

Commercial Animal Feed Tonnage Compliance Assistance Project Summary

This project summary provides an overview of addressing compliance challenges related to the state tonnage and inspection fee reporting requirements for commercial animal feed.

Background

The purpose of the Wisconsin Department of Agriculture, Trade and Consumer Protection's (DATCP) commercial feed program is to assure the public and manufacturers that animal feed and feed ingredients are not contaminated, meet label guarantees, and are safe and effective for use. The program also serves to create a regulatory environment ensuring that all businesses may distribute their animal feed and feed ingredients fairly. The program is part of DATCP's Bureau of Agrichemical Management in the Division of Agricultural Resource Management.

To fund the program, state law [Wis. Stat. § 94.72(6)(a)] requires all licensed commercial feed manufacturers, labelers, and distributors to report and pay inspection fees to DATCP. Inspection fees are used to support the commercial feed program staff and the activities and resources they need to ensure feed in Wisconsin meets state requirements.

Wisconsin's commercial feed tonnage and inspection fee reporting has been in place since before 1979. Since then, industry operations have changed. Due to the confidentiality of today's business-to-business transactions, there is confusion in the industry about who is responsible for reporting tonnage and paying the applicable inspection fees. As a result, the industry began to report tonnage in Wisconsin similar to the manner in which they reported tonnage to other state departments of agriculture.

This project used a survey and other means of feedback to reveal that few people felt they had a solid understanding of Wisconsin's tonnage reporting concept and requirements.

DATCP initiated a revenues and expenditures project in 2015. During the project, the staff met with commercial feed industry members in an attempt to develop a more refined understanding of how industry reports commercial feed tonnage. Through industry meetings, DATCP confirmed that confusion in all facets of reporting existed.

To minimize largescale immediate changes, DATCP attempted to clarify the current requirements by making some changes to the law’s language related to commercial feed tonnage. The next steps included communicating the changes, creating guidance materials, and conducting outreach.

Information Gathering

In late 2017, DATCP assembled an outreach project charter, with the goals of increasing the regulated feed industry’s understanding of Wisconsin tonnage reporting requirements and identifying any remaining challenges with the current requirements. Using the goals and deliverables in the charter, DATCP gathered information from licensees about how they report tonnage.

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In early 2018, DATCP visited with a number of facilities to learn about their tonnage reporting perspectives and processes. Staff traveled to several different feed manufacturers (with varying manufacturing capacities) to learn how those facilities assembled the data necessary to complete an annual tonnage report, and how changes to the law affected that data assembly process. Staff also contacted several out-of-state Wisconsin-licensed feed manufacturers by phone or teleconference for the same type of learning opportunity. DATCP received the following comments and suggestions from these visits:

- Firms often experienced no change, or reduced work, to prepare the annual tonnage report
- Certain manufacturers saw a significant reduction for inspection fees with the removal of out-of-state distributions
- DATCP’s outreach in November and December 2017 was helpful
- Firms desired more, broad outreach, such as a webinar – recorded for people to watch whenever they want, as many times as they want - that would help them to understand Wisconsin’s requirements

DATCP also received the following concerns:

- Online transactions are difficult to report – nearly untraceable in some circumstances
- The differences between custom-mixed feed, floor-stock feeds, branded feeds, and mill-formulated feeds are difficult to understand
- It is difficult to break out whole grains versus processed grains by the different feed types for reporting purposes
- Wisconsin has the hardest form to complete – the tonnage breakdown by feed type and ingredient type categories gets difficult to decipher once the data gets narrowed down to what is reportable versus what is not reportable

Multi-Year Project

In late 2018, DATCP assembled a diverse industry workgroup to assist in developing helpful, user-friendly guidance documents. Members of the workgroup included industry association representatives from the Wisconsin Agri-Business Association (WABA), the American Feed Industry Association (AFIA), and the National Grain and Feed Association (NGFA). Also included were company representatives from

different sized firms, including: one firm headquartered out of state; one firm with a location in Wisconsin; a larger in-state firm with multiple Wisconsin locations; a smaller in-state firm with a single Wisconsin location; and a cooperative based in Wisconsin with multiple locations.

In 2019, the workgroup began assembling information and feedback to create a set of guidance documents. First, a set of frequently asked questions (FAQ) that addressed the regulation in non-technical language, giving some examples of reporting for users to reference. As the workgroup began reviewing the frequently asked questions and associated answers, the idea for a decision tree flowchart evolved. Feed program staff developed the flowchart and added it to the end of the FAQ document. Last, the group developed step-by-step instructions for utilizing each version of the reporting form – the electronic spreadsheet version and the printed, hardcopy version.

Frequently Asked Questions

As firms prepare their license and tonnage forms, they contact DATCP with questions. In 2018 and 2019, DATCP tracked these questions to determine if anything had not been addressed with this project that could be resolved. DATCP received the following frequently asked questions:

- What is the difference between custom-mixed feed, floor-stock feed, branded feed, and mill-formulated feed?
- Is grain bank grain (customer-owned/producer-owned grain) reportable?
- What is the requirement for reporting whole grains versus processed grains?
- How do I know if my supplier that is a wholesaler/jobber/broker reported the tonnage if the invoice does not indicate whether or not the tonnage was reported? (Note: This scenario involves licensing of wholesaler/jobber/broker firms that may not have needed a license in the past.)
- How do I report my feeds by category when the reports I run are summarizing distributions by the complete feed that was distributed?
- What if my firm identifies online transaction distributions and I cannot determine the destination from the information available?

Finally, it took DATCP additional time to process license renewals and tonnage reports due to the following procedural issues with commercial feed tonnage reporting:

- What would be the best way to remind firms to add all fees due for both the tonnage report and the license renewal together when paying with one check for the cumulative total of fees?
- What would be the easiest way to remind firms to complete Schedule A of the tonnage report (reverse side, or page 2 of the 2018 and 2019 reporting form)?

Long Term Challenges

The activities described in the earlier sections of this report were part of DATCP's efforts to relay to industry the appropriate way for firms to report commercial feed tonnage for new requirements effective January 1, 2018. In early 2020, as outreach efforts slowed down to the usual question-by-question basis, DATCP identified four main lingering issues.

1) Terminology confusion

Custom-mixed feeds, mill-formulated feeds, and branded feeds are the three terms DATCP uses to categorize the broad spectrum of the state’s legal definition of “commercial feed.” Those three terms are unique and defined by DATCP below, with regulatory references were applicable.

Custom-mixed feeds: Refers to a feed an animal producer requests for their animals, using a recipe that an individual animal producer developed on their own, and where the firm manufacturing the feed provides no nutritional support of the resulting feed [reference Wis. Stat. § 94.72(1)(c)]. Industry use of the phrase does not align with the regulatory definition, often causing confusion in correspondence.

Mill-formulated feed: Refers to 1) a feed formulated for one specific individual customer by a nutritionist-employee of the firm; or 2) a feed that is formulated generally for a specific species and/or purpose, and is held in inventory for any customer to walk in and purchase for their animals [reference Wis. Admin. Code § ATCP 42.01(14)]. Feeds of this type are referred to as custom-mixed feeds by industry – different from the mill-formulated terminology used by regulators - causing confusion in correspondence.

Branded feed: Any feed manufactured with a specific purpose, for a specific specie or species, and can be purchased by any customer that seeks to feed it to their animals. Is also commonly known as floor-stock feed. This term is not defined in regulation.

2) Confusion about reporting grain bank grain

Grain bank grain is the raw agricultural commodity inventory that belongs to an animal producer. The state’s legal definition of commercial feed [Wis. Stat. § 94.72(1)(b)1 and Wis. Admin. Code § ATCP 42.01(2)(a)] does not include *unmixed* whole seeds that are also considered raw agricultural commodities, as they fall under U.S. grain standards.

Also, grain bank grain is not a commercial feed business’ asset. Grain bank grain is customer-owned capital, an asset of the customer – whether that customer is an individual or a legal entity. When reporting commercial feed tonnage there is confusion by commercial feed licensees about whether or not they should be reporting the grain bank grain. DATCP does not consider grain bank grain used in a manufactured feed reportable as a commercial feed distribution.

3) Reporting requirements for whole vs. processed seeds

Firms must consider the physical state of grains used to manufacture feed for reporting tonnage. The confusion comes from the following language in state law and rule:

“Wis. Stat. § 94.72 (1)(b) “Commercial feed” means all products or materials used or distributed for use as a feed or an ingredient in the mixing or manufacturing of feed for animals or birds, except the following:

- 1. Unmixed whole seeds or grains; as defined by United States grain standards.*
- 2. The unmixed meals made directly from and consisting of the entire grains of corn, wheat, rye, barley, oats, buckwheat, flaxseed, kafir, milo and other seeds or grains....”*

“Wis. Admin. Code ch. ATCP 42.02(3)(d) ...A feed manufacturer is not required to pay inspection fees on either of the following:

- 1. Grain used in a mill formulated feed if that grain is owned and provided by the final retail purchaser of that feed.**
- 2. Grain used in a custom-mixed feed.”**

The citation states that unmixed whole seeds and unmixed meals from whole seeds are not considered commercial feed. Therefore, firms are not required to report tonnage and inspection fees for them. But, when mixed, the whole seeds would be reportable unless they are in a custom-mixed feed. Ultimately when the whole seeds in a custom-mixed feed are processed (chemically or physically), reporting and inspection fees apply.

A summary of this is outlined in the table below:

Subject to Reporting	Exempt From Reporting
<ul style="list-style-type: none"> • Processed grain distributed in a custom-mix feed. Processing could include chemical (example: steam-flaked) or physical (example: ground). • All grain inventory (unprocessed or processed) distributed as branded or mill-formulated feed. 	<ul style="list-style-type: none"> • Unprocessed, whole grain distributed in custom-mix feed. • Grain bank grain (processed or unprocessed)

Despite DATCP’s outreach efforts, industry has consistently identified that the exemption makes reporting confusing. Part of the reason is how individual company computer systems track incoming and outgoing commercial feeds. The composition of the feeds may or may not be able to be divided for purposes of exempt or non-exempt tons.

4) Licensing of jobbers, wholesalers, and brokers

State law requires all commercial feed manufacturers, labelers, and distributors to be licensed, unless one of the following exemptions apply:

1. Distribution of labeled commercial feed, as it was packaged by another Wisconsin licensee;
2. Distribution of labeled commercial feed received in bulk from another Wisconsin licensee, where the same feed is merely packaged into smaller containers with the same label; and
3. Business is only comprised of the manufacture of custom-mixed feeds, comprised of ingredients labeled and reported as tonnage by another Wisconsin licensee.

Typically, a distributor (jobber, wholesaler, or broker) of commercial feeds and/or feed ingredients will fall under one of these exemptions. The most common example for the first exemption is a retailer, such as a convenience store, grocery store, or pet food store.

Prior to the January 2018 changes, the first person in the chain of distribution of a commercial feed or feed ingredient that *ended* up in Wisconsin was responsible for reporting tonnage. In nearly all cases, that first person in the chain of distribution was a commercial feed manufacturer.

In January 2018, reporting requirements changed so that the person who first distributes a commercial feed or feed ingredient *in or into Wisconsin* is responsible for reporting tonnage and inspection fees to

DATCP. The reporting change means a jobber, wholesaler, or broker may now be responsible for meeting reporting requirements.

Next Steps

Direct Solutions

DATCP was able to correct the following without statute or administrative code changes:

- 1) *When paying with one check for the cumulative total of fees, firms do not always remember to combine the tonnage and license renewal fees due.*

DATCP added two new lines on the tonnage report where the user can write down the license fees due, then sum the license fees and the inspection fees due to determine the total payment (see Exhibit 1). The industry workgroup supported this change to the tonnage reporting form at the final meeting.

- 2) *Firms do not always remember to complete Schedule A of the tonnage report (reverse side, or page 2).*

DATCP moved Schedule A (the tonnage breakdown by feed type) to page 1 of the tonnage form, and Schedule B (the tonnage breakdown by facility) to page 2 (see Exhibit 1). The suggestion comes from the format of the lime program tonnage report (Exhibit 1). The industry workgroup supported the reorganization of the tonnage reporting form at the final meeting.

- 3) *Continue to distribute the FAQs outreach document as a guide to delineating between mill-formulated feed, custom-mixed feed, and branded feed (floor stock feed); reporting requirements for grain bank grain; and reporting requirements for whole versus processed seeds in the different feeds (mill-formulated, custom-mixed, branded).*

In spring 2020, DATCP conducted webinars about the regulatory requirements for manufacturing, labeling, and distributing commercial feed in Wisconsin. The agenda included a discussion of commercial feed tonnage, and directed webinar attendees to DATCP's website to download the FAQ document. The webinars were recorded and continue to be available to industry on DATCP's YouTube channel.

An alternative method of outreach to the FAQ document, DATCP's goal is to conduct more webinars in the future, with more focused agendas. One such webinar could be specific to tonnage reporting.

At the industry workgroup final meeting, trade association representatives voiced their support of future webinars on commercial feed tonnage. The group advised DATCP that feed mills focus on manufacturing a safe and quality animal feed, and as a result, the regulatory specifics related to tonnage reporting slip their minds except for the one time per year the tonnage report is due. Attendees felt an annual tonnage webinar, recorded for later viewing, would be a resource to

keep feed manufacturers up-to-date and refreshed on the tonnage requirements.

- 4) *Conduct outreach to brokers, jobbers, and wholesalers, as opportunities arise about the need for licensure if said entity is first to distribute commercial feed or feed ingredients into Wisconsin.*

The program staff advised the industry workgroup of the need for ongoing outreach to brokers, jobbers, and wholesalers. The industry workgroup agreed that it would take efforts over a span of years to reach the entities that were unaware of their need for a license. All agreed that continued efforts through observations of unlicensed entities via inspections and sampling, communications by webinar, and speaking engagements through trade associations, would be the best mode to achieve the licensure of unaware entities.

Unresolvable Issues

Statutory and Administrative Code Requirements

One point not yet discussed is the industry feedback related to a complete overhaul of the tonnage reporting requirements in Wisconsin. Some have expressed a desire to see an alternative method for collection of the tonnage data and remitting inspection fees. The following ideas were presented:

- Pay on everything distributed as feed, including grain bank grain
- Switch to product registration across the board, with fees per product or per package size
- Pay on a service basis – per inspection, per sample
- Pay fees on the manufactured quantity of feed

Previous discussions of such a change did not lead to a consensus of a workable reporting requirement(s), as industry representatives struggled to identify a requirement that would be fair and equitable to the wide variety of business structures that make up the Wisconsin commercial feed industry.

Licensee Reporting Systems

Some firms communicated that their reporting systems were set up to summarize distributions as the complete feeds sold, not by the ingredients that comprised the complete feeds sold. Depending on the nature of the licensee's business, the tons distributed may not need to be for the complete feeds sold, but rather a portion of the complete feeds sold. This particular aspect of the tonnage reporting in Wisconsin has always been in place, as no one is responsible for the tons of feed that they were not first to distribute. System reports are not covered in the tonnage requirements and cannot be addressed by DATCP.

Online Transactions

When gathering information from feed licensees, it appears there is no solution at this time to be able to trace online transactions (distributions). The internet has some unique challenges to regulating commercial feed in commerce. DATCP cannot recommend a solution until the commerce on the internet has overarching requirements that can branch into specifics within commercial feed regulations.



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 Division of Agricultural Resource Management
 Bureau of Agrichemical Management
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For DATCP Use Only	
25900 700SE 1150073000 4600000 72100	
10000 13400 1150014300 4600000 72100	
25900 700SE 1150073000 5900000 72100	

License # 31 - 000000-000000

Commercial Feed Tonnage & Inspection Fee Report for January 2019 - December 2019 [Wis. Stat. §94.72(6)]

LEGAL BUSINESS NAME AND ADDRESS				MAILING ADDRESS (IF DIFFERENT FROM LEGAL ADDRESS)		
LEGAL BUSINESS NAME				C/O		
STREET ADDRESS				ADDRESS/PO BOX		
CITY	STATE	ZIP	CITY	STATE	ZIP	
DOING BUSINESS AS (DBA) NAME						
SELECT YOUR COMPANY'S LEGAL ENTITY TYPE: (Select)				STATE OF FORMATION (REQUIRED IF NOT SOLE PROPRIETOR)		

SCHEDULE A - Notice: This is a two page form. Please complete both pages.

Product Code	Product Type	Total Tons Distributed	Product Code	Product Type	Total Tons Distributed
11	Broiler Complete		34	Alfalfa Ingredients	
12	Broiler Premix		35	Animal-based Ingredients	
13	Turkey Complete		36	Barley Ingredients	
14	Turkey Premix		37	Brewery Ingredients	
15	Layer Starter-Grower Complete		38	Citrus Ingredients	
16	Layer Starter-Grower Premix		39	Corn Ingredients	
17	Layer Breeder Complete		40	Cottonseed Ingredients	
18	Layer Breeder Premix		41	Distillers Ingredients	
19	Beef Complete		42	Fat & Oil Ingredients	
20	Beef Premix		43	Grain Sorghum Ingredients	
21	Dairy Premix		44	Linseed & Flax Ingredients	
22	Dairy Complete		45	Marine Ingredients	
23	Swine Premix		46	Milk Ingredients	
24	Swine Complete		47	Mineral Ingredients	
25	Sheep Premix		48	Molasses Ingredients	
26	Sheep Complete		49	Oat Ingredients	
27	Mineral Feed		50	Rye Ingredients	
28	Vitamin Feed		51	Soybean Ingredients	
29	Horse Feed		52	Vitamin Ingredients	
30	Pet & Specialty Pet Food		53	Wheat Ingredients	
31	Pre-mixes (not specie specific)		55	Poultry Concentrate	
32	Miscellaneous		57	Swine Concentrate	
68	Veal Feed/Calf Feed		58	Cattle Concentrate	
69	Milk Replacers		60	Human Food By-products	
Total Mixed Feed Distributed		0.00	Total Ingredients Distributed		0.00
Combined Total of Commercial Feed Distributed			0.00 (Must equal Line 11 in Schedule B)		

Page 2 of 2	License # 31 - 000000-000000
SCHEDULE B: Last 6 Digits of License # & Location of EACH WI Location	
Inspection Fee Payment Calculation: Return both pages of this report and the payment to the address below by February 29, 2020.	Tons Distributed <small>(Round quantities of 0.01 lb. - 2,000 lb. up to 1 ton)</small>
1. Total Distributions into Wisconsin from out of state facilities (if n/a or zero, skip to line 2)	tons
2. <i>Example: -123456 Example: 2811 Agriculture Dr, Madison, WI</i>	tons
3.	tons
4.	tons
5.	tons
6.	tons
7.	tons
8.	tons
9.	tons
10.	tons
11. Total Tons of Commercial Feed Distributed (Sum of lines 1 through 10; must equal Combined Total on Schedule A)	tons
12. INSPECTION FEES (\$0.25/ton or \$50.00, whichever is greater)	
13. LATE FILING PENALTY FEE (10% of total inspection fees due or \$10.00, whichever is greater) Submissions postmarked by February 28, 2021 are not subject to late penalties. Postmark: 1/2/2020	
14. TOTAL FEES DUE (inspection fees plus penalties)	
OPTIONAL -- Commercial Feed Fee Payment Calculation (Fees may be paid in 1 or 2 checks) -- OPTIONAL	
15. OPTIONAL - Sum lines 12 and 13 above for total inspection fees and tonnage late fees due	\$ -
16. OPTIONAL - Sum of all license fees (\$25 each) and license late fees (\$5 or 20%, whichever is greater) due	\$
17. OPTIONAL - Total inspection fees, tonnage late filing fees, license fees, license late filing fees due	\$ -
PLEASE PRINT AND SIGN THIS FORM AFTER BOTH PAGES HAVE BEEN COMPLETED; DO NOT E-MAIL THIS FORM	
<i>I certify that all information on this form is true and correct.</i>	
NAME (FIRST, MI, LAST)	TITLE
TELEPHONE NUMBER	FAX NUMBER
EMAIL ADDRESS	COMPANY WEBSITE URL
SIGNATURE	DATE
Print and sign form, then mail with check to: State of Wisconsin, DATCP, PO Box 93193, Milwaukee, WI 53293-0193	
Make check payable to: Wisconsin Department of Agriculture, Trade and Consumer Protection	
<small>Personal information you provide may be used for purposes other than that for which it was originally collected (Sec. 15.04(1) (m), Wis. Stats.).</small>	
<small>Information provided to the department in this tonnage report for the Commercial Feed program is CONFIDENTIAL as provided under Wis. Stat. §94.72 (6)(am) 3".</small>	
Wisconsin Inspection Fee - Wis. Stat. § 94.72(6)	
- If more than one manufacturer or distributor is involved in the chain of distribution, the one who first sells or distributes commercial feed in this state or to a person in this state for further sale is responsible for the payment of inspection fees for the feed.	
- <i>In other words, the first person to distribute a commercial feed or feed ingredient in or into Wisconsin is responsible for reporting tonnage and remitting fees.</i>	
- If a licensee distributes zero tons of commercial feed in/into Wisconsin, the minimum fee of \$50.00 is due.	
- Report commercial feed tonnage on a calendar year period (January through December).	
- Retain the detailed, written documentation to support all totals and calculations used in filing the annual Commercial Feed Tonnage & Inspection Fee Report.	
- Data provided in this form enables the Department to:	
1) ensure compliance with Wis. Stat. §94.72(6),	
2) calculate the proper payment of inspection fees (avoiding over- or under- payment), and	
3) hold licensees accountable for commercial feed and feed ingredients introduced to the public.	