



Legislative Fiscal Bureau

One East Main, Suite 301 • Madison, WI 53703 • (608) 266-3847 • Fax: (608) 267-6873

May 13, 2003

Joint Committee on Finance

Paper #571

Agrichemical Management Fund (Agriculture, Trade and Consumer Protection)

[LFB 2003-05 Budget Summary: Page 57, #12 (part)]

CURRENT LAW

DATCP's agrichemical management (ACM) fund receives revenues from several feed, fertilizer and pesticide license and tonnage fees. These funds are used for DATCP administration of feed, fertilizer and pesticide regulation programs.

GOVERNOR

Delete \$154,600 for supplies in 2003-04 and \$418,400 and 4.0 SEG positions in 2004-05 from the agrichemical management (ACM) fund general operations appropriation. The 2004-05 reductions would include \$203,600 in permanent salaries, \$85,600 in fringe benefits and \$129,200 in supplies and services.

Further, effective with products distributed beginning July 1, 2003, increase the fertilizer tonnage fees, which are deposited to the ACM fund, from 30¢ to 45¢ per ton for fertilizer sold or distributed, with a minimum fee of \$25. Also, effective with products distributed beginning January 1, 2004, increase the commercial feed inspection fees from 23¢ to 30¢ per ton of commercial feed distributed in the state.

As of December 1, 2003, before the start of a license year, require a pesticide manufacturer or labeler applicant to estimate the gross revenues that the applicant will receive from sales of each pesticide product during the 12 months ending on September 30 of the

calendar year for which a license is sought (the payment period) and to pay household, nonhousehold, industrial and wood preservative fees and surcharges based on that estimate. That is, on December 1, 2003, the manufacturer would pay estimated fees for his or her calendar year 2004 license fees that would be based on anticipated sales from October 1, 2003, through September 30, 2004. At least 15 days before beginning to sell a new pesticide product in this state, require a licensee to estimate the gross revenues that the applicant will receive from sales of that pesticide product during the payment period in which the licensee begins to sell the pesticide product and to pay the fees and surcharges based on that estimate (rather than based on prior year sales under current law). Before the end of a license year, require a licensee to report to DATCP the gross revenues that the licensee received from sales of each pesticide product during the payment period that ended during the license year, and to reconcile the estimated payment made with the amounts actually due.

Specify the following procedure for reconciling payments: (a) if the amount due based on actual sales is greater than the amount paid based on estimated sales, require the licensee to pay the additional amount due; (b) if the amount due based on actual sales is less than the amount paid based on estimated sales, allow the licensee to request DATCP to reimburse the licensee for the amount of the overpayment; and (c) if the amount due based on actual sales equals the amount paid based on estimated sales, require no action. Unless a licensee's payments are based on estimates of gross revenues from sales of the pesticide product during the preceding year, require a licensee to pay a penalty equal to 20% of the surcharge adjustment if the adjustment payment is more than 20% of the total amount paid at the beginning of the year. Specify that this penalty is in addition to any late filing fee assessed by DATCP.

DISCUSSION POINTS

ACM Fees

1. The following table outlines the fees that are deposited into the ACM fund.

TABLE 1**Agrichemical Management Fees**

	<u>Current Fee</u>	<u>SB 44</u>	<u>Change</u>
Fertilizer License	\$30	\$30	0
Fertilizer Tonnage (per ton)	30¢	45¢	15¢
Feed Tonnage	23¢	30¢	7¢
Restricted Use Pest Dealer License	\$60	\$60	0
Pesticide Application Business License	\$70	\$70	0
Pesticide Individual Application License	\$40	\$40	0
Soil Additive License	\$25	\$25	0
Soil Additive Permit Application	\$10	\$10	0
Soil Additive Tonnage (per ton)	25¢	25¢	0
Household Pesticide Registration			
\$0-25,000 sales	\$265	\$265	0
\$25,000-\$75,000 sales	\$750	\$750	0
>\$75,000 sales	\$1,500	\$1,500	0
Industrial Pesticide Registration			
\$0-25,000 sales	\$315	\$315	0
\$25,000-\$75,000 sales	\$860	\$860	0
>\$75,000 sales	\$3,060	\$3,060	0
Nonhousehold Pesticide Registration			
\$0-25,000 sales	\$320	\$320	0
\$25,000-\$75,000 sales	\$890	\$890	0
>\$75,000 sales	\$3,060	\$3,060	0
	+0.2% sales	+0.2% sales	

2. In 2001-02 ACM revenues totaled \$4.2 million and expenditures were \$5.7 million. In 2002-03, agrichemical management fund revenues are expected to total \$5.1 million (based on full resumption of ACM fees on January 1, 2003) with \$6.2 million in expenditures.

3. Due to large balances in the fund, both the 1997-99 and 1999-01 biennial budget acts established temporary ACM fee reductions. ACM fees for commercial feed and fertilizer products were reduced for four years from January 1, 1999, to December 31, 2002. Had these fees been in place, an additional \$870,000 would have been collected by the fund annually in 2000-01 and 2001-02.

4. Fertilizer tonnage fee payments are due each August 14, for the fertilizer that was sold in Wisconsin the previous fiscal year. For example, on August 14, 2003, fertilizer tonnage fee payments are due from distributors and sellers of fertilizer for fiscal year 2003 (July, 2002, through June, 2003). Under the bill, the 15¢ increase on the fertilizer tonnage fee would take effect for feed distributed beginning on July 1, 2003, meaning these revenues would first be realized in August, 2004 (fiscal year 2004-05).

5. For fiscal year 2003-04, DATCP estimates that 1,300,000 tons of fertilizer will be sold in Wisconsin. When multiplied by the 15¢ fertilizer tonnage fee increase under the bill, an estimated increase of \$195,000 in revenue would be realized in fiscal year 2005.

6. Commercial feed tonnage fee payments are due the last day of February, each year, for commercial feed that was sold in Wisconsin during the previous calendar year. For example, on February 29, 2004, fee payments will be due for commercial feed sold in calendar year 2003. The bill would increase commercial feed tonnage fees by 7¢ (from 23¢ to 30¢) on feed sold beginning January 1, 2004. This means that revenue would not be realized until payments are made for calendar year 2004, in February, 2005 (fiscal year 2004-05).

7. DATCP estimates that 2,800,000 tons of commercial feed will be sold in calendar year 2004 in Wisconsin. When multiplied by the Governor's recommended fee increase of 7¢ per ton of commercial feed sold, this increase is projected to yield an additional \$196,000 of revenue.

8. As shown in Table 2, the ACM fund had a July 1, 2002, balance of \$549,000. Reserves include adjustments for such items as pay plan and health insurance increases.

TABLE 2

ACM Fund Condition

	<u>2002-03</u>	<u>2003-04</u>	<u>2004-05</u>
Opening Balance	\$549,000	\$116,000	\$122,000
Base Revenue	5,137,000	5,133,000	5,133,000
Fee Increases			391,000
APS Loan Payment	<u>650,000</u>	<u>600,000</u>	<u>500,000</u>
Total Revenue	\$5,787,000	\$5,733,000	\$6,024,000
Total Available	\$6,336,000	\$5,849,000	\$6,146,000
General Operations	-\$5,560,000	-\$5,517,000	-\$5,253,000
Ag in the Classroom	-100,000	-100,000	-100,000
Ag Clean Sweep	-560,000		
Reserves	<u>0</u>	<u>-110,000</u>	<u>-163,000</u>
Total Expenditures	-\$6,220,000	-\$5,727,000	-\$5,516,000
Closing Balance	\$116,000	\$122,000	\$630,000

9. Under the bill, the fund is expected to have a June 30, 2005, balance of \$630,000. Without a fee increase (but assuming the transfer of the funding for the agricultural clean sweep program), the expected fund balance on June 30, 2005, would be \$239,000. In 2001-02, the ACM

made a \$2 million start-up loan to the agricultural producer security (APS) program. This program is a separate, segregated public trust fund created to secure payments to agricultural producers who are owed money when an agricultural commodity firm defaults. The APS fund is required to repay the ACM fund, with 5% annual interest by July 1, 2006. The statutes require annual payments of at least \$250,000 starting on July 1, 2003. To date, payments of \$550,000 have been made in 2002-03, with an additional payment of \$100,000 planned for the end of June. Payments from APS to the ACM of \$600,000 in 2003-04 and \$500,000 in 2004-05 could be expected. This would leave a balance of about \$450,000 to be paid by July 1, 2006. Agriculture officials have expressed some concern that a business covered by the APS program could default with the resulting claims putting stress on the new fund. The APS fund ended fiscal year 2001-02 with a \$3 million balance and is currently expected to have a June 30, 2005, balance of over \$5 million (after \$1.75 million in repayments to the ACM). However, multiple defaults, or even a single default by a large business, could deplete the fund. Therefore, it could be argued that maintaining the fee increase would provide the fund with some reserve in the event APS loan payments were delayed.

ACM Staff and Funding

10. In total, ACM revenues support 50.13 positions in 2002-03 (including a 0.63 administrator position) in DATCP. These positions are used for: (a) DATCP administration of the agrichemical cleanup grant program; (b) inspection and regulation of the individuals and businesses that manufacture and distribute feed, fertilizer and pesticide products in Wisconsin; (c) DATCP administration of groundwater management programs; (d) clean sweep grants to counties to prevent contamination by collecting and properly disposing of agricultural chemicals; and (e) agriculture in the classroom program grants that help teachers educate students about agriculture. The bill would reduce the number of positions authorized under the ACM fund by 4.0, to 46.13. The bill does not identify the four specific positions to be eliminated. Rather, the intent is to allow the agency flexibility in determining where to make the reductions. DATCP officials state that the \$154,600 supplies reduction in 2003-04 would primarily come from pesticide research grants. These are grants that are primarily issued to University of Wisconsin System researchers. DATCP reviews its agrichemical programs for research issues, and seeks research project proposals. The Department expends approximately \$135,000 annually on various approved projects. To meet its \$418,400 reduction in 2004-05, Department officials indicate they would likely eliminate a vacant information systems technical services position and a vacant hydrogeologist position and related funding. The information systems technical services position provides information technology support to the Department. The hydrogeologist oversees agrichemical cleanups through review and approval of remediation workplans submitted by the responsible party. Hydrogeologists also review plans for landspreading of contaminated soils on agricultural lands (where the pesticides are labeled for use) as a less expensive "disposal" method, and issue landspreading permits. Hydrogeologists also review reimbursement claims to make sure costs are reasonable and necessary. Two additional position eliminations would be based on retirements or staff vacancies, with any remaining reductions likely to be taken from hiring delays, pesticide research grants or supply costs.

11. Some might argue that the Committee should consider only eliminating the 2.0

positions that are currently vacant. The fund has a sufficient balance under the bill and restoring two staff may prevent DATCP from potentially needing to lay-off two employees to meet the bill's requirements (if further vacancies do not occur). Further, it is argued, this would allow the Department to better meet its responsibilities under the agrichemical management programs. As a result, the Committee could restore 2.0 positions and \$138,600 in 2004-05 for salary, fringe benefits and supplies. Others argue these reductions are necessary in order to bring expenditures from the ACM fund in line with account revenues. After the APS loan is repaid, the ongoing fund revenues, under the bill, would about equal authorized expenditures.

License Year Change

12. Under the bill, pesticide manufacturer or labeler applicant fees would be based on gross revenues collected in the year in which the pesticide is sold (as opposed to current law where fees are based on the previous year's revenues). Some have argued that this fee schedule is fairer because the yearly license fee is based on that year's actual revenues. However, since it requires dealers to project revenues for a given year and to reconcile any discrepancies between payments and the amount of funding actually owed, this payment method may be administratively more burdensome both for the industry and DATCP.

ALTERNATIVES

A. ACM Fees

1. Approve the Governor's recommendation to increase feed and fertilizer tonnage fees (\$391,000 in revenues would be expected beginning in 2004-05).

2. Delete the Governor's recommendation to increase the fertilizer tonnage fee from 30¢ to 45¢ effective with fertilizer sold beginning July 1, 2003.

Alternative A2a	SEG
2003-05 REVENUE (Change to Bill)	- \$195,000

3. Delete the Governor's recommendation to increase the commercial feed tonnage fee from 23¢ to 30¢ effective with commercial feed sold starting January 1, 2004.

Alternative A2b	SEG
2003-05 REVENUE (Change to Bill)	- \$196,000

4. Delete both fee increases from the bill.

<u>Alternative A3</u>	<u>SEG</u>
2003-05 REVENUE (Change to Bill)	- \$391,000

B. ACM Staff and Funding

1. Adopt the Governor's recommendation to delete \$154,600 SEG in 2003-04 and \$418,400 and 4.0 SEG positions in 2004-05.
2. Restore \$138,600 and 2.0 positions in 2004-05.

<u>Alternative B2</u>	<u>SEG</u>
2003-05 FUNDING (Change to Bill)	\$138,600
2004-05 POSITIONS (Change to Bill)	2.00

3. Delete provision.

<u>Alternative B3</u>	<u>SEG</u>
2003-05 FUNDING (Change to Bill)	\$573,000
2004-05 POSITIONS (Change to Bill)	4.00

C. License Year Change

1. Adopt the Governor's recommendation to require a pesticide manufacturer or labeler applicant to estimate gross revenues from the sales of each pesticide product for the twelve-month license period and pay the required fees prior to the period's commencement (with adjustments and penalties made as needed to reflect actual sales at the end of the license year).
2. Delete provision (payments made based on prior year sales).

Prepared by: Christopher Pollek