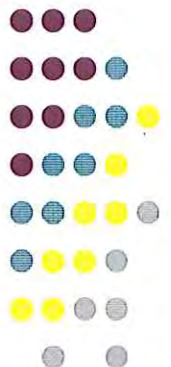




Agricultural Chemical Fees and Programs

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Prepared by

Paul Ferguson

Wisconsin Legislative Fiscal Bureau
One East Main, Suite 301
Madison, WI 53703

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In 1993 Wisconsin Act 16, an agricultural chemical cleanup program was created in the Department of Agriculture, Trade and Consumer Protection (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 current DATCP pesticide and fertilizer fees to partially fund the program. 1997 Wisconsin Act 27 split agrichemical revenues into base fees deposited to the agrichemical management (ACM) fund and surcharges deposited to the agricultural chemical cleanup program (ACCP) fund.

Regulatory Authority for the Cleanup Program

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) investigate a site to determine the extent and severity of contamination; (b) contain, remove, treat or monitor contaminated materials; and (c) transport, store, land apply or dispose 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 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) if 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 fund receives revenues from several feed, fertilizer and pesticide license and tonnage fees. In fiscal year 2009-10, ACM revenues totaled \$7 million from fees and interest. Expenditures were \$5.9 million. The funds 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; and (e) various grant programs. Those grants include: (a) the agriculture in the classroom program; (b) support of the Wisconsin Grazing Lands Conservation Initiative (WGLCI); and (c) various one-time funding initiatives. These one-time initiatives are described later in greater detail. DATCP is authorized 42.25 positions in 2010-11 from the ACM.

Agricultural chemical fee revenues deposited into the ACM fund are from the following sources: (a) \$30 annual license fees for fertilizer manufacturers and distributors; (b) fertilizer fees of 30¢ per ton; (c) \$25 non-agricultural fertilizer permits; (d) \$25 annual licenses for soil and plant additive manufacturers and distributors; (e) \$100 soil and plant additive permits; (f) soil and plant additive fees of 25¢ per ton; (g) annual lime license fees of \$10; (h) \$25 annual licenses for commercial feed

manufacturers and distributors; (i) commercial feed tonnage fees of 23¢ per ton; (j) license fees of \$60 for a dealer or distributor of pesticides with uses restricted by the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA); (k) pesticide applicator licenses of \$40 for individuals and \$70 for businesses; (l) nonresident commercial applicator reciprocal certificate fees of \$75; (m) household, non-household and industrial pesticide registration fees ranging from \$141 to over \$3,000, depending on the quantity sold; and (n) \$250 for registrations of pesticides for special local applications or emergencies. These fee levels are set in the statutes. Fees deposited to the ACM fund also formerly included a \$25 biennial permit for veterinary clinics, renewed at the end of each odd-numbered year, but this was repealed under 2009 Act 139. Table 1 shows the ACM fund condition for 2008-09 through 2010-11, and the Appendix provides a display of all agricultural chemical fees.

Table 1: ACM Fund Condition

	Actual 2008-09	Actual 2009-10	Estimated 2010-11
Opening Balance	\$3,583,100	\$4,242,600	\$3,822,000
Fee Revenue	7,255,000	7,013,100	6,800,000
Interest and Misc. Income	<u>94,400</u>	<u>52,300</u>	<u>40,000</u>
Total Revenue	\$7,349,400	\$7,065,400	\$6,840,000
Total Available	\$10,932,500	\$11,308,000	\$10,662,000
Expenditures	\$6,049,900	\$5,930,700	\$5,884,700
Transfer to General Fund	<u>640,000</u>	<u>1,555,300*</u>	<u>1,550,000*</u>
Cash Balance	\$4,242,600	\$3,822,000	\$3,227,300
Encumbrances	---	\$476,400	\$476,400
Available Balance	\$4,242,600	\$3,345,600	\$2,750,900

* Includes directed general fund transfers of \$500,000 in 2009-10 and \$1,000,000 in 2010-11 and other discretionary transfers under 2009 Act 28.

Fee Adjustments

Certain ACM fee levels have been adjusted under past budget acts. Under 1997 Act 27, fee reductions were instituted for: (a) fertilizer tonnage fees;

(b) pesticide product registrations; (c) individual pesticide applicator licenses; and (d) commercial feed tonnages. 1999 Act 9, extended the reductions, and, in the case of the tonnage fees, further lowered the fee by 2¢ per ton. Revenue reductions as a result of these fee changes were about \$870,000 per fiscal year in 2000-01 and 2001-02. After the fee holiday expired, fees returned to their 1997-98 levels. Aside from these temporary fee reductions, no statutory ACM fee level has changed since 1999 Act 9.

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 and 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 of pesticides as well as 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 business and individuals who apply pesticides as part of a commercial business, and any dealer or distributor of a restricted-use product under FIFRA. License fees fund several program duties, which are briefly described below.

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 laws for preventing pesticide misuse that could harm agricultural crops, the environment or public safety. Violations may result in special orders, as well as civil or criminal penalties.

Landscape Registry. DATCP administers a state-wide 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 for both experimental pesticide uses intended to gather scientific data and special uses in local areas for unique or emergency pest issues. For example, special local needs authorizations have been made in recent years to: (a) combat the spread of emerald ash borer, which was first found in Wisconsin in 2008; and (b) allow certain applications on ginseng, following storms and fungal infestations in 2010 that affected the state crop.

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 and 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 re-

quirements 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: (a) feed ingredients are properly disclosed to purchasers; and (b) 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. The Department also assists the U.S. Food and Drug Administration on federal implementation of rules intended to prevent bovine spongiform encephalopathy (BSE), commonly known as mad cow disease. These rules govern the amounts and types of rendered bovine products that can be used in animal feed.

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 in-

troduced 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 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 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, or the agricultural "clean sweep" program, from the ACM fund to the recycling and renewable energy fund, which receives revenue from a recycling surcharge on certain businesses and a tipping fee on certain solid waste disposed in Wisconsin landfills. The change began with the 2003-04 fiscal year. Approximately \$77,200 ACM SEG annually with a 0.75 position is assigned primarily to clean sweep administration. DATCP estimates contributions of other staff account for an additional 0.65 full-time equivalent (FTE) position and \$90,000 in administrative costs. Additional information on the clean sweep program can be found in the Legislative Fiscal Bureau informational paper "Solid Waste Recycling and Waste Reduction."

Grants and Other Programs

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

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 2009-11 budget appropriates \$93,900 each year.

Wisconsin Grazing Lands Conservation Initiative. The Wisconsin Grazing Lands Conservation Initiative (WGLCI) is provided \$375,500 annually from the ACM fund for technical research and outreach. WGLCI, a collaborative program funded in partnership with the USDA Natural Resources Conservation Service, seeks to expand use of rotational grazing and other conservation practices to promote better land and herd management. The program provides grants on a competitive basis for technical assistance for managed grazing operations, grazing research and outreach efforts.

International Crane Foundation. A one-time appropriation from the ACM fund provided the International Crane Foundation (ICF) \$71,000 in each year of the 2007-09 biennium for administration of a project studying non-toxic methods of keeping sandhill cranes from feeding on agricultural crops. The ICF, a Sauk County non-profit organization, is also using the depredation project to develop crane habitat selection theories and evaluate ways of deterring cranes from interfering with agricultural practices. 2007 Act 20 required the ICF to match at least 70% of the state grants, or \$49,700 each year. DATCP divided this grant into the following allotments: (a) \$48,300 in 2007-08; (b) \$71,300 in 2008-09; and (c) \$22,400 in 2009-10. The appropriation was repealed June 30, 2009.

Bio-Industry Grants. As a part of 2005 Act 25 (the 2005-07 biennial budget act), \$1,000,000 ACM SEG was provided to make grants under DATCP's bio-industry opportunity (BIO) and agricultural development and diversification (ADD) grant programs. This funding was provided on a one-time basis in

2005-06 under a new biennial appropriation, and all of the \$1 million in funding from this appropriation was to be awarded for: (a) research and development of technologies that use agricultural products or waste, including digesters, as energy sources; (b) encouraging the use of agricultural products or waste as energy sources; (c) reducing the generation of agricultural wastes or increasing their beneficial uses; and (d) encouraging the development of bio-chemicals from agricultural products. Beginning with the 2007-09 biennium, base funding has not been provided for this appropriation. However, as actual grant payments were \$150,000 in 2005-06 and \$533,500 in 2006-07, DATCP encumbered \$316,500 for disbursement beyond the 2005-07 biennium. DATCP has subsequently expended: (a) \$194,800 in 2007-08; (b) \$12,000 in 2008-09; and (c) \$45,400 in 2009-10. As of December, 2010, the remaining \$54,600 was expected to lapse to the ACM fund balance on June 30, 2011.

Agricultural Chemical Cleanup Program Fund

The agricultural chemical cleanup program (ACCP) fund supports the cleanup of fertilizers and non-household pesticides, including spills occurring at commercial fertilizer blending facilities, commercial pesticide application businesses and farm sites. 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. For costs incurred between 1998 and 2003, the ACCP fund reimbursed owners for up to 80% of agricultural chemical spill cleanup costs, with a maximum

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.

\$400,000 per cleanup site lifetime limit for all discharges. The reimbursement rate reverted in 2003 Act 33 to 75%, which was the rate prior to 1998, for costs between the deductible and the \$400,000 limit. 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 \$1.8 million in 2009-10, consisting of \$1,809,700 in fee revenue and \$11,200 in investment income and other revenue. Fee revenues consist of the following fertilizer and pesticide license and tonnage surcharges: (a) a fertilizer tonnage surcharge of 44¢ per ton; (b) a pesticide registration surcharge of \$3.50 per product for non-household pesticides with Wisconsin sales of less than \$25,000, \$120 per product for non-household pesticides with Wisconsin sales from \$25,000 to \$74,999, or 0.75% of sales per product for non-household pesticides with Wisconsin sales greater than \$75,000; (c) a \$14 annual license surcharge for fertilizer manufacturers and distributors; (d) a \$28 annual surcharge for dealers of pesticides whose use is restricted by FIFRA; (e) a \$38 annual surcharge for commercial application businesses; and (f) a \$14 annual surcharge for individual commercial applicators.

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

	Maximum Fee	Current Fee
Fertilizer License	\$20	\$14
Fertilizer Tonnage	63¢/ton	44¢/ton
Non-Household Pesticides (Based on annual sales)		
Under \$25,000	\$5	\$3.50
\$25,000 - \$74,999	\$170	\$120
\$75,000 and Over	1.1 %	0.75%
Pesticide Dealer - Restricted Use	\$40	\$28
Pesticide Application - Business	\$55	\$38
Pesticide Application - Individual	\$20	\$14

The 2007-09 budget act reduced each of the surcharges on pesticides and fertilizers deposited to the ACCP fund by approximately 30%. It also maintained the statutory maximum amounts for the surcharges, which are shown in Table 3 with current fees. DATCP can establish different surcharge amounts in administrative rule up to the statutory maximums listed in Table 3 but must maintain a fiscal year-end fund balance of no more than \$2.5 million. Table 4 provides an historical overview of agricultural chemical cleanup reim-

bursments from the ACCP fund, which have decreased from a high of \$3.9 million in 2000-01 to approximately \$1.6 million in 2009-10. Table 5 shows the condition of the ACCP fund. DATCP attributes the reduction in reimbursements in recent years in part to vacancies in both field enforcement staff that identify cases for cleanup and staff that oversee site-specific cleanup activities. Officials report the current level of staffing results in fewer cases being identified for cleanup, and those identified tend to take longer to plan and complete.

Agricultural Chemical Pollution Prevention

Under a provision in 2007 Act 20, businesses are eligible for capital-improvement grants that will limit the likelihood of agricultural chemical spills. This pollution prevention program allocates 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

Table 4: Agricultural Chemical Cleanup Reimbursements by Site

Year	Commercial Sites Reimbursements			Non-Commercial Sites Reimbursements		
	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
Total	343	667	\$35,423,500	36	12	\$1,023,900

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

Table 5: ACCP Fund Condition

	Actual 2008-09	Actual 2009-10	Estimated 2010-11
Opening Balance	\$4,407,200	\$2,670,700	\$1,477,900
Total Revenue	2,647,200	1,820,900	1,900,000
Cleanup			
Expenditures	2,408,700	1,557,200	2,000,000
Other Programs	225,000	313,000	576,700
Transfers	<u>1,750,000</u>	<u>1,143,500*</u>	<u>700,000*</u>
Closing Balance	\$2,670,700	\$1,477,900	\$101,200

* Includes directed general fund transfers of \$500,000 each year and other discretionary transfers required under 2009 Act 28.

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 under Act 20 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, but as of December, 2010, the rule-making process had been indefinitely postponed. DATCP officials report staffing resources have been insufficient to complete the rule-making process and would also be insufficient to fully administer the program. As of December, 2010, no draft administrative rule has been advanced and no grants have been awarded.

Other Programs

The ACCP fund supports several programs and initiatives in addition to agricultural chemical cleanup reimbursements.

Animal Health Inspections. DATCP is provided \$310,000 ACCP SEG in 2010-11 with 4.0 inspector positions under DATCP's animal health program. This funding was created under 2009 Act 28. 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 ACCP-supported positions, DATCP is budgeted the following for field staff and expendi-

tures in 2010-11 for animal health inspection and enforcement activities: (a) \$1,313,600 GPR with 11.75 positions; (b) \$509,800 PR with 5.25 positions; and (c) \$81,600 FED with 2.0 positions.

Discovery Farms. Since 2007-08, the ACCP fund has supported a portion of the University of Wisconsin-Extension Discovery Farms. In 2009-11, \$246,700 annually is appropriated to further the farms' research and public outreach activities. The Discovery Farms program consists of several operational commercial farms raising varying types of crops and livestock. The farms evaluate both nutrient management strategies and nonpoint source runoff reduction practices for wider implementation across Wisconsin. Discovery farms are a part of the Wisconsin Agricultural Stewardship Initiative (WASI), which pursues environmentally and economically sustainable farms through research and collaboration by university, governmental and non-governmental groups. The funding also supports 1.2 WASI positions that were shifted from federal funding to ACCP SEG.

County Fair Aids. Under 2009 Act 28, \$20,000 each year is appropriated, on a one-time basis, from the ACCP fund for aids to county and district fairs. DATCP in the 2007-09 biennium was appropriated \$400,000 general purpose revenue (GPR) annually for fair aids, which are disbursed to local fairs to use as prizes in agricultural shows. Act 28 reduced the GPR appropriation by \$20,500, and one-time ACCP funding was intended to compensate for most of the GPR reduction. This appropriation sunsets June 30, 2011.

DATCP Program Revenue Appropriations. The DATCP food regulation program revenue (PR) appropriation received \$250,000 in 2007-08 and \$100,000 in 2008-09 from the ACCP fund under 2007 Act 20. The PR appropriation receives its funding from fees assessed on various food producers, food processors and food warehouses for inspection activities in these establishments. The ACCP fund also provided \$125,000 in each year of the 2007-09 biennium to DATCP's animal health

inspection, testing and enforcement program revenue appropriation. The appropriation takes in fees from registrations of animal markets, animal dealers, animal transporters, deer farms and aquaculture farms to support Wisconsin's program for preventing the outbreak and spread of animal diseases in Wisconsin animal agriculture industries.

ACCP Revenues and Balances

Due to a large balance in the fund, the 1997-99 biennial budget act temporarily suspended all ACCP surcharges, although the effective dates of the suspensions were different for fertilizer and pesticide surcharges. DATCP extended the original fee holiday by administrative rule, but reinstated fees for all license years beginning in 2002. 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.

Fertilizer tonnage fees fluctuated during the mid-2000s, beginning with the 2003-05 biennial budget act. 2003 Act 33 increased the maximum fertilizer tonnage surcharge from 38¢ to 86¢. The higher fee applied to fertilizer sold through June 30, 2005, for which fees were collected in the 2005-06 fiscal year. Fertilizer tonnage revenues that year reached a high of almost \$1.3 million. The following 2005-07 biennial budget act, 2005 Act 25, reduced the maximum fertilizer tonnage surcharge deposited to the ACCP from 86¢ to 63¢ with fertilizer sold beginning July 1, 2005. These surcharges were remitted to DATCP in August, 2006, during the 2006-07 fiscal year. Based on \$394,800 in lower fertilizer tonnage revenues, overall ACCP revenues decreased by approximately \$310,000 in 2006-07.

Each surcharge deposited to the ACCP fund decreased by approximately 30% under 2007 Act 20, the 2007-09 budget act. These fee levels have remained in effect for the 2009-11 biennium. Table 6 displays changes in fertilizer and pesticide surcharge amounts since 2003. ACCP revenues have decreased from a high of \$3.8 million in 2005-06 to \$1.8 million in 2009-10. This includes decreases

Table 6: Changes in ACCP Surcharges from 2003-05 to 2009-11

	2003-05	2005-07	2007-11
Fertilizer License	\$20	\$20	\$14
Fertilizer Tonnage	38¢/86¢ ^a	63¢	44¢ ^b
Pesticide Applicator - Business	\$55	\$55	\$38
Pesticide Applicator - Individual	\$20	\$20	\$14
Pesticide Dealer - Restricted Use	\$40	\$40	\$28
Pesticide Registration - Non-Household Product			
Under \$25,000	\$5	\$5	\$3.50 ^c
\$25,000 - \$74,999	\$170	\$170	\$120 ^c
\$75,000 and Over	1.1%	1.1%	0.75% ^c

^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.

over that time of: (a) approximately \$740,000 in fertilizer tonnage fees; and (b) approximately \$1.1 million in non-household pesticide registration fees. DATCP reports that these revenue reductions have been attributable to both lower fee levels and lower sales volumes in recent years due to economic conditions.

ACCP Balance Requirements

The 1997-99 budget act required DATCP to modify ACCP surcharges by administrative rule to maintain a fund balance between \$2 million and \$5 million, although 2003 Act 33 changed this requirement to specify that DATCP maintain an ACCP fund balance of not more than \$2.5 million. Since 2003, DATCP has been 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. However, the Department may not exceed the statutory maximum fees shown in Table 3. As shown in Table 5, the ACCP fund had a June 30, 2010, balance of approximately \$1.5 million and is expected to have a June 30, 2011, balance of about \$100,000.

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

emergency rule until a permanent rule is promulgated. 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 agrichemical 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.

DATCP officials indicate a significant ACCP fund balance is desirable to avoid potential cash flow problems during a fiscal year. This is because cleanup claims are paid quarterly, which is generally in September, December, March and June of each fiscal year. However, while fertilizer fees are received in August, the greatest share of ACCP revenues come from surcharges on pesticide product registrations, and these are not received until January. Therefore, if the opening fund balance is too low, revenues may be inadequate to meet the December claims payment. In this case, some payments could be delayed. Substantial delays could result in the fund incurring additional interest charges, as DATCP administrative rules require claims to accrue interest between the time an application is received and paid.

Transfers to the General Fund

Higher revenues and lower-than-expected reimbursement activity resulted in large fund bal-

ances in the mid- to late-1990s. As described earlier, ACM and ACCP fee levels were temporarily reduced by both multiple budget acts and DATCP through administrative rules following accumulation of considerable fund balances.

Balances of the two funds have also been transferred to the state's general fund since the 1990s. In more recent years, periodic transfers have typically been made to satisfy transfer requirements from biennial budget and budget adjustment acts. Table 7 lists transfers since 1997-98 from the ACM and ACCP funds to the state general fund.

A total of over \$13.1 million, consisting of \$6,483,400 from the ACM fund and \$6,620,700 from the ACCP fund, has been transferred or is expected to be transferred to the state's general fund in the period shown in Table 7. It should also be noted that \$4.1 million GPR was expended from 1994-95 through 1998-99 for agricultural chemical cleanup reimbursements.

Table 7: 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*	1,550,000	ACM
	<u>700,000</u>	ACCP
Total	\$13,104,100	

* Estimated

Other Deposits of Agricultural Chemical Fees

As shown in Table 8 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.

Table 8: Agricultural Chemical Fee Revenue

Fund/Purpose	2009-10 Revenue
ACM	\$7,013,100
ACCP	1,809,700
EMA	1,442,700
Fertilizer Research	125,900
UW-Extension	118,600
Weights and Measures	107,400
Liming Research	<u>12,600</u>
Total	\$10,630,000

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. In addition to the fees shown under the "EMA" column in the Appendix, the environmental management account receives revenues from a variety of other sources including a temporary motor vehicle environmental impact title fee, solid waste tonnage fees, petroleum inspection fees and hazardous spills reimbursements from responsible parties. These fees are used primarily for Commerce brownfields grants, and DNR activities related to environmental response and repair programs, including enforcement, prevention, cleanup, brownfields grants, liability determinations, and groundwater management. Ad-

Table 9: 2009-10 Environmental Management Account Agricultural Chemical-Related Revenues

License/Fee	Fee Amount	2009-10 Revenue
Fertilizer Tonnage	10¢	\$118,600
Soil and Plant Additive Tonnage	10¢	7,300
Primary Producer Fee	\$150	22,600
Household Pesticide Registration	\$124	678,500
Industrial Pesticide Registration	\$94	90,000
Non-Household Pesticide Registration	\$94	465,300
Wood Preservative Surcharge	*	<u>60,400</u>
Total		\$1,422,700

*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.

ditional information on this account can be found in the Legislative Fiscal Bureau informational paper entitled, "Contaminated Land and Brownfields Cleanup Programs." As shown in Table 9, agricultural chemical related revenues to the environmental fund totaled more than \$1.4 million in 2009-10.

Fertilizer Research. DATCP's fertilizer research appropriation account collects revenue from fertilizer and soil additive tonnage fees, both of which are 10¢ per ton. 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, which 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. DATCP's fertilizer research council recommends projects to be financed by this appropriation. The council consists of six volunteer 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. The council may also recommend other nonprofit research institutions for receipt of these funds if the

University of Wisconsin System is unable to carry out the projected research. Revenues in this category totaled \$125,900 in 2009-10. However, the statutes allow DATCP to retain 3.5% of all revenues to assist with the administrative costs of collecting these fees. The Department reports it retained \$4,400 in 2009-10 under this provision, forwarding \$121,500 to the UW System for research.

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 \$118,600 in 2009-10.

Weights and Measures Inspection. In addition to the fertilizer and commercial feed tonnage fees found in the Appendix, both of which are 2¢ per ton, 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 per-

formed 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 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 \$107,400 in 2009-10.

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 \$12,600 in 2009-10, of which \$1,600 was transferred to the general fund under 2009 Act 28 lapse requirements.

APPENDIX

Agricultural Chemical Fees and Revenues

License/Fee	ACM	ACCP	EMA*	Other	Total Fees/ Surcharges	2009-10 Total Revenue
Commercial Feed License	\$25				\$25	\$37,700
Commercial Feed Tonnage	23¢			2¢ ^a	25¢	1,045,300
Fertilizer License	\$30	\$14			\$44	28,200
Fertilizer Permit Applications	\$25				\$25	9,900
Fertilizer Tonnage	30¢	44¢	10¢	22¢ ^b	\$1.06	1,259,500
Lime License	\$10				\$10	1,000
Lime Tonnage				1.25¢ ^c	1.25¢	12,600
Pesticide Application Business	\$70	\$38			\$108	211,700
Pesticide Dealer - Restricted Use	\$60	\$28			\$88	33,400
Pesticide Individual Applicator	\$40	\$14			\$54	366,100
Pesticide Reciprocal Certification	\$75				\$75	20,000
Soil and Plant Additive License and Permit	\$125				\$125	16,500
Soil and Plant Additive Tonnage	25¢		10¢	10¢ ^d	45¢	34,000
Veterinary Clinic Permit (Biennial)**	\$25				\$25	9,700
Primary Producer Fee			\$150		\$150	22,600
Special Local Needs Permit	\$250					1,800
Pesticide Registration - Household						
\$0-\$24,999	\$141		\$124		\$265	1,384,200
\$25,000-\$74,999	\$626		\$124		\$750	342,400
\$75,000 or more	\$1,376		\$124		\$1,500	678,700
Pesticide Registration - Industrial						
\$0-\$24,999	\$221		\$94		\$315	290,300
\$25,000-\$74,999	\$766		\$94		\$860	73,100
\$75,000 or more	\$2,966		\$94		\$3,060	317,000
Pesticide Registration - Non-Household						
\$0-\$24,999	\$226	\$3.50	\$94		\$323.50	1,579,800
\$25,000-\$74,999	\$796	\$120	\$94		\$1,010	365,600
\$75,000 or more	\$2,966***	0.75%	\$94		\$3,060 + 0.95%	2,428,500
Wood Pesticide Surcharge						
\$0 - 24,999			\$5		\$5	200
\$25,000 - \$74,999			\$170		\$170	300
\$75,000 or more			1.1%		1.1%	<u>59,900</u>
Total						\$10,630,000

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

^b Includes 10¢ to fund UW-Extension outreach, 10¢ for UW soil and fertilizer research 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.

** Repealed in March, 2010, under 2009 Act 139 (Assembly Bill 166). Permit renewals were conducted in December, 2009, per statutory requirements, while AB 166 was pending.

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