

# REVEX FINAL REPORT



Agrichemical Management Bureau  
Division of Agricultural Resource Management  
Department of Agriculture, Trade and Consumer Protection

October 7, 2016 / Revised November 1, 2016

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## EXECUTIVE SUMMARY

The Agrichemical Management (ACM) Bureau's programs are supported almost entirely by industry fees. The Revenue and Expenditure (RevEx) project was a comprehensive review of the Bureau's revenues from fees and surcharges, and expenditures of those revenues to ensure fees are assessed equitably, collected efficiently, and spent effectively. Eight issues related to fees and surcharges needed to be resolved in consultation with industry. Fees and surcharges under review were:

- **Pesticide** registration, business location, commercial licensing and restricted use dealer fees and surcharges
- **Fertilizer and soil or plant additive** (SPA) license, permit and tonnage fees and surcharges
- **Feed** license and inspection fees

The Bureau convened a 22-member oversight work group and four subcommittees to address the eight issues. Over 60 unique industry stakeholders participated in ten stakeholder meetings from October 1, 2015 through April 2016. In addition, over 400 licensees participated in three surveys to ensure the broadest possible industry input.

**Industry overwhelmingly supported both the efforts to establish appropriate fees and to simplify their administrative business processes.** A summary of the RevEx recommendations is below.

### Overall ACM Fund Recommendations

- Use ACM Fund balance to modernize the Bureau's IT systems, including on-line licensing and reporting.\*
- Maintain ACM fund balance at about \$1.4 million (20% reserve balance) by requiring fee holidays or fee reductions when the balance exceeds that amount.

### Pesticide Registration

- Simplify the pesticide manufacturers and labelers product registration fees by eliminating the current tiered and sales-based fee structure and moving to a flat per product registration fee (~\$500 per product).
- Assess the pesticide registration fee on minimum risk pesticide products.\*\*
- Establish fees so annual ACM Fund revenue collected through this program is reduced by \$500,000 to \$700,000.

### Agricultural Chemical Cleanup Program (ACCP)

- Reduce and realign surcharges so annual revenue collected from surcharges is reduced to ~\$500,000 (80%).
- Provide inflationary increase to lifetime reimbursement maximum from \$400,000 to \$650,000 in s. 94.73 (6)(b) and (c), Stats.\*\*\*
- Restore eligibility to all sites by repealing s. 94.73 (3m)(w), Stats.
- Reduce maximum fund balance in s. 94.73 (15)(a), Stats. from \$2.5 million to \$1.5 million.
- Implement surcharge holiday to reduce fund balance below maximum in s. 94.73 (15)(a), Stats.
- Add statutory authority to automatically reduce surcharges when the fund balance exceeds \$750,000.
- Eliminate pollution prevention statutory authority by repealing s. 94.74, Stats.

### Commercial Feed

- Modify minimum inspection fee to \$50 for licensees who report 200 tons or less.
- Eliminate exempt buyer status and credits under s. 94.72 (6) (f), (g), and (h), Stats., and most grain exemptions.
- Revise statutory authority to have tonnage fees paid by those "first to distribute in or into" Wisconsin.
- Conduct study on commercial feed manufacturing and distribution channels to prepare for future discussions about possible modifications to the inspection fee requirements.

### Fertilizer and Soil or Plant Additive (SPA) Permits

- Modify annual fertilizer and SPA permit maintenance and discontinuation process.\*\*
- Change both fertilizer and SPA license expiration dates to September 30, with tonnage reports based on July 1 to June 30 sales.

\* The Bureau's IT Project – known as BAM-IT-- was put on hold by agency due to budget uncertainties

\*\* Under DATCP internal review

\*\*\* This is the only RevEx recommendation that did not have subcommittee consensus

## ACM AND ACCP FUND AND LICENSE FEE TABLES

If the recommendations in this report are adopted in total, the ACM and ACCP Funds are expected to be impacted as follows:

### ACM Fund (Operations) FY14-15 Actual and Future Estimated Revenue

Licenses	FY 14-15 Revenue	Estimated Revenue
Pesticide registration (all products)	\$5,144,314*	\$4,700,000
Pesticide Licenses	\$577,687	580,000
Fertilizer License, Permits, & Tonnage	\$479,774	\$495,000
SPA License, Permit & Tonnage	\$74,671	\$80,500
Lime License	\$1090	\$1100
Feed License & tonnage	\$1,182,484	1,200,000
Late Fee and Miscellaneous	\$28,586	\$25,000
<b>TOTAL</b>	<b>\$7,488,606</b>	<b>\$7,081,600</b>

\*FY 14-15 was a very low revenue year for pesticide registration. The estimated reduction to the ACM Fund in a typical year would be about \$700,000.

### ACCP Fund (Reimbursements) FY14-15 Actual and Future Estimated Revenue

License	FY 14-15 Revenue	Estimated Revenue
Pesticide Business Location (PBL)	\$72,455	\$48,000
Individual Commercial Applicator (ICAL)	\$94,571	\$85,000
Restricted Use Dealer (RU)	\$7,621	\$8,400
Fertilizer License	\$5,610	\$15,500
Fertilizer Tonnage	\$842,176	\$190,000
Pesticide registration (NHH products)	\$1,933,764	\$159,000
Bulk Storage Facility – Pesticide	N/A	\$5,875
Bulk Storage Facility -- Fertilizer	N/A	\$6,975
<b>TOTAL</b>	<b>\$2,956,157</b>	<b>\$518,750</b>

These revenue tables include only the revenue collected by DATCP for the ACM and ACCP Funds. The fee tables on the subsequent page include all revenue that is collected by DATCP, including that which is transferred, per state law, to other entities.

If the RevEx recommendations are adopted in total, the final license and tonnage fees and overall revenue for all funds would be as follows:

Pesticide Licenses <sup>%</sup>	ACM FY 14-15 Fee	ACCP FY 14-15 Surcharge	Total FY 14-15 Fee	Total FY 14-15 Revenue	ACM Proposed Fee	ACCP Proposed Surcharge	Total Proposed Fees & Surcharges	Total Proposed Revenue (estimated)*
Pesticide Business Location	\$70	\$30.40	\$100.40	\$240,440	\$70	\$20 + \$25 if bulk storage	\$90 or \$115	\$221,875
Individual Commercial Applicator	\$40	\$11.20	\$51.20	\$432,130	\$40	\$10	\$50	\$425,000
Restricted Use Dealer	\$60	\$22.40	\$82.40	\$27,971	\$60	\$20	\$80	\$33,600
Reciprocal	\$75	\$0	\$75	\$31,793	\$75	\$0	\$75	\$32,000

\* Includes an increase in the number of licenses issued for all license types

<sup>%</sup> No changes have been proposed for Special Local Needs Permits (\$250) or the Manufacturers and Labelers Primary Producer Fees (\$250 to DNR)

Pesticide Products	ACM FY 14-15 Fee	ACCP FY 14-15 Surcharge	DNR FY 14-15 Fee	Total FY 14-15 Fee and Surcharges	Total FY 14-15 Revenue	ACM** Proposed	ACCP Proposed	DNR Proposed	Total** Proposed	Total Proposed Revenue (estimated)				
Household (HH) < \$25,000	\$141	\$0	\$124	\$265	\$662,783	\$362	\$0	\$108	\$470	\$3,619,000				
HH \$25,000-\$75,000	\$626	\$0	\$124	\$750	\$231,540									
HH > \$75,000	\$1376	\$0	\$124	\$1500	\$569,057									
Industrial (Ind) < \$25,000	\$221	\$0	\$94	\$315	\$180,647									
Ind. \$25,000-\$75,000	\$766	\$0	\$94	\$860	\$67,671									
Ind. > \$75,000	\$2966	\$0	\$94	\$3060	\$276,421									
Wood < \$25,000 <sup>#</sup>	\$221	\$0	\$5	\$226	\$658									
Wood \$25,000-\$75,000 <sup>#</sup>	\$766	\$0	\$170	\$936	\$94									
Wood > \$75,000 <sup>#</sup>	\$2966	\$0	1.1% sales	\$2966 + 1.1%	\$-16,111									
25(b) minimum risk	\$0	\$0	\$0	\$0	\$0									
Non-HH (NHH) < \$25,000	\$226	\$2.80	\$94	\$322.80	\$1,003,494						\$30		\$500	\$2,650,000
NHH \$25,000-\$75,000	\$796	\$96	\$94	\$986	\$341,924									
NHH > \$75,000	\$2966+ 0.2% sales	0.6% of sales	\$94	\$3060+ 0.8% sales	\$3,744,541									

\*\*If no fee is established for 25(b) products, ACM fee would be \$372 and total fee would be \$480 for all products, plus ACCP if applicable

<sup>#</sup> Wood revenue included with Industrial products, except for DNR fees

Fertilizer and Related Products License	ACM FY 14-15 Fee	ACCP FY 14-15 Surcharge	Other* FY 14-15 Fee	Total FY 14-15 Fee and Surcharges	Total FY 14-15 Revenue	ACM Proposed	ACCP Proposed	Other* Proposed	Total Proposed	Total Proposed Revenue (estimated)
Fertilizer License	\$30	\$11.20 (if no PBL)	\$0	\$30 or \$41.20	\$30,351	\$30	\$20 + \$25 if bulk storage	\$0	\$50 or \$75	\$57,725
Fertilizer Permit	\$25/1X	\$0	\$0	\$25/1X	\$13,704	\$25/1X + \$5 annual^	\$0	\$0	\$25/1X + \$5 annual	\$29,000
Fertilizer Tonnage (per ton)	\$0.23	\$0.35	\$0.39	\$0.97	\$2,037,942	\$0.23	\$0.10	\$0.39	\$0.72	\$1,368,000
SPA License	\$25	\$0	\$0	\$25	\$28,996	\$25	\$0	\$0	\$25	\$34,500
SPA Permit	\$100/1X	\$0	\$0	\$100/1X		\$100/1X + \$5 annual^	\$0	\$0	\$100/1X + \$5 annual	
SPA Tonnage (per ton)	\$0.25	\$0	\$0.20	\$0.45	\$63,333	\$0.25	\$0	\$0.20	\$0.45	\$63,000
Lime License	\$10	\$0	\$0	\$10	\$1090	\$10	\$0	\$0	\$10	\$1100
Lime Tonnage (per ton)	\$0	\$0	\$0.0125	\$0.0125	\$13,665	\$0	\$0	\$0.0125	\$0.0125	\$13,500

\*"Other" includes: \$0.17/ton fertilizer research council, \$0.10/ton DNR, \$0.10/ton UW NPM, and \$0.02/ton weights and measures

^ Still under DATCP internal review

Feed License	ACM FY 14-15 Fee	Weights and Measures FY 14-15 Fee	Total FY 14-15 Fee	Total FY 14-15 Revenue	ACM Proposed	Weights and Measures Proposed	Total Proposed	Total Proposed Revenue (estimated)
Feed License	\$25	\$0	\$25	\$38,200	\$25	\$0	\$25	\$38,000
Feed Tonnage (per ton)	\$0.23	\$0.02	\$0.25	\$1,243,795	If < 200 tons \$46 or if >200 tons, \$0.23/ton	If < 200 tons, \$4 or if >200 tons, \$0.02/ton	If <200 tons \$50 or if >200 tons, \$0.25/ton	\$1,250,000

## FULL WORK GROUP MEMBERS AND MEETINGS

<b>Name</b>	<b>Representing</b>
Bruce Barganz	Insight FS/ACCP Council
Tom Bressner	WI Agribusiness Association
Tim Clay	Cooperative Network
Dave Flakne	Syngenta
Karen Gefvert	WI Farm Bureau Federation
Elisha Kemp	Dow Chemical
Tom Lochner	WI Cranberry Growers Association
Frank Masters	Twin State Engineering & Chemical/ACCP Council
Marv Prestrud	ACCP Council
Brian Swingle	WI Green Industry Federation
Jodie Thrune	S.C. Johnson
Dave Tierney	Monsanto
April Vingum	Bell Labs
Darin Von Ruden	WI Farmers Union
Robert Welch	WI Corn Growers Association
Amy Winters	CropLife
Robert Zimpel	TH Agrichemical
Jim Brunker**	M3 Insurance
Tyler Byrnes**	Department of Administration
Paul Ferguson**	Legislative Fiscal Bureau
Jason Gherke**	DATCP Bureau of Budget and Finance
John Manske**	Cooperative Network

\*\* Ex Officio

**Meetings:** 10/1/15, 3/08/16 – Minutes available upon request

## PESTICIDE REGISTRATION SUBCOMMITTEE MEMBERS AND MINUTES

<b>Name</b>	<b>Representing</b>
Bruce Barganz	Insight FS/ACCP Council
Tom Bressner	WI Agribusiness Association
Jim Brunker**	M3 Insurance
Tyler Byrnes**	Department of Administration
Tim Clay	Cooperative Network
Kristen Faucon	Growmark
Paul Ferguson**	Legislative Fiscal Bureau
Dave Flakne	Syngenta
Elisha Kemp	Dow Chemical
John Manske**	Cooperative Network
Tom Schmidt	Monsanto
Ben Schroeder	DeVere Company
Brian Swingle	WI Green Industry Federation
Dave Tierney	Monsanto
Jodie Thrune	S.C. Johnson
April Vingum	Bell Labs
Amy Winters	CropLife

\*\*Ex Officio

**Meeting:** 10/21/15 – Minutes available upon request

## ACCP SUBCOMMITTEE MEMBERS AND MEETINGS

<b>Name</b>	<b>Representing</b>
Bruce Barganz	Insight FS/ACCP Council
Tom Bressner	WI Agribusiness Association
Tim Clay	Cooperative Network/ACCP Council
Mark Dawson	Sand Creek Consulting
Scott Firlus	Allied Cooperative/ Independent
Dave Flakne	Syngenta
Karen Gefvert	WI Farm Bureau Federation
Amy Haak	Country Visions Cooperative
Ferron Havens	ACCP Council
Elisha Kemp	Dow Chemical
Tom Lochner	WI Cranberry Growers Association
Frank Masters	Twin State Engineering & Chemical/ACCP Council
Marv Prestrud	ACCP Council
Brian Swingle	WI Green Industry Federation
Jodie Thrune	S.C. Johnson
Dave Tierney	Monsanto
April Vingum	Bell Labs
Darin Von Ruden	WI Farmers Union
Robert Welch	WI Corn Growers Association
Amy Winters	CropLife
Robert Zimpel	TH Agrichemical
Jim Bruncker**	M3 Insurance
Tyler Byrnes**	Department of Administration
Paul Ferguson**	Legislative Fiscal Bureau
John Manske**	Cooperative Network

\*\* Ex Officio

**Meetings:** 11/12/15, 1/6/16, 2/22/16, 4/13/16 – Minutes available upon request

## FEED SUBCOMMITTEE MEMBERS AND MEETINGS

<b>Name</b>	<b>Representing</b>
Jon Accola	Premier Cooperative
Tom Bressner	WI Agribusiness Association
Jim Brunker**	M3 Insurance
Dirk Buhlig	ADM
Kelli Caulum	Star Blends
Paul Ferguson**	Legislative Fiscal Bureau
Kerry Getter	CP Feeds
Sherry Hackworth	Cargill
Jim Loefer	CP Feeds
John Manske**	Cooperative Network
Ron Mason	Midwestern Bioag
Mark Mentink	Kettle Lakes Cooperative
Brett Perry	WW Strading
Dan Rohrer	Insight FS
Al Schultz	Vita Plus
Joe Sikora	Insight FS
Sandy Syburg	Purple Cow Organics
Laura St. George	Ecosyl Products
Darin Von Ruden	Wisconsin Farmers Union
Jeannine Wilz	Nutegrity
Bill Zuhlke	Land O' Lakes

\*\*Ex Officio

**Meetings:** 2/11/16, 3/30/16 – Minutes available on request

## FERTILIZER/SPA SUBCOMMITTEE MEMBERS AND MEETINGS

<b>Name</b>	<b>Representing</b>
Doug Alderman	Scott's Company
Mary Jo Alexander	R. Alexander Associates
Tom Bressner	WI Agribusiness Association
Jim Bruner**	M3 Insurance
Tyler Byrnes**	Department of Administration
Steve Constantine	Eau Claire Cooperative
Michael Elder	Landmark Services
Paul Ferguson**	Legislative Fiscal Bureau
Ryan Hartberg	Purple Cow Organics
Steve Huntsley	Eau Claire Cooperative
Stu Lebo	Lignotech
John Manske**	Cooperative Network
Rebecca Peters	Precision Laboratories
Daniel Peterson	AgroLiquid
Joe Sikora	Insight FS
Jaime Staufenbiel	Milorganite
Brian Swingle	WI Green Industry Federation
Larry Vogel	Vogel Seed and Fertilizer
Terry Walsh	Helena Chemical Company
Amy Winters	CropLife America

\*\* Ex Officio

**Meeting:** 4/7/16 – Minutes available upon request

## INTRODUCTION

The Agrichemical Management (ACM) Bureau is part of the Agricultural Resource Management (ARM) Division in the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP or “department”). The ACM Bureau administers Wisconsin’s regulatory, environmental and enforcement programs associated with commercial animal feeds, fertilizers, pesticides and other plant production and pest control materials used in agricultural, urban and industrial settings. The Revenue and Expenditure (RevEx) project was a comprehensive review of the ACM Bureaus’ revenues from fees and surcharges, and expenditures of those revenues. The goal is to ensure that the Bureau is assessing fees and surcharges equitably, collecting them efficiently, and spending them effectively.

Fees and surcharges under review are:

- **Pesticide** registration, business location, commercial licensing and restricted use dealer fees
- **Fertilizer and soil or plant additive** (SPA) license, permit and tonnage fees
- **Feed** license and tonnage fees
- **Agricultural Chemical Cleanup Program** (ACCP) surcharges

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### WHY REVEX?

The ACM Bureau’s programs are supported almost entirely by industry fees. As part of our routine program evaluation and improvement efforts, we identified several issues related to fees and surcharges that needed to be resolved together with industry.

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### HOW DID REVEX WORK?

We convened a 22-member oversight work group and four subcommittees. Subcommittees examined the most complex issues and those particular to only a subset of stakeholders. The full work group reviewed the subcommittees' work and discussed matters important to all members.

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### WHO WAS INVOLVED?

Work group members included pesticide registrants, business locations and commercial applicators; fertilizer manufacturers and distributors; feed manufacturers and distributors; farmers and growers; and industry associations. Subcommittees drew members from both the full RevEx work group and other industry stakeholders. A complete participant list for the work group and each subcommittee is included in this report, but participants include 60 unique individuals, plus another 450 who responded to the surveys.

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### COMPLETED MEETINGS

The Bureau hosted 10 stakeholder work group and subcommittee meetings and conducted three industry surveys as part of RevEx. Eight major issues were discussed at these meetings.

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### EXPECTED OUTCOMES

The RevEx work group and its subcommittees provided DATCP with recommendations for consideration during Wisconsin’s 2017-2019 biennial budget process. Those recommendations are included in this report. Any changes included in the biennial budget would be effective July 2017 or later.

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## SUMMARY OF MAJOR REVEX ISSUES

**ISSUE #1 (full work group):** The ACM Fund is a collection of fee revenue from pesticide, feed, fertilizer, SPA, and lime licenses that fund all the operational expenses for the bureau. The work group evaluated whether or not revenues collected align with program expenditures from the fund and if any fees should be adjusted.

**ISSUES #2 and #3 (pesticide registration/licensing subcommittee):** The current pesticide manufacturers and labelers ("pesticide registration") licensing fee structure--particularly for nonhousehold (NHH) pesticide products with over \$75,000 in sales--is very complex and not auditable. In addition, all four pesticide licenses—pesticide registration, pesticide business location (PBL), restricted use dealers (RU), and commercial applicators (ICAL)--renew on January 1. The pesticide registration and licensing subcommittee evaluated alternatives for more efficient use of staffing resources and a less complex fee collection process.

**ISSUES #4 and #5 (ACCP subcommittee):** The ACCP Fund has experienced declining reimbursement needs, changes to eligibility and excess fund balances. The ACCP surcharges are currently collected by dealers and paid by registrants via the pesticide registrations, PBL, RU, ICAL and fertilizer licenses. The ACCP subcommittee evaluated the entire ACCP, including ACCP surcharges and surcharge collection method.

**ISSUES #6 and #7 (Feed tonnage subcommittee):** Currently, the department collects a feed inspection fee (often referred to as a tonnage tax) from the first entity in the feed or feed ingredient distribution chain. There is no minimum feed inspection fee payment; some licensees pay \$0.25, which is significantly less than the costs associated with processing the paperwork. The feed tonnage subcommittee evaluated feed inspection fee and tonnage reporting options, including who should pay and how to assess licensees with very low or no tonnage.

**ISSUE #8 (Fertilizer/SPA permits):** Fertilizer and SPA permits do not have an expiration date. It is difficult to know what products are actually in the marketplace and who should be reporting tonnage on what products. The ACM work group and fertilizer/SPA subcommittee evaluated permit renewal options for fertilizer and SPA products.



## ISSUE ONE: ACM FUND

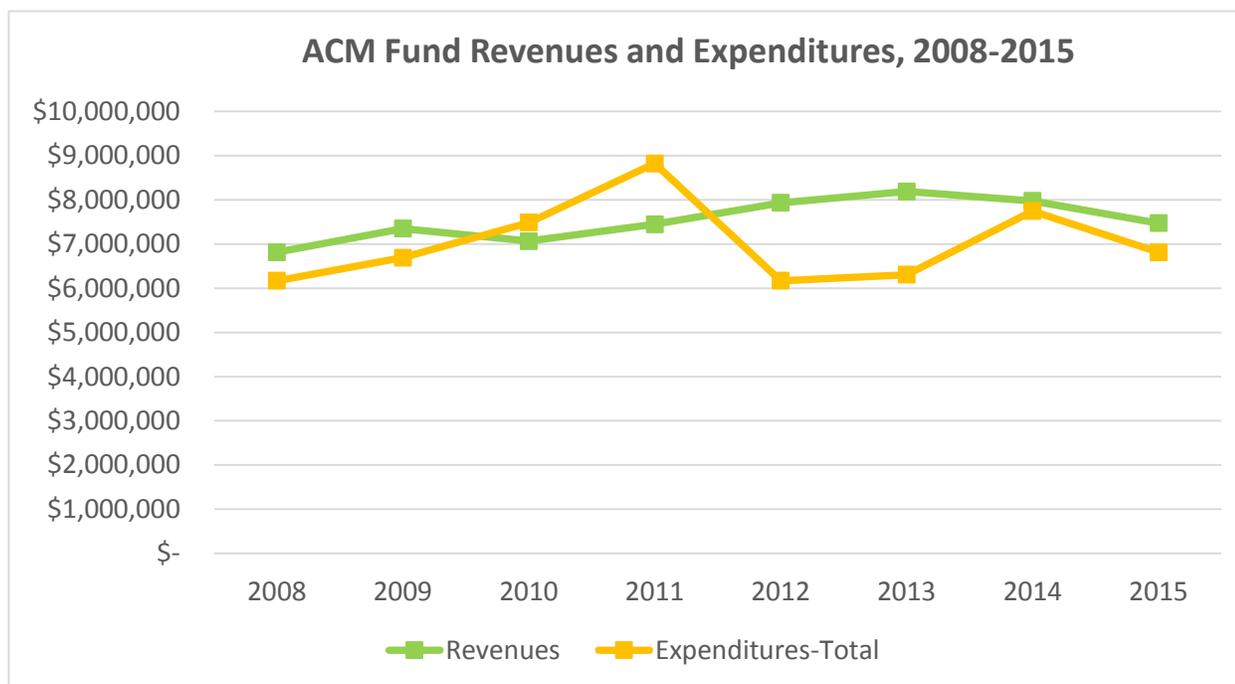
The ACM Fund was created in 1989 and consists of the combined licensing fee revenue paid as part of feed, fertilizer, SPA, lime and four pesticide program licenses. The ACM Fund supports all operational expenses of the ACM Bureau, including staff salaries and benefits, rent, laboratory services, information technology (IT), travel, and other similar items. In addition to these expenses, the ACM Fund supports four animal health positions, Ag in the Classroom, and the Discovery Farms (statutory requirements).

**Table 1: ACM Fund Revenues and Expenditures, FY 2014-15**

<b>Opening Balance</b>	<b>\$6,322,185</b>
FY 14-15 Revenue Total	\$7,470,076
Expenditures	
ACM Program	\$5,998,043
Required Non-ACM Programs	\$815,990
Expenditures Total	\$6,814,033
<b>FY 14-15 Ending Balance</b>	<b>\$6,978,228</b>

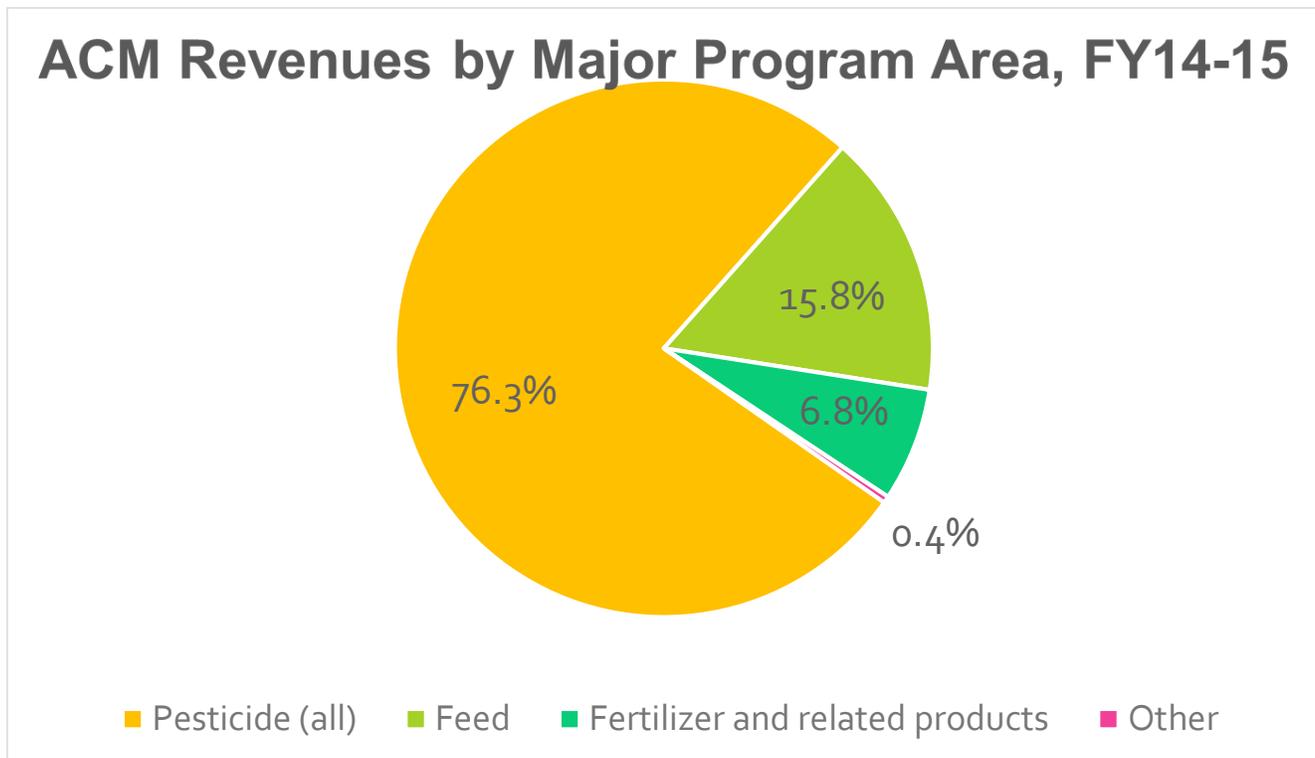
The ACM Fund balance as of June 30, 2015 was \$6,978,228 (See Table 1). The fund balance results from higher than expected revenues from license and tonnage fees that are heavily sales-based and volatile, and declining expenditures as a result of lower staffing expenses (see Graph 1). Because this is an operational fund, the department should maintain a 15-20% fund balance to ensure required expenditures can be paid in the case of lower fee revenues from the more volatile sources. Even when revenues and expenditures are fairly balanced each year, small annual positive balances combine over time to increase the overall fund balance.

**Graph 1: ACM Fund Revenues and Expenditures, 2008-2015**



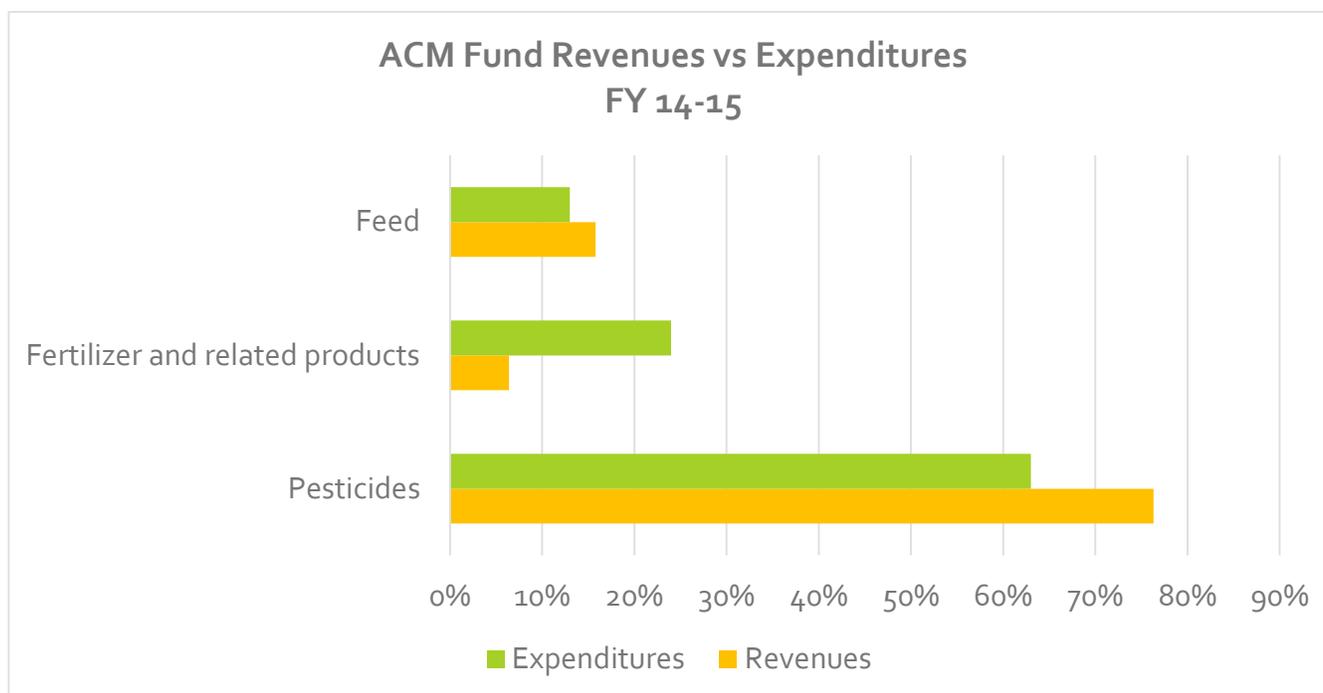
License and tonnage fees from several programs combine to form the ACM Fund. The percentage of revenue going into the ACM Fund from each program area is seen below; the pesticide program contributes approximately 76% of all revenue going into the ACM Fund annually, followed by Feed (16%) and Fertilizer (6.4%). Of the pesticide program revenue, over 90% of it comes from pesticide product registration (see Graph 2)

Graph 2: ACM Fund Revenues by Program Area, FY 14-15



ACM Bureau activities are highly integrated and expenditures are not made or recorded at the program level. To determine approximate expenditures by program, Bureau timesheets were used to estimate effort in each of three major program areas: Pesticides, Feed, and Fertilizer and related products. Pesticides and fertilizer expenditure estimates both include half of the staff time associated with the ACCP, groundwater, and spills programs. Laboratory and other bureau administrative expenses were distributed proportionately across the program areas. Timesheet data showed that approximately 63% percent of Bureau expenditures were on pesticide, 24% fertilizer and related products and 13% feed program-related expenses. As Graph 3 shows, the pesticide and fertilizer percentages are much different than the percent of revenue contributed by each program area's fees. According to this data, the pesticide programs currently are over-contributing while the fertilizer and related products programs currently are under-contributing when revenues are compared to expenses.

Graph 3: ACM Revenues and Expenditures, FY 14-15



The full RevEx work group considered the overall ACM Fund and discussed whether or not fee or staffing adjustments should be made to better align revenues and expenditures.

#### RECOMMENDATIONS ISSUE ONE: REDUCE ACM FUND BALANCE

The work group expressed concern about the large and growing ACM Fund balance and recommended reducing annual revenue, if possible, to prevent large balances in the future. The work group noted that the pesticide program—and pesticide product registration in particular -- is responsible for a more significant portion of total ACM Fund revenues than expenditures. Therefore, **the work group recommended if revenues can be reduced, the Bureau decrease the revenue collected from the pesticide product registration fees.** Because the entire pesticide product registration fee structure is being considered for revision under Issue #2, this recommendation was considered when proposing new fees for the pesticide Manufacturers and Labelers (M & L) licenses and pesticide product registration program.

The work group **also recommended that a portion of the ACM Fund balance be used to modernize the Bureau's IT systems.** IT modernization would provide on-line licensing and reporting and other improved information system capabilities for all fee-payers. *(Note: The department has put the Bureau's IT Project—known as BAM-IT--on hold due to budget uncertainties).*

Finally, the work group **recommended maintaining the fund balance at about \$1.4 million (20% reserve balance) and suggested a temporary fee holiday or fee reduction** when and if the balances exceeds this amount. The work group noted that it is impossible for the Bureau to budget for an exact balance of revenue and expenditures annually, and therefore occasional, temporary adjustments to fees to ensure the fund balance remains at an appropriate level may be required.

## ISSUE TWO: PESTICIDE REGISTRATION

Pesticide registrants must list (“register”) their pesticide products with each state before distributing or selling the products in that state. Currently, for each pesticide product a registrant plans to distribute in Wisconsin, it must register the product with DATCP and pay a fee. The fee varies based on the type of pesticide product it is (household (HH), NHH, industrial, wood, or 25(b) minimum risk) and product sales. Wisconsin is known in the industry for having the most complicated pesticide registration fees in the country. The current fees are listed in Table 2, below.

**Table 2: Pesticide Product Registration Fees**

Pesticide License Category	ACM Fund	ACCP Fund	DNR Env. Fund	Total Fee
Household < \$25,000	\$141		\$124	\$265
Household < \$25 - \$75,000	\$626		\$124	\$750
Household > \$75,000	\$1376		\$124	\$1500
Industrial < \$25,000	\$221		\$94	\$315
Industrial < \$25 - \$75,000	\$766		\$94	\$860
Industrial > \$75,000	\$2966		\$94	\$3060
Nonhousehold < \$25,000	\$226	\$2.80	\$94	\$322.80
Nonhousehold < \$25 - \$75,000	\$796	\$96	\$94	\$986
Nonhousehold > \$75,000	\$2966+ 0.2%	0.6% sales	\$94	\$3060+0.8%
Wood < \$25,000	\$221		\$5	\$226
Wood < \$25 - \$75,000	\$766		\$170	\$936
Wood > \$75,000	\$2966		1.1% sales	\$2966 + 1.1%
25b minimum risk (exempt)	\$0	\$0	\$0	\$0

The actual fees paid for each product and by each registrant is determined by a three step fee estimation-reconciliation-estimation process. In year one, the registrant estimates sales—per product, and pays the appropriate fees, per product. Registrants receive one bill with all product fees combined. In year 2, registrants report actual sales – per product—from year 1 and estimate sales for year 2. DATCP reconciles the estimate and actual year 1 sales and applies credits or debits to the year 2 bill, based on the new estimates. This estimation-reconciliation-estimation process is further complicated by the fact that the fees are different for each product type and sales tier, including sales tiers where fees are paid as a percent of sales. The fee determination process is particularly challenging for NHH products with over \$75,000 in sales and products that change sales tiers.

For all products, the total fee paid by registrants includes a portion that remains with the ACM Fund and a portion that is transferred to the Department of Natural Resources’ (DNR) environmental fund. On NHH products, a surcharge related to the ACCP also is assessed and collected and wood preservative product fees include an additional surcharge that goes to DNR. Currently, the pesticide product registration fees account for about \$5.4 million annually for the ACM Bureau, \$1.9 million for the ACCP Fund and an additional \$1.8 million that is collected for and transferred to the DNR’s environmental fund. However, because the ACM and ACCP fees are sales-based and are highly volatile, revenue does vary each year.

Both industry and DATCP prefer the current fee structure be replaced by a simpler system. DATCP’s concerns about the current system include the accuracy of the reconciliation process (particularly in the NHH products’ upper sales tier), the ability to program an IT system to calculate the fee properly, the volatility of the fees because they are sales-based and the need to collect and store confidential sales information. Industry does not like the complexity of the system, the need to report confidential sales information, the large fee increases that occur

when increased sales cause a product to move to the next fee tier, and the extremely high fees owed on high sale NHH products.

The pesticide registration subcommittee reviewed several different options for assessing pesticide registration fees, ranging from a slight modification of the current process to charging a flat per product fee, which would be similar to most other states. The subcommittee also considered whether or not to include 25(b) minimum risk pesticides in the fee structure; currently, these pesticide products must be registered in Wisconsin, but are exempt from fees. The department imposed constraint on the subcommittee recommendations was that whatever option was proposed, it must provide no reduction to the total revenue going into the DNR's environmental fund, even if the specific funding mechanism changed.

## RECOMMENDATIONS ISSUE TWO: PESTICIDE REGISTRATION

### ESTABLISH FLAT FEE FOR PESTICIDE PRODUCTS

After considering multiple options, **the subcommittee recommended the department move to a flat per product pesticide registration fee**, which is very simple for both registrants and the department. The subcommittee and survey results also recommended keeping the fee as low as possible to meet revenue needs. DATCP conducted a survey of all pesticide registrants asking about their support for this recommendation. Results of the survey indicated 76% of registrants of all sizes support or are neutral about moving to a flat per product fee for pesticide registration (see appendix for survey results). Even registrants who would pay more per product under a flat fee system preferred this option because it is simple and reduces their administrative burden and costs. Because most registrants currently list a variety of products across all pesticide types and sales categories, a higher fee for some products is often offset by a lower fee for other products.

A per product flat fee could be implemented as shown in Table 3 below. Fees based on product types and sales would be eliminated, although ACCP surcharges would continue to be assessed on NHH pesticide products. **This proposal includes an estimated \$700,000 reduction in fee revenue from pesticide registration for the ACM Fund, as recommended by the Issue 1 work group.** It also reflects a significant decrease in the ACCP surcharge, as recommended by the ACCP subcommittee (Issues 4 & 5).

**Table 3: Proposed Flat Fee Per Pesticide Product (based on 12,500 products, not including 25(b) )**

Fee component	Per Product Fee	Proposed Revenue	Current Revenue	Revenue Difference
ACM Fund	\$372	\$4.65 million	\$5.4 million	<b>-\$750,000</b>
DNR Environmental Fund	\$108	\$1.35 million	\$1.3 million	<b>\$50,000</b>
ACCP Surcharge – NHH only	\$30	\$159,000	\$1.9 million	<b>-\$1.74 million</b>
<b>Total fees and surcharges</b>	<b>\$480 or \$510</b>	<b>\$6.16 million</b>	<b>\$8.6 million</b>	<b>-\$2.44 million</b>

A flat per product fee of \$480 is an increase of 50% to 81% for all pesticide products with under \$25,000 in annual sales and a 36% to 84% decrease in base fees for all pesticide products with greater than \$25,000 in annual sales; decreases exceeding 84% are possible for NHH pesticide products with over \$75,000 in sales, which currently must pay a base fee plus a percent of sales. Again, because most registrants have multiple products in different sales tiers, increases in fees for some products are often offset by decreases in fees for other products. This product registration fee structure is also administratively much less complex for the department and would also allow the Bureau to stop collecting and storing confidential sales information.

## ESTABLISH FEE FOR 25(B) MINIMUM RISK PRODUCTS

Currently, 25(b) minimum risk pesticide products are not registered by the U.S. Environmental Protection Agency (EPA) and there is inconsistency in how states handle these products; 34 states register 25(b) products and 30 of those require fees; the remaining 16 states do not register these products. Wisconsin is one of four states that requires these products be registered, but does not assess a fee. States that require registration of 25(b) products are the first and only reviewer of these labels. Consequently, the 25(b) pesticide product labels require additional scrutiny by pesticide program staff compared with Section 3 EPA registered pesticide labels because they are not reviewed by EPA. Program staff must ensure the 25(b) products are using only the approved active and inert ingredients, have a label that lists both active and inert ingredients by percentage, make no claims to mitigate or control micro-organisms that pose a threat to human health, and no false or misleading claims. Reviewing and enforcing these provisions adds considerable time to the review of the 25(b) pesticide product labels.

While Wisconsin law requires all pesticide products to be registered in the state prior to distribution, it is known through marketplace inspections that many 25(b) products are sold in the state without being registered. However, because no fee is charged, the normal enforcement penalty of a double fee is ineffective as an incentive to register as “two times zero is zero.” The number of 25(b) products sold in the state increases each year.

The subcommittee made no recommendation as to whether or not 25(b) minimum risk pesticides should be assessed the flat fee. Most of the survey respondents were neutral about whether or not 25(b) products should be required to pay the flat fee. Because these products are pesticides and they do require significant staff time to handle, **the department is still considering whether or not 25(b) products be required to be registered and assessed a registration fee.** If the fee is assessed, this could add an additional 684 products if all currently registered products maintain their registration. However, the department expects that some 25(b) products will no longer be registered in the state if a fee is charged. Table 4 below shows estimated pesticide registration fees for 13,000 pesticide products, which includes 500 25(b) products. The fee for all products can be reduced by \$10 per product if 25(b) minimum risk products are included.

**Table 4: Proposed Flat Fee Per Pesticide Product (based on 13,000 products, including 25(b))**

Fee component	Per Product Fee	Proposed Revenue	Current Revenue	Revenue Difference
ACM Fund	\$362	\$4.7 million	\$5.4 million	-\$700,000
DNR Environmental Fund	\$108	\$1.4 million	\$1.3 million	\$100,000
ACCP Surcharge – NHH only	\$30	\$159,000	\$1.9 million	-\$1.74 million
<b>Total fees and surcharges</b>	<b>\$470 or \$500</b>	<b>\$6.27 million</b>	<b>\$8.6 million</b>	<b>-\$2.33 million</b>

Adopting these recommendations will require numerous statutory, and eventually administrative code, changes. In addition to changing the fees that affect the ACM Fund, these recommendation affects fees that are collected for the DNR environmental fund and the DATCP ACCP Fund. Specific statutory changes are listed in the Appendix.

### ISSUE THREE: TIMING OF PESTICIDE LICENSES

Currently, DATCP processes and issues all pesticide licenses (registration, PBL, RU, and ICAL) on a calendar year basis. Two full-time, permanent licensing associates and five limited term employee (LTE) proctors are responsible for the work, the majority of which is completed between November and April. In the pesticide registration program, the program associate registers approximately 13,000 products and licenses about 1250 businesses each year. The pesticide certification and licensing program associate issues about 2400 PBLs, 8500 ICALs, and 420 RU licenses. In addition, five LTEs serve as the primary exam proctors for around 6600 pesticide certification exams annually.

The pesticide registration and licensing subcommittee explored whether or not DATCP could better utilize staff and continue to meet industry needs if either the pesticide registration license or all the other pesticide licenses were to renew mid-year instead of at year-end.

#### RECOMMENDATION ISSUE THREE: KEEP PESTICIDE REGISTRATION ON A JANUARY 1 TO DECEMBER 31 RENEWAL CYCLE.

After discussing their business needs, **the subcommittee recommended leaving the PBL, ICAL and RU licenses on a calendar year basis.** The subcommittee was neutral on moving the pesticide registration licenses to mid-year, particularly if the product registration fees are no longer sales-based. However, **the committee recommended no change to the licensing years if a move would require registrants to pay fees twice in one year to accommodate the timing change.**

A survey of pesticide registrants showed 89% of registrants of all sizes either supported or were neutral about moving the licensing renewal cycle. The registrants who list between one and nine products were slightly more opposed to moving the date than registrants with more products.

After receiving the feedback from the industry subcommittee and industry survey, and because of the uncertainty of how to fund a six month offset in the renewal cycle, **DATCP concluded that it should maintain the existing licensing cycle for all pesticide licenses at this time.** The Bureau will continue to review staffing workloads and needs and seek efficiencies and work realignment in other ways.

## ISSUES FOUR AND FIVE: FUTURE OF AGRICULTURAL CHEMICAL CLEANUP PROGRAM

### BACKGROUND

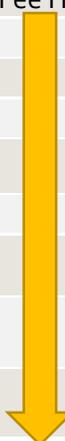
The ACCP was established in 1993 to help agrichemical facilities clean-up historic pesticide and fertilizer spills that contaminate the soil and groundwater. Since its inception, 440 cases have been cleaned-up and closed (170 closed with continuing obligations), 150 cases remain open and 160 sites required no action at the time of investigation. In addition, there are between 30-50 acute spills each year. The program no longer does remedial investigation initiations (RII) unless contamination is evident, and most sites now enter the ACCP as a result of large spills, continuing obligations at closure (residual contamination), and rule-required or lender-related assessments (real estate transactions).

Many changes have been made to the ACCP over the years in an effort to manage the reimbursement fund. These changes included decreasing the reimbursement rate from 80% to 75% of eligible costs, requiring submittals of costs within three years, reducing fees, reducing the required fund balance, and, most recently, excluding “greenfield” sites from the program.

### ACCP FUND REVENUES AND REIMBURSEMENTS

The ACCP Fund receives revenue from surcharges on six pesticide and fertilizer licenses and tonnage. Pesticide product registrations and fertilizer tonnage surcharges account for over 95% of the annual revenue, with surcharges on pesticide product registrations on products over \$75,000 in sales annually exceeding 68% of the total revenue. Table 5 shows the history of ACCP surcharges and the current surcharge levels.

**Table 5: ACCP Surcharge History**

ACCP Surcharges	FY93-FY02	FY03	FY05	FY 08 30% ↓	FY 13 20% ↓	
Fertilizer license (no pesticide)	ACM, GPR, and ACCP Fee Holiday	\$20	\$20	\$14	\$11.20	
Fertilizer Tonnage		\$0.86/ton	\$0.63/ton	\$0.44/ton	\$0.35/ton	
Restricted Use Dealer		\$40	\$40	\$28	\$22.40	
Pesticide Business Location		\$55	\$55	\$38	\$30.40	
Individual Commercial Applicator		\$20	\$20	\$14	\$11.20	
Pesticide Registration						
NHH < \$25,000		\$5	\$5	\$3.5	\$2.80	
NHH \$25,000 - \$74,999		\$170	\$170	\$120	\$96	
NHH > \$75,000 (% of sales)			1.1%	1.1%	0.74%	0.60%

By law (s. 94.73 (15), Wis. Stats), the department is required to keep the ACCP Fund balance (after annual revenues and reimbursements) below \$2.5 million and must reduce surcharges by rule to keep the balance below this level. Surcharges have been reduced multiple times since 1997 and the fund balance still exceeds the maximum allowed due to increasing and volatile fertilizer and pesticide sales and declining reimbursements. Industry is concerned that they are paying substantially more in surcharges than is required to adequately maintain the fund for reimbursements. Of the total \$56 million in ACCP Fund expenditures from 1993 through 2016 (estimated), there were approximately \$45 million in reimbursements and \$11 million in transfers to the general fund and required “non-ACCP” expenses. The end of FY14-15 ACCP Fund balance, shown in Table 6, was approximately \$5.4 million.

**Table 6: ACCP Fund Balance**

	Actual 2012-2013	Actual 2013-2014	Actual 2014-2015
Opening Balance	\$938,900	\$1,863,600	\$3,826,800
Total Revenue	\$2,603,400	\$3,038,100*	\$2,958,300
Reimbursements	(\$1,017,000)	(\$1,074,900)*	(\$1,410,300)
Other	(\$661,700)	\$0	\$0
Closing Balance	\$1,863,600	\$3,826,800	\$5,374,800

Since its inception, the ACCP Fund has reimbursed facilities and farmers over \$43 million on \$58 million in eligible costs (see Table 7). The average cost of a clean-up has been \$141,000 and almost 95% of costs submitted for reimbursement have been determined to be eligible for reimbursement. Farmers have accounted for about 12% of ACCP sites, and about 4% of the reimbursements. Over 60% of reimbursed expenses were direct soil or groundwater remediation costs.

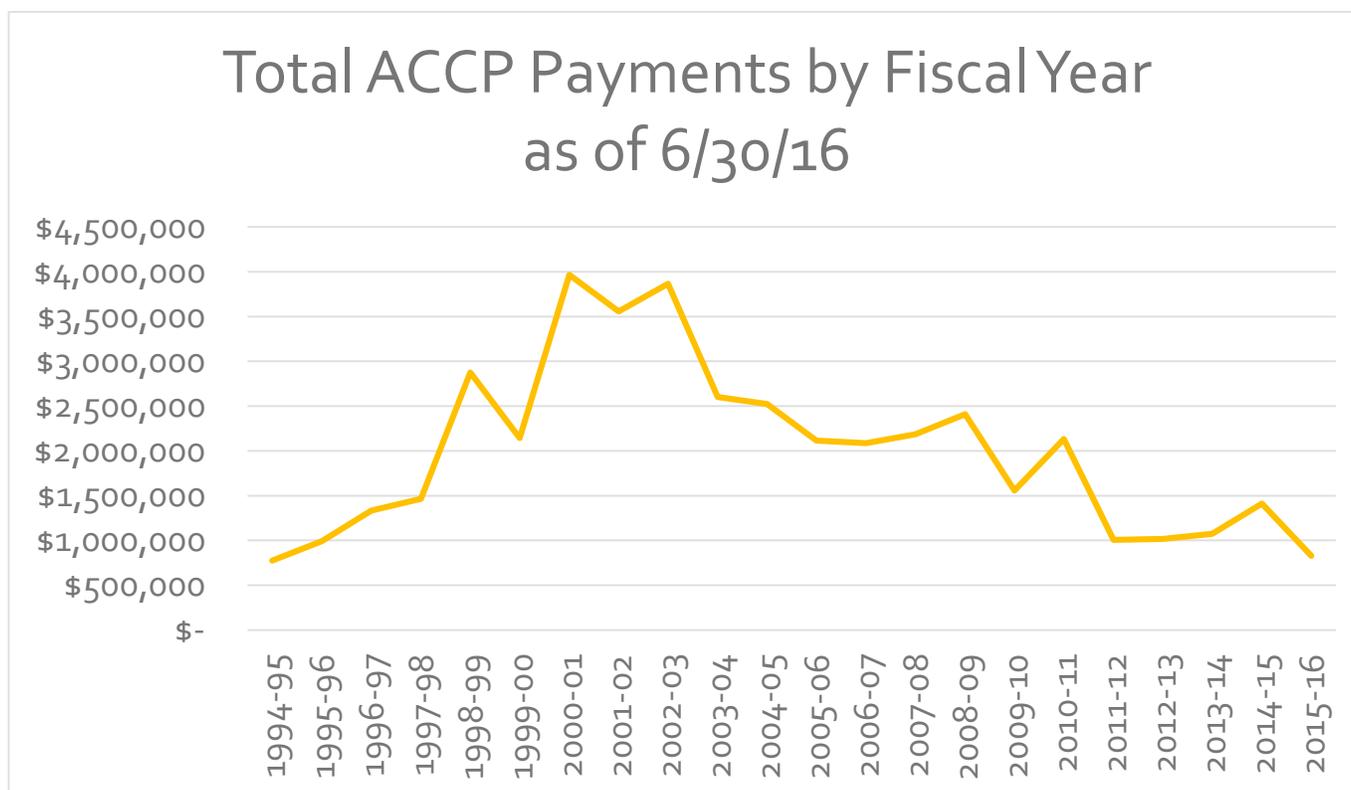
**Table 7: ACCP Fund Users, through June 30, 2015**

	Total Eligible Costs	% of Total Eligible Costs	Number of Discharge Sites	% of Total Discharge Sites
\$3,000 Deductible	\$ 2,164,700	4%	49	12%
\$3,000 & \$7,500 Deductible Co-Applicants	\$65,100	0%	1	0%
\$7,500 Deductible	\$55,857,000	96%	357	88%
<b>TOTAL</b>	<b>\$58,086,800</b>	<b>100%</b>	<b>407</b>	<b>100%</b>

There are 407 closed, or conditionally closed, ACCP cases. While more than half of the cases spent less than \$200,000, 39 total sites (23 of them are currently active) have reached their maximum of \$400,000 of eligible costs.

Total annual reimbursements have declined since the early 2000's (see Graph 4). At the height of the ACCP, over \$3 million was reimbursed annually. In FY15-16, however, reimbursements declined to approximately \$825,000. Based on the progress of active cases, program staff expect reimbursements to slightly decrease and then stabilize in the future.

Graph 4: Total ACCP Payments, 1995-2016



## RECOMMENDATIONS ISSUES FOUR AND FIVE: FUTURE OF ACCP

### MAINTAIN ACCP

Prior to RevEx, many in industry believed that once the historical contamination sites had been cleaned up, the ACCP Fund could be replaced by private insurance to help clean-up any new contamination. However, discussions with the insurance industry found that affordable private insurance is not available to provide coverage similar to what the ACCP provides. Insurance policies and the ACCP Fund cover different expenses. For example, insurance pays for unknown sudden and catastrophic events and loss of product, while the ACCP reimburses clean-up costs for spills, contamination caused by drips and dribbles, and “known” losses (e.g. continuing obligations). In addition, ACCP pays for clean-up of contamination that extends beyond the property lines.

The annual premium for an environmental protection rider to an insurance policy is estimated to be \$5,000 to \$10,000 for up to \$1 million in coverage. A larger facility would pay \$100,000 for up to \$1 million in coverage. A policy for a family farm would be around \$800 annually. If the state mandated insurance to ensure environmental cleanups are completed, this would be considered a “captured alternative risk” and policies would be sold with a very high deductible to make the premium more affordable. In contrast, the current average annual ACCP surcharge for a typical bulk storage facility with five commercial applicators is \$108.80. The typical cost for a farmer under the ACCP is more difficult to calculate as it depends on the amount of commercial fertilizer and pesticides purchased. However, at a rate of 0.21 ton commercial fertilizer per acre, a 200 acre farm would pay \$14.70 in fertilizer tonnage surcharges, plus 0.6% in surcharges on pesticide sales. Combined, these costs would be significantly lower than the individual farm policy.

**The subcommittee recommends maintaining the ACCP reimbursement program.** While no formal vote was taken, the Corn Growers Association clearly expressed that it does not concur with this recommendation. The Farm Bureau Federation expressed it would prefer the ACCP Fund be eliminated and reimbursements made through the ACM Fund.

## REDUCE SURCHARGES

The subcommittee recommended a new surcharge structure that significantly reduces overall revenue, more closely balances revenue contributions between fertilizer and pesticide sources (and farmers, agri-businesses and registrants), and is significantly less dependent on the fertilizer tonnage and pesticide registration surcharges, which are both highly volatile sources of funding and paid directly by farmers, who are less frequent users of the ACCP. As part of this new structure, the subcommittee recommended a new surcharge on bulk storage facilities, who are the biggest users of the ACCP Fund. The proposed surcharge structure would reduce annual revenue for the ACCP from \$2-\$3 million to about \$500,000, which is more in line with anticipated annual expenditures.

The recommended surcharge structure is as follows in Table 8:

**Table 8: Proposed ACCP Surcharges**

License	Existing Statutory Maximum	Current Surcharge	Recommended Surcharge
Pesticide Business Location	\$55	\$30.40	<b>\$20</b>
Individual Commercial Applicator	\$20	\$11.20	<b>\$10</b>
Restricted Use Dealer	\$40	\$22.40	<b>\$20</b>
Fertilizer License	\$20 (w/o PBL)	\$11.20 (w/o PBL)	<b>\$20 (all licensees)</b>
Fertilizer Tonnage	\$0.63 per ton	\$0.35 per ton	<b>\$0.10 per ton</b>
Pesticide registration (NHH products)	\$5, \$170 or 1.1% of sales	\$2.8, \$96 or 0.6% of sales	<b>\$30 per product</b>
Bulk Storage Facility – Pesticide	N/A	N/A	<b>\$25</b>
Bulk Storage Facility -- Fertilizer	N/A	N/A	<b>\$25</b>

The recommended surcharges would shift some costs directly from farmers to businesses and pesticide registrants. Farmers have directly paid most of the ACCP surcharges, despite receiving fewer direct reimbursement benefits, for the life of the program. This proposal more closely aligns the surcharges that are being paid with the benefits being received. Farmers would see a 71% reduction in the fertilizer tonnage surcharge and a 100% reduction (elimination) in the pesticide surcharge, if this surcharge structure is adopted.

Bulk storage facilities would have a modest increase in surcharges. A new bulk storage surcharge is proposed so the businesses that benefit most from the ACCP fund pay a larger percentage of the costs. For a bulk storage facility that sells both fertilizer and pesticides in bulk, this proposal results in a \$50 increase per site for the new surcharges; however, the bulk storage surcharges would be partially offset by decreases in the other pesticide surcharges.

Pesticide businesses that do not have bulk storage would see a reduction in surcharges under this recommendation. PBL, ICAL and RU dealer licenses would all be reduced if the proposal is adopted. The PBL would be reduced about 34% and ICAL's and RU Dealers would be reduced about 11% each. These reductions would minimize ACCP surcharges for those businesses that receive less direct benefit from the program.

Fertilizer spills account for about 50% of the ACCP expenses, but fertilizer manufacturers and products have historically paid much less (~29%) of the program costs. The proposal recommends increasing surcharges for fertilizer licensees, from \$11.20 to \$20 (78%), which would equal the proposed pesticide business surcharge. In addition, all fertilizer licensees will pay the surcharge, not just those who do not have a PBL. Fertilizer tonnage

surcharges, paid directly by farmers, would be reduced substantially. However, when all the changes to the surcharge structure are combined, the percentage of the ACCP Fund revenues generated from fertilizer will increase to between 4.0% -4.2%.

Finally, the pesticide registration surcharge would change under the recommendations from Issue 2 and these Issues. Currently, most of the ACCP surcharge revenue from pesticide registration comes from a 0.6% surcharge on sales of NHH products (with sales over \$75,000); this surcharge is typically assessed as a pass-through to farmers (via registrants and agribusiness facilities), but registrants pay the actual surcharge amount to DATCP. If the recommended changes to issue #2 are adopted, pesticide product sales will no longer be reported to the department, so the surcharge collection method must change. The subcommittee recommends a flat pesticide surcharge be assessed on all NHH pesticide products. These are the pesticide products that are typically involved in spills and whose costs to clean-up are eligible for reimbursement by the ACCP Fund. The percentage of revenue generated by these products will be reduced substantially in an effort to balance sources of revenue into the Fund. All subcommittee members support this recommendation.

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### INCREASE LIFETIME MAXIMUM

The subcommittee recommended an **inflationary increase to the lifetime maximum, from \$400,000 to \$650,000**. The lifetime maximum has not been increased since the inception of the program in 1993. The requested increase to \$650,000 is approximately what \$400,000 in 1993 equates to in 2016 dollars. Members of the subcommittee who oppose this recommendation include the Corn Growers Association, Wisconsin Farm Bureau Federation and a registrant of NHH pesticides; they feel this proposal expands the ACCP.

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### EXTEND ELIGIBILITY TO ALL AGRICHEMICAL SITES

The subcommittee recommended **repealing s. 94.73 (3m)(w), Wis. Stats**, and restoring eligibility to all agrichemical facility sites, including "greenfield" sites. The Corn Growers Association is neutral on this recommendation if the lifetime maximum is not increased, but opposes it if the lifetime maximum is increased.

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### IMPLEMENT SURCHARGE HOLIDAY AND AUTOMATIC SURCHARGE REDUCTION

The subcommittee recommended an **immediate fee (surcharge) holiday** to prevent adding revenue to the ACCP Fund since it already exceeds the statutory maximum under s. 94.73 (15)(a), Wis. Stats. It recommends extending the holiday as long as it is needed to reduce the fund balance well below \$2.5 million, as required by s. 94.73 (15)(a), Wis. Stats. The subcommittee also recommended **adding a provision to the statute that would require the department to review the ACCP fund balance each May and would establish automatic fee reduction triggers**. If the fund balance exceeds \$1.5 million on May 1, a one-year surcharge holiday would be in effect for the licensing year beginning July 1. If the fund balance is between \$750,000 and \$1.5 million, a 50% reduction in surcharges would be take effect July 1. If the fund balance is below \$750,000 on May 1, the full surcharge would be in effect July 1. All subcommittee members support these recommendations.

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### REPEAL POLLUTION PREVENTION AUTHORITY

The subcommittee recommended **eliminating the pollution prevention authority in s. 94.74, Wis. Stats**. This authority was established in 2007 to help use some of the ACCP fund balance, but rules were never written to implement the program. The subcommittee believes the ACCP Fund should only be used to reimburse cleanups and all members support eliminating this authority.

## ISSUES SIX AND SEVEN: FEED TONNAGE

Beginning in 1975, the department began collecting inspection fees from feed manufacturers and distributors. The current method of assessing and collecting inspection fees from the first entity in the commercial feed and feed ingredient distribution chain began in 1979. The inspection fee is \$0.25 per/ton and there is no minimum feed inspection fee payment; some licensees actually pay \$0.25, which is substantially less than the costs associated with processing the paperwork, reviewing labels and providing technical assistance. Over half of the department's 1300 feed licensees report less than 200 tons, and many of those are pet treat manufacturers. The feed tonnage subcommittee evaluated licensing and inspection fee options for low tonnage licensees and pet food manufacturers. Additionally, at the request of industry, the subcommittee evaluated the overall feed inspection fee and tonnage reporting requirements, including who should pay. The department conducted a survey of all feed licensees to get broader industry input on these issues at the request of the subcommittee.

## RECOMMENDATION ISSUES SIX AND SEVEN: FEED TONNAGE

### IMPLEMENT A MINIMUM TONNAGE FEE

Over half (~750 of 1300) of Wisconsin's feed licenses report less than 200 tons of feed annually. At \$0.25/ton, those licensees pay between \$0.25 and \$50 in inspection fees each year, which does not cover the costs associated with processing the paperwork, reviewing labels and providing technical assistance, particularly since many of these low tonnage products need substantial assistance with their labels and other requirements.

Many of the low tonnage licensees are pet food or pet treat manufacturers. The department and the subcommittee determined a new pet food license was unnecessary and would be administratively burdensome for both DATCP and industry. They concluded that the current commercial feed license form can be revised to obtain important information about pet food manufacturers and distributors, without creating a new license type. Other states assess low tonnage licensees a minimum inspection fee--ranging from \$10 to \$100--or charge a 50 to \$100 per package fee for pet treat and food products and other low tonnage items. The subcommittee felt product registration and a per package fee would be too steep a fee increase for many of the smallest feed licensees, and instead **recommended a minimum inspection fee of \$50 and reduced reporting requirements for all licensees who report less than 200 tons.** To ease the reporting for these companies, the companies would simply indicate the type(s) of feed they are selling/distributing – rather than the actual amounts. For instance, a company that would normally report they sold 50 tons of Dairy Feed and 50 tons of Cattle Feed, would “check a box” on the feed type they sold and pay the minimum of \$50.

Companies that sell more than 200 tons would continue to indicate the type of feed and the amounts sold, and pay accordingly. Tonnage information is used to target surveillance sampling, conduct small scale inspection fee audits, and aid the industry in understanding the distribution of various products/ingredients throughout the state.

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## CLARIFY AND SIMPLIFY REQUIREMENTS

The last substantial revision to how feed inspection fees are assessed and collected was in 1979. Since then, feed manufacturing and distribution have changed significantly. Commercial feed and feed ingredients often go through one of more brokers or jobbers and it is now unclear to many in industry who is responsible for paying the inspection fees. The subcommittee discussions and survey results support the department's concern that industry is confused about current requirements and how to comply with them. The subcommittee recommended **making some minor changes to clarify and simplify the feed statute, including eliminating exempt buyer status and associated credits, eliminating most grain exemptions, and assessing inspections fees to those first to distribute feed "in or into Wisconsin."** To assist in simplifying the reporting requirements, DATCP needs to clarify what must be reported. This will require describing or defining the difference between a physical or a chemical change within grain that is used as an ingredient. For example, industry believes cracked corn and flaked corn are the same. However, the nutritional profile of the corn is changed when flaked, whereas when cracked, the profile remains the same. Basing the type of change (i.e., physical/chemical) on the nutritional profile of the grain could aid the industry in delineating what would/would not require reporting. Currently, if the corn is supplied by the producer and is cracked or flaked, reporting is required. By defining physical change, a mill would not report tonnage on grain(s) that is producer-owned that has not been chemically changed. Based on the subcommittee discussions and survey results, these changes would reflect how the vast majority of industry are currently trying to comply with the law. The subcommittee also **recommends simplifying the reporting forms.** The department can change the reporting form without revising the statute.

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## CONDUCT COMPREHENSIVE STUDY OF FEED DISTRIBUTION IN WISCONSIN

The feed subcommittee and the survey of feed licensees uncovered extensive confusion in the industry about the current inspection fee and tonnage reporting requirements. Survey results demonstrate that this confusion results in some licensees routinely overpaying, while others routinely underpay. Also, it is clear there have been major changes in the supply chain and feed distribution practices over the last 35 years, with more manufacturers and retailers relying on brokers, jobbers, and wholesalers. DATCP heard from several individuals and stakeholders that they are uncertain how the ingredient supply chain flows into or within the state. When industry is unable to provide to us a basic understanding of how its supply chain functions, it adds additional confusion to companies in complying with the reporting requirements and further blurs the department's ability to assess equitable fees. Because of the lack of understanding and inconsistent application of existing regulations within the industry, the department is concerned that making major changes to how inspections fees are assessed and paid without additional information may not meet DATCP or industry needs and could have unintended negative consequences. Therefore, the department **recommends a comprehensive study of the feed industry's distribution practices to gain a better understanding of how commercial feed and feed ingredients move in the marketplace.**

This type of study is unprecedented, as the department, feed industry and our regulatory partners all have been slow to identify and act upon the supply chain changes that have occurred over the last four decades. By taking the lead in conducting this study, we could aid our industry in developing a better understanding of where their products originated, and streamline our reporting/collection fee process. At the conclusion of the study, the department will work with industry and the legislature to identify and implement any needed changes to the law.

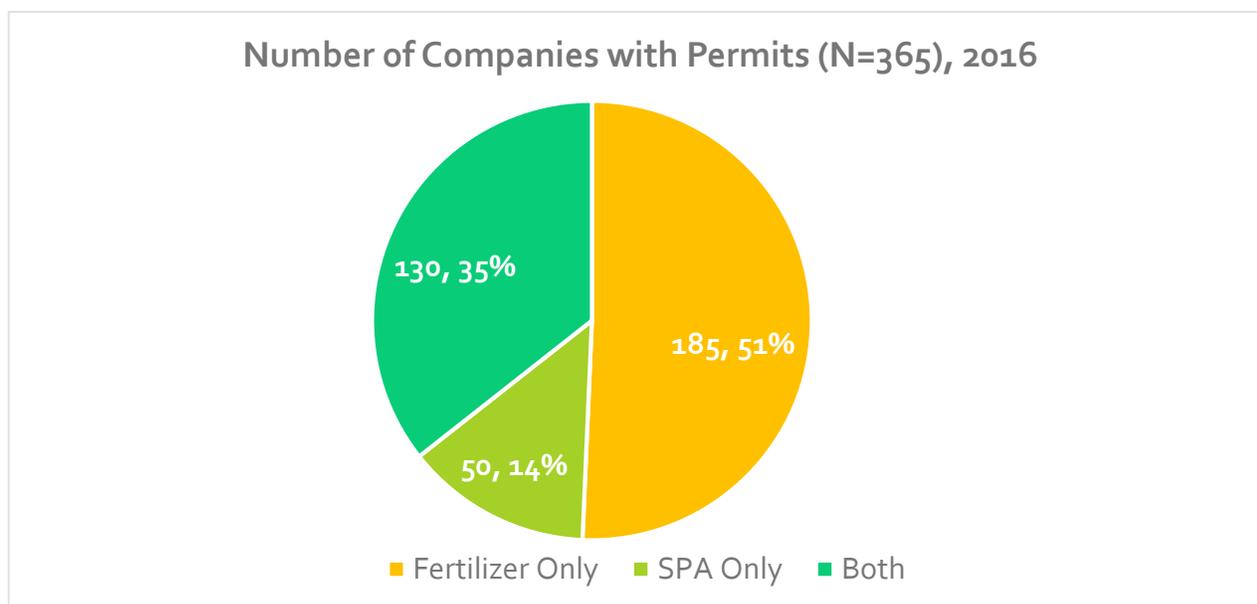
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## ISSUE EIGHT: FERTILIZER AND SPA PERMITS

Fertilizer permits are required in Wisconsin for products below 24% combined N-P-K; SPA permits are required for all SPA products a company wants to manufacture or distribute in Wisconsin and some products require a permit in order to be sold within the state. The product permits are one-time (fertilizer permits are \$25 and SPA permits are \$100) and remain active as long as the company maintains an active license and the product does not change. DATCP issues about 400 permits annually. A new permit is required when a permitted product undergoes a name change, grade, formulation or other significant change (e.g., claims).

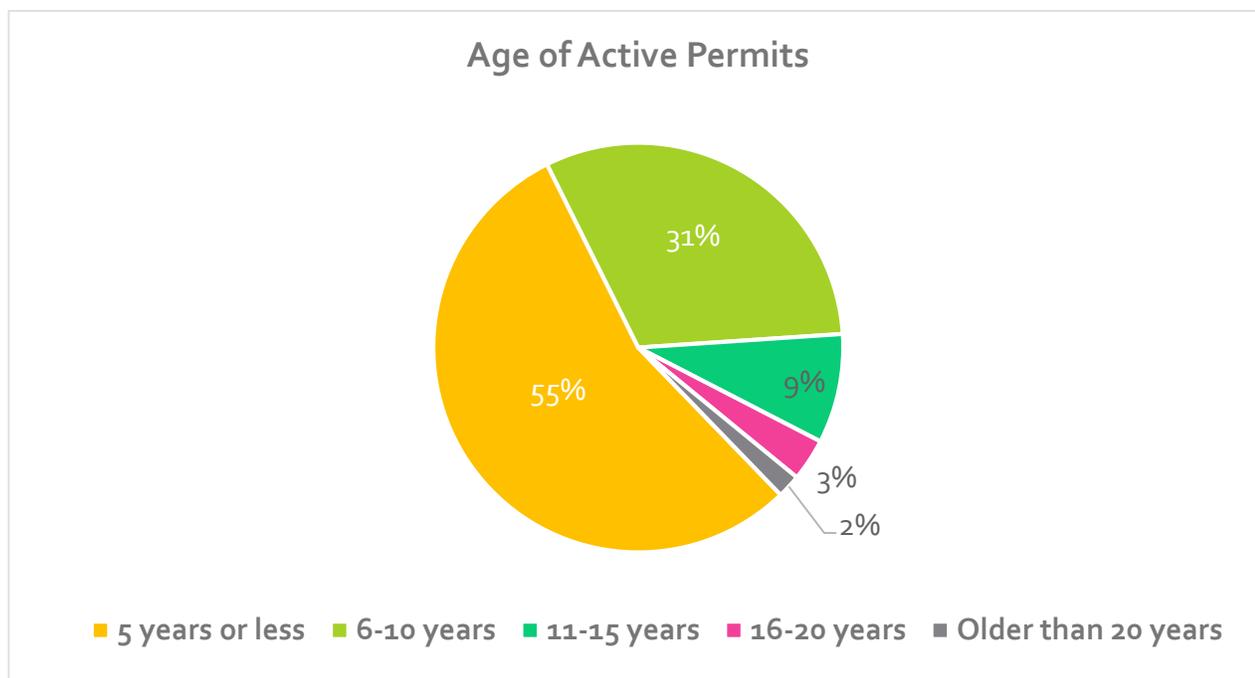
Historically, DATCP has issued a total of 6600 fertilizer permits and 2400 SPA permits. As Graph 5 shows, in 2016, 365 companies hold a total of about 3100 active fertilizer permits and about 1000 active SPA permits. Of these, 130 companies (35%) have about 500 products that have been issued both fertilizer and SPAs permits (1000 total permits) due to product formulations and claims that require both fertilizer and SPA licenses and permits. These licenses expire at different times, which can be confusing for companies.

**Graph 5: Number of Companies with Permits**



Permits that do not expire are difficult for the department and industry to manage. Neither DATCP nor licensees understand what products are actually legally allowed to be sold in the Wisconsin marketplace. While over 55% of permits are less than five years old, another 31% are 6-10 years old and 2% are over 20 years old (see Graph 6). Products with permits exceeding 20 years are unlikely to still be actively distributed in Wisconsin; however, the permits are active until the department revokes them, the company applies for a new permit or the licensee voluntarily surrenders them. Companies unintentionally fall out of compliance when they forget to re-apply for permits when formulations or other changes requiring new permits occur.

Graph 6: Age of Active Permits



The department presented several different ideas to the fertilizer and SPA industry subcommittee on ways which would help both DATCP and industry better manage fertilizer and SPA permits and requested its recommendations. The options ranged from annual permits to multi-year permits to one-time permits with an annual renewal.

## RECOMMENDATIONS ISSUE EIGHT: FERTILIZER AND SPA PERMITS

### IMPLEMENT ANNUAL PERMIT MAINTENANCE PROCESS

**The industry subcommittee recommended keeping the one-time permits, but implementing an annual maintenance process and per permit maintenance fee (\$5) during the annual license renewal process.** Under this approach, the department would provide companies with a list of their active product permits at license renewal time; licensees would decide whether or not to “keep active” or “voluntarily surrender” each product permit at this time. The benefit of an annual maintenance process is that DATCP and industry will both understand which products are legally in the marketplace and be better able to ensure a fair marketplace for compliant businesses. New permits would continue to be available to be obtained throughout the year.

DATCP conducted a survey of all fertilizer and SPA license holders and 95% of those who responded were favorable towards or neutral about an annual permit maintenance process with an annual \$5 per product permit maintenance fee. Eighty-one percent (81%) of respondents were positive or neutral about whether or not this process would help them better manage their product permits, and 80% said this recommendation would result in only a small cost increase (most companies have fewer than 9 permits).

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## ALIGN FERTILIZER AND SPA LICENSE RENEWAL DATES

About 35% of companies that hold product permits have products with both fertilizer and SPA permits (see Graph 5). Because those licenses renew at different times of years--the SPA license year is April 1 to March 31 and the fertilizer license year is August 15 to August 14--licensees often have trouble remembering to update or obtain both permits that are required. **The stakeholder subcommittee recommended the department have both licenses renew at the same time** in order to eliminate this confusion and simplify the process.

DATCP considered staff workload and proposed several alternatives for when both licenses could renew as part of an industry survey. The survey found that 100% of those who responded favor having both licenses renew at the same time. Forty-two percent (42%) of respondents preferred an October 1-September 30 license year, 18% preferred an August 15-August 14 license year and 32% were fine with either option; tonnage would be reported from July 1 to June 30 (current fertilizer tonnage reporting year) for either option. Based on these results, **the recommendation is to have both fertilizer and SPA move to an October 1-September 30 license year, with the tonnage reporting year remaining July 1 to June 30.**



## APPENDIX

This appendix includes:

- Proposed statutory language changes
- Explanation of the three industry surveys

Other information available upon request or at [https://datcp.wi.gov/Pages/Programs\\_Services/RevEx.aspx](https://datcp.wi.gov/Pages/Programs_Services/RevEx.aspx):

- Meeting minutes
- Meeting presentations
- Complete survey results
- Meeting presentations
- ACM Bureau annual reports

## RECOMMENDED STATUTORY CHANGES

Most of the recommendations contained within this report require changes to statute. **The changes listed below have been drafted by DATCP** to represent what the department believes is required to implement the recommendations. Legislative drafting may look different but will have the same results, if all recommendations are adopted.

### 94.64 Fertilizer

#### (3) FERTILIZER LICENSE.

(a) 1. Except as provided in subd. 2., no person may manufacture or distribute fertilizer in this state without an annual license from the department. A separate license is required for each business location and each mobile unit at which the person manufactures fertilizer. A license shall expire on ~~August 14~~ September 30 annually and is not transferable between persons or locations.

#### (3m) NPK PERCENTAGE REQUIREMENT; EXEMPTION PERMITS.

(g) Annually, by September 30, maintain, amend or discontinue each product permit issued under this section.

#### (3r) LICENSE FEES AND SURCHARGES.

(a) A person applying for a license under sub. (3) shall pay the following annual license fees:

1. For each business location and each mobile unit that the applicant uses to manufacture fertilizer in this state, \$30.
2. If the applicant distributes, but does not manufacture, fertilizer in this state, \$30.

(b) Beginning with the license year that begins on October 1, 2017, a person applying for a license under sub. (3) shall pay the following agricultural chemical cleanup surcharges, ~~unless the department establishes different surcharges under s. 94.73(15):~~

1. For each business location and each mobile unit that the applicant uses to manufacture fertilizer in this state, ~~other than a business location or mobile unit that is also licensed under s. 94.685 or 94.703, \$11.20~~ \$20.
2. If the applicant distributes, but does not manufacture, fertilizer in this state, ~~\$11.20~~ \$20.
3. For each business location and each mobile unit that the applicant uses to manufacture or distribute bulk fertilizer in this state, as defined under 94.645(1)(b), \$25.

#### (4) TONNAGE FEES AND SURCHARGES.

(a) *Requirement.* Except as provided in par. (b), a person who is required to be licensed under sub. (3) and who sells or distributes fertilizer in this state shall pay to the department the following fees and surcharges on all fertilizer that the person sells or distributes in this state:

5. An agricultural chemical cleanup surcharge of ~~35 10~~ cents per ton on all fertilizer that the person sells or distributes in this state after ~~June 30, 2014~~ June 30, 2018 unless the department establishes a different surcharge under s. ~~94.73(15)~~.

#### (5) TONNAGE REPORT AND FEE PAYMENT.

(a) *Requirement.* A person who is required to pay fees or surcharges under sub. (4) shall do all of the following by ~~August 14~~ September 30 annually:

(b) *Extended deadline.* The department may extend the filing deadline under par. (a) for up to 30 days for cause, in response to a request filed before ~~August 14~~ September 30.

**94.65 Soil or Plant Additives****(2) SOIL OR PLANT ADDITIVE LICENSE.**

(a) Except as provided under par. (b), no person may manufacture or distribute a soil or plant additive in this state unless the person first obtains an annual license from the department. Application for a license or for renewal of a license shall be made on forms provided by the department and shall be accompanied by an annual license fee of \$25. All licenses expire on ~~March 31~~ September 30. Licenses issued during the April 1, 2017 to March 31 2018 licensing year will expire September 30, 2018.

**(6) FEES, REPORTS AND RECORDS.**

(a) Each person holding a permit for the distribution of a soil or plant additive under sub. (3) shall:

1. Annually, by September 30, maintain, amend or discontinue each product permit issued under 94.65(3)(c).

~~2.~~ Annually by March 31 September 30, file with the department a tonnage report setting forth the number of tons of each soil or plant additive distributed ~~during~~ between July 1 and June 30 the preceding year by that person or by any other person authorized under sub. (3)(a) 2. to distribute under the name of that person and pay to the department a fee of 25 cents per ton so distributed. The minimum total fee is \$25. Tonnage fees collected on sales from January 1, 2017 through June 30, 2018 are due by September 30, 2018.

~~3.~~ 3. Maintain, for 2 years following the date the tonnage report required under subd. 1. is filed, distribution records upon which the tonnage report is based. The permit holder shall make the distribution records available for inspection, copying and audit by the department upon request.

~~4.~~ 4. Annually by ~~March 31~~ September 30, pay to the department a research fee of 10 cents for each ton of soil or plant additive distributed as described in the tonnage report filed under subd. 1. The minimum research fee is \$1 for 10 tons or less. The department shall credit this fee to the appropriation account under s. 20.115 (7) (h).

~~5.~~ 5. Annually by ~~March 31~~ September 30, pay to the department a groundwater fee of 10 cents for each ton of soil or plant additive distributed, as described in the tonnage report filed under subd. 1. The minimum groundwater fee is \$1 for 10 tons or less. All groundwater fees shall be credited to the environmental fund for environmental management.

(b) If by ~~March 31~~ September 30 a person holding a permit under sub. (3) has failed to file a tonnage report or to pay the inspection fee required under par. (a), the department may summarily suspend or revoke the permit or license issued under this section. A penalty of 10% of the inspection fee due shall be assessed against the permit holder for all inspection fees not paid when due. The minimum total penalty is \$10. An unpaid inspection fee or penalty shall constitute a debt owed the department by the permit holder until paid. The department may not issue or renew a license or issue a permit or amended permit to a person owing an unpaid inspection fee or penalty.

**94.68 Pesticides; licensing of manufacturers and labelers.**

(2)(a) An application for a license under sub. (1) shall be made on a form prescribed by the department. An applicant shall submit all of the following with the application:

1. . All fees and surcharges required under s. 94.681

2. A report identifying each pesticide that the applicant sells or distributes for use in this state. ~~and the gross revenue that the applicant derived from the sale or distribution of each pesticide during the preceding year, as defined in s. 94.681(1)(d).~~

~~(b) The department may not disclose sales revenue information obtained under par. (a) 2.~~

(3) At least 15 days before a person holding a license under this section begins to sell or distribute for use in this state a pesticide product that was not identified in the person's most recent annual license application, the person shall file a supplementary report with the information required under sub. ~~(2)(a) 2.~~ and any fees and surcharges required under s. 94.681. ~~The department may not disclose sales revenue information obtained under this subsection.~~

**94.681 Pesticide manufacturers and labelers: fees and surcharges.**

(1) DEFINITIONS. In this section:

~~(cm) "Payment period" means the 12 months ending on September 30 of the calendar year for which a license is sought under s. 94.68.~~

~~(d) "Preceding year" means the 12 months ending on September 30 of the year immediately preceding the year for which a license is sought under s. 94.68.~~

(2) ANNUAL LICENSE FEE. An applicant for a license under s. 94.68 shall pay an annual license fee for each pesticide product that the applicant sells or distributes for use in this state. ~~Beginning with the license year starting January 1, 2018, the amount of the fee is \$480 per pesticide product based on sales of pesticide products during the payment period. An applicant shall pay an estimated fee before the start of each license year as provided in sub. (35) (a) and shall make a fee adjustment payment before the end of the license year if required under sub. (35) (b). Except as provided in sub. (5) or (6),~~ the fee for each pesticide product is as follows:

~~(a) For each household pesticide product:~~

~~1. If the applicant sells less than \$25,000 of the product during the payment period for use in this state, \$265.~~

~~2. If the applicant sells at least \$25,000 but less than \$75,000 of the product during the payment period for use in this state, \$750.~~

~~3. If the applicant sells at least \$75,000 of the product during the payment period for use in this state, \$1,500.~~

~~(b) For each industrial pesticide product:~~

~~1. If the applicant sells less than \$25,000 of the product during the payment period for use in this state, \$315.~~

~~2. If the applicant sells at least \$25,000 but less than \$75,000 of the product during the payment period for use in this state, \$860.~~

~~3. If the applicant sells at least \$75,000 of that product during the payment period for use in this state, \$3,060.~~

~~(c) For each nonhousehold pesticide product:~~

~~1. If the applicant sells less than \$25,000 of that product during the payment period for use in this state, \$320.~~

~~2. If the applicant sells at least \$25,000 but less than \$75,000 of the product during the payment period for use in this state, \$890.~~

~~3. If the applicant sells at least \$75,000 of the product during the payment period for use in this state, \$3,060 plus 0.2% of the gross revenues from sales of the product during the payment period for use in this state.~~

(3) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE. An applicant for a license under s. 94.68 shall pay an agricultural chemical cleanup surcharge ~~of \$30~~ for each nonhousehold pesticide product that the applicant sells or distributes for use in this state. ~~The amount of the surcharge is based on sales of nonhousehold pesticide products during the payment period. An applicant shall pay an estimated surcharge before the start of each license year as provided in sub. (35) (a) and shall make a surcharge adjustment payment before the end of the license year if required by sub. (35) (b). Except as provided in sub. (6) or under s. 94.73 (15),~~ ~~†~~ The amount of the surcharge is \$30. as follows:

~~(a) If the applicant sells less than \$25,000 of the product during the payment period for use in this state, \$2.80.~~

~~(b) If the applicant sells at least \$25,000 but less than \$75,000 of that product during the payment period for use in this state, \$96.~~

~~(c) If the applicant sells at least \$75,000 of that product during the payment period for use in this state, an amount equal to 0.60 percent of gross revenues from sales of the product during the payment period for use in this state.~~

~~(3m) WOOD PRESERVATIVES; CLEANUP SURCHARGE. An applicant for a license under s. 94.68 shall pay an environmental cleanup surcharge of \_\_\_\_\_ for each pesticide product that is not a household pesticide and is solely labeled for use on wood and contains pentachlorophenol or coal tar creosote that the applicant sells or distributes in this state. The amount of the surcharge is based on sales of pesticide products that are not household pesticides and are solely labeled for use on wood and contain pentachlorophenol or coal tar creosote during the payment period. An applicant shall pay an estimated surcharge before the start of each license year as provided in sub. (35) (a) and shall make a surcharge adjustment payment before the end of the license year if required by sub. (35) (b). Except as provided in sub. (6),~~ the amount of the surcharge is as follows:

~~(a) If the applicant sells less than \$25,000 of the product during the payment period for use in this state, \$5.~~

(b) If the applicant sells at least \$25,000 but less than \$75,000 of that product during the payment period for use in this state, \$170.

(c) If the applicant sells at least \$75,000 of that product during the payment period for use in this state, an amount equal to 1.1% of gross revenues from sales of the product during the payment period for use in this state.

**(35) PAYMENT OF FEES AND SURCHARGES.**

(a) Before the start of a license year, an applicant shall pay the amount due under 94.681(2) for each pesticide product it wishes to distribute in the state. ~~estimate the gross revenues that the applicant will receive from sales of each pesticide product during the payment period that ends during the year for which a license is sought under s. 94.68 and shall pay the amounts under subs. (2), (3), and (3m) based on that estimate.~~ At least 15 days before beginning to sell a new pesticide product in this state, a licensee shall pay \$480 to list the product in the state. ~~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 shall pay the amounts under subs. (2), (3), and (3m) based on that estimate.~~

(b) Before the end of a license year, a licensee shall report to the department the gross revenues that the licensee received from sales of each pesticide product during the payment period that ended during the license year, as required under s. 94.68(2)(a) 2., and shall reconcile the estimated payment made under par. (a) with the amounts actually due under subs. (2), (3), and (3m) as follows:

1. If the amount due based on actual sales is greater than the amount paid based on estimated sales, the licensee shall pay the additional amount due.
2. If the amount due based on actual sales is less than the amount paid based on estimated sales, the licensee may request the department to reimburse the licensee for the amount of the overpayment.
3. If the amount due based on actual sales equals the amount paid based on estimated sales, no action is required.

(c) 1. Except as provided in subd. 2., if a licensee's total payment due under par. (b) is more than 20% of the total amount paid under par. (a), the licensee shall pay a penalty equal to 20% of the total amount due under par. (b). The penalty under this subdivision is in addition to any late filing fee under s. 93.21(5).

2. Subdivision 1. does not apply to a licensee if the licensee's payments under par. (a) are based on estimates of gross revenues from sales for each pesticide product that equal at least 90% of the licensee's gross revenues from sales of the pesticide product during the preceding year.

**(5) UNREPORTED PESTICIDE; INCREASED LICENSE FEE.**

(a) If a person applying for or holding a license under s. 94.68 sells or distributes a pesticide product for use in this state without having filed a report for the product under s. 94.68(2)(a) 2. or (3), the license fee for that product is twice the amount determined under sub. (2).

(b) If a person applying for, holding, or required to have a license under s. 94.68 sells or distributes a pesticide that is exempt from federal registration under 40 CFR 152.25 for use in this state, without having filed a report under 94.68(2)(a) 2., the fee is \$250.

**(6) DISCONTINUED PESTICIDE; FINAL LICENSE FEE AND CLEANUP SURCHARGE.**

(a) A person holding a license under s. 94.68 who stops selling or distributing a pesticide product for use in this state shall do all of the following:

1. Notify the department by December 31 of the year in which the person stops selling or distributing the pesticide product for use in this state and pay a final license fee for the pesticide product.
2. By March 31 of the year following the year in which the person stopped selling or distributing the pesticide product for use in this state, file a report with the department showing the gross revenue that the person derived from the sale of the pesticide product for use in this state from October 1 of the year in which the person stopped selling or distributing the pesticide product to December 31 of the year in which the person stopped selling or distributing the pesticide product.
3. By March 31 of the year following the year in which the person stopped selling or distributing the pesticide product for use in this state, pay a final license fee for the pesticide product, calculated under sub. (2) based on the sales of the pesticide product during the period specified in subd. 2.
4. If the product is a nonhousehold pesticide, pay a final agricultural chemical cleanup surcharge. calculated under sub. (3) based on sales of the product during the period specified in subd. 2.

5. If the product is a wood preservative to which sub. ~~(3m)~~ applies, pay a final environmental cleanup surcharge calculated under sub. ~~(3m)~~ based on sales of the product during the period specified in subd. ~~2.~~  
~~(b)~~ The department may not disclose information obtained under par. ~~(a) 2.~~

(7) USE OF FEES AND SURCHARGES.

(a) *License fees.* The department shall deposit all license fees collected under subs. ~~(2), (5) and (6) (a) 1.~~ in the agrichemical management fund except as follows:

1. The department shall deposit an amount equal to ~~\$94~~ \$108 for each pesticide product for which an applicant pays a license fee in the environmental fund for environmental management.
2. ~~The department shall deposit a hazardous household waste collection and disposal fee of \$30 for each household pesticide product for which an applicant pays a license fee in the environmental fund for environmental management.~~

(b) *Nonhousehold pesticides; cleanup surcharge.* The department shall deposit the surcharges collected under subs. ~~(3) and (6) (a) 4.~~ in the agricultural chemical cleanup fund.

~~(bm) Wood preservatives; cleanups surcharge.~~ The department shall deposit the surcharges collected under subs. ~~(3m) and (6) (a) 5.~~ in the environmental fund for environmental management.

**94.685 Pesticides; licensing of dealers and distributors of restricted-use pesticides**

(3)(a) A dealer or distributor shall pay the following annual license fee and surcharge for each location from which the dealer or distributor sells restricted-use pesticides:

2. An agricultural chemical cleanup surcharge of \$22.40, ~~unless the department establishes a different surcharge under s. 94.73(15).~~ Beginning with the license year starting January 1, 2018, the surcharge is \$20.

**94.703 Pesticides; licensing of commercial application businesses**

(3)(a) 2. An agricultural chemical cleanup surcharge of \$30.40, ~~unless the department establishes a different surcharge under s. 94.73(15).~~ Beginning with the license year starting January 1, 2018 the surcharge is \$20.

3. Beginning with the license year starting January 1, 2018, an agricultural chemical cleanup surcharge of \$25 for all locations that manufacture or distribute bulk pesticides in this state, as defined under 94.645(1)(b).

**94.704 Pesticides; licensing of individual commercial applicators**

(3)(a) 2. An agricultural chemical cleanup surcharge of \$11.20, ~~unless the department establishes a different surcharge under s. 94.73(15).~~ Beginning with the license year starting January 1, 2018, the surcharge is \$10.

**94.72 Commercial Feed**

(6) INSPECTION FEES.

(a) *Fee amounts.* Except as otherwise provided in this subsection, a person required to be licensed under sub. ~~(5)~~ shall pay the following annual inspection fees on all commercial feeds distributed in this state:

~~1. For commercial feeds distributed in this state, beginning on October 29, 1999, and ending on December 31, 2001, a feed inspection fee of 13 cents per ton.~~

~~1. 2.~~ For commercial feeds distributed in this state prior to January 1, 2018, a feed inspection fee of 23 cents per ton. For commercial feeds distributed in this state on or after January 1, 2002-2018, a feed inspection fee of 23 cents per ton, unless fewer than 200 tons are distributed in a year, in which case a feed inspection fee of \$46.

~~2. 3.~~ Beginning on October 29, 1999, f For commercial feeds distributed in this state prior to January 1, 2018, a weights and measures inspection fee of 2 cents per ton. For commercial feeds distributed in this state on or after January 1, 2018, a weights and measures fee of 2 cents per ton, unless fewer than 200 tons are distributed in a year, in which case a weights and measures inspection fee of \$4.

**(am) Tonnage reports and fee payments.**

**(b) Responsibility.** Except as provided in par. (d), if more than one manufacturer or distributor is involved in the chain of distribution, the one who first sells or distributes commercial feed in or into Wisconsin for further sale is responsible for the payment of inspection fees for the feed. No inspection fees are required for commercial feeds sold under the name and label of another licensee if the inspection fees have been or will be paid by a previous manufacturer or distributor in the chain of distribution as evidenced by an invoice or sales receipt. No inspection fees are required for commercial feeds on which the inspection fees have been or will be paid by a previous manufacturer or distributor in the chain of distribution as evidenced by an invoice or sales receipt.

~~**(c) Invoice or receipt.** A manufacturer or distributor who distributes commercial feed to another manufacturer or distributor except an exempt buyer shall indicate on the invoice or sales receipt that the inspection fees have been or will be paid either by the manufacturer or distributor who distributes the commercial feed or by a prior manufacturer or distributor in the chain of distribution.~~

**(d) Exemption.** A manufacturer or distributor who is exempted from the license requirement under sub. (5)(a) and who maintains records required under par. (f)(g) is not required to file tonnage reports or to pay inspection fees.

**(e) Credit for feed ingredient.** A manufacturer located in this state may claim an inspection fee credit for commercial feed purchased and used as a feed ingredient in manufacturing another commercial feed if the commercial feed used as a feed ingredient is purchased from a licensee who has or will pay inspection fees on that feed as evidenced by an invoice or sales receipt. The manufacturer shall identify clearly on the tonnage report the amount of commercial feed used as a feed ingredient and the names of licensees from whom it was purchased.

~~**(f) Exempt buyers.** A licensed manufacturer or distributor in this state who distributes 40 percent or more of the tonnage amount of commercial feed it manufactures or distributes in other states may request the department to be classified as an exempt buyer. An exempt buyer is responsible for the payment of inspection fees of all commercial feed it distributes. The department shall maintain a list of all exempt buyers and make the list available on request.~~

~~**(g) Credit for feed sold to exempt buyers.** A licensed manufacturer or distributor may claim an inspection fee credit for commercial feed distributed to an exempt buyer. The manufacturer or distributor shall identify clearly on the tonnage report the name of the exempt buyer and the type and amount of commercial feed on which an inspection fee credit is claimed.~~

~~**(h) Credit for sales in other states.** A manufacturer or distributor classified as an exempt buyer may claim an inspection fee credit for commercial feed distributed to purchasers in other states. The exempt buyer shall identify clearly on the tonnage report the type and amount of commercial feed on which an inspection fee credit is claimed. The exempt buyer shall maintain a record of all sales to purchasers in other states for which an inspection credit is claimed. This record shall be maintained for 3 years and be made available for inspection, copying or audit on request of the department.~~

#### **94.73 Agricultural chemical cleanup program.**

(3m) COSTS NOT ELIGIBLE FOR REIMBURSEMENT. An applicant under sub. (3) is not eligible for reimbursement of any of the following costs:

~~(w) The cost of corrective action taken in response to a discharge from a bulk storage facility, owned or operated by a person who manufactures or distributes fertilizer or pesticide, that is located on property on which no bulk storage facility was located before July 2, 2013, unless the person filed construction plans for the bulk storage facility with the department before July 2, 2013.~~

## (6) AMOUNT OF REIMBURSEMENT.

(b) Except as provided in pars. (c) and (e), the department shall reimburse a responsible person an amount equal to 75% of the corrective action costs incurred for each discharge site that are greater than \$3,000 and less than \$4,000,000. For costs incurred after July 1, 2017, except as provided in pars. (c) and (e), the department shall reimburse a responsible person an amount equal to 75% of the corrective action costs incurred for each discharge site that are greater than \$3,000 and less than \$650,000.

(c) Except as provided in par. (e), the department shall reimburse a responsible person an amount equal to 75% of the corrective action costs incurred for each discharge site that are greater than \$7,500 and less than \$4,000,000 if any of the items listed in (1) through (3) below applies. For costs incurred after July 1, 2017, except as provided in par. (e), the department shall reimburse a responsible person an amount equal to 75% of the corrective action costs incurred for each discharge site that are greater than \$7,500 and less than \$650,000 if any of the items listed in (1) through (3) below applies.

1. The responsible person is required to be licensed under ss. 94.67 to 94.71.
2. The responsible person employs more than 25 persons.
3. The responsible person has gross annual sales of more than \$2,500,000.

## (15) SURCHARGE ADJUSTMENTS.

(a) Subject to par. (am), ~~the department may, by rule, modify any of the surcharges in ss. 94.64 (3f) (b) and (4) (a) 5., 94.681 (3), 94.685 (3) (a) 2., 94.703 (3) (a) 2., and 94.704 (3) (a) 2.~~ The department shall adjust surcharge amounts as necessary to maintain a balance in the agricultural chemical cleanup fund at the end of each fiscal year of not more than ~~\$2,500,000~~ \$1,500,000.

(af) On May 1 of each year, the department shall determine the balance in the agricultural chemical cleanup fund. If the balance is above \$1,500,000, the surcharges for the next fiscal year shall be \$0. If the balance is between \$750,000 and \$1,500,000, the surcharges for the next fiscal year shall be as follows:

Under s. 94.64 (3f) (b) 1. and 2., \$10.

Under s. 94.64 (3f) (b) 3., \$12.50

Under s. 94.64 (4) (a) 5., 5 cents per ton.

Under s. 94.681 (3), \$15

Under s. 94.685 (3) (a) 2., \$10

Under s. 94.703 (3) (a) 2., \$10

Under s. 94.703 (3) (a) 3., \$12.50

Under s. 94.704 (3) (a) 2., \$5

(am) The department may not increase a surcharge above the following amount:

- ~~1. Under s. 94.64 (3f) (b) 1. and 2., \$20.~~
- ~~2. Under s. 94.64 (4) (a) 5., 63 cents per ton.~~
- ~~3. Under s. 94.681 (3) (a), \$5.~~
- ~~4. Under s. 94.681 (3) (b), \$170.~~
- ~~5. Under s. 94.681 (3) (c), 1.1 percent of gross revenues.~~
- ~~6. Under s. 94.685 (3) (a) 2., \$40.~~
- ~~7. Under s. 94.703 (3) (a) 2., \$55.~~
- ~~8. Under s. 94.704 (3) (a) 2., \$20.~~

(b) If the department proposes to promulgate a rule under par. (a) using the procedures under s. ~~227.24~~, the department shall notify the cochairpersons of the joint committee on finance before beginning those procedures. If the cochairpersons of the committee do not notify the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed rule, the department may begin the procedures under s. ~~227.24~~. If, within ~~14~~ working days after the date of the department's notification, the cochairpersons of the committee notify

the secretary that the committee has scheduled a meeting for the purpose of reviewing the proposed rule, the department may not begin the procedures under s. ~~227.24~~ until the committee approves the proposed rule.

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**~~94.74—Prevention of pollution from agricultural chemicals.~~**

~~(1) In this section, "agricultural chemical" has the meaning given in s. ~~94.73(1)(a)~~.~~

~~(2) The department may provide financial assistance to a business to pay not more than 50 percent of the costs of capital improvements designed to prevent pollution from agricultural chemicals. Under this section, the department may not provide funding for capital improvements at any site in an amount that exceeds \$500,000 less any amount received under s. ~~94.73~~ for the site. The department may not expend more than \$250,000 per fiscal year under this section.~~

~~(3) The department shall promulgate rules for determining eligible businesses, eligible projects, and allowable costs for financial assistance under this section.~~

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## SURVEY RESULTS

The department conducted three surveys as part of RevEx: one of all pesticide registrants, one of all feed licensees, and one of all fertilizer and SPA licensees. The intent of the surveys was to get broader industry feedback on subcommittee recommendations and issues under discussion. Results from all three surveys support the recommendations included in this report.

Complete survey results are available upon request.