

RevEx Subcommittee on Issues #4 and #5 – ACCP
Meeting Notes
January 6, 2016

Present: Jim Bruncker, Bob Zimpel, April Vingum, Tom Bressner, Scott Firlus, Karen Gefvert, Bob Welch, Amy Winters, John Manske, Kristen Faucon, Tim Clay, Dave Flakne, Mark Dawson, Amy Haak, Frank Masters, Bruce Barganz, Joe Sikora, Darin Von Ruden, Tyler Byrnes, Paul Ferguson (on phone), Stan Senger, Mae Friederich, Trevor Bannister, Steve Martin, Luke Lippert, Jennifer Heaton-Amrhein, Lori Bowman

Lori Bowman welcomed the subcommittee and provided a brief review of the last meeting. She also went over the goals of the meeting: 1) Discuss and receive recommendations on how the ACCP fees should be collected in the future 2) Discuss and receive recommendations on how to deal with the existing ACCP Fund balance and 3) Discuss and receive recommendations related to other possible program changes.

Updates from last meeting

Staff provided information related to questions asked at the last meeting. Jennifer Heaton-Amrhein went over how the ACCP compares to similar programs in other states. Stan Senger and Mae Friederich provided information about active facilities and reimbursements. Information related to those topics were also provided in the meeting handouts.

Fee structure options

Heaton-Amrhein then walked the committee through several different fee structure options that would help the ACCP keep a low fund balance going forward. By law, the department is required to keep a fund balance (after annual revenues and reimbursements) below \$2.5 million and must reduce fees to keep the balance below this level. The department has not met this statutory requirement very often over the past 15 years and is currently not in compliance.

Bowman requested that the committee focus on the concepts, not on the specific fee amounts used in the examples, because those are easy to change. The Department's objectives for each of the options was to eliminate the pesticide percent of sales pass-through, reduce fertilizer tonnage fees, collect about \$1 million annually, and have a more even distribution of revenue between fertilizer and pesticides. Committee members added an objective of simplifying the structure.

Option 1 keeps the fee structure very similar to the way it is today. However, the pass-through percent of sales on pesticide products would be eliminated and would be replaced by a per product fee paid by pesticide registrants (nonhousehold or WPS-labeled products only). Other license fees would increase to their existing statutory maximum. The ACCP portion of the fertilizer tonnage fee would decrease.

Option 1a was similar, but decreased the fertilizer tonnage fee even more, and increased the fertilizer license fee.

Option 2 eliminated both the percent of sales on pesticide products and the ACCP portion of fertilizer tonnage fees. Pesticide products would pay a per product fee (nonhousehold or WPS-labeled products only). The fertilizer licensees would be assessed a fee based on total tons sold to offset the loss of fertilizer tonnage fees.

Option 3 eliminated both the percent of sales on pesticide products and the ACCP portion of fertilizer tonnage fees. Pesticide products would pay a per product fee (nonhousehold or WPS-labeled products only). A new “bulk storage fee” would be established, and other fees would increase slightly to offset the loss of fertilizer tonnage fees.

The committee discussed the pros and cons of the various options.

It was a consensus among members that the fees in Options 1 and 1a. should not restrict anyone from registering products, even small companies. Farmer representatives stated that farmers do not use the ACCP and do not want to be covered by it. They do not support continuing any ACCP-related fertilizer tonnage fee. Other committee members agreed the tonnage fee should be reduced. They stated that farmers have used the ACCP and should continue to be eligible to receive reimbursement from the fund. They questioned whether there is a unity of position among farmers that they should not be covered by the ACCP. Welch stated that the Corn Growers would remove their objection to the ACCP if the tonnage fee was removed from invoices. Flakne requested Welch to ask the Corn Growers board to see how they would feel about a reduction to \$.20 per ton. Welch said he would.

Vingum noted the difference in the fees being assessed for nonhousehold and WPS pesticides. She expressed her preference for having the fees assessed on WPS, not nonhousehold pesticides. Flakne stated that basing the fees on either WPS or nonhousehold was fine with him.

Facility representatives felt that the large increases to license fees in Options 2 and 3—as presented—were too large for the businesses to absorb. They also questioned why, when the program has too much money and the total revenues being collected would be reduced, dealers would have to pay more. Pesticide registrants said that they would be absorbing the percent of sales pass through, and that everyone would have to compromise some.

In conjunction with the new fee structure, the committee discussed the possibility of a statutory trigger that would automatically adjust fee levels (up or down) when the fund balance reached certain levels. The committee supported an automatic fee adjustment mechanism, as long as maximum levels were clearly defined in the statute. Committee members also recommended the maximum fund balance be reduced to \$1.5 million.

Action Item: Bowman stated that DATCP would take what we heard and come back with a single, new option for the committee to discuss.

Immediate Fund Balance Reduction Options

Staff then presented ways to address the immediate fund balance. Heaton-Amrhein showed what a 2, 3 and 4 year ACCP surcharge holiday would look like, given the assumptions of \$1 million in expenditures annually and no new lapses from the fund. Committee members expressed that they would support as long a surcharge holiday as possible. Most felt that at least a 3 year holiday was needed, and most practical. Heaton-Amrhein and Bowman explained the timeline for how a surcharge holiday might be able to be adopted through an emergency rule.

The committee discussed other possible mechanisms to immediately reduce the fund balance, including retroactive repayment of copays and deductibles and retroactive application of a lifetime maximum increase. The committee decided that retroactive payments or application of possible program changes would not be desirable.

Action Items: Committee members will work together to support a surcharge holiday

Other possible program changes

Heaton-Amrhein presented several other possible program changes for the committee to discuss.

Raising Lifetime Maximum – The committee was split on raising the lifetime maximum. Several committee members supported increasing the lifetime maximum and several others were concerned. WI already has a higher lifetime maximum than other similar programs. The lifetime maximum has never increased since the program’s inception in 1994 and costs have increased. An increase would benefit long-time, active facilities. Some committee members supported an increase, but questioned going from \$400,000 to \$750,000 and wondered what the number should be. They don’t want to make the fund a refuge for bad actors, but do recognize the reality of inflation. Farmer representatives said it will be hard to sell increasing the cap from \$400,000 to \$750,000 and it would only be palatable if the ACCP tonnage fee was completely eliminated.

Changing co-pay – Committee members had a variety of opinions about changing the co-pay. WI has a higher co-pay than other similar programs, but no one is really complaining about the co-pay amount and it is important for those using the reimbursement program to also have “skin in the game.”

Reducing deductible - WI has a higher deductible than other similar programs, but DATCP and committee members have not heard many complaints. Fund recipients having a financial stake in the program is important. Committee members did not support reducing the deductible.

Repealing Pollution Prevention statutory authority – The general consensus was that the authority should be repealed since the costs that would be eligible from the program are minimal in relation to the amount of work required to request the funds. It was noted that a better use of the funds may be for remediating orphan or super sites in order to protect groundwater.

Repealing “greenfield site” ineligibility – Bowman asked to discuss this because she gets lots of calls and questions about it in the office, but it never comes up in meetings. Committee members explained that there was a misperception that good stewards wouldn’t have problems and the “greenfield” language was the first step towards sunseting the program. With the recent understanding that insurance is not available, and firsthand communication with facility managers who are good stewards of their sites, some would now support repealing the ineligibility. Most committee members felt that if the fund issue can be fixed, there would be support to repeal this provision; however, some farmer representatives expressed they do not want any expansion of the program and it would only be palatable if the ACCP tonnage fee was completely eliminated. Concern was expressed over why restrictions were placed on which portions of the environment should be cleaned up.

Next Steps

Bowman concluded the meeting stating that she felt the committee would need another meeting to discuss a revised fee structure option. Heaton-Amrhein will work to schedule another meeting date. She said if committee members have other ideas they want us to consider, they should let her or Heaton-Amrhein know.

The meeting adjourned at 2:30 p.m.