



Agricultural Chemical Response and Reimbursement Account (ACRRA)

ANNUAL REPORT

Fiscal Year 2022

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Minnesota Department of Agriculture
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Executive Summary

The Agricultural Chemical Response and Reimbursement Account (ACRRA) was created to provide financial assistance to eligible parties cleaning up agricultural chemical contamination. The ACRRA funds are administered by the Agricultural Chemical Response Compensation Board which consists of three representatives from the agricultural industry as well as the commissioners of the Minnesota Departments of Agriculture and Commerce.

Over its more than 33-year history, the ACRRA program has reviewed over 1,490 applications and reimbursed over \$53 million to help cover the cost of cleaning up agricultural chemical spills.

In Fiscal Year (FY) 2022, the board had four scheduled meetings to review applications, approving 26 applications for reimbursement. Of the 26 applications reviewed by the board, 18 were for new sites (initial applications) and eight were subsequent applications due to ongoing cleanup activities. The total expended for applicant reimbursements or payments, cleanup activities, and abandoned sites was \$2,709,397. Administrative expenses were \$424,691. In addition to the regularly scheduled meetings, one special meeting was held due to an applicant's request for a hearing of determination.

During the fiscal year, the ACRRA program received revenues totaling \$2,484,649. This is \$329,923 higher than the \$2,154,726 total revenue received in FY21

Legislative Changes

During FY22, legislation was passed that amends Minnesota Statute 18E. The changes take effect January 1, 2023. On that date, there will be three changes to the statute:

1. The maximum reimbursable amount per site will increase from \$350,000 to \$550,000.
2. The ACRRA fund balance requirements have changed. Previously, the commissioner of agriculture was responsible to keep the ACRRA fund balance between \$1 million and \$5 million. Effective January 1, 2023, the fund must be maintained within the range of \$2 million and \$6.5 million.
3. Prior to this change, the Board was required to only issue partial reimbursements of \$100,000 per year if the fund balance dropped below \$2 million. As of January 1, 2023, the Board must limit reimbursements once the fund balance drops below \$3 million.

Introduction

The Agricultural Chemical Response and Reimbursement Account (ACRRA) program was created as part of the 1989 Minnesota Groundwater Protection Act to provide financial assistance for cleaning up incidents causing agricultural chemical contamination. The ACRRA program funds are administered by the Agricultural Chemical Response Compensation Board. The five-member board consists of representatives from agricultural chemical registrants, manufacturers/dealers, farmers, and the commissioners of the Minnesota Departments of Agriculture and Commerce.

The board determines the eligibility of applicants and whether costs submitted are eligible, reasonable, and necessary. The Minnesota Department of Agriculture's Pesticide and Fertilizer Management Division (PFMD) has several active programs for addressing agricultural chemical cleanups, including emergency, comprehensive, voluntary, and abandoned sites. Emergency releases occur suddenly, such as a valve failure, traffic accident, fire, or flood. The Emergency Response team of the Minnesota Department of Agriculture (MDA) has oversight of these cleanups. A site can be contaminated by agricultural chemical spills/releases over time and may be cleaned up under the oversight of one or more of the programs at various times.

The ACRRA program is funded by the collection of annual surcharges on pesticide and fertilizer sales and on applicator and dealer licenses. As a condition of obtaining a license or registration from the MDA, a person must pay the ACRRA surcharge. The revenue collected supports the ACRRA program operations. An increase in surcharge rates occurred on January 1, 2022. Surcharge rates for Fiscal Year FY21 and FY22 are as shown in Table 1 below.

Table 1:

ACRRA Surcharge Category	ACRRA FY21 Surcharges	ACRRA FY22 Surcharges
Commercial & Non-Commercial Pesticide Licenses	\$14	\$25
Structural Pest Control Company Licenses	\$55	\$100
Agricultural Fertilizer Licenses (includes lawn service)	\$28	\$50
Pesticide Dealer License (ag and non-ag)	\$41	\$75
Fertilizer Tonnage	\$0.17/ton	\$0.32/ton
Pesticide Registration (percent of sales)	0.17%	0.32%
Out-of-State Pesticide Distributors (each site annually)	\$1,650	\$3,135

Background

The ACRRRA program is administered by the ACRRRA staff. Duties performed by the staff include, but are not limited to, receiving and reviewing applications; coordinating with applicants, consultants, and Incident Response Unit (IRU) staff; recommending eligibility as well as making funding recommendations to the board based on statute and rule; developing legislative initiatives; fund financial forecasting; and, program outreach.

The ACRRRA program ensures that agricultural chemical impacts on the environment are minimized by helping to defray the costs of cleaning up agricultural chemical spills. It is the responsibility of the ACRRRA staff to manage program resources effectively. Oversight of the corrective actions taken to clean up contamination is the responsibility of the IRU.

Since its inception, the ACRRRA program has disbursed over \$53 million to cover eligible corrective action clean-up costs. The MDA Commissioner sets the surcharge rate to maintain a minimum balance of \$1 million and an upper balance of \$5 million.

Incident Response Program Status

As of the end of FY22, there were 37 comprehensive and 81 voluntary sites that were actively being worked on by IRU staff. The number of voluntary sites that entered the Agricultural Chemical Voluntary Investigation and Cleanup (AgVIC) program in FY22 included 11 new sites, and in FY22, 14 voluntary project files were closed by IRU staff.

The types of sites currently active in the comprehensive and voluntary programs include former and currently operating agricultural chemical retail facilities, pesticide manufacturing facilities, a plant and tree nursery, wood treating facilities, and several golf course conversions.

Financial Report

REVENUES:

The ACRRA program revenues totaled \$2,484,649 in FY22. This is \$329,923 higher than FY21 revenues. Revenue includes investment earnings and surcharges collected through June 2022.

The fund balance was \$4,215,658 at the end of FY20; \$2,787,343 at the end of FY21; and, \$2,137,895 at the end of FY22. The ACRRA staff has been monitoring the fund balance since statute requires it to remain within the minimum (\$1 million) and maximum (\$5 million) amounts. After a public hearing, the commissioner of agriculture determined that the ACRRA surcharge rates needed to be raised in 2022. With the increase in revenues, the fund balance is predicted to remain around the current amount in FY22, then begin to rise in FY23.

Reimbursement applications are unpredictable, but the ACRRA staff anticipates strong numbers of cleanup projects going forward with IRU fully staffed and engaged in cleanups. The board approved reimbursement of 26 applications in FY22. Of the 26 applications reviewed by the board, 18 were new applications and eight were subsequent applications. Of these 26 applications, 21 were for voluntary site clean-ups, one was comprehensive, and two were emergency incidents.

In FY22, direct payment to contractors for cleanup of abandoned sites totaled \$240,156. The FY22 reimbursements to applicants totaled \$2,121,986.

In FY22, the total amount expended for applicant reimbursements or payments, cleanup activities, and abandoned sites was \$2,709,397. Administrative expenses, including the ACRRA and IRU staff, were \$424,691. Total expenditures were \$3,134,088.

Statement of Revenues, Expenditures, and Fund Balance

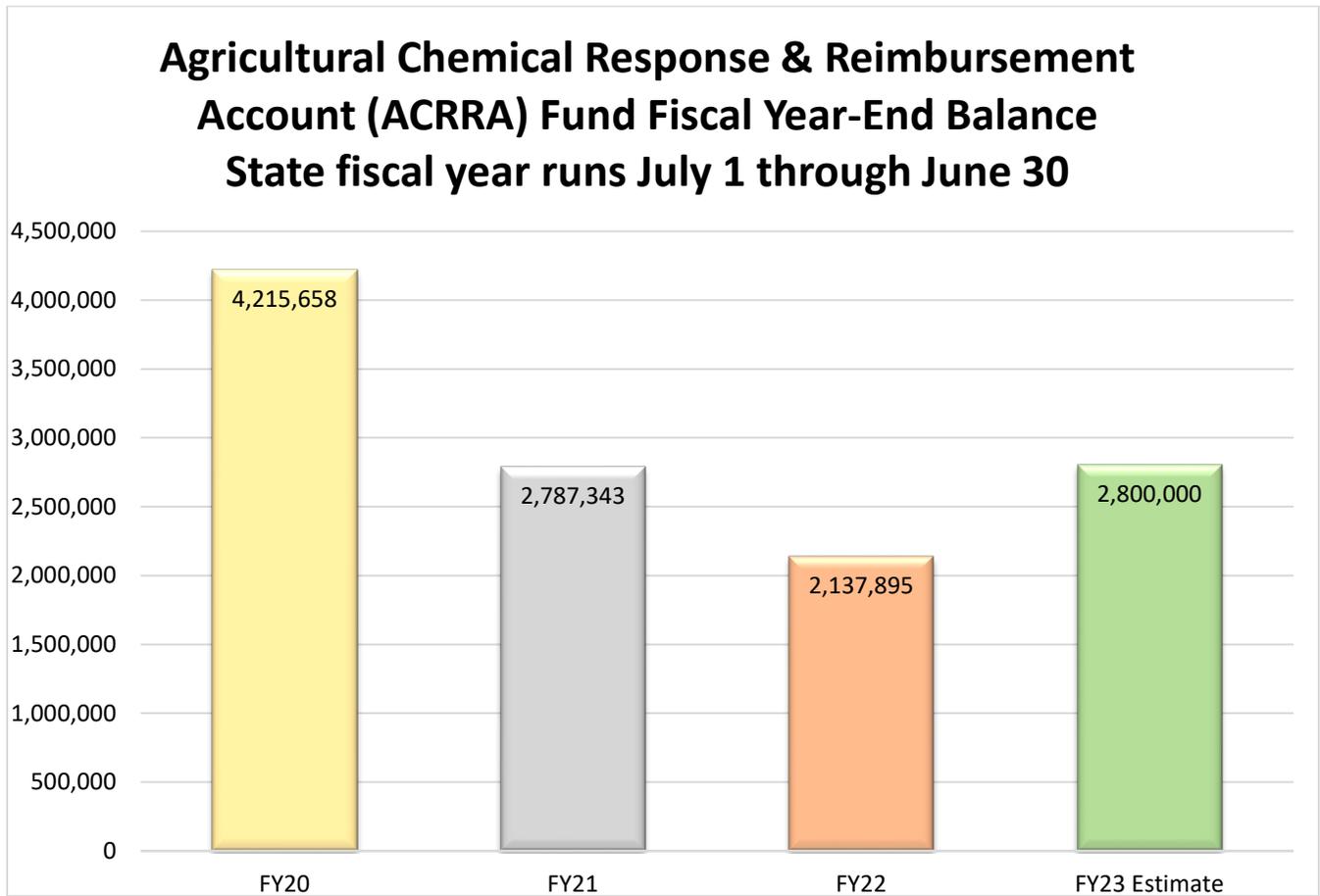
Minnesota Department of Agriculture

Agricultural Chemical Response and Reimbursement Account

For the Fiscal Year ending June 30, 2022 *

	*2022	2022	2021
REVENUES:			
Surcharge on License/Authorization	17%	\$421,371	\$242,077
Surcharge on Tonnage/Product Registration	82%	\$2,052,724	\$1,895,753
Investment Earnings	1%	\$10,554	<u>\$16,897</u>
Total Revenues	100%	\$2,484,649	\$2,154,726
EXPENDITURES:			
Reimbursement and Clean-up Costs		\$2,709,397	\$3,168,757
Administrative Expenditures (ACRRA)		\$263,589	\$238,402
Administrative Expenditures (Incident Response Unit)		\$161,102	\$175,848
Total Expenditures		<u>\$3,134,088</u>	<u>\$3,583,007</u>
Fund Balance Beginning of Year		\$2,787,334	\$4,215,624
Ending Fund Balance		<u>\$2,137,895</u>	<u>\$2,787,343</u>

ACRRA Fund Fiscal Year-End Balances



MDA Abandoned Sites Project Update

Former Esselman's Store, Mayhew Lake Township

The former Esselman's Store (Site) was operated as an agricultural chemical facility in Mayhew Lake Township from 1976 to 2003 by Robert and Donna Esselman. Robert Esselman passed away in 2003 and Donna Esselman is the remaining Responsible Party for this Site. In 2003, the Site was sold and is now operated as a trucking business. Pesticides and fertilizer contamination were identified in soil and groundwater at the Site. Petroleum contamination is also present in both soil and groundwater, which is being investigated through Minnesota Pollution Control Agency (MPCA) programs.

In 2016, the Responsible Party's (RP's) representative informed the MDA and the MPCA that the RP was financially unable to proceed with either the agricultural chemical or the petroleum investigations and corrective actions.

Water samples have been collected from 14 drinking wells within Mayhew Lake Township since June 2012. Agricultural chemical contamination above the Minnesota Department of Health (MDH) drinking water guidelines has been identified in six of the 14 drinking water wells sampled; MDH well advisories have been issued for all six of the wells. Four of the six agricultural chemical contaminated drinking water wells receive bottled water from the MDA. The other two wells are also contaminated with petroleum compounds and have had water treatment systems installed by the MPCA. Monitoring costs for both the drinking and supply wells are shared annually between the MPCA and MDA for consulting, reporting, and field supplies.

During FY22, the MDA continued to sample the monitoring well network and selected residential wells to provide additional data on the nature and extent of agricultural chemical contamination in the shallow and deep groundwater of the Site. Analysis from FY22 well monitoring has shown increasing levels of nitrogen concentration in some wells.

In FY22, the MDA conducted a limited investigation of selected areas of the Site, primarily under structures, that had yet to be fully delineated for sources of soil and groundwater contamination. This involved the completion of 24 soil borings, three temporary monitoring wells, and three soil vapor probes. The results of the recent limited investigation are being reviewed and are expected to clarify the extent of subsurface soil contamination and potential corrective actions beneath the former pesticides dike location and beneath the former dry fertilizer building. Additional investigation, dependent on obtaining access to an adjacent property, is planned prior to implementation of soil corrective actions.

To better understand the MDA's potential long-term costs of this project, the MDA will continue to work with the MPCA to evaluate corrective action options and cost sharing for the Site. Work conducted through MPCA programs is being funded by the Petrofund.

Agricultural Chemical Response Compensation Board Members

Chair, Jeff Wheeler

Representing Agricultural Chemical Retailers

Vice Chair, James Hlatky

Representing Farmers

Member, Janet Hou

Representing Agricultural Chemical Manufacturers and Wholesalers

Member, Joel Fischer

Delegate for the Commissioner of the Minnesota Department of Commerce

Member, Peder Kjeseth

*Delegate for the Commissioner of the Minnesota Department of Agriculture
Delegation began January 2022*

Former Member, Whitney Place

*Delegate for the Commissioner of the Minnesota Department of Agriculture
Delegation expired January 2022*

ACRRA Staff

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This report was prepared on behalf of the
Agricultural Chemical Response Compensation Board and the Commissioner of Agriculture for:

Minnesota Environmental Quality Board
House Committee on Ways and Means
House Agriculture Policy Committee
House Environment, Natural Resources and Agriculture Finance
Senate Environment, Economic Development and Agriculture Committee
Senate Jobs, Agriculture and Rural Development Committee
Senate Committee on Finance