



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #141

Agricultural Chemical Pollution Prevention (DATCP)

Bill Agency

[LFB 2007-09 Budget Summary: Page 51, #6]

CURRENT LAW

The Department of Agriculture, Trade and Consumer Protection (DATCP) collects agricultural chemical fees and surcharges and deposits them to the agricultural chemical cleanup program (ACCP) fund. Revenues deposited to this fund are used to provide reimbursements for the cleanup costs of agricultural chemical spills.

GOVERNOR

Provide \$250,000 annually from the agricultural chemical cleanup program (ACCP) fund and expand financial assistance to businesses for the costs of capital improvements designed to prevent pollution from agricultural chemicals.

In addition, specify that the total combined grant provided to a site for pollution prevention and agricultural chemical cleanup from the ACCP not exceed \$500,000.

DISCUSSION POINTS

1. 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. Reimbursement grants may be provided for cleanup costs incurred within three years of the application date. The program requires a one-time deductible of \$3,000 for farms and small businesses (businesses that employ 25 or fewer people and have gross annual sales that do not exceed \$2.5 million) and \$7,500 for larger commercial businesses. The ACCP reimburses owners for up to 75% of agricultural chemical spill

cleanup costs between the one-time deductible and \$400,000. The maximum cleanup grants under the program are \$294,375 for commercial sites and \$297,750 for non-commercial sites. The ACCP is expected to have a June 30, 2009, balance of approximately \$4.8 million under the bill.

2. The following table provides an historical overview of agricultural chemical cleanup grants. As shown in the table, DATCP staff project reimbursements of \$2.4 million in 2006-07. However, actual reimbursements could be lower if \$1.1 million in applications for fourth quarter reimbursements are not processed before the end of the fiscal year or contain ineligible costs (for comparison purposes, reimbursements for the first three quarters of 2006-07 were \$1.3 million).

Agricultural Chemical Cleanup Grants by Site

| Year | Commercial Sites Grants | | | Non-Commercial Sites Grants (primarily farms) | | | Total Expenditures |
|-----------|-------------------------|------------|------------------|--|------------|--------------|-----------------------|
| | New | Follow-Up* | Expenditures | New | Follow-Up* | Expenditures | |
| 1994-95 | 18 | 0 | \$764,100 | 2 | 0 | \$11,700 | \$775,800 |
| 1995-96 | 24 | 8 | 904,700 | 4 | 0 | 86,000 | 990,700 |
| 1996-97 | 27 | 16 | 1,265,100 | 1 | 0 | 69,400 | 1,334,500 |
| 1997-98 | 19 | 25 | 1,333,500 | 7 | 1 | 130,900 | 1,464,400 |
| 1998-99 | 24 | 24 | 2,805,000 | 4 | 1 | 70,100 | 2,875,100 |
| 1999-00 | 22 | 18 | 2,072,300 | 3 | 1 | 71,800 | 2,144,100 |
| 2000-01 | 36 | 27 | 3,913,700 | 2 | 1 | 50,300 | 3,964,000 |
| 2001-02 | 34 | 62 | 3,467,300 | 3 | 1 | 91,300 | 3,558,600 |
| 2002-03 | 27 | 42 | 3,760,800 | 0 | 1 | 103,400 | 3,864,200 |
| 2003-04 | 16 | 69 | 2,564,300 | 1 | 1 | 35,800 | 2,600,100 |
| 2004-05 | 16 | 64 | 2,493,000 | 0 | 1 | 29,600 | 2,522,600 |
| 2005-06 | 12 | 62 | 2,085,000 | 2 | 1 | 29,100 | 2,114,100 |
| 2006-07** | <u>8</u> | <u>86</u> | <u>2,420,000</u> | <u>0</u> | <u>0</u> | <u>0</u> | <u>2,420,000</u> |
| Total | 283 | 503 | \$29,848,800 | 29 | 9 | \$779,400 | \$30,628,200 |

*Follow-up grants are those monies given to previously appropriated sites for further reimbursements.

**Estimated based on reimbursement applications received by DATCP.

3. As shown in the table, reimbursements have declined from the high of almost \$4 million in 2000-01 to \$2.1 million in 2005-06. Despite the general trend of decreasing reimbursement payments, DATCP officials believe claim demand could increase due to anticipated agricultural cleanups, such as pesticides in orchards, which have not received a large amount of attention from the program historically.

4. For 2007-09, DATCP is provided with base funding of \$3 million for cleanup reimbursement grants. The bill provides an additional \$250,000 annually for pollution prevention grants, for total expenditure authority of \$3.25 million annually from the ACCP fund. However, cleanup reimbursement payments (\$2.5 million) and pollution prevention grants (\$250,000) from the ACCP fund are estimated at a combined \$2.75 million annually in the 2007-09 biennium. As a

result, since the \$3 million in base funding would appear to be sufficient to support estimated ACCP fund expenditures under the bill, the Committee could adopt the statutory changes to allow DATCP to make pollution prevention grants but not provide additional expenditure authority for these grants (Alternative A2).

5. Under the bill, the total combined grant provided to a site for pollution prevention and agricultural chemical cleanup from the ACCP would not be allowed to exceed \$500,000. As a result, a business that received a maximum cleanup grant of \$294,375 would be eligible for a pollution prevention grant of up to \$205,625. Conversely, a business that received a grant of \$500,000 for pollution prevention would be ineligible for a cleanup grant. DATCP officials are uncertain of the exact level of private demand for pollution prevention grants, but they argue there is strong interest in the program among industry. However, the bill does not limit the total amount of pollution prevention grants that DATCP may award annually to \$250,000. Since the potential costs of this program are unknown, the Committee could consider limiting pollution prevention grants to \$250,000 annually (Alternative A3).

6. The proposed statutory language for pollution prevention is broad. Specifically, it allows DATCP to "provide financial assistance to a business to pay a portion of the costs of capital improvements designed to prevent pollution from agricultural chemicals." As a result, the Committee could require DATCP to define, by administrative rule, the eligible recipients, types of projects, and allowable costs that may be funded with pollution prevention grants (Alternative B4).

7. DATCP officials indicate the intent of the language is for pollution prevention grants to be cost-share grants. However, the bill would not require a local match. As a result, the Committee could consider requiring grant recipients to fund a certain level of project costs. For example, the Committee could require grant recipients to provide at least 25% of project costs (maximum of 75% state reimbursement), after a deductible of \$7,500 (\$3,000 for farms and small businesses), to correspond with the Department's portion of cleanup reimbursements under the ACCP. The Committee might also consider requiring grant recipients to provide a greater amount, perhaps 50% of project costs, in an attempt to provide pollution prevention grants to a larger number of businesses and ensure grant applicants have a substantial financial interest in projects. (One of the options under Alternative B2.)

8. As envisioned by DATCP officials, projects that would be eligible for pollution prevention grants include such things as storm water runoff treatment projects; portable covers to keep rainwater out of dikes; and wash pads for washing equipment and recovering agrichemicals for reuse while screening out any dirt. While some of these projects are quite similar to certain nonpoint source water pollution abatement best management practices (specifically barnyard runoff management, diversions, and filter strips), DATCP staff do not believe they would be eligible for grants under the state's nonpoint source water pollution abatement program because the pollution at issue here comes from a defined source (such as a washing pad or containment device). Nonpoint sources of water pollution are those sources that are diffuse in nature, having no single, well-defined point of origin. Nonpoint sources include land management activities that contribute to runoff, seepage or percolation that adversely affect the quality of waters in the state.

9. On the other hand, it could be argued that proposed pollution prevention grants go beyond the original intent of the ACCP to fund cleanups of contaminated sites. Some may argue the ACCP should be preserved strictly for cleanup costs (Alternative A4). However, proponents of the program note the existing balance in the ACCP, along with historically declining reimbursement claims, and argue that pollution prevention grants would be made with the same goal of reducing or eliminating the effects of agricultural chemical spills. Further, DATCP officials argue that prevention efforts help to protect the environment and reduce potentially more expensive cleanup costs in the future.

ALTERNATIVES TO BILL

A. Funding

1. Approve the Governor's recommendation to provide \$250,000 annually from the ACCP fund and expand financial assistance to businesses for the costs of capital improvements designed to prevent pollution from agricultural chemicals.

| ALT 1 | Change to Bill Funding | Change to Base Funding |
|--------------|-----------------------------------|-----------------------------------|
| SEG | \$0 | \$500,000 |

2. Approve the Governor's recommendation, but provide no additional expenditure authority.

| ALT 2 | Change to Bill Funding | Change to Base Funding |
|--------------|-----------------------------------|-----------------------------------|
| SEG | -\$500,000 | \$0 |

3. Adopt Alternative A2, but limit pollution prevention reimbursement to \$250,000 annually.

| ALT 3 | Change to Bill Funding | Change to Base Funding |
|--------------|-----------------------------------|-----------------------------------|
| SEG | -\$500,000 | \$0 |

4. Delete provision.

| ALT 4 | Change to Bill Funding | Change to Base Funding |
|--------------|-----------------------------------|-----------------------------------|
| SEG | -\$500,000 | \$0 |

B. Program Specifications

1. Approve the Governor's recommendation to specify the total combined grant provided to a site for pollution prevention and agricultural chemical cleanup from the ACCP not exceed \$500,000.
2. In addition to Alternative B1, specify a pollution prevention grant may not exceed:
 - a. 75% of project costs, after the first \$7,500 (\$3,000 for farms and small businesses). (This would be consistent with the cleanup program.)
 - b. 50% of project costs, after the first \$7,500 (\$3,000 for farms and small businesses).
 - c. 50% of project costs (with no deductible).
3. In addition to Alternative B1, specify that a pollution prevention grant not exceed one of the following amounts:
 - a. \$50,000.
 - b. \$100,000.
 - c. \$200,000.
4. Require DATCP to establish an administrative rule defining eligible recipients, eligible projects and allowable costs for pollution prevention grants.

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