

# ANNUAL SUMMARY REPORT

## For Fiscal Year 2003



## Environmental Remediation

Prepared on behalf of the Agricultural Chemical Response Compensation Board  
and the Commissioner of Agriculture for:

Minnesota's Legislative Coordinating Commission  
Senate Environment and Natural Resources Committee  
House Environment and Natural Resources Committee

# EXECUTIVE SUMMARY

## Program Highlights

Over its 14-year history, the Agricultural Chemical Response and Reimbursement Account (ACRRA) program has disbursed \$18,612,932 to cover eligible corrective action costs at over 330 incident sites. Sites funded by the program range from small transportation-related incidents to large areas at agricultural chemical facilities.

The Minnesota Department of Agriculture's (MDA) Incident Response Unit is responsible for performing technical review and oversight of corrective actions taken to clean up agricultural chemical contamination. All corrective action work must be approved by MDA to be eligible for ACRRA funds. The continued need for ACRRA is evident in the number of sites that are currently managed by the Incident Response Unit<sup>1</sup>.

In its role of providing funding for sites contaminated by agricultural chemicals, the ACRRA program has worked in partnership with the agricultural chemical industry, consulting firms, environmental agencies, local businesses and other funding sources, to facilitate environmental cleanups and property improvements in Greater Minnesota.

## Fiscal Year 2003 Highlights

Revenues were up and expenditures were down in state fiscal year 2003. The Commissioner of Agriculture received ACRRA surcharge revenues totaling \$2,387,092. This figure reflects a \$97,982 increase in revenues due to a surcharge increase that began in calendar year 2000.

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<sup>1</sup>Number of Incident Response Unit cases as of 10/2003 – Emergency Response (Spills Team) = 150 cases reported annually, Comprehensive Facility Investigation = 63 active sites, and Agricultural Voluntary Investigation and Cleanup = 81 active sites.


Revenues exceeded expenditures for the first time in six years. ACRRA disbursements totaled \$1,679,574. Fiscal year 2003 clean up expenditures were \$711,453 less than fiscal year 2002.

Many factors continue to contribute to the variability of ACRRA revenues and expenditures. Factors affecting the expenditure of funds for corrective action costs this fiscal year were primarily due to recent legislative changes made during the 2000, 2001 and 2002 Legislative Sessions. The most significant of which is the change reducing the percentage of disbursement to eligible persons. These changes, summarized below, were effective for all applications received after July 1, 2002.

1. The maximum reimbursement of eligible costs was reduced from 90 percent to 80 percent;
2. An eligible party may collect a maximum of \$100,000 per fiscal year, if the fund balance is below \$2,000,000; and
3. The ACRRA Board may only reimburse eligible costs at a maximum rate of 60 percent if recontamination from a subsequent incident exists at the same site.

An overview of the ACRRA program and detailed information on the activities that occurred during state Fiscal Year 2003 (July 1, 2002 – June 30, 2003) follows this summary.

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# PROGRAM OVERVIEW

The Agricultural Chemical Response and Reimbursement Account (ACRRA) was created under the 1989 Minnesota Ground Water Protection Act to provide financial assistance to cleanup agricultural chemical (pesticide and fertilizer) contamination. Contamination may occur due to sudden incidents such as fire or transportation accidents, or sites contaminated by agricultural chemicals over a long period of time. The program is funded through annual surcharges on Minnesota sales of pesticides and fertilizers and on applicator and dealer licenses.

The Commissioner of Agriculture determines surcharge rates based on: 1) the amount of revenues needed to maintain a sufficient account balance; 2) the estimated amount needed for response to incidents; and 3) the estimated amount needed for reimbursement or payment to eligible persons. Surcharges are reviewed annually for rate determination.

Statutory amendments made to the ACRRA Law, (Minnesota Statutes 18E) during the 2002 legislative session affected the level of expenditures and revenues in the fund. The changes included a reduction in the maximum amount of surcharges that could be collected on licenses. Beginning in calendar year 2002, surcharge rates for all license categories were reduced to a maximum of fifty percent (50%) of the license fee. There were no other surcharge rate changes during fiscal year 2003.

The Agricultural Chemical Response Compensation Board administers ACRRA funds. The board determines disbursements from the fund to eligible persons. In order to receive reimbursement (or payment) from the fund, the Minnesota Department of Agriculture (MDA) must receive proper notice of an agricultural chemical incident and corrective action requirements must be met. Costs claimed for corrective actions must be reasonable and necessary as determined by the board.

The board typically holds six regular meetings each year, usually every other month, depending on the number of applications submitted. The five-member board consists of representatives from the agricultural chemical registrants, manufacturers and dealers, farmers, and the Departments of Agriculture and Commerce.

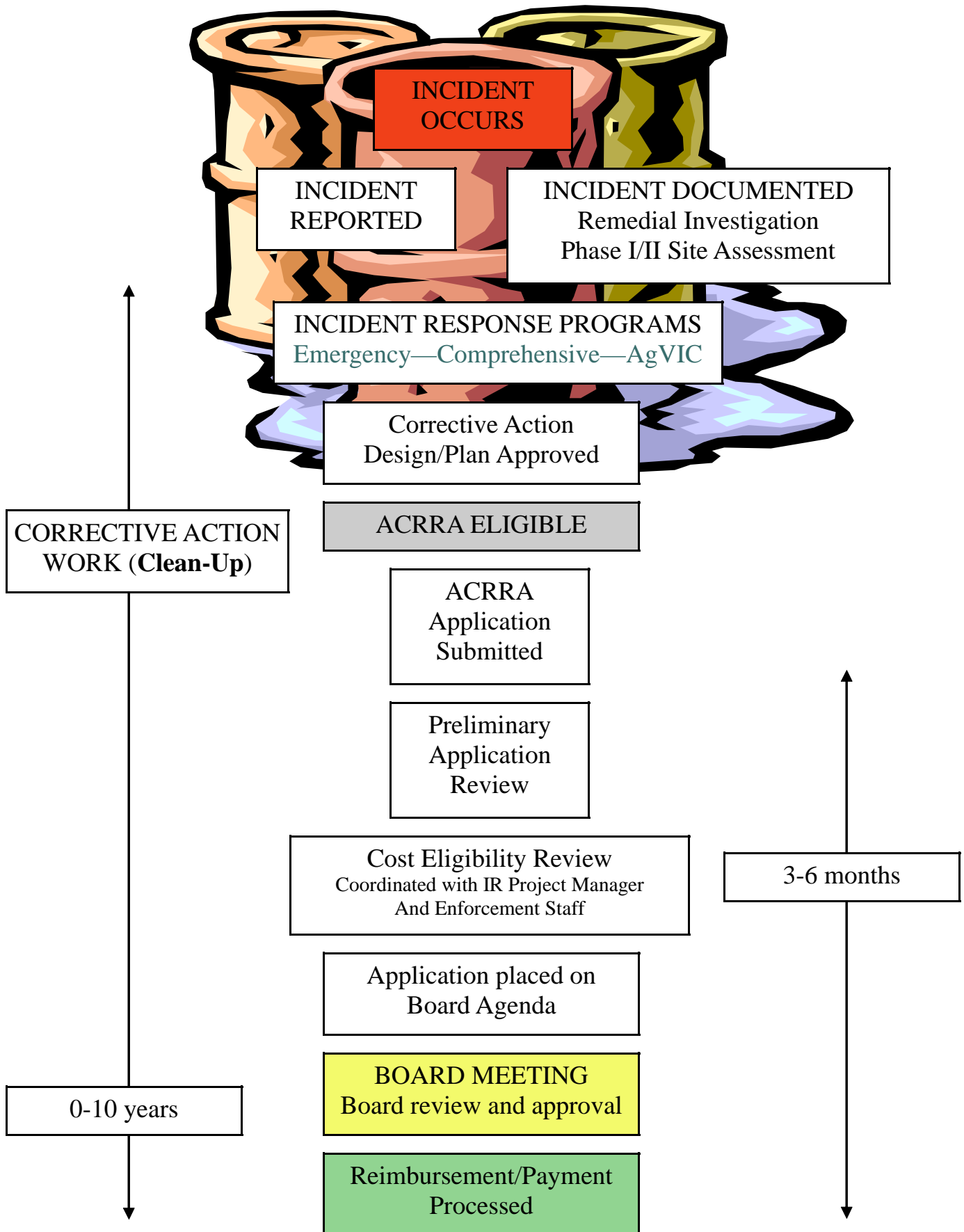
ACRRA is supported by MDA staff funded out of account revenues. Current staff includes: the Executive Director (1/2 time), Board Administrator (full-time) and Board clerical support (1/2 time). Staff performs a wide variety of duties, including: coordinating administrative activities with MDA Incident Response staff; reviewing applications and determining eligibility based on requirements in statute and rule; financial forecasting; legislative initiatives; and education and outreach for board members, industry and the public.

The chart on the following page shows an overview of the program process.

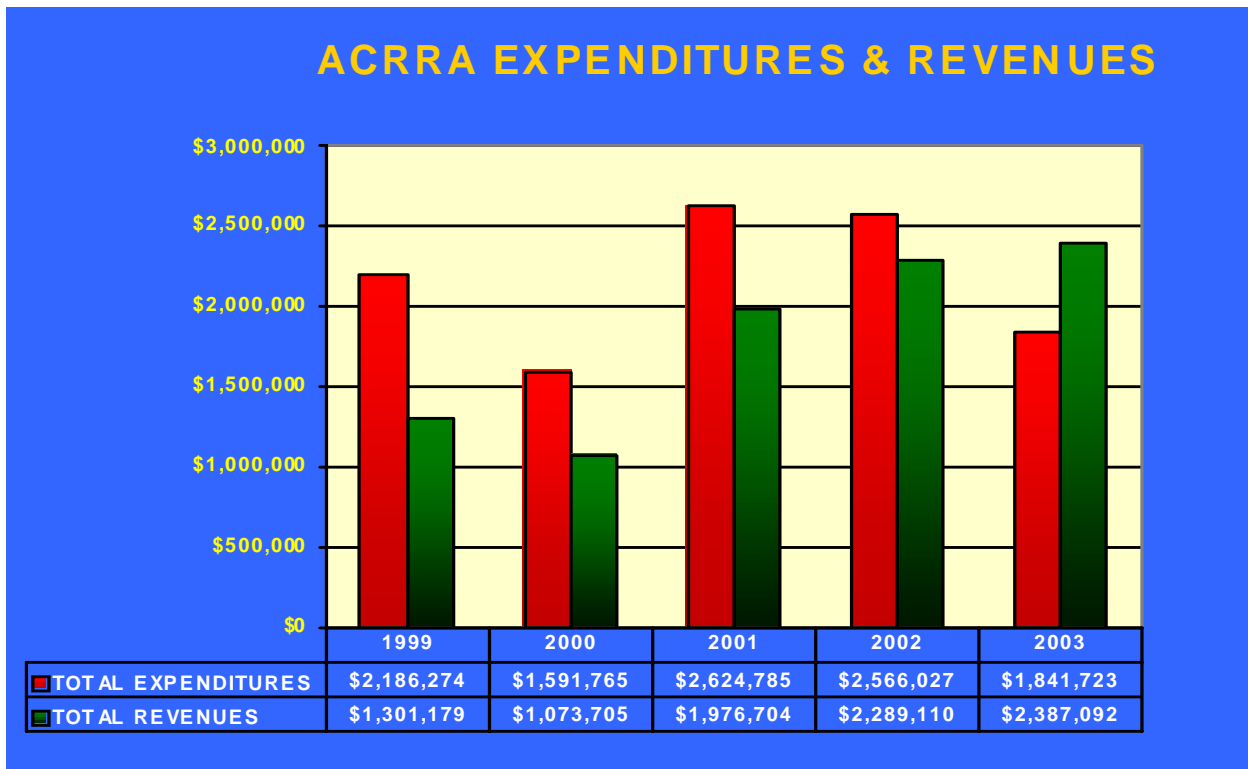
2003 ACRRA Surcharge Rates by Category	Rate
Commercial & Non-Commercial Pesticide Applicator Licenses	\$25
Structural Pest Control License ( <i>Company License</i> )	\$50
Agricultural Fertilizer License	\$50
Lawn Service - Fertilizer	\$50
Pesticide Dealer License ( <i>Restricted Use &amp; Bulk Pesticides/per site</i> )	\$50
Fertilizer Tonnage	\$.30/Ton
Pesticide Registration ( <i>Annual Gross Sales</i> )	0.3%
Out Of State Pesticide Distributors	\$3,000

***Authority for the program is covered under Minnesota Statutes § 18E and Minnesota Rules, Chapter 1512.0100 – 1512.1100.***

# PROGRAM OVERVIEW



# REVENUES AND EXPENDITURES



## Revenues

ACRRA surcharges were collected from various licensing, registration, and inspection fee programs administered by the Agronomy and Plant Protection Division of MDA<sup>2</sup>. The fiscal year 2003 ACRRA surcharge revenue was \$2,387,092 as shown in the chart above. The account had a \$545,369 surplus for expenditures versus revenue for the fiscal year (*page 5, Table 1*). **This was the first fiscal year since 1996 that ACRRA has seen a revenue surplus.**

The Commissioners of Agriculture, based on recommendations from the ACRRA Board, has strived to keep surcharges as low as possible throughout the program's history.

Due to the increasing demands on the fund, and with the ACRRA Board's concurrence, the Commissioner raised the surcharge in fiscal

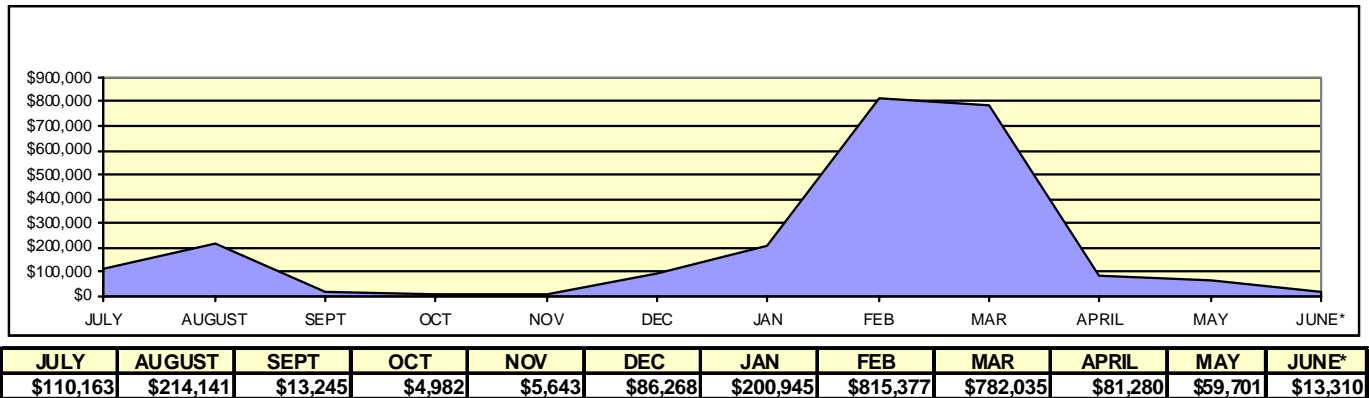
year 2001. The increase took effect beginning in calendar year 2002.

The full effect of this surcharge increase was realized this year. Revenues increased by \$97,982 in fiscal year 2003 after a \$312,406 increase from fiscal year 2001 to 2002. Revenues still may be insufficient to meet the expenditure demand at times during the next fiscal year. One of the primary reasons for this potential shortfall is the cyclical nature of revenue collection. Cash flow decreases dramatically for several months of the year, while the demand on the fund remains high during the same time period.

The chart on the following page illustrates this trend and reflects that the lowest surcharge collection periods are during the fall and late spring of the year.

<sup>2</sup>Source: Department of Agriculture, Agronomy & Plant Protection Division, as of October 3, 2003.

## REVENUES BY MONTH (FY 2003)



\* \$1,355 received after June 30 for FY2003 was added to June total.

## Expenditures

The ACRRA Board authorized funding of 75 applications for agricultural chemical incident corrective action costs. The amount of individual authorized disbursements ranged from \$1,000 to \$100,000. Due to a recent legislative change, the amount an eligible party may collect from ACRRA is limited to \$100,000 per fiscal year, if the fund balance is below \$2,000,000. The balance of the fund has remained under \$2,000,000 for the past two and one-half years.

In addition to limiting the amount an eligible party may collect from the fund, the percentage of cost-share was reduced to a maximum of eighty percent (80%). The benefit of this reduction to the fund balance will greatly assist the long-term financial health of the ACRRA program.

Total cleanup expenditures for fiscal year 2003 were \$1,679,574, as shown in *Table 1* on the following page.

The Board examined applications to determine if applicants and costs submitted were eligible, reasonable and necessary. Rejection or reduction of various costs submitted does occur. In

cases where a violation to Minnesota Statutes 18B, 18C or 18D has occurred, the Board may reduce reimbursement or payment based on the culpability of the eligible person and the percentage of costs attributed to the violation.

Board and staff administrative costs for the period of July 1, 2002 to June 30, 2003, totaled \$162,149<sup>3</sup>, as shown in *Table 1*.

Administrative costs for the program are limited by statute to \$175,000. (In fiscal year 2002, the statutory limit was reached.) Much of the reduction this year can be attributed to reducing Incident Response staff attendance at Board meetings. Administrative costs are expected to again reach the maximum allowable in future years and are monitored closely.

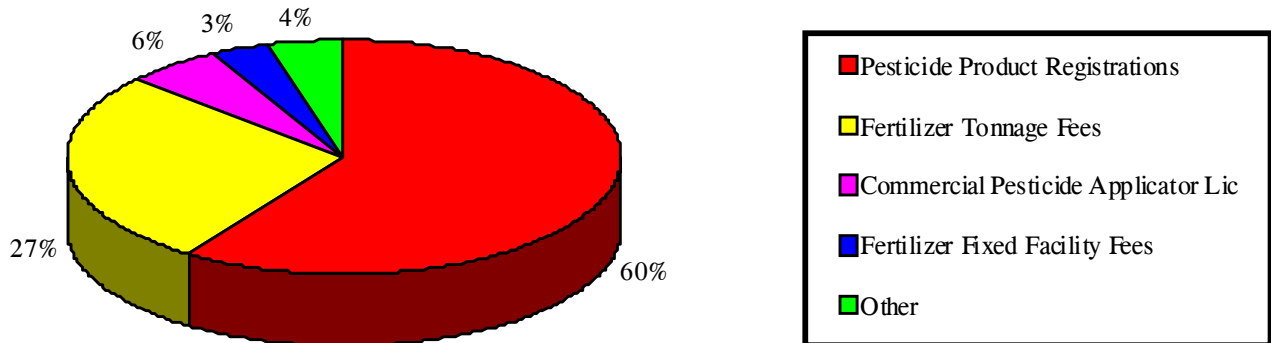
The above administrative costs and the \$1,679,574 in corrective action costs for state fiscal year 2003, equal a total expenditure of \$1,841,723 for this year as shown in *Table 1*.

<sup>3</sup>Source: Department of Agriculture, Agronomy & Plant Protection Division, as of October 3, 2003.

**MINNESOTA DEPARTMENT OF AGRICULTURE  
 AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT ACCOUNT  
 STATEMENT OF REVENUES, EXPENDITURES & FUND BALANCE  
 For the fiscal years ended June 30.**

	<u>2003%</u>	<u>2003</u>	<u>2002</u>	<u>2001</u>
<b>REVENUE:</b>				
Pesticide Product Registrations	<b>60%</b>	\$ 1,436,118	\$ 1,077,701	\$ 922,894
Fertilizer Tonnage Fees	<b>27%</b>	653,387	380,103	405,492
Commercial Pesticide Applicator Lic	<b>6%</b>	136,425	302,985	197,875
Fertilizer Fixed Facility Fees	<b>3%</b>	78,875	263,860	167,936
Other	<b>4%</b>			
Investment Earnings		25,277	43,210	95,441
Pesticide Dealer Storage License		17,750	137,700	93,150
Recoveries		0	0	48,000
Non-commercial Pesticide Appl Lic		33,370	67,620	35,470
Structural Pest Control Company Lic		4,450	12,400	8,325
Commercial Applicator-Aquatic		1,440	3,530	2,120
Pesticide Storage - Outside of State		0	0	0
		<hr/>		
Net revenues		2,387,092	2,289,109	1,976,704
<b>EXPENDITURES:</b>				
Reimbursement claims paid		1,679,574	2,391,027	2,452,523
Administrative expenditures		162,149	175,000	172,262
		<hr/>		
		1,841,723	2,566,027	2,624,785
<b>EXCESS OF REVENUE OVER EXPENDITURES</b>				
		545,369	(276,918)	(648,081)
<b>FUND BALANCE -- beginning of fiscal year</b>				
		990,719	1,267,636	1,915,717
<b>FUND BALANCE -- end of fiscal year</b>				
		\$ 1,536,088	\$ 990,718	\$ 1,267,636

**Sources of Funding  
Fiscal Year 2003**



# AGRICULTURAL CHEMICAL RESPONSE COMPENSATION BOARD

The Agricultural Chemical Response Compensation Board administers ACRRA funds.

## Board Members

- **Roger Strand, Board Chair**  
Representing agricultural chemical dealers
  - *Owner/Operator MN Agricultural Chemical Dealer Facility*
  
- **VACANT** (as of April 2003)  
**June Varner, Board Vice-Chair**  
(through March 2003)  
Representing Minnesota farmers
  - *Owner/Operator 400-acre farm*
  
- **Sandra Gardner, Board Member and Board Vice-Chair** (effective May 2003)  
Representing agricultural chemical registrants and manufacturers
  - *Syngenta Crop Protection, Inc.*
  
- **James Pearson, Executive Director, PetroFund Program**  
Delegate for Glenn Wilson, Commissioner
  - *Minnesota Department of Commerce*
  
- **Tom Masso, MDA Assistant Commissioner** (through September 2002)  
Delegate for Gene Hugoson, Commissioner
  - *Minnesota Department of Agriculture*
  
- **Sharon Clark, MDA Deputy Commissioner** (effective March 2003)  
Delegate for Gene Hugoson, Commissioner
  - *Minnesota Department of Agriculture*

Several board member changes were made this fiscal year. June Varner's term ended in January of 2003; however she agreed to extend her

term through the next meeting until a new representative could be appointed. Currently a farmer representative has not been appointed by the Governor. In addition, Tom Masso retired this year after many years of serving on the board.

## ACRRA PROGRAM ACTIVITIES

ACRRA Board and Incident Response Unit staff participated in many activities and events during fiscal year 2003.

### Legislative Change Implementation

New procedures were developed this fiscal year due to a variety of recent legislative changes (see *Program Legislation*). These procedures focused on: 1) implementing the changes internally; 2) informing ACRRA clientele of the changes and their effects; and 3) tracking the effectiveness of the changes.

Examples of the specific activities include:

- Developing a new fact sheet about the legislative changes over the last three years;
  
- Seeking legal guidance through the Minnesota Attorney General's Office where additional interpretation was needed;
  
- Developing internal procedures for ensuring compliance under the changes; and
  
- Updating program materials to reflect current requirements.



## Hearing of Determination

One of the legislative changes made during the 2001 Session included adding the option of requesting an additional hearing before the Board when their decision has had an adverse effect on an eligible person.

The first *Hearing of Determination* was requested and held on March 19, 2003, after the regular Board meeting. The eligible person felt that a decision made by the Board in the January, 2003 meeting created a financial hardship. They brought forth new information and the Board granted their request for additional funds.

## Low Fund Balance Issues

Cost containment measures were a major focus of legislative changes over the last three years. The positive effects of the changes on the fund balance are already being seen; however, the full benefit won't be realized for another year or more. In the interim, the fund continued to have a low balance (under \$1,000,000) for approximately ½ of the fiscal year.

Procedures to address insufficient funds were discussed, with the implementation of the following:

- Case-by-case reporting of the fund balance based on recommended disbursements;
- Quarterly projections for closer fund monitoring; and
- Developing an interim limit of funds needed to be held in the account to cover program expenses and to be reserved for incident emergencies.

## Brownfields Coordination Study Group

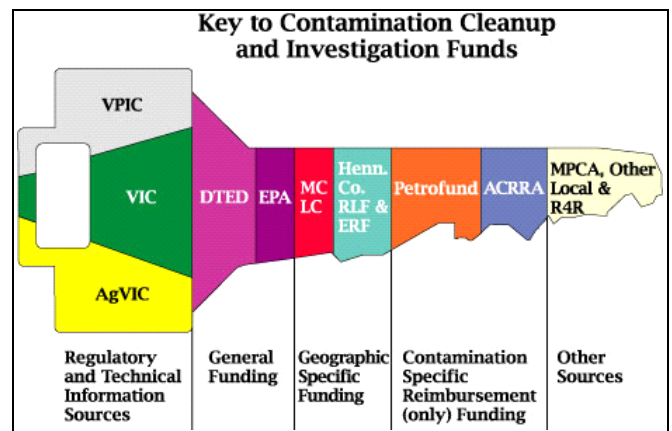
ACRRA and Incident Response staff continue to participate in a multi-agency group to share information on contamination remediation pro

grams. Representatives from five state agencies (Agriculture, Commerce, Health, Trade and Economic Development and Pollution Control), the Metropolitan Council, the League of Minnesota Cities and others meet quarterly. Program changes, interface and education activities are some of the topics discussed.

## Grant Funding Workshops for Cleanup of Contaminated Land

The Metropolitan Council and the Minnesota Department of Employment and Economic Development (DEED, formerly the Department of Trade and Economic Development) sponsor these ongoing workshops jointly. The workshops highlight funding opportunities for agricultural chemical, hazardous materials and petroleum cleanups. ACRRA and Incident Response staff presented information on both programs at locations in Minnesota, in fiscal year 2003.

One of the benefits in participating in multi-agency activities is the ability to coordinate programs that deal with contaminated lands of all types (i.e. urban and rural, petroleum and pesticide contamination, etc.). DEED staff, with assistance from other programs represented, developed this key to technical assistance and funding programs.



# PROGRAM LEGISLATION

Significant changes have been made to the ACRRRA Program over three legislative sessions. The following is a summary by year.

## 2002 Changes

- ❑ Limited the maximum reimbursement to 80 percent of total eligible costs;
- ❑ Limited the surcharge on license fees to 50 percent fee;
- ❑ Limited the amount that an eligible person can collect within the same fiscal year to \$100,000 *if the balance in the ACRRRA fund is below \$2,000,000*;
- ❑ Defined “*Emergency Incidents*” and “*Recontamination*” to clarify language contained in statute;
- ❑ Limited reimbursements to a maximum rate of 60 percent if recontamination from a subsequent incident exists; and
- ❑ Changed the date the Annual Report is due from September 1 to December 1.

## 2001 Changes

- ❑ Reduced the reimbursement percentage from 100 percent to 90 percent for eligible costs between \$100,000 and \$200,000;
- ❑ Added a requirement that all eligible costs must be submitted within three years after incurrence or corrective action approval, whichever is later (any costs incurred over three years prior to July 1, 2001, must be submitted by June 1, 2004); and
- ❑ Created procedures for requesting a hearing before the ACRRRA Board when a decision on a reimbursement or payment has an adverse effect on the eligible person.

## 2000 Changes

- ❑ Increased the maximum eligible costs of corrective actions for incident cleanups from \$200,000 to \$350,000.

## **FUTURE PROGRAM INITIATIVES**

**ACRRRA and Incident Response staff continue to improve programs related to the cleanup of agricultural contamination.**

**Program initiatives for the coming year include:**

- 1) Developing ACRRRA application forms that can be completed electronically;**
- 2) Promoting property improvement redevelopment in Greater Minnesota;**
- 3) Reviewing ACRRRA rules for needed modifications; and**
- 4) Hosting a retreat for Board members, staff and others to discuss complex issues in-depth.**

ITEM	COST
Labor (3 staff, 32 hours total)	\$1,000.00
Copying and Distribution	\$1,200.00
TOTAL	\$2,200.00

About the cover:

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