

Annual Summary Report

For Fiscal Year 2002



Before
Slayton, Minnesota
Abandoned agricultural
chemical facility



After
Slayton, Minnesota
Redeveloped bank
property

**Agricultural Chemical Response and
Reimbursement Account
(ACRRA)**

About the front cover

ACRRA has been a key component to successfully accomplishing rural brownfield development. Brownfields are former industrial/commercial sites that may contain environmental contamination. Property buyers are reluctant to purchase and develop (or redevelop) properties because they don't want to deal with the environmental contamination and potential liability issues.

For example, two agriculture chemical facilities in the rural community of Slayton had a severe environmental contamination issue that inhibits future development. One of the facilities was still in operation, while the other was abandoned.

Local units of government, including cities, are not generally eligible for ACRRA reimbursement. However, just the fact that such a funding source was available for cleanup was enough to spur activity. The city and Minnesota Department of Agriculture staff worked cooperatively with the estate for the abandoned facility and the operator of the retail facility. The estate and the retail facility qualify and received ACRRA reimbursement for eligible cleanup activities.

A short time later, the contamination was cleaned up. The city of Slayton purchased the cleaned-up abandoned site, and sold it to a bank. The bank then redeveloped the site for a new bank location.

For additional information on this site or the Agricultural Voluntary Investigation and Cleanup Program (AgVIC), please contact Teresa L. McDill, PSS Project Manager, AgVIC Program, Minnesota Department of Agriculture

**The Agricultural Chemical
Response and Reimbursement
Account (ACRRA)**

***Annual Summary Report
for Fiscal Year 2002***

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

Minnesota's Legislative Coordinating Commission

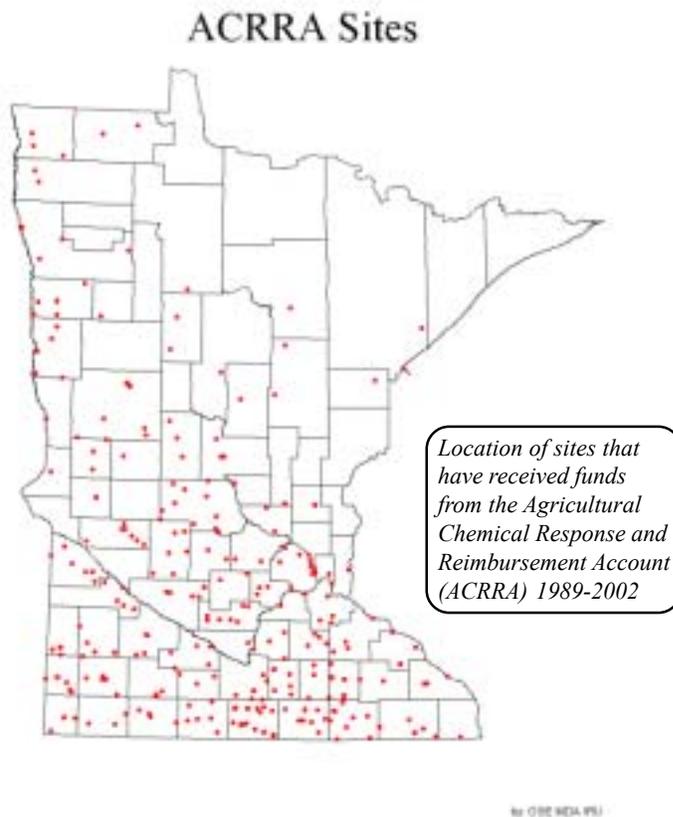
Senate Environment and Natural Resources Committee

House Environment and Natural Resources Committee

EXECUTIVE SUMMARY

Program Highlights

Over its 13-year history, the ACRRA program has disbursed \$16,771,209 to cover eligible corrective action costs at 313 sites. Sites funded by the program range from small transportation-related spill areas to large areas at agricultural chemical facilities.



The Minnesota Department of Agriculture's Incident Response Unit is responsible for performing technical review and oversight of corrective actions taken to clean up agricultural chemical contamination. Once a site is adequately cleaned up, Incident Response staff close the incident case file for the site. Of the 313 sites funded by ACRRA, Incident Response staff have closed 238. Some of these closed sites are still active ACRRA files. This is typically due to the lag time in submitting final eligible costs for review and approval by the ACRRA Board.

The continued need for ACRRA is evident in the number of sites that are currently managed by the Incident Response Unit.¹ This need can also be illustrated by the creation of ACRRA-like programs in three other states (Wisconsin, Iowa and Kansas) within the last six years.

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 property improvements and redevelopment in Greater Minnesota.

Fiscal Year 2002 Highlights

In state fiscal year 2002, the Commissioner of Agriculture received Agricultural Chemical Response and Reimbursement Account (ACRRA) surcharge revenues totaling \$2,289,110. This figure reflects a \$312,406 increase in revenues due to a surcharge increase that began in calendar year 2000.

¹ Number of Incident Response Unit cases as of 11/2002 - Emergency Response (Spills Team) = 200 cases reported annually, Comprehensive Facility Investigation = 55 active sites and Agricultural Voluntary Investigation and Cleanup = 78 active sites.

During this period, ACRRA disbursements totaled \$2,391,027. Fiscal year 2002 disbursements were \$61,496 less than fiscal year 2001. This slight decrease in disbursements reflects the second highest year of expenditures in ACRRA program history.

Many factors continue to contribute to the high level of ACRRA applications and disbursements. These factors include: trends in consolidation and restructuring of the agricultural chemical industry; changes in the types and uses of agricultural chemicals; increases in eligible clean-up costs; and statutory changes made during the 2000, 2001 and 2002 Legislative Sessions.

Statutory amendments were made to the ACRRA Law, (*Minnesota Statutes 18E*) during the 2002 legislative session that will affect the level of expenditures and revenues in the fund. The changes made:

1. Reduced the maximum reimbursement of eligible costs from 90 percent to 80 percent;
2. Reduced the amount an eligible party may collect from the fund to \$100,000 per fiscal year, if the fund balance is below \$2,000,000;
3. Reduced the amount of surcharges collected on licenses to a maximum of 50 percent of the license fee;
4. Limited the ACRRA Board to reimburse eligible costs at a maximum rate of 60 percent if recontamination from a subsequent incident exists; and
5. Added definitions for “emergency incident” and “recontamination”.

The balance of the fund, shown in Table 1, dropped slightly below \$1,000,000 for the first time in program history. Recent legislative changes noted above, primarily the one reducing the percentage of disbursement, will decrease expenditures in the future. These changes were effective for all applications received after July 1, 2002.

An overview of the program and detailed information on the activities that occurred during state fiscal year 2002 (June 1, 2001 – July 30, 2002) follow this summary.

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This report is submitted on behalf of the Agricultural Chemical Response Compensation Board and the Commissioner of Agriculture

PROGRAM OVERVIEW

The Agricultural Chemical Response and Reimbursement Account (ACRRA) was created as a component of the 1989 Minnesota Ground Water Protection Act. It was established 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 fund balance determines the amount of annual surcharges.

The Commissioner of Agriculture determines the surcharge rate 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.

2002 ACRRA Surcharge Rates by Category	Rate
Commercial & Non-Commercial Pesticide Applicator Licenses	\$60
Structural Pest Control License (<i>Company License</i>)	\$150
Agricultural Fertilizer License	\$225
Lawn Service - Fertilizer	\$225
Pesticide Dealer License (<i>Restricted Use & Bulk Pesticides/per site</i>)	\$225
Fertilizer Tonnage	\$.30/Ton
Pesticide Registration (<i>Annual Gross Sales</i>)	0.3%
Out Of State Pesticide Distributors	\$3,000

The Agricultural Chemical Response Compensation Board administers ACRRA funds. The board determines reimbursements or payments 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. Meetings are usually scheduled 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, the Department of Agriculture, and the Department of Commerce.

ACRRA is supported by MDA staff, who are 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 perform a wide variety of duties, including: coordinating administrative activities with MDA Incident Response technical 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.

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

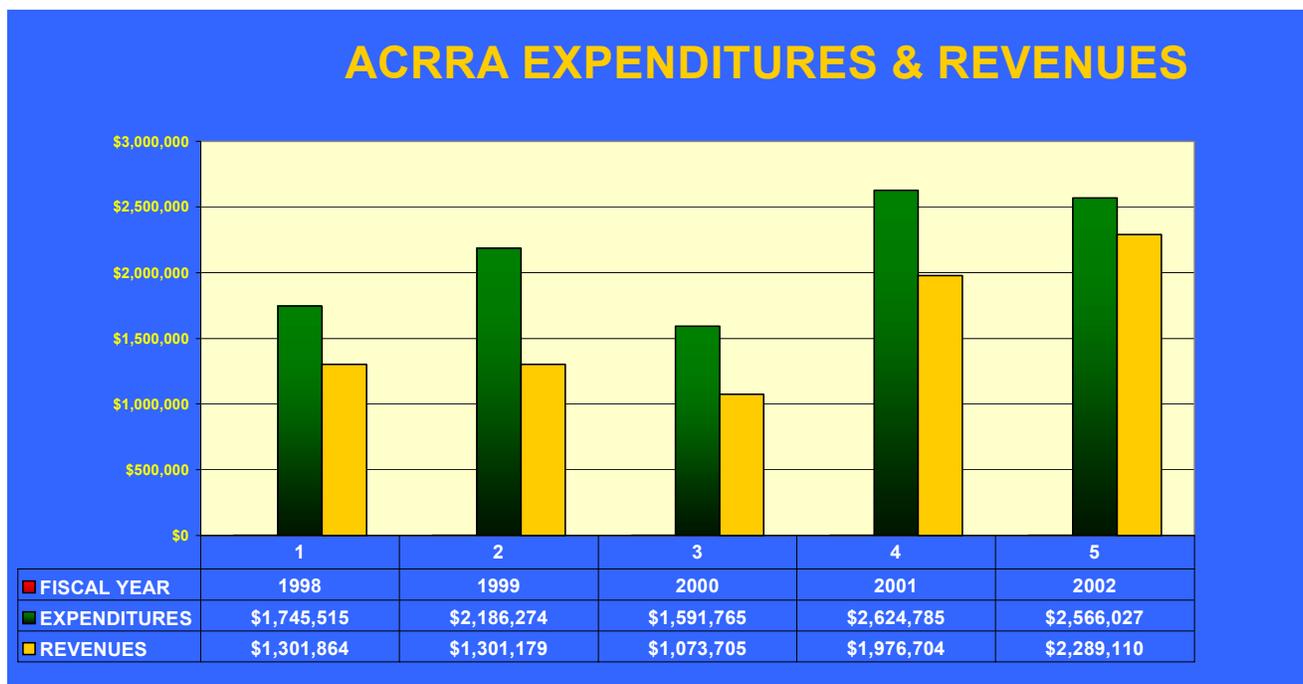
REVENUES AND EXPENDITURES

Revenues

The Commissioner of Agriculture collected ACRRA surcharges from various licensing, registration, and inspection fee programs administered by the Agronomy and Plant Protection Division of MDA¹. The fiscal year 2002 ACRRA surcharge revenue was \$2,289,110 as shown in the chart below. The account had a \$276,917 deficit for expenditures versus revenue for the fiscal year as shown in *Table 1*.

The Commissioners of Agriculture, based on recommendations from the ACRRA Board, 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 last raised surcharges beginning in calendar year 2000.

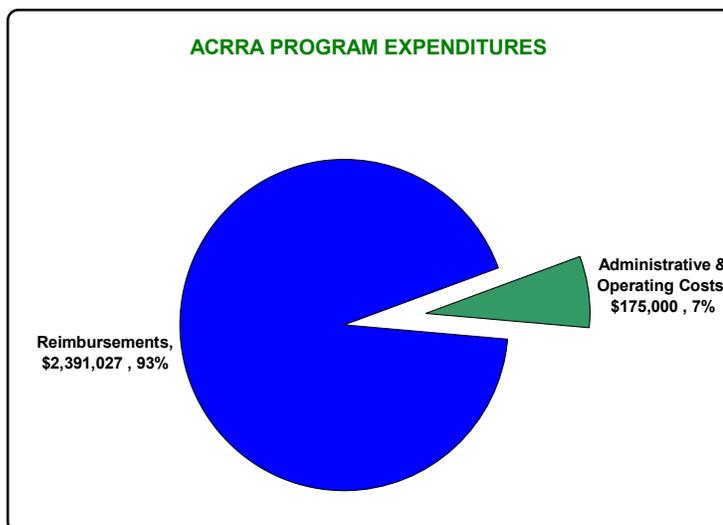
ACRRA expenditures remained greater than its revenues in fiscal year 2002 despite the increase in surcharges. Revenues increased by \$312,406 in fiscal year 2002 due to the 2000 surcharge increase; however, they still may be insufficient to meet the expenditure demand. Legislation passed during the 2002 Session reduced licensing surcharges. This will shift a portion of the revenue burden from individual licensees to other categories such as pesticide product registrants.



² Source: Department of Agriculture, Agronomy & Plant Protection Division, as of September 4, 2002

Cleanup Expenditures

The ACRRA Board authorized funding of 67 applications for agricultural chemical incident corrective action costs. The amount of individual authorized disbursements ranged from \$1,000 to \$189,100. Reasons for this wide range of disbursements were due to: the type of incident; type and amount of agricultural chemical products; scope and extent of environmental contamination; technologies available for investigation and remedy; and other factors peculiar to individual incidents/sites.

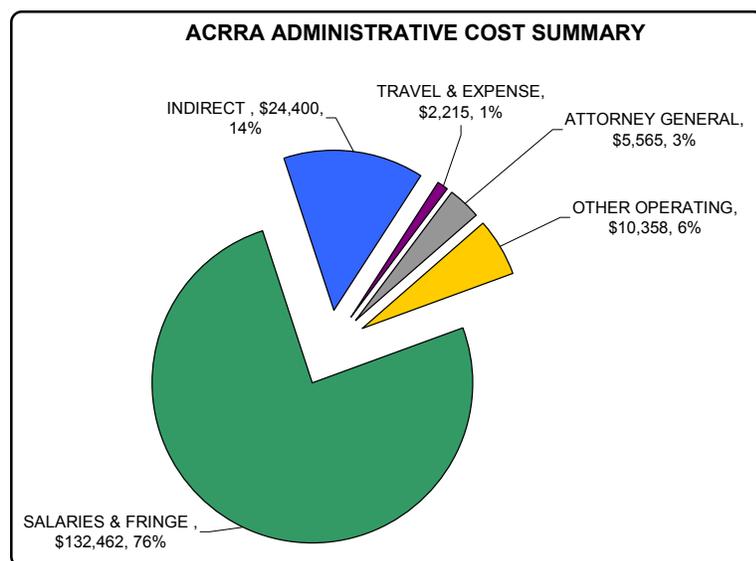


Total cleanup disbursements for fiscal year 2002 were \$2,391,027, as shown in the chart above and in *Table 1*.

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

Administrative Expenditures

Board and staff administrative costs for the period of July 1, 2001 to June 30, 2002, totaled \$175,000², as shown in *Table 1*. Administrative costs for the program are limited by statute to \$175,000. The chart at left shows the breakdown of these administrative costs.



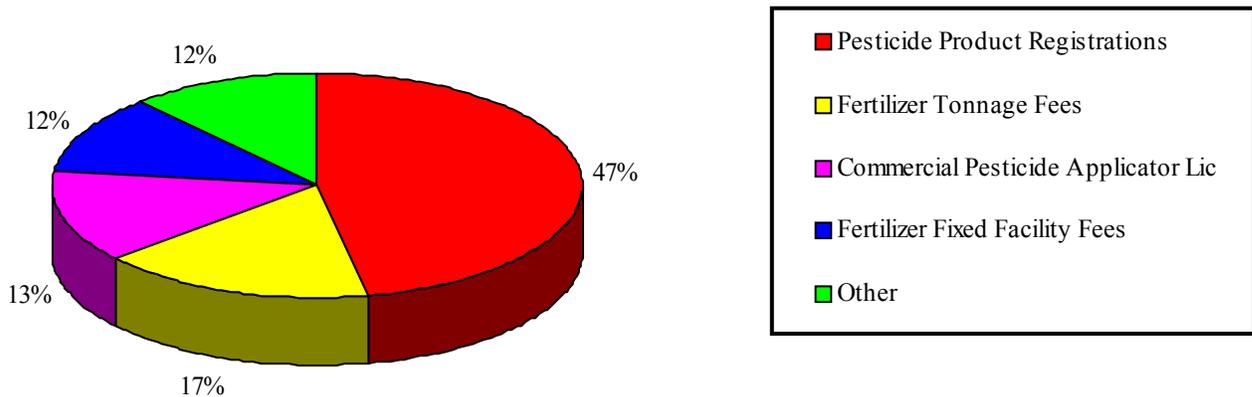
The above administrative costs and the \$2,391,027 in disbursements for state fiscal year 2002, equals the total expenditure of \$2,566,027 for this year as shown in *Table 1*.

³ Source: Department of Agriculture, Agronomy & Plant Protection Division, as of September 4, 2002.

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

	2002%	2002	2001	2000
REVENUE:				
Pesticide Product Registrations	47%	\$ 1,077,701	\$ 922,894	\$ 396,584
Fertilizer Tonnage Fees	17%	380,103	405,492	231,051
Commercial Pesticide Applicator Lic	13%	302,985	197,875	97,130
Fertilizer Fixed Facility Fees	12%	263,860	167,936	91,570
Other	12%			
Investment Earnings		43,210	95,441	123,704
Pesticide Dealer Storage License		137,700	93,150	48,600
Recoveries		0	48,000	0
Non-commercial Pesticide Appl Lic		67,620	35,470	19,510
Structural Pest Control Company Lic		12,400	8,325	4,117
Commercial Applicator-Aquatic		3,530	2,120	1,140
Pesticide Storage - Outside of State		0	0	6,000
Net revenues		2,289,109	1,976,704	1,019,406
EXPENDITURES:				
Reimbursement claims paid		2,391,027	2,452,523	1,437,823
Administrative expenditures		175,000	172,262	153,942
		2,566,027	2,624,785	1,591,765
EXCESS OF REVENUE OVER EXPENDITURES		(276,918)	(648,081)	(572,359)
FUND BALANCE -- beginning of fiscal year		1,267,636	1,915,717	2,488,076
FUND BALANCE -- end of fiscal year		\$ 990,718	\$ 1,267,636	\$ 1,915,717

**Sources of Funding
 Fiscal Year 2002**



AGRICULTURAL CHEMICAL RESPONSE COMPENSATION BOARD

The Agricultural Chemical Response Compensation Board administers the ACRRA Fund, determining reimbursements or payments from the fund to eligible persons. The five-member board consists of representatives from the agricultural chemical registrants, manufacturers and dealers, farmers, the Department of Agriculture Commissioner, and the Department of Commerce Commissioner. Board meetings are usually scheduled every other month.

Agricultural Chemical Compensation Board (ACRRA Board) members are appointed by the Governor and serve a four-year term. Appointments are coordinated through the Minnesota Secretary of State's Office. Current vacancies and information about Governor Appointments are posted on the Secretary of State's web site (<http://www.sos.state.mn.us/>).

Board Members

- ◆ **Roger Strand, Board Chair**
Representing agricultural chemical dealers
Owner/Operator MN Agricultural Chemical Dealer Facility
- ◆ **June Varner, Board Vice-Chair**
Representing Minnesota farmers
Owner/Operator 400-acre farm
- ◆ **Sandra Gardner, Board Member**
Representing agricultural chemical registrants and manufacturers
Syngenta Crop Protection, Inc.
- ◆ **James Pearson, Executive Director, PetroFund Program, Department of Commerce**
Delegate for James C. Bernstein, Minnesota Commissioner of Commerce
- ◆ **Tom Masso, MDA Assistant Commissioner**
Delegate for Gene Hugoson, Minnesota Commissioner of Agriculture

ACRRA PROGRAM ACTIVITIES

ACRRA Board and Incident Response Unit staff participated in many activities and events during fiscal year 2002.

Public Input Efforts

Three meetings were held to solicit input on the future of the ACRRA program. Meetings were held in St. Paul (11/14/01), Mankato (11/16/01) and Marshall (12/19/01). Meeting attendance was very low. Attendees represented agricultural chemical dealers, farmers, chemical applicators, environmental groups and the legislature. ACRRA Board members and staff, MDA Incident Response, enforcement and field staff also attended.

A 20-minute presentation giving background information, current status and important issues was prepared and presented at the meetings. The remaining time was devoted to soliciting input from meeting participants. Based on the comments and questions received, there still appears to be

some misinformation about the purpose and focus of the program. ACRRA and Incident Response staff spent a significant amount of time answering questions.

Input from participants included:

- The state should provide revenues (either to supplement surcharges or in lieu of) to the program because of its overall benefits to public health and the environment. Comments were also made about the continued need for a program like this and the possible need to escalate our cleanup efforts.
- Training for facilities and individuals that handle agricultural chemicals was raised in relation to environmental concerns.
- There is an inequity in how surcharges are assessed throughout the industry. Lawn care representatives feel that this inequity adversely affects their small business owners.
- Concerns about paying for the “big guys” (large corporations) who could afford to clean up their own messes and concerns with recontamination and “bad actors” were raised.
- Surcharges should be paid through the marketplace, not by taxpayers. This includes cleanup costs paid for at the time of property sale (negotiated between the buyer and seller).

Public Input Surveys

Two surveys were developed to solicit additional input on the program. The first survey was focused on general information and attitudes about agricultural chemical contamination and the ACRRA program. The second survey focused on three critical program areas (cost containment, fee structure and recontamination). Surveys were made available at the Mankato and Marshall meetings, the Turf and Grounds Conference (12/6 & 12/7/02) and the Short Course (12/12 & 12/13/02). Surveys were also posted on the MDA website. Survey responses were low and reflected many of the same comments and concerns expressed at the Public Input meetings.

Rural Brownfields Presentations

Teresa McDill, Agricultural Voluntary Investigation and Cleanup (AgVIC) program coordinator, developed a presentation on rural brownfields. “Brownfields in Rural Areas: Agricultural Chemical Contamination, Cleanup and Redevelopment”, was presented at the national *Brownfields 2001* conference in Chicago and at the Minnesota Environmental Health Association Spring Conference. The presentation describes Minnesota’s programs, outlines the nature of rural brownfields and provides insight on what it takes to have successful cleanup and redevelopment projects completed.

Brownfields Coordination Study Group

ACRRA and Incident Response staff continue to participate in a multi-agency group to share information on contamination remediation programs. 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 Trade and Economic Development sponsor these ongoing workshops jointly. They highlight funding opportunities for agricultural chemical, hazardous materials and petroleum cleanups. ACRRA and Incident Response staff presented information on both programs at two locations in Minnesota, in 2001/2002.

PROGRAM LEGISLATION

The ACRRA fund has seen a marked increase in demand in recent years. Surcharges were raised in 2000 and 2001, but may be insufficient to meet future financial requests. Cost containment measures were a major factor in the need for legislative changes. Significant changes have been made to the ACRRA Program over the last three legislative sessions. A summary of these changes follows.

2002 Legislative Session

Minnesota Statutes §18E.02 subdivisions 5(a) and 5(b); §18E.03 subdivision 4; §18E.04 subdivisions 2, 3, and 4; and §18E.06 were changed during this session (Minnesota Session Laws 2002, Chapter 373, House File 3183).

2002 Changes

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

Added Definitions

Emergency Incident means an incident resulting from a flood, fire, tornado, transportation accident, storage container rupture or other event as determined by the Commissioner of Agriculture that immediately, uncontrollably and unpredictably releases agricultural chemicals into the environment, and which may cause unreasonable adverse effects on the public health or the environment.

Recontamination means an agricultural chemical incident that occurs in a specific land area where corrective actions were taken to address a previous incident. Recontamination does not include an emergency incident.

2001 Legislative Session

Minnesota Statutes §18E.04 subdivisions 2, 4 and 5, were changed during the 2001 Legislative Session. Changes included: 1) a reduction of the reimbursement percentage from 100 percent to 90 percent for eligible costs between \$100,000 and \$200,000; 2) a requirement that all eligible costs are submitted within three years after cost incurrence or corrective action report approval, whichever

is later (any costs incurred over three years prior to July 1, 2001, must be submitted by June 1, 2004); and 3) procedures for requesting a hearing before the ACRRA Board when a decision on a reimbursement or payment has an adverse effect on the eligible person. These changes went into effect July 1, 2001. All costs incurred by eligible persons after the effective date will be subject to the changes.

2000 Legislative Session

Minnesota Statutes § 18E.04, subdivision 4, was changed during the 2000 Legislative Session at the request of industry representatives. The maximum eligible costs of corrective actions for incident cleanups increased from \$200,000 to \$350,000 and provide a potential program cost increase of up to \$110,000 per incident site.

FUTURE PROGRAM INITIATIVES

Program initiatives for the coming year include creating new administrative procedures and processes to implement the many changes that have occurred over the last three years. The primary focus will be on developing new guidance documents and associated materials to help program clientele, consultants, MDA technical staff and regulated communities understand ACRRA program changes.

Report Costs

The costs to produce the *ACRRA Annual Report for Fiscal Year 2002* are summarized below.

ITEM	COST
Labor (3 staff, 32 hours total)	\$1,000.00
Copying and Distribution	\$650.00
TOTAL	\$1,650.00