



2015

# ACM Annual Report



October 2016



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## Bureau Highlights

The Agrichemical Management (ACM) Bureau administers Wisconsin's regulatory 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.

During 2015, the Bureau worked on four major projects and two rule revisions in addition to its routine regulatory, environmental and enforcement work. These projects are highlighted in this annual report, together with the financial overview, program statistics, and enforcement and compliance actions.

### Financial Overview

This financial overview covers the state fiscal year 2014-2015, which ran from July 1, 2014 through June 30, 2015. Federal grants run on a different cycle (October 1, 2014 through September 30, 2015) than the state fiscal year; this report covers those portions of the federal grants that occurred during the state fiscal year. The Department of Natural Resources' Environmental Fund supports Clean Sweep grants to local governments (\$750,000 annually) and the revenue and expenditures for these grants are not included in any of the five tables found below.

The primary sources of revenue for the ACM Bureau are industry fees for licenses, permits, registrations and tonnage under the feed, fertilizer, soil and plant additive (SPA), lime, and pesticide programs. In addition, federal grants provide some funding to cover annual program expenses. The ACM Bureau recognizes these important partnerships with industry and the federal government and works hard to maximize the use of this funding for the benefit of the industry, consumers, and the environment.

### Agrichemical Management Fund (ACM Fund)

The ACM Fund is the primary source of funding for all the regulatory, investigative and enforcement aspects of the ACM Bureau, including staff, supplies and services, and the regulatory laboratory. Table 1 shows the ACM Fund balance sheet resulting from industry fee revenue and ACM Bureau expenditures.

**Table 1: ACM Fund Balance Sheet, FY 14-15**

	Revenue	Expenses	Total
Opening Balance	\$6,322,185		
Revenue Total	\$7,469,643		
Available Funds	\$13,791,828		
Expenditures			
ACM Program		\$5,998,043	
Other Programs		\$815,990	
Expenditures Total		\$6,814,033	
FY 14-15 Ending Balance			\$6,977,795

## FINANCIAL HIGHLIGHTS

### REVENUES

\$7,469,643 - ACM Fund  
 \$730,805 - Grants  
 \$2,958,300 - ACCP Fund

### EXPENSES

\$5,998,043 - ACM Programs  
 \$815,990 - Other Programs  
 \$1,410,300 - ACCP Fund

## Other ACM Program Revenues

In addition to industry fees, the ACM Bureau programs are also supported by federal grants from the United States Environmental Protection Agency (EPA) and the United States Food and Drug Administration (FDA). The EPA pesticide grant is the largest grant and is for implementing, investigating and enforcing federal pesticide use laws and regulations. Our cooperative efforts with FDA provide funds for inspecting certain establishments producing higher risk medicated

feed and allows for monitoring the affected industries, including feed manufacturers, ingredient transporters and ruminant animal feeders. Table 2 is a summary of the total grant revenues collected to operate the programs within the ACM bureau.

**Table 2: Grant Revenue, FY 14-15**

Source	Revenue
EPA Pesticide Grant	\$619,133
FDA Medicated Feed Grant	\$111,672
Total	\$730,805

## Agricultural Chemical Cleanup Program Fund (ACCP Fund)

The ACCP Fund is used to make reimbursement payments for agricultural chemical spill cleanups. Table 3 shows the money collected and deposited into the ACCP Fund from industry surcharges. As can be seen in Table 3, the fund balance is growing as revenues continue to outpace expenditures.

**Table 3: ACCP Fund, FY 14-15**

	Revenue	Expenditures	Total
Opening Balance	\$3,826,800		
Total Revenue	\$2,958,300		
Reimbursements		(\$1,410,300)	
Other		\$0	
Closing Balance			\$5,374,800

## Revenue Collected for Other Agencies and Programs

The ACM Fund is statutorily required to support several programs that are not part of the ACM Bureau. Table 4 shows non-ACM Bureau programs that are supported by fees paid into the ACM Fund.

**Table 4: ACM Fund Expenditures for non-ACM Programs, FY 14-15**

Non-ACM Program	Amount
Animal Health Division	\$351,978
Discovery Farms	\$248,460
Ag in the Classroom	\$93,900
Grazing Grants (Final payment)	\$121,652
Total FY14-15 Non-ACM Program Expenditures	\$815,990

The ACM Bureau is also directed by statute to collect fees for several other agencies and distribute it to them each year. Table 5 shows the fee revenue collected on behalf of—and transferred to—other agencies.

**Table 5: Non-ACM Program Revenue, FY 14-15**

Program	Revenue
DNR-- Environmental Fund	\$1,517,657
UW – Fertilizer Research Council	\$333,098
UW – Nutrient Management Program	\$191,469
UW – Lime	\$13,665
DATCP Weights and Measures	\$137,914

## Direction for the Coming Year

As shown in Table 1, the ACM Fund continued to have a large balance remaining at the end of the fiscal year. Over the years, the department or legislature lapsed similar balances and used the funds for purposes other than ACM programs. To help minimize large annual and fund balances, the Bureau began a project to comprehensively review all revenues and expenditures (“RevEx”) to ensure in the future fee levels and revenues are appropriate and properly aligned with bureau expenditures. RevEx will also review how fees are collected and the timing of various licenses. Bureau staff worked with a stakeholder working group and several subcommittees beginning in fall 2015 with the goal of making recommendations by fall 2016 for the 2017-2019 budget. Legislation will be required to implement most recommendations.

## Strategic Planning

From May through August 2015, the ACM Bureau management team undertook a planning process to identify strategic goals and objectives that will help guide and focus the Bureau's activities over the next three years. The strategic plan will help the Bureau use its limited financial and human resources in the most critical areas and on the most important tasks as it strives to meet its mission even more efficiently and effectively in the future.

As a result of the planning process, the ACM Bureau adopted three strategic goals. All staff, programs, sections, and management in the Bureau will use the annual work planning process to help align their work activities to meet these goals over the next three years.

### Goal: Operational Excellence

The ACM Bureau staff will enhance its operational functions through effective programs, efficient use of resources, expanded use of technology, and process improvements.

- **BAM-IT:** Complete BAM-IT project to make administrative processes more efficient and to ensure programs meet statutory and rule requirements.
- **Technology:** Implement technology effectively in the office and the field by identifying and deploying the most appropriate tools for each function and providing adequate training on how to use them.
- **RevEx:** Complete RevEx project to ensure revenues are assessed equitably, collected efficiently and used effectively.
- **Work planning and Program Evaluations:** Reinvigorate the work planning and program evaluation processes to identify and implement key program and process improvements.

### ACM BUREAU MISSION

*Protect human health and the environment, promote agriculture and assure a fair marketplace by mitigating risks and preserving the benefits of regulated products.*

### Goal: Stakeholder Collaboration

The ACM Bureau will increase its collaboration with its internal staff, partners and external stakeholders to maintain credibility and enhance program success.

- **Relevancy:** Strengthen the relevancy of the ACM Bureau's programs and activities
- **Communication:** Enhance communication with internal and external stakeholders
- **Collaboration:** Identify new and enhance existing collaborative initiatives with industry and other partners

### Goal: Workforce and Employee Development

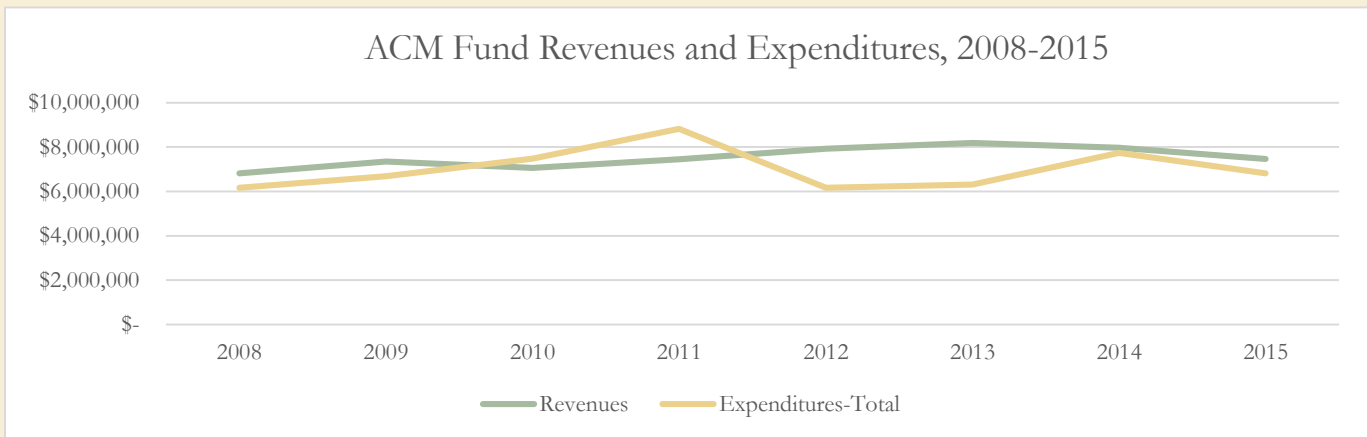
The ACM Bureau will recruit, invest in, develop and manage its workforce to ensure skilled, adaptable employees who can lead critical programs and who have opportunities to grow professionally.

- **Organization:** Evaluate Bureau structure and personnel and align them to ensure we are best able to serve industry and the public.
- **Training:** Identify training needs and pursue opportunities to enhance skills, improve knowledge and develop staff professionally.
- **Recruitment:** Partner with human resources and use every available resource to identify, recruit and hire the most qualified people.
- **Retention:** Foster a culture where it is expected and advantageous for employees to identify and pursue personal and professional growth and enrichment opportunities.

## RevEx

The ACM Bureau's programs are supported almost entirely by industry fees. Eight issues related to fees and surcharges needed to be resolved in consultation with industry. To do so, the Bureau initiated the RevEx project to comprehensively review revenues from fees and surcharges, and expenditures of those revenues to ensure fees are assessed equitably, collected efficiently, and spent effectively. Fees and surcharges under review are:

- Pesticide registration, business location, commercial licensing and restricted use dealer fees and surcharges
- Fertilizer and SPA license, permit and tonnage fees and surcharges
- Feed license and inspection fees



Beginning in October, the Bureau convened a 22-member oversight work group and four subcommittees to address the eight issues. In 2015, the Bureau held one full RevEx work group meeting, one subcommittee meeting on Pesticide Registration and Licensing, and one subcommittee meeting on the ACCP. This project continued into 2016. The intended outcome is recommendations for statutory changes related to the fees and surcharges being reviewed.

## BAM-IT

The ACM Bureau's information technology (IT) systems are obsolete, making it difficult for staff to complete their work efficiently and with the best customer service. To address this issue, the Bureau began a project in 2013 to upgrade its IT systems and processes. Referred to as "BAM-IT," its goals are to increase efficiency, eliminate duplication, increase data accuracy, and improve customer service. Some features expected to be included in the upgrade are web-based licensing and reporting for the fertilizer, feed and pesticide programs; web-based permits for fertilizers and soil and plant additives, online feed export certificates, and the ability to accept payments online. When complete, BAM-IT will affect all areas of the Bureau, office and field staff associated with each of the program areas, and private and commercial customers associated with these programs.

Phase one in the system upgrade has been to conduct a detailed analysis and rigorous evaluation of the twenty-plus bureau programs in a very thorough and systematic approach. The Bureau continued this detailed discovery phase for the project in 2015. While going through this evaluation, the Bureau has made many improvements to operations and process flows. One example of an improvement made this past year was to use Microsoft OneNote to create a central repository of information about the feed program. The repository ensures information is available bureau wide and can be accessed even in the absence of a particular staff person.



## Pollinator Protection

Amid concerns about pollinator declines, honey bee health and the future of crop production, the ACM and Plant Industry Bureaus jointly applied for and used a specialty crop block grant funded through the Farm Bill to partner with researchers at the University of Wisconsin-Madison and stakeholders and develop a voluntary pollinator protection plan in 2015. Goals of the plan include:



- Improving public understanding of pollinator health issues and actions that affect pollinators.
- Minimizing risks to pollinators through voluntary actions that Wisconsin residents, businesses and agencies can take.

Because pollinator issues affect a diverse species, the plan focused on both managed bees and wild pollinators, and identified voluntary, scientifically sound actions all residents can take. The plan has a statewide scope and applies to many contexts -- rural and urban, agricultural and non-agricultural.

A diverse stakeholder group was assembled to provide content and guide plan development at three facilitated meetings

held August-November 2015. Stakeholders represented a range of agricultural, governmental, tribal and non-profit organizations. These meetings were open to the public. Goals included:

- Understanding stakeholder concerns and viewpoints on pollinator health issues.
- Identifying a voluntary set of actions that Wisconsin residents, businesses, non-governmental organizations and agencies can take to protect pollinators.
- Increasing communication among stakeholder groups.

Stakeholders demonstrated a strong commitment to communicate the evolving plan content with the individuals or organizations they represented. This included soliciting feedback from those individuals and organizations to complete a two-way flow of information. Edits and comments on the draft plan were incorporated into subsequent revisions. A public comment period on the draft pollinator plan was held in January 2016 and the final plan was published in April 2016.



## Rule Revisions

### ATCP 34 – Chemical and Container Collection

The Clean Sweep program operates under Chapter ATCP 34 – Chemical and Container Collection, Wisconsin Administrative Code. The Bureau opened the rule for revision in 2012 to find ways to streamline the application and reporting process, create rules



for the drug collection portion of the program, and address inconsistencies between the program rule and state statute. Listening sessions were held in the spring of 2013 and three public hearings were held in early 2014. Based on comments received, some changes were made to the draft rule. The final draft rule was presented to the ATCP Board in November 2014 and submitted to the Governor's Office for approval. In January 2015, the rule went to the Legislature for review and on July 1, 2015, the revisions to the program's administrative code took effect. The changes were incorporated into the 2016 Clean Sweep grant application process and 2016 will be the first full grant cycle to operate under the revised rule.

Major changes to the rule include:

- Updating provisions related to grant applications, grant evaluation and approval, grant contracts, reporting requirements, reimbursement procedures, selection of hazardous waste handlers, and other matters to keep up with developments relating to the collection of hazardous wastes.
- Adding standards to the rule for the statutorily required unwanted prescription drugs component of the program.
- Amending the rule to resolve existing conflicts between the statute and rule concerning funding amounts for the grants and to consider the overall needs of grant recipients.
- Reducing paperwork by permitting electronic applications for grants.

- Making changes to improve the administrative and operational efficiency of the Clean Sweep program.

In 2015, the Clean Sweep program:

- Issued grants to 59 communities
- Collected 2,338,410 pounds of waste, and
- Served 56,845 residents, farms and business (with an unknown number using permanent drug disposal drop boxes.)

### ATCP 40 – Fertilizer and Related Products

In December 2014, the department initiated rulemaking to revise the fertilizer deficiency labeling criteria included in Chapter ATCP 40 – Fertilizer and Related Products, Wisconsin Administrative Code. The department met with an industry stakeholder group during 2015 to receive input on the proposed revisions. The public hearing was held on June 30, 2015 and six stakeholders provided comments that either supported the rule change or supported it with minor modifications.



Changes to the rule include:

- The title "economic value" has been changed to "combined nutrient index." This change more accurately reflects what the title represents.
- The combined nutrient index value is now derived from a formula using equal weight of all primary plant nutrients.
- The actual combined nutrient index of a fertilizer sample will now need to be within 97% of the guaranteed combined nutrient index, rather than 98%. This restores the rule to the standard used in past law.

The revised rule took effect on April 1, 2016, and is more reflective of current wholesale market prices for fertilizer ingredients.



## Compliance and Enforcement



The Investigation and Compliance Section performs investigations related to the feed, fertilizer and pesticide programs. These cases can involve product distribution, storage, use, disposal or

environmental contamination.

### Program Activities

In 2015, the section conducted a total of **122** investigations. The 122 investigations included the following types of cases: **99** pesticide, **5** feed, **7** remediation, **3** containment, **7** license enforcement, and **1** worker protection (pesticide).

Violations may result in actions ranging from verbal warnings to a court action invoking civil or criminal penalties, depending on the statutory authorities in the program area. All civil or criminal cases conducted by the section are prosecuted by the district attorney's office in the county where the alleged violations occurred. A majority of the formal enforcement actions are conducted by the section through stipulated settlements, with court documents being prepared by the section.

In 2015, the Bureau delivered 34 cases to

county district attorney offices for prosecution that were subsequently filed and closed by the counties. These cases may include investigations from previous years. Numerous 2015 enforcement cases are still in pending status, thus the presented numbers do not reflect the total enforcement actions that will result from the 2015 investigations.

**Table 6: Enforcement Actions**

Action Taken	Number of Actions
Verbal Warning	16
Letter of Concern	4
Warning Notice – Investigator	34
Warning Notice – Office	4
Administrative Conference	14
Administrative Order	0
Civil Forfeiture Action	34
Criminal Action	1
Referred to US EPA	0
<b>Total</b>	<b>107</b>

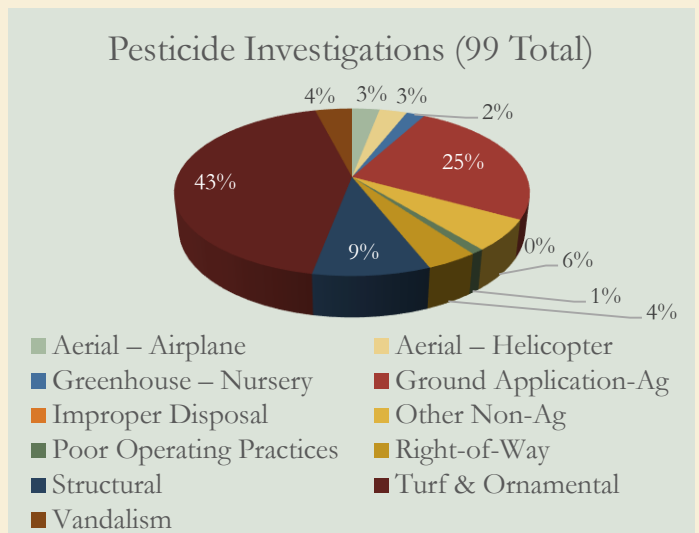
**Table 7: Pesticide Violations, 2011-2015**

Type of Case	Number of Cases (% with violations)				
	2011	2012	2013	2014	2015
<i>Aerial – Airplane</i>	3 67%	3 67%	7 86%	2 50%	3 67%
<i>Aerial – Helicopter</i>	0	2 100%	3 67%	4 75%	3 100%
<i>Greenhouse – Nursery</i>	0	0	0	1 100%	2 100%
<i>Ground Application-Ag</i>	50 80%	41 66%	39 69%	32 66%	27 92%
<i>Improper Disposal</i>	0 0%	1	0	0	0
<i>Other Non-Ag</i>	3 67%	6 83%	13 57%	7 43%	4 60%
<i>Poor Operating Practices</i>	0	6 80%	5 60%	2 100%	1 100%
<i>Right-of-Way</i>	7 57%	2 0%	2 67%	2 0%	4 75%
<i>Structural</i>	7 86%	10 80%	12 50%	9 56%	9 89%
<i>Turf &amp; Ornamental</i>	30 67%	41 68%	40 64%	27 67%	43 81%
<i>Vandalism</i>	5 60%	6 50%	2 0%	0	4 100%

The ACM Bureau assigns the highest response priority to complaints alleging human exposure to pesticides. In 2015, staff investigated five cases alleging potential human exposure to pesticides. These five investigations included one agricultural ground application, one aerial helicopter agricultural application, two turf and ornamental landscape applications, and one vandalism claim. In 2015, the section investigated 47 complaints involving alleged pesticide drift, with 18 of the complaints involving agricultural applications.

### Selected 2015 Compliance Actions

- As the result of a fertilizer spill, DATCP determined that an unlicensed fertilizer distributor was storing and distributing liquid bulk fertilizer from a bulk storage tank without having required containment for the bulk product. It was also determined the defendant obstructed DATCP employees while performing their duties. The defendant agreed to a stipulated settlement and paid a forfeiture totaling \$7,778, including court costs.



- As the result of a short bulk inspection at an agrichemical facility, DATCP determined that the facility had not reported a spill, failed to take immediate and appropriate actions in response to a spill, and failed to adequately manage precipitation contained in secondary containment. The defendant agreed to a stipulated settlement and paid a forfeiture totaling \$7,813, including court costs.



- As the result of a complaint, DATCP completed an investigation and determined that a farmer applied pesticide in a manner that resulted in significant pesticide drift, directed the use of a restricted-use pesticide without being individually certified, used a pesticide in a manner inconsistent with the label, and directed the use of a pesticide in a manner inconsistent with the label. The defendant agreed to a stipulated settlement and paid a forfeiture totaling \$2,802, including court costs.

resulted in significant pesticide drift. The defendant agreed to a stipulated settlement and paid a forfeiture totaling \$768, including court costs.

- As the result of a non-agricultural use observation, DATCP determined that an aerial application firm directed the use of a pesticide in a manner inconsistent with the pesticide label, and directed employees, who were not individually licensed as commercial pesticide applicators, to make commercial pesticide applications. The defendant agreed to a stipulated settlement and paid a forfeiture totaling \$1,000.00, including court costs.



**A DATCP-regulated bulk storage facility found to have been pumping rinsate from the containment area to adjacent land.**

### Direction for the Coming Year

The Investigation and Compliance Section will continue to assist in updating policies and procedures for the section and other program areas. The section will also continue to provide training and job shadowing opportunities to environmental enforcement specialists (EES) and staff in all program areas. Training in 2016 will focus on successfully completing initial EPA credential training for 6 of the 14 EES staff members.

## Program Activity Data

<b>Pesticide Licenses &amp; Certifications</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Pesticide Business Location	2,100	2,110	2,180	2,165	2,285
Individual Commercial Applicator	6,650	7,200	6,170	8,311	8,585
Restricted Use Dealer	389	389	394	401	406
Commercial Certifications	3,095	3,033	3,334	3,716	3,665
Total Commercial Certifications	13,300	13,900	13,340	18,873	16,826
Private Certifications	3,485	2,194	3,175	1,959	2,021
Total Private Certified	15,800	15,340	15,160	14,897	12,829
Manufacturers and Labelers	1,272	1,284	1,281	1,259	1,295
Pesticide Products	12,083	12,174	12,429	12,617	12,900
Landscape Registry Addresses	13,722	8,456	5,708	5,707	5,000
Landscape Registry Warning Notices	25	38	43	32	28
24(c) special local need (new)	5	1	12	2	6
Section 18 Emergency Exemption	3	3	1	1	1
Experimental Use Permits	0	0	0	0	0
Special Use Small Mammal Permits	13	13	3	6	4
Feed License	1,291	1,238	1,298	1,431	1,449
Feed Tonnage	3,926,617	4,183,479	4,617,739	4,773,115	5,103,122
Feed Certificates of Free Sale	200	251	305	188	270
Fertilizer License	741	749	773	766	796
Fertilizer Permits (new)	323	281	360	443	501
Fertilizer Tonnage	1,785,525	1,721,774	1,925,279	1,860,000	1,799,271*
Soil and Plant Additive License	135	143	146	144	142
Soil and Plant Additive Permits (new)	93	132	125	105	243
Soil and Plant Additives Tonnage	226,172	188,515	72,904	174,440	164,629
Lime License	103	110	110	104	104
Lime Tonnage	1,177,199	1,469,881	1,027,713	993,000	1,084,942
Clean Sweep -- HHW (lbs)	2,134,781	2,059,913	2,158,780	2,037,418	2,137,104
Clean Sweep -- Ag & Ag Business (lbs)	146,646	104,808	118,658	129,960	149,176
Clean Sweep -- Rx (lbs)	31,772	49,781	40,934	62,106	52,127
Clean Sweep -- VSQG (lbs)	424,741	420,609	354,117	352,378	305,045

\*as of 9/12/16

<b>Case Management</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
ACCP - new long-term (LT) cases	11	10	6	5	5
ACCP - LT cases closed	25	24	18	15	16
ACCP - total closed LT cases	499	523	541	556	572
Spill cases - new	42	26	31	31	48
Spill cases closed -- same year	25	18	24	6	34
Spill cases closed each year - total	38	36	37	6	51
Spills - total closed cases	994	1,030	1,067	1,073	1,124
ACCP applications received	49	48	43	41	35
Containment plan sets reviewed	12	62	63	41	42
Containment plan set projects	5	23	30	20	28

<b>Inspections &amp; Sampling</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>2015</b>
Pesticide Use Observations	58	78	85	78	58
Commercial Applicator Inspection	46	52	53	53	87
Containment Inspection (Full)	7	6	12	11	9
Containment Inspection (Small/Chemigation)	10	63	42	80	85
Dealer Record Inspection	39	29	38	42	38
Feed Inspection (ATCP 42)	73	51	70	60	105
Feed Inspection (FDA BSE & MFL)	168	168	167	170	7
Feed Surveillance Samples	67	49	195	104	631
Fertilizer Samples	278	376	401	556	361
Groundwater samples	201	162	149	143	283
Marketplace Inspection	108	112	204	233	261
Mix/Load Inspection	2	2	23	8	6
Private Applicator Inspection	127	43	26	40	38
Producer Establishment Inspection	14	16	13	15	15
Sump Test Inspection	53	49	37	32	51
Surface Water samples	63	52	47	111	59
Worker Protection Inspection	37	28	31	21	29





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