DATCP weights and measures program.

Specifically, the RevEx Project examined the following aspects of DATCP agricultural chemical programs: (a) continuing increases in year-end ACM and ACCP fund balances; (b) simplification and timing of pesticide registrations and licensing; (c) the continuation of the ACCP, and provisions for future reimbursements; (d) the imposition of commercial feed tonnage fees, and the possibility of a minimum fee; and (e) fertilizer and soil or plant additive permit issuance, including the possibility of a permit renewal process.

DATCP issued a final report of the RevEx Project in October, 2016, which recommended the following legislative or administrative changes:

a. Maintaining an ACM balance of approximately \$1.4 million, or about 20% of annual ACM SEG expenditures, while allocating excess ACM fund balances to Bureau information technology upgrades;

b. Modifying pesticide product registration fees to a flat fee rather than a sales-based fee;

c. Establishing a minimum inspection fee for commercial feed, but with reduced reporting required for fewer than 200 tons of feed annually, and clarifying statutes specifying the party responsible for paying feed tonnage fees; and

d. Establishing an annual fertilizer permit maintenance fee to indicate which products or formulas remain in the market, and aligning the license years for manufacturers or distributors of fertilizer or soil or plant additives both to begin on October 1.

With regard to the ACCP, the RevEx Project review forwarded the following recommendations:

a. Maintain the ACCP, but modifying various surcharges to allow for annual revenues of approximately \$500,000, including modifying the pesticide registration surcharge to a flat fee and instituting a surcharge on facilities that store fertilizer or pesticides in bulk;

b. Institute an immediate fee holiday until the ACCP fund balance is lower than the \$2.5 million maximum allowed by statute;

c. Institute a "trigger" mechanism by which ACCP surcharges would automatically decrease or suspend if fund balances exceed specified thresholds;

d. Increase the lifetime reimbursement maximum to \$650,000;

e. Repeal the July, 2013, sunset of ACCP eligibility for certain fertilizer or pesticide bulk storage facilities; and

f. Repeal the ACCP pollution prevention grant program authorization.

Although the RevEx Project was not completed in time for suggested changes to be submitted with DATCP's 2017-19 agency budget request, it was anticipated the final recommendations would be considered for inclusion in the Governor's 2017-19 biennial budget proposal.

APPENDIX

Agricultural Chemical Fee Revenues

License/Fee	ACM	ACCP	EMA*	Other	Total Fees/ Surcharges	2015-16 Total Revenue
Commercial Feed License	\$25				\$25	\$38,300
Commercial Feed Tonnage	23¢			2¢ ^a	25¢	1,269,100
Fertilizer License	\$30	\$11.20			\$41.20	31,600
Fertilizer Permit Applications	\$25				\$25	17,200
Fertilizer Tonnage	23¢	35¢	10¢	29¢ ^b	\$0.97	1,840,600
Lime License	\$10				\$10	1,100
Lime Tonnage				1.25¢ ^c	1.25¢	13,400
Pesticide Application Business	\$70	\$30.40			\$100.40	238,900
Pesticide Dealer - Restricted Use	\$60	\$22.40			\$82.40	29,800
Pesticide Individual Applicator	\$40	\$11.20			\$51.20	441,400
Pesticide Reciprocal Certification	\$75				\$75	34,600
Soil or Plant Additive License and Permit	\$125				\$125	40,800
Soil or Plant Additive Tonnage	25¢		10¢	10¢ ^d	45¢	91,100
Primary Producer Fee			\$150		\$150	24,900
Special Local Needs Permit	\$250					1,500
Pesticide Registration - Household						
\$0-\$24,999	\$141		\$124		\$265	1,351,000
\$25,000-\$74,999	\$626		\$124		\$750	318,100
\$75,000 or more	\$1,376		\$124		\$1,500	732,200
Pesticide Registration - Industrial						
\$0-\$24,999	\$221		\$94		\$315	281,900
\$25,000-\$74,999	\$766		\$94		\$860	84,000
\$75,000 or more	\$2,966		\$94		\$3,060	294,100
Pesticide Registration - Non-Household						
\$0-\$24,999	\$226	\$2.80	\$94		\$322.80	1,625,200
\$25,000-\$74,999	\$796	\$96	\$94		\$986	386,500
\$75,000 or more	\$2,966**	0.60%	\$94		\$3,060 + 0.80%	3,288,500
Wood Preservative Surcharge						
\$0 - 24,999			\$5		\$5	200
\$25,000 - \$74,999			\$170		\$170	0
\$75,000 or more			1.1%		1.1%	<u>34,500</u>
Total						\$12,510,500

^a Deposited to DATCP's weights and measures inspection appropriation for weights and measures testing.

^b Includes 17¢ for UW soil and fertilizer research, 10¢ to fund UW-Extension fertilizer education and outreach, and 2¢ for weights and measures testing.

^c Deposited to DATCP's liming research appropriation to fund UW lime material research.

^d Deposited to DATCP's fertilizer research appropriation to fund UW soil and fertilizer research.

* Environmental management account of the environmental fund.

**Also requires payment of 0.2% of gross annual sales.