



## Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #146

### **Agrichemical Management Fund (Agriculture, Trade and Consumer Protection)**

[LFB 2005-07 Budget Summary: Page 65, #14]

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#### **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 and for the administration of agricultural chemical cleanup grants. The cleanup grants are funded from surcharges on the sale of agricultural chemicals, which are deposited to DATCP's agricultural chemical cleanup (ACCP) fund.

#### **GOVERNOR**

Transfer \$130,100 in each year of the 2005-07 biennium from the segregated agrichemical management fund to the state's general fund.

#### **DISCUSSION POINTS**

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

**TABLE 1****Annual Agricultural Chemical Fees**

<u>License/Fee</u>	<u>Amount</u>
Commercial Feed License	\$25
Commercial Feed Tonnage	23¢
Fertilizer License	\$30
Fertilizer Permit Applications	\$25
Fertilizer Tonnage	30¢
Lime License	\$10
Pesticide Application Business	\$70
Pesticide Dealer- Restricted Use	\$60
Pesticide Individual Applicator	\$40
Pesticide Reciprocal Certification	\$75
Soil and Plant Additive License	\$25
Soil and Plant Additive Permit Application	\$100
Soil and Plant Additive Tonnage	25¢
Veterinary Clinic Permit	\$25*
Primary Producer Fee	
Pesticide Registration Household	
\$0-\$24,999	\$141
\$25,000-\$74,999	\$626
\$75,000 and Over	\$1,376
Pesticide Registration Industrial	
\$0-\$24,999	\$221
\$25,000-\$74,999	\$766
\$75,000 and Over	\$2,966
Pesticide Registration Nonhousehold	
\$0-\$24,999	\$226
\$25,000-\$74,999	\$796
\$75,000 and Over	\$2,966

\*This fee is a biennial permit fee.

2. In 2003-04, ACM revenues totaled \$6.4 million and expenditures were \$5.5 million (which includes a lapse to the state's general fund of \$116,200 that was part of 2003-05 biennial budget agency lapse allocations). The funds are used for: (a) DATCP administration of the cleanup reimbursement 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; and (d) agriculture in the classroom program grants that help teachers educate students about agriculture (\$100,000 in 2004-05). Table 2 provides an overview of the estimated ACM fund condition under the bill.

**TABLE 2****ACM Fund Condition**

	Actual <u>2002-03</u>	Actual <u>2003-04</u>	Estimated <u>2004-05</u>	Estimated <u>2005-06</u>	Estimated <u>2006-07</u>
Opening Balance	\$548,500	\$857,800	\$1,702,600	\$2,253,000	\$2,296,800
Fee Revenue	5,437,600	5,739,800	5,500,000	5,500,000	5,500,000
APS Loan Repayment	650,000	600,000	392,000	392,000	140,000
Interest and Misc. Income	<u>24,400</u>	<u>20,200</u>	<u>36,000</u>	<u>22,000</u>	<u>24,000</u>
Total Revenue	\$6,112,000	\$6,360,000	\$5,928,000	\$5,914,000	\$5,664,000
Total Available	\$6,660,500	\$7,217,800	\$7,646,700	\$8,183,100	\$7,976,900
Expenditures	5,802,700	5,399,000	5,351,200	5,629,600	5,629,600
Reserves			<u>26,400</u>	<u>110,500</u>	<u>201,500</u>
Total Expenditures	<u>5,802,700</u>	<u>5,399,000</u>	<u>5,377,600</u>	<u>5,740,100</u>	<u>5,831,100</u>
Lapse to the General Fund		116,200		130,100	130,100
Closing Balance	\$857,800	\$1,702,600	\$2,253,000	\$2,296,800	\$1,999,600

3. In addition to revenue from agricultural chemical fees, the ACM fund also receives revenue from repayment of a \$2 million start-up loan that the ACM made to the agricultural producer security (APS) fund in 2001-02. The APS 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 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 \$650,000 have been made in 2002-03, \$600,000 in 2003-04, and \$392,000 in 2004-05. This leaves a balance of about \$532,000 to be paid by July 1, 2006.

4. Under the bill, the fund is expected to have a July 1, 2007, balance of \$2 million. As a result, the Committee could consider transferring an additional \$500,000 in each year to the state's general fund and still maintain an estimated balance of \$1 million at the end of the 2005-07 biennium. Alternatively, or in addition, supporting additional expenditures from the ACM could be considered. However, it should be noted that adding ongoing expenditure commitments would increase the modest structural imbalance that exists in 2006-07 (revenues of \$5.7 million with expenditures of \$5.8 million). Further, it is argued by some that revenues deposited to the ACM fund come from fees on agricultural chemical products paid by agricultural producers, and should only be used for purposes that directly benefit the state's farm economy. In addition, transferring a portion of the balance to the general fund may reduce amounts available as alternative funding for other DATCP programs identified as priorities under the bill (such as bio-industry grants or sector specialists).

5. DATCP is authorized 45.5 positions in 2004-05 from the ACM. This reflects a reduction of four staff (from 49.5 positions, previously) under the 2003-05 biennial budget act. As a part of general budget reductions, the bill would eliminate \$130,100 SEG annually (to correspond with the proposed lapse to the state's general fund) and eliminate an additional 3.0 positions from DATCP's agrichemical management general operations appropriation.

6. 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.

7. Due to the projected balance of \$2 million in the ACM fund on July 1, 2007, the Committee could consider establishing an ACM fee reduction similar to the one that existed between 1999 and 2002. The following table shows the fees that were reduced, the current fee charged and deposited to the ACM fund, the fee level charged during the 1999-02 fee reduction, and the projected annual decrease in revenue that would result if this fee reduction were implemented.

<u>Fee Category</u>	<u>Current Fee</u>	<u>Fee Reduction</u>	<u>New ACM Fee</u>	<u>Estimated Annual Revenue Reduction</u>
Fertilizer Tonnage	30¢	7¢	23¢	\$101,600
Feed Tonnage	23¢	10¢	13¢	\$290,200
Individual Pest Applicator License	\$40	\$10	\$30	\$60,800
Household Pesticide Registration				
\$0-\$24,999 sales	\$141	\$50	\$91	\$245,300
\$25,000-\$74,999 sales	\$626	\$100	\$526	\$30,600
\$75,000 plus sales	\$1,376	\$300	\$1,076	\$84,000
Industrial Pesticide Registration				
\$0-\$24,999 sales	\$221	\$50	\$171	\$46,000
\$25,000-\$74,999 sales	\$766	\$100	\$666	\$8,000
\$75,000 plus sales	\$2,966	\$300	\$2,666	\$24,300
Nonhousehold Pesticide Registration				
\$0-\$24,999 sales	\$226	\$50	\$176	\$196,800
\$25,000-\$74,999 sales	\$796	\$100	\$696	\$27,400
\$75,000 plus sales	\$2,966+2% of sales	\$300	\$2,666 + 2% of sales	<u>\$85,000</u>
Total Revenue Reduction				\$1,200,000

8. As shown in the table, these fee reductions would be expected to reduce revenues deposited to the ACM fund by approximately \$1.2 million for each license year the reduction is in place. One option would be to reduce these fees for one license year in a way that would readily allow the savings, to be passed onto purchasers, as follows: (a) from July 1, 2005 through June 30, 2006, for the fertilizer tonnage fee, which must be paid by August 14, 2006; (b) from January 1, 2006, through December 31, 2006, for commercial feed tonnage fees, which must be paid by February 28, 2007; (c) from January 1, 2006, through December 31, 2006, for individual pesticide applicator licenses and must be paid with the application; and (d) from January 1, 2006 through

December 31, 2006, for household pesticide registration, industrial pesticide registration, and the nonhousehold pesticide registration fees. Because the individual pesticide applicator license fees are paid with the license application, it is expected that DATCP will receive most revenues associated with this fee in 2005-06. In addition, while the reduced pesticide registration fees would be for the license year from January 1, 2006, through December 31, 2006, it should be noted that these fees are based on the estimated amount of pesticide sales of the product from October 1, 2005, through September 30, 2006, and paid prior to January 1, 2006. Before the end of the license year, any discrepancy between the license fee paid and actual pesticide sales would need to be resolved. Due to the staggered license years and payment dates, the decrease in revenue associated with the fertilizer tonnage and feed tonnage fees would be realized in 2006-07 (estimated to be \$390,000), while the decrease in revenues associated with the individual pesticide applicator license and pesticide registration licenses would occur in 2005-06 (estimated to be \$810,000), for a total revenue reduction of about \$1.2 million. As a result, if the above one-year reduction in agrichemical fees was adopted, the ACM fund would have a projected July 1, 2007, balance of \$800,000.

9. The agricultural chemical cleanup (ACCP) fund is expected to have revenues and expenditures of approximately \$3 million in 2004-05. As a part of 2003 Act 33, the maximum fertilizer tonnage surcharge was increased by 48¢, from 38¢ to 86¢, in part through an item-veto by the Governor. This change is expected to increase revenues to the ACCP fund by approximately \$648,000 annually. DATCP promulgated a revision to administrative rule ATCP 40 that increased the fee to the 86¢ per ton maximum surcharge established by Act 33, and increased revenues from this fee change will be realized beginning in 2005-06. Table 3 shows a projected fund condition for the ACCP fund. Some could suggest that a portion of the ACCP balance could be transferred to the general fund. For example, if \$750,000 were transferred to the general fund the ACCP would still be expected to maintain a \$1 million balance. Others point out that fees were recently raised to avoid a potential deficit in the fund and that a balance should be maintained to fund potential claims increases (claims ranged between \$3.6 million to \$4.0 million a year between fiscal years 2000-01 and 2002-03). Further, it is argued by some that revenues deposited to the ACCP fund come from surcharges on agricultural chemical products paid by agricultural producers, and should only be used for grants to clean up sites contaminated by agrichemical spills.

**TABLE 4**

**ACCP Fund Condition**

	<u>Actual</u> <u>2003-04</u>	<u>Estimated</u> <u>2004-05</u>	<u>Estimated</u> <u>2005-06</u>	<u>Estimated</u> <u>2006-07</u>
Opening Balance	\$200,200	\$584,000	\$540,600	\$1,145,200
Revenue	2,983,900	2,956,600	2,956,600	2,956,600
Fee Increase			648,000	648,000
Expenditures	<u>-2,600,100</u>	<u>-3,000,000</u>	<u>-3,000,000</u>	<u>-3,000,000</u>
Closing Balance	\$584,000	\$540,600	\$1,145,200	\$1,749,800

10. In addition to the ACM fee reductions, the 1997-99 biennial budget act temporarily suspended all ACCP surcharges and gave DATCP authority to reduce future ACCP surcharges by administrative rule as long as a \$2 million to \$5 million balance was maintained in the ACCP fund. DATCP chose to extend the original fee holiday by administrative rule. The suspension of ACCP surcharges reduced revenues to the fund by about \$2.5 million in 2000-01, and about \$1 million in 2001-02. Surcharge levels established by the Department can range between zero and the statutory maximum levels. DATCP has set the current surcharges at the statutory maximum levels.

11. However, Act 33 also changed the statutory requirement that DATCP maintain a fiscal year-end balance of between \$2 million and \$5 million in the ACCP fund, to specify that DATCP not maintain a year-end balance of more than \$2.5 million in this fund. DATCP officials indicate that it may be desirable to maintain a significant ACCP fund balance in order to avoid potential cash flow problems during a fiscal year. This is because while fertilizer fees are received in August, the majority of surcharge revenues (relating to pesticide sales) are not received until January, but claims are paid quarterly (generally in September, December, March and June) each fiscal year. Therefore, if the opening fund balance is too low, revenues may be inadequate to meet the December claims payment. In this case some payments may need to be delayed until January. If a substantial delay were necessary, the program could begin to incur interest charges. If a balance in excess of \$2.5 million developed, DATCP would be required to reduce ACCP surcharges by administrative rule.

12. In light of the July 1, 2007, balance in the ACCP fund, the Committee could consider reducing the maximum fertilizer tonnage surcharge to the maximum level at which the 2003-05 budget passed the Legislature, before the Governor item-vetoed it to 86¢ (which would be a 23¢ reduction to 63¢). This would be expected to reduce revenues deposited to the ACCP by \$310,500 annually starting in 2006-07, meaning the ACCP fund would have a projected July 1, 2007, balance of \$1.4 million.

13. Higher revenues and lower than expected grant activity resulted in large fund balances in the mid to late 1990s and the transfer of revenues from the two funds to the state's general fund. Table 5 provides an overview of the \$4.1 million in transfers to date from the ACM and ACCP funds to the general fund. However, it should also be noted that from 1994-95 through 1998-99 state GPR expenditures for agricultural chemical cleanup grants totaled \$4.1 million.

**TABLE 5**

**ACM and ACCP Transfers to the General Fund**

<u>Fiscal Year</u>	<u>ACM</u>	<u>ACCP</u>
1997-98		\$506,900
1998-99		479,300
1999-00	\$1,000,000	1,500,000
2000-01		500,000
2001-02		
2002-03		
2003-04	<u>116,200</u>	<u>                    </u>
Total	\$1,116,200	\$2,986,200
Combined Total		\$4,102,400

**ALTERNATIVES**

**A. Agrichemical Management Fund**

1. Approve the Governor's recommendation to transfer \$130,100 SEG in each year of the 2005-07 biennium from the ACM fund to the state's general fund.
2. Require DATCP to transfer \$630,100 SEG in each year of the 2005-07 biennium from the ACM fund to the state's general fund.

<u>Alternative A2</u>	<u>GPR-REV</u>
<b>2005-07 REVENUE</b> (Change to Bill)	\$1,000,000

3. Reduce the following fees that are deposited in the ACM fund for the time periods specified: (a) the fertilizer tonnage fee from 30¢ to 23¢ from July 1, 2005, through June 30, 2006 (paid by August 14, 2006); (b) the commercial feed tonnage fee from 23¢ to 13¢ from January 1, 2006, through December 31, 2006 (paid by February 28, 2007); (c) individual pest applicator licenses from January 1, 2006, through December 31, 2006 (paid with the application); (d) household pesticide registration fees from \$141 to \$91 for products with sales between \$0 and \$24,999, from \$626 to \$526 for products with sales between \$25,000 and \$74,999, and from \$1,376 to \$1,076 for products with sales of \$75,000 or greater, from the time January 1, 2006, through December 31, 2006 (paid prior to the license year); (d) industrial pesticide registration fees from \$221 to \$171 for products with sales between \$0 and \$24,999, from \$766 to \$666 for products with sales between \$25,000 and \$74,999, and from \$2,966 to \$2,666 for products with sales of \$75,000 or greater, from the time January 1, 2006, through December 31, 2006 (paid prior to the license year); and (e) nonhousehold pesticide registration fees from \$226 to \$176 for products with sales

between \$0 and \$24,999, from \$796 to \$696 for products with sales between \$25,000 and \$74,999, and from \$2,966 plus 2% of total sales to \$2,666 plus 2% of total sales for products with sales of \$75,000 or greater, from January 1, 2006, through December 31, 2006 (paid prior to the license year).

<u>Alternative A3</u>	<u>SEG-REV</u>
2005-07 REVENUE (Change to Bill)	- \$1,200,000

4. Maintain current law.

<u>Alternative A4</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	- \$260,200

## **B. Agricultural Chemical Cleanup Fund**

1. Reduce the maximum fertilizer tonnage surcharge by 23¢, from 86¢ to 63¢, effective with fertilizer sold on July 1, 2005 (remitted to DATCP in August, 2006).

<u>Alternative B1</u>	<u>SEG-REV</u>
2005-07 REVENUE (Change to Bill)	- \$310,500

2. Require DATCP to transfer \$750,000 SEG from the ACCP to the general fund.

<u>Alternative B2</u>	<u>GPR-REV</u>
2005-07 REVENUE (Change to Bill)	\$750,000

3. Take no action.

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