2016

Bureau of Agrichemical Management Annual Report

October 2017

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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 2016, the Bureau's high priority work included implementing its strategic plan, conducting a groundwater survey, managing the revenue and expenditure (RevEx) project, implementing the revised Worker Protection Standard, and completing the Wisconsin Pollinator Protection Plan in addition to its routine regulatory, environmental and enforcement work. These projects are highlighted, among others, in this annual report. The report also provides a financial overview, program statistics, and enforcement and compliance actions.

Financial Highlights

Revenues

$8,252,382 – ACM Fund
$694,371 – Grants
$2,090,200 – ACCP Fund

Expenses

$6,076,357 – ACM Programs
$703,600 – Other Programs
$828,300 – ACCP Fund
$1,000,000 – ACCP Lapse

Financial Overview

This financial overview covers the state fiscal year 2015-2016, which ran from July 1, 2015 through June 30, 2016. Federal grants run on a different cycle (October 1, 2015 through September 30, 2016) 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' (DNR) 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 15-16

	Revenue	Expenses	Total
Opening Balance	$6,978,228		
Revenue Total	$8,252,382		
Available Funds	$15,230,610		
Expenditures			
ACM Program		$6,076,357	
Other Programs		$703,600	
Expenditures Total		$6,779,957	
FY 15-16 Ending Balance			$8,450,653

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 15-16

Source	Revenue
EPA Pesticide Grant	$593,530
FDA Medicated Feed Grant	$100,841
Total	$694,371

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 15-16

	Revenue	Expenditures	Total
Opening Balance	$5,374,800		
Total Revenue	$2,020,900		
Reimbursements		$828,300	
Other		$1,000,000	
Closing Balance			$5,567,400

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.

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

Table 4: ACM Fund Expenditures for Non-ACM Programs, FY 15-16

Non-ACM Program	Amount
Animal Health Division	$359,900
Discovery Farms	$249,800
Ag in the Classroom	$93,900
Total FY15-16 Non-ACM Program Expenditures	$703,600

Table 5: Non-ACM Program Revenue, FY 15-16

Program	Revenue
DNR-- Environmental Fund	$1,591,766
UW – Fertilizer Research Council	$340,965
UW – Nutrient Management Program	$188,941
UW – Lime	$13,440
DATCP Weights and Measures	$140,613

Direction for the Coming Year

As shown in Table 1, the ACM Fund's annual revenues continued to exceed expenditures. Several consecutive years of revenue surpluses have resulted in a large fund balance. To help minimize large annual surpluses and ongoing fund balances in the future, the Bureau undertook its RevEx project to comprehensively review and adjust revenues and expenditures to ensure in the future fee levels and revenues are appropriate and properly aligned with bureau expenditures. During 2016, ACM Bureau staff continued meeting with the stakeholder working group and several subcommittees that formed in fall 2015, and published its recommendations in October 2016 to be considered during the 2017-2019 budget deliberations. More information about RevEx is provided later in this report.

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 helps 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. Progress was made towards each strategic goal in 2016. Several activities are highlighted later in this report. The goals are repeated here for reference.

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. The RevEx project was a comprehensive review of the Bureau's revenues from fees and surcharges, and expenditures of those revenues. The goal was to ensure fees are assessed equitably, collected efficiently, and spent effectively. We needed to resolve eight issues related to fees and surcharges in consultation with industry. Fees and surcharges reviewed were:

- Pesticide registration, business location, commercial licensing and restricted use dealer
- Fertilizer and soil or plant additive (SPA) license, permit and tonnage fees
- Feed license and inspection fees

The Bureau convened a 22-member oversight work group and four subcommittees to address the eight issues. To ensure the broadest possible industry input, over 60 industry stakeholders participated in 11 meetings from October 2015 through April 2016, and over 400 licensees participated in three surveys. Industry overwhelmingly supported both the efforts to establish appropriate fees and to simplify their business processes. The RevEx final report was published in October 2016 and a summary of the recommendations is below.

Overall ACM Fund Recommendations

- Use ACM fund balance to modernize the Bureau's IT systems, including online licensing and reporting.
- Maintain ACM fund balance at about $1.4 million (20% reserve balance) by requiring fee holidays or fee reductions when the balance exceeds that amount.

Pesticide Registration

- Simplify the pesticide manufacturers and labelers product registration fees by eliminating the current tiered and sales-based fee structure and moving to a flat per product registration fee.
- Assess the pesticide registration fee on minimum risk pesticide products. (The Governor's budget modified this recommendation by proposing a fee only on unregistered 25(b) products found in the marketplace.)
- Establish fees so annual ACM Fund revenue collected through this program is reduced.

Agricultural Chemical Cleanup Program (ACCP)

- Reduce and realign surcharges so annual surcharge revenue is reduced to about $500,000.
- Provide an inflationary increase in the lifetime reimbursement maximum to $650,000 from the current $400,000 (Set in s. 94.73 (6)(b) and (c), Stats.)
- Restore eligibility to all sites by repealing s. 94.73 (3m)(w), Stats.
- Reduce maximum fund balance from $2.5 million to $1.5 million (Set in s. 94.73 (15)(a), Stats.).
- Implement surcharge holiday to reduce fund balance below maximum (s. 94.73 (15)(a), Stats.)
- Add statutory authority to automatically reduce surcharges when the fund balance exceeds $750,000.
- Eliminate pollution prevention statutory authority by repealing s. 94.74, Stats.

Commercial Feed

- Assess a minimum inspection fee of $50 for licensees who report 200 tons or less.
- Eliminate exempt buyer status and credits under s. 94.72 (6) (f), (g), and (h), Stats., and most grain exemptions.
- Revise statutory authority to have tonnage fees paid by those "first to distribute in or into" Wisconsin.
- Conduct study on commercial feed manufacturing and distribution channels to prepare for future discussions about possible modifications to the inspection fee requirements.

Fertilizer and Soil or Plant Additive Permits

- Create an annual fertilizer and SPA permit maintenance and discontinuation process.
- Change fertilizer and SPA license expiration dates to September 30, with tonnage reports based on July 1 to June 30 sales.

BAM-IT

The ACM Bureau's information technology (IT) systems are obsolete, making it difficult for staff to complete their work efficiently and provide 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 were to increase efficiency, eliminate duplication, increase data accuracy, and improve customer service.

Phase one of the project analyzed and rigorously evaluated the 20-plus bureau programs in a very thorough and systematic approach. The Bureau continued this detailed discovery phase for the project in 2015.

In 2016, we completed current-state analysis, evaluating processes and procedures for all ACM programs. Through this process, the BAM-IT team identified both immediate and future-state needs. In October of 2016, the BAM-IT team prepared a report on future-state requirements, detailing the complete IT needs of the ACM Bureau to move to 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 online payments.

This report has been shared with DATCP's Bureau of Information Technology, whose staff will be working on the future-state improvements. They are currently working to move two licenses from Amanda to CRM (Microsoft's Customer Relationship Management), which will then allow for interface with the MyDATCP portal at a later date.

Commercial Feed Penalties

Act 244 updated the penalties for violation of commercial feed laws, which are administered by the ACM Bureau. These penalties were last updated in 1979. Under previous law, violators of the feed law had to be charged criminally or not at all. This act now allows a civil forfeiture option for minor and/or unintentional violations, while maintaining the current criminal misdemeanor penalties for intentional and serious violations. This act also made the fine and forfeiture amounts and term of imprisonment of commercial feed penalties consistent with other programs administered by DATCP. The law change was supported by industry partners.

Groundwater Statewide Survey

In 2016, the EPA awarded a grant to DATCP to conduct a survey of agricultural chemicals in Wisconsin's groundwater. The 2016 Statewide Groundwater Survey was a cooperative effort between DATCP and the National Agricultural Statistics Service (NASS). The purpose of the survey was to obtain a current picture of agricultural chemicals in groundwater, and to compare the levels in the 2016 survey with levels found in earlier surveys.

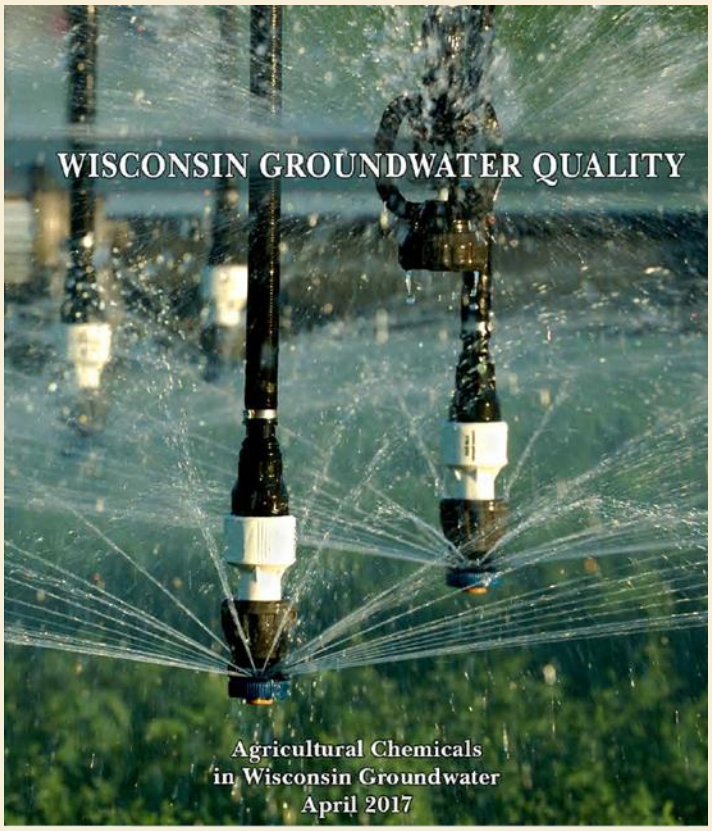
The survey relies on a 50 percent sample rotation scheme. About half the wells in the 2016 survey were part of the previous survey, conducted in 2007, and about half were newly selected. The rotation allows for potentially identifying new problem areas, and for using statistical tests that can detect changes in pesticide levels over time.

The sample selection process for the new wells utilized a process based on how intensively land in the area had been used for agriculture, using NASS land use strata. The land within each strata was divided into "area segments," typically one square mile, and a predetermined number of area segments were randomly selected within each agricultural stratum for testing. Since area segment boundaries are typically roads, NASS sampling staff traveled clockwise around the segment until they found a well owner willing to participate in the water testing.

Between March and August 2016, they sampled 401 private drinking water wells from cold water supplies after running the water for about five minutes. They filled a one-liter amber glass bottle with a Teflon-lined cap at each site, promptly placed it on ice, and delivered it to the DATCP laboratory for analysis.

Due to improved laboratory capabilities, the lab was able to analyze all water samples for 101 pesticides and their breakdown products, and for nitrate-nitrogen. This list was expanded from the 32 analytes included in the 2007 survey. Of the pesticide compounds included in the 2016 survey:

- 70 were herbicides
- 26 were insecticides
- 4 were fungicides
- 1 was a pesticide safener.



Staff compared results to Wisconsin Administrative Code NR 140 Enforcement Standards which have been established for 15 of the parent pesticide compounds and 8 of the pesticide metabolites. ACM Bureau Staff collected one follow up sample from a well that had a concentration of total atrazine above the NR 140 ES of 3.0 ug/l. No other wells exceeded pesticide standards.

For this project, DATCP was responsible for the overall project management, laboratory analysis, and report preparation, while NASS developed the survey procedures, managed the collection of water samples, and summarized the laboratory results. Sample results were sent to all participants of the survey.

A report summarizing the results of the survey was released in April 2017.
Agricultural Chemicals in Wisconsin Groundwater

Isoxaflutole Environmental Studies

Isoxaflutole is the active ingredient in two restricted use corn herbicides registered by Bayer CropScience LP (Bayer). Although currently registered for use in about 30 states, the original EPA registration was "geographically limited" because of the potential for groundwater and surface water contamination, and of possible impacts to non-target plant species.

The initial EPA registration gave states the option to negotiate registration restrictions based on their specific concerns. In 2002, DATCP required the registrant to conduct specific groundwater, surface water and tile drainage studies as a condition for registration in Wisconsin. As a result, the registrant withdrew the request to register isoxaflutole in Wisconsin.

By 2013, isoxaflutole products had gained registrations in 27 states, and Bayer renewed efforts to register in Wisconsin. Following review of the latest product research, and discussions involving DNR, DHS and an advisory committee, the ACM Bureau entered a stipulated agreement and special order with Bayer in December 2015. The order allows registration of Balance Flexx® and Corvus® in eight counties while Bayer conducts groundwater, surface water and tile drainage studies at several field application sites over five years. DATCP and Bayer will use study results to monitor environmental concerns and evaluate the need for any limitations or special label requirements to protect Wisconsin's environment and agricultural industry.

In 2016, ACM Bureau staff monitored Bayer's progress, consistent with the special order. Bayer's work plan called for monitoring at one surface water site, three tile drainage sites, and eight groundwater sites. Bayer located several suitable agricultural fields and installed specialized sample collection and monitoring equipment at one surface water and three tile drainage sites prior to spring pesticide applications. Groundwater monitoring wells were installed at five field locations, but only two were installed before spring pesticide applications. In total, pesticide product applications were made on five test sites equipped for surface water, tile drainage, and groundwater monitoring.

Bayer submitted summary reports of results for surface water, tile drainage and groundwater monitoring in the fall of 2016. No isoxaflutole residues were detected above limits of concern established in the order. Due to problems locating suitable fields for the groundwater monitoring portion of the study, Bayer sought permission to modify the terms of the special order in late 2016 to install the last three groundwater monitoring sites by spring of 2017. Bayer also asked to add four counties to the order to aid in finding suitable locations for the last three groundwater monitoring sites.

In 2017, isoxaflutole use can occur in the following 12 counties: Columbia, Dane, Dodge, Fond du Lac, Grant, Green, Jefferson, Lafayette, Rock, Sauk, Walworth and Waukesha. Bayer planned to resume monitoring at surface water and tile drainage sites where isoxaflutole is applied in 2017, and will monitor groundwater at all eight groundwater monitoring sites. Six of these will be monitored for the first time following pesticide applications in the spring.

Tile drainage sampling apparatus

Pollinator Protection

The ACM Bureau, together with the Plant Industry Bureau, published the Wisconsin Pollinator Protection Plan in April 2016. Work on the plan began in 2015 when a diverse stakeholder group assembled to provide content and guide plan development. Stakeholders represented a range of agricultural, governmental, tribal and non-profit organizations. After three stakeholder meetings, a public comment period on the draft pollinator plan opened in January 2016. DATCP revised the plan based on some of those comments.

Goals of the plan

- 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.

The final plan highlights a wide range of actions people can take, providing best management practices for farmers, beekeepers, gardeners and homeowners, and managers of open lands including rights of way and natural areas. The plan is available online:
https://datcp.wi.gov/Pages/Programs_Services/PollinatorProtection.aspx

Stakeholders demonstrated a strong commitment to developing the plan and sharing its content. During 2016, we shared pollinator protection information with over 950 individuals at over a dozen meetings and events. Looking forward, DATCP has been contacted to participate in a workgroup charged with increasing monarch butterfly habitat and another to evaluate issues impacting the rusty patched bumblebee, which the U.S. Fish and Wildlife Service has recently listed as an endangered species.

Federal Rule Change – Certification of Pesticide Applicators

For the first time in 40 years the EPA has changed the federal regulation for certifying applicators who use restricted use pesticides (RUP). Wisconsin already meets most of the new EPA requirements, so many of these changes will be business as usual for applicators in our state.

The biggest change for Wisconsin is that the minimum age for private and commercial applicator certification and licensing will be 18. Previously, commercial applicators could be certified at any age, but had to be 16 to be licensed, and private applicators had no age restriction. Initially, EPA proposed a recertification period of three years; however the final rule did not keep this. The five-year certification cycle Wisconsin uses will not change. Over the next three years the department will work with the EPA to update our program and revise regulations to ensure compliance with the federal rule.

Additional information about the federal rule is available on the EPA website. https://www.epa.gov/pesticide-worker-safety/revised-certification-standards-pesticide-applicators

Worker Protection

Farm, forestry, nursery and greenhouse employees are at greatest risk from occupational exposure to agricultural pesticides. Therefore, the EPA developed the federal Worker Protection Standard (WPS) to limit this risk. DATCP enforces this standard in Wisconsin and has adopted it in administrative code, ch. ATCP 29.

The WPS requires employers to protect their workers and handlers who apply pesticides or work in pesticide-treated areas. Employers must provide employees with information on where pesticides have been applied, how long they must stay out of those areas, and what emergency medical measures to take if necessary. They must also provide pesticide safety training, personal protective equipment and decontamination supplies.

Program Activities

Wisconsin primarily implements the WPS through education and enforcement. Outreach efforts in 2016 were critical, as the first phase of revisions of the federal worker protection standard was to have taken effect on January 2, 2017, and the second phase takes effect on January 2, 2018. The department was notified in May 2017 that implementation will be delayed one year.

During 2016, the program manager, field investigators, and the certification and licensing specialist provided WPS information to more than 565 farmers through 16 presentations or trade show booths. In addition, staff sent 80 information packets to a hop growers meeting. To reach producers who are not members of grower organizations or did not attend presentations, the program redesigned the web pages with links to new material, created and distributed fact sheets, and sent out two newsletters to more than 1,000 recipients. Staff also distributed EPA-produced manuals, fact sheets and training videos during presentations and at trade shows and through commodity groups. These were the result of a pesticide resource collaborative between EPA, universities, and state, federal and extension specialists across the country.

The program manager continues to meet and share information with the Wisconsin Department of Workforce Development's Migrant and Seasonal Farm Worker program (MSFW).The MSFW inspects migrant labor camps and checks compliance with farm labor contracts. Another group of DWD outreach specialists works closely with job centers throughout the state, where they interact with migrants, seasonal farm workers and other non-English speaking workers. The relationship with DWD has also provided a connection with the Migrant Labor Council, which addresses issues associated with migrant and seasonal farm labor in Wisconsin.

The program manager attended a national WPS training conference hosted by EPA to ensure Wisconsin understands the revised WPS and can implement it with industry correctly. EPA staff also hosted a two-day joint training session for Wisconsin and Minnesota investigative staff on the revised rule. Two more training webinars for investigatory staff will be hosted by EPA in 2017.

Compliance

For the federal fiscal year FY 16 (Oct. 1, 2015 through Sept. 30, 2016), staff conducted inspections at 37 operations: 31 Tier 1 inspections that took place within the Restricted Entry Interval (REI) or within 30 days of the end of the REI and six Tier 2 inspections, which occur beyond the 30 day interval or where the operation has a family exemption from many of the WPS requirements. (In 2016, there were three family exempt operations.)

In 2016, staff found 66 total violations across all establishments inspected. (See Table 1.) The increase in violations is likely due to more inspections and newer inspectors gaining more experience with the regulations. The department issued warning notices to 12 operations and gave verbal warnings to 8 others. Fourteen inspected establishments had no violations. The types of violations are consistent from year to year, with lack of pesticide safety training and lack of pesticide application information generally the top two.

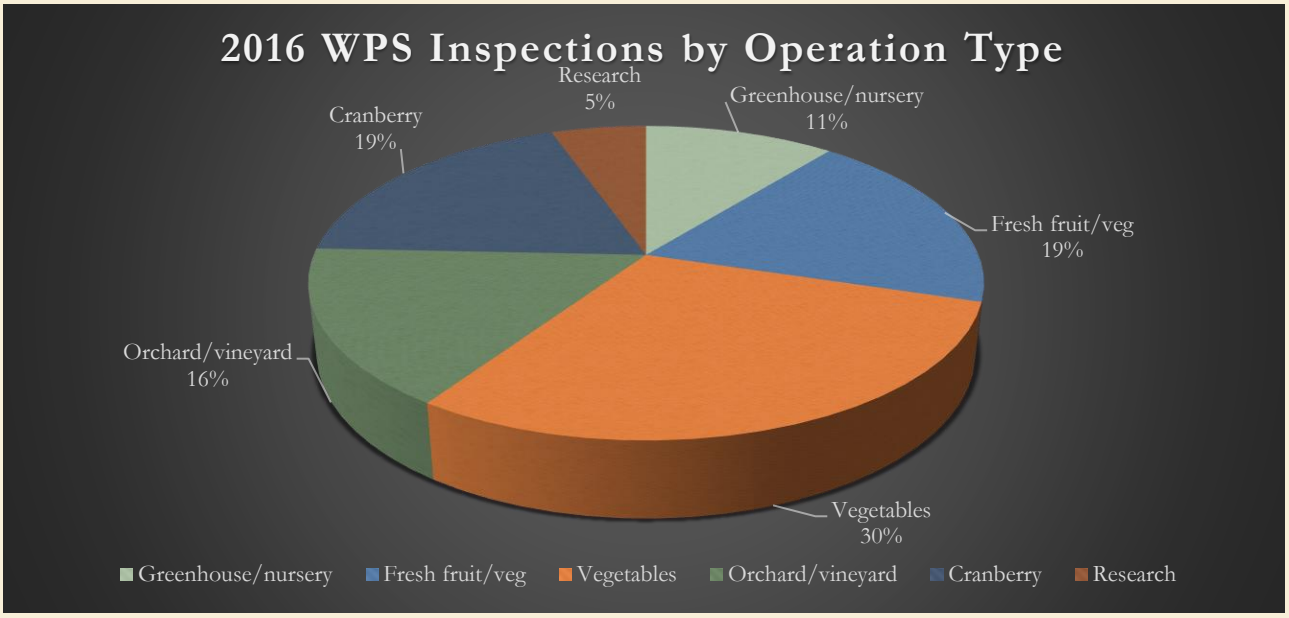
One operation from 2015 was elevated to a compliance conference, and assessed a penalty for continued non-compliance with WPS. Staff also performed three follow-up checks on establishments that received warning notices in 2015. All three were in compliance with WPS in 2016. One other operation had a full re-inspection in 2016 and no violations were found.

Table 1

	FY 2014 (10/1/13-9/30/14)	FY 2015 (10/1/14-9/30/15)	FY 2016 (10/1/15-9/30/16)
Inspections	21	29	37
Operations with no violations	2	12	14
Total violations	34	31	66
Violations per operation	1.8	1.8	2.8

In late 2016, a third party filed a complaint about an employee who said he was not trained and was applying pesticides without personal protective equipment. That operation will be inspected in 2017. Chart 1 shows the breakdown of the types of operations inspected for WPS in 2016.

Chart 1: WPS inspections by Operation Type, 2016



Direction for the Coming Year

The federal rule revision will continue to require much attention in 2017. The inspection form must be revised and investigative staff will need to be trained on the revisions to the rule and to the inspection form. Farmers, commodity groups, and other stakeholders will continue to need information on the rule changes and how to adjust their current WPS program.

WPS Personal Protective Equipment

Pesticide decontamination site

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.

The section has 14 environmental enforcement specialists (EES), an investigation program manager, an operations program associate, a supervisor and a section chief who conduct and oversee inspections and investigations for the ACM Bureau. In 2016, there were a number of staff changes within the compliance section including the recruitment of one EES staff member.

Table 6: Enforcement Actions

Action Taken	Number of Actions
Verbal Warning	14
Warning Notice – Investigator	30
Warning Notice – Office	15
Administrative Order	1
Compliance Conferences	52
Civil Forfeiture Action Submitted to DA	37
Criminal Action Submitted to DA	1
Referred to US EPA	0
Total	150

Program Activities

In 2016, the section conducted a total of 141 investigations. The 141 investigations include the following types of cases: 129 pesticide, 3 animal feed, 1 remediation, 1 containment, 5 license enforcement, and 2 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 specific program areas. All civil or criminal cases conducted by the section are prosecuted by the district attorney's office in the county where the alleged violation(s) occurred. A majority of the formal enforcement actions are conducted by the section through stipulated settlements, with court documents being prepared by the section. Table 6 shows the number and type of enforcement actions taken during 2016.

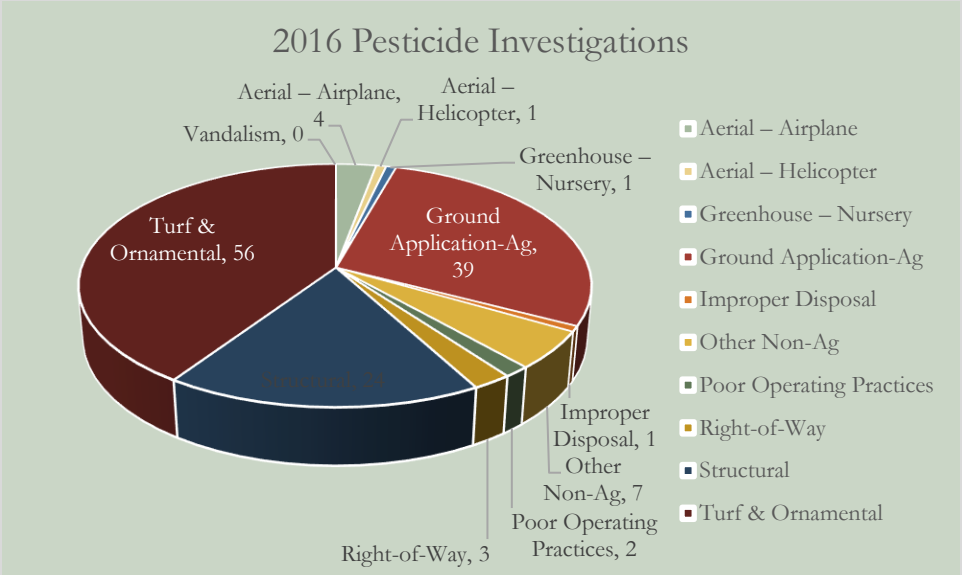
Table 7: Pesticide Violations, 2012-2016

Type of Case	Number of Cases (% with violations)				
	2012	**2013**	**2014**	**2015**	**2016**
Aerial – Airplane	3	7	2	3	4
	67%	86%	50%	67%	0%
Aerial – Helicopter	2	3	4	3	1
	100%	67%	75%	100%	100%
Greenhouse – Nursery	0	0	1	2	1
	--	--	100%	100%	0%
Ground Application-Ag	41	39	32	27	39
	66%	69%	66%	92%	44%
Improper Disposal	1	0	0	0	1
	0%	--	--	--	100%
Other Non-Ag	6	13	7	4	7
	83%	57%	43%	60%	38%
Poor Operating Practices	6	5	2	1	2
	80%	60%	100%	100%	50%
Right-of-Way	2	2	2	4	3
	0%	67%	0%	75%	33%
Structural	10	12	9	9	24
	80%	50%	56%	89%	79%
Turf & Ornamental	41	40	27	43	56
	68%	64%	67%	81%	59%
Vandalism	6	2	0	4	0
	50%	0%	--	100%	--

In 2016, 38 cases were delivered to county district attorney offices for prosecution. These cases may include investigations from previous years. The department assigns the highest response priority to complaints involving alleged human exposure to pesticides. In 2016, staff investigated one

case where human exposure was documented. The one case involved an aerial application to an agricultural field. In 2016, the section investigated 21 complaints involving alleged pesticide drift, with 14 of the complaints involving agricultural applications and 7 involving non-agricultural applications.

Samples of Compliance Actions Taken in 2016



1. As the result of a reported fertilizer spill, DATCP completed an investigation and 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 met with DATCP to discuss the substantiated violations and agreed to a stipulated settlement that required the Defendant pay a forfeiture totaling $7,777.54, to include court costs.
2. As the result of a short bulk inspection at a Dane County agrichemical facility , DATCP completed an investigation and determined that the facility had not reported a spill, failed to take appropriate actions in response to a spill, and failed to adequately manage precipitation contained in secondary containment. The defendant met with DATCP to discuss the substantiated violations and agreed to a stipulated settlement that required the defendant pay a forfeiture totaling $7,812.50, to include court costs.

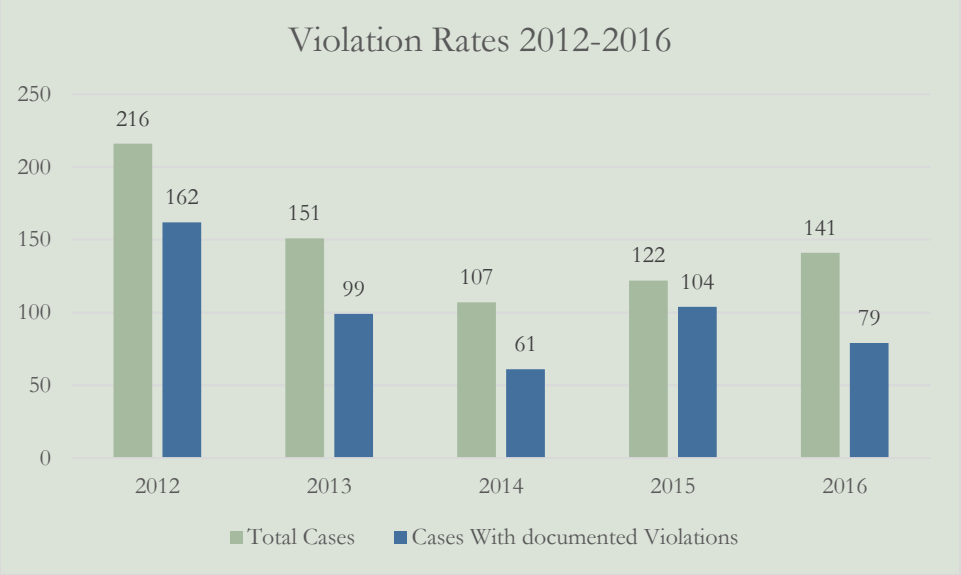
Overturned truck spilling a load of blended fertilizer onto the roadway.

3. As the result of a complaint, DATCP completed an investigation and determined that an Oneida County farmer made a pesticide application 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 met with DATCP to discuss the substantiated violations and agreed to a stipulated settlement that required the defendant to pay a forfeiture totaling $2,801.50, to include court costs.
4. As the result of a complaint, DATCP completed an investigation and determined that an aerial applicator made a pesticide application in Clark County in a manner that resulted in significant pesticide drift. The defendant met with DATCP to discuss the substantiated violations and agreed to a stipulated settlement that required the defendant to pay a forfeiture totaling $767.50, to include court costs.
5. As the result of a non-agricultural use inspection in St. Croix County, DATCP completed an investigation and 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 met with DATCP to discuss the substantiated violations and agreed to a stipulated settlement that required the defendant pay a forfeiture totaling $1,000 to include court costs.

DATCP determined a regulated bulk storage facility was pumping contaminated liquid from the containment area to adjacent land.

Direction for the Coming Year

In 2017, the section will undergo a change in its organization. The section will convert a full-time staff position to a full-time supervisor position. This change will allow 12 of the 14 environmental enforcement specialists to report to one of two supervisors and the two supervisors and investigation and inspection program managers will report to the investigation and compliance section chief. In February 2017, two new EES staff will start with the section. Several section staff remain in a position to consider retirement. In 2017, the EES staff will complete the conversion from individual provided office sites to home headquarters. 2017 will be a year for the section to initiate monitoring of the use of dicamba-resistant soybeans and the potential use of new crop protectant products that contain corresponding new dicamba chemistry. Providing training and job shadowing opportunities to environmental enforcement specialists and other bureau staff will remain a priority.



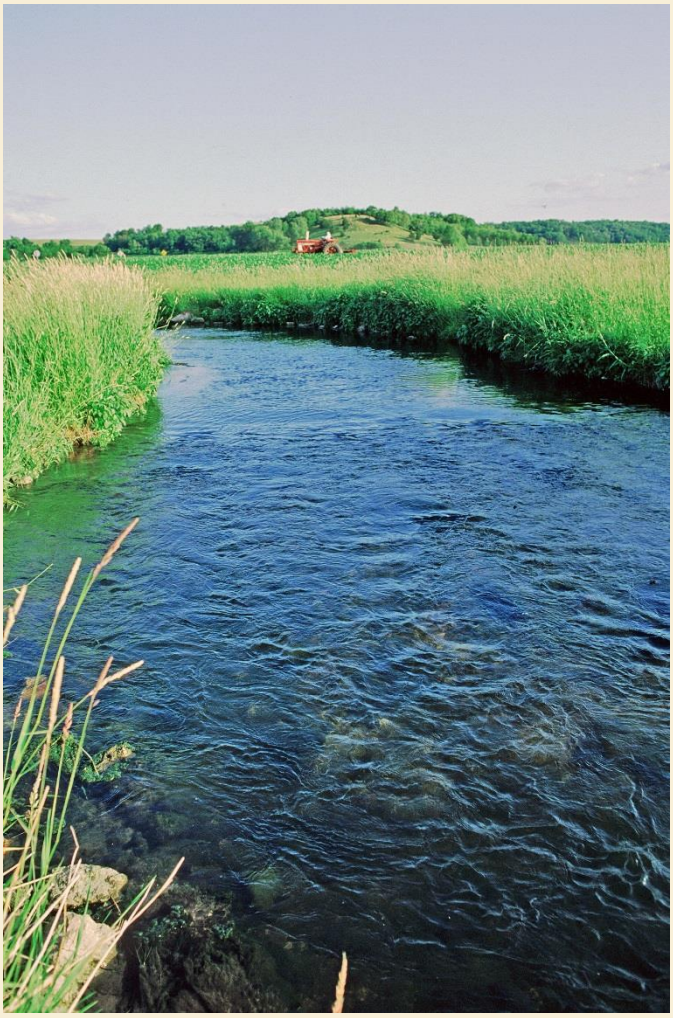
Program Activity Data

Pesticide Licenses & Certifications	2012	2013	2014	2015	2016
Pesticide Business Location	2,110	2,180	2,165	2,285	2,338
Individual Commercial Applicator	7,200	6,170	8,311	8,585	8,799
Restricted Use Dealer	389	394	401	406	429
Commercial Certifications	3,033	3,334	3,716	3,665	3,930
Total Commercial Certifications	13,900	13,340	18,873	16,826	17,800
Private Certifications	2,194	3,175	1,959	2,021	3,050
Total Private Certified	15,340	15,160	14,897	12,829	12,420
Manufacturers and Labelers	1,284	1,281	1,259	1,295	1,411
Pesticide Products	12,174	12,429	12,617	12,900	13,298
Landscape Registry Addresses	8,456	5,708	5,707	5,000	6,408
Landscape Registry Warning Notices	38	43	32	28	39
24(c) special local need (new)	1	12	2	6	6
Section 18 Emergency Exemption	3	1	1	1	0
Experimental Use Permits	0	0	0	0	1
Special Use Small Mammal Permits	13	3	6	4	5
Feed License	1,238	1,298	1,431	1,449	1,338
Feed Tonnage	4,183,479	4,617,739	4,773,115	5,103,122	5,128,364
Feed Certificates of Free Sale	251	305	188	270	354
Fertilizer License	749	773	766	796	801
Fertilizer Permits (new)	281	360	443	501	661
Fertilizer Tonnage	1,721,774	1,925,279	1,860,000	1,799,271*	1,916,597
Soil and Plant Additive License	143	146	144	142	197
Soil and Plant Additive Permits (new)	132	125	105	243	268
Soil and Plant Additives Tonnage	188,515	72,904	174,440	164,629	198,751
Lime License	110	110	104	104	98
Lime Tonnage	1,469,881	1,027,713	993,000	1,084,942	1,046,402
Clean Sweep - HHW (lbs)	2,059,913	2,158,780	2,037,418	2,137,104	2,149,615
Clean Sweep - Ag & Ag Business (lbs)	104,808	118,658	129,960	149,176	126,120
Clean Sweep - Rx (lbs)	49,781	40,934	62,106	52,127	43,625
Clean Sweep - VSQG (lbs)	420,609	354,117	352,378	305,045	198,075

*as of 9/12/16

Case Management	2012	2013	2014	2015	2016
ACCP - new long-term (LT) cases	10	6	5	5	5
ACCP - LT cases closed	24	18	15	16	15
ACCP - total closed LT cases	523	541	556	572	587
Spill cases - new	26	31	31	48	43
Spill cases closed - same year	18	24	6	34	17
Spill cases closed each year - total	36	37	6	51	39
Spills - total closed cases	1030	1067	1073	1124	1163
ACCP applications received	48	43	41	35	31
Containment plan sets reviewed	62	63	41	42	53
Containment plan set projects	23	30	20	28	28

Inspections & Sampling	2012	2013	2014	2015	2016
Pesticide Use Observations	78	85	78	58	94
Commercial Applicator Inspections	52	53	53	87	55
Containment Inspections (Full)	6	12	11	9	8
Containment Inspection s(Small/Chemigation)	63	42	80	85	88
Dealer Record Inspections	29	38	42	38	46
Feed Inspections (ATCP 42)	51	70	60	105	102
Feed Inspections (FDA BSE & MFL)	168	167	170	59	6
Feed Surveillance Samples	49	195	104	631	552
Fertilizer Samples	376	401	556	361	280
Groundwater Samples	162	149	143	283	576
Surface Water Samples	52	47	111	59	86
Marketplace Inspections	112	204	233	261	236
Mix/Load Inspections	2	23	8	6	18
Private Applicator Inspections	43	26	40	38	
Producer Establishment Inspections	16	13	15	15	14
Sump Test Inspections	49	37	32	51	55
Worker Protection Inspections	28	31	21	29	37



ACM Programs

ACCP - Remediation

Environmental Quality unit staff oversee the cleanup of agrichemical contamination within Wisconsin through the ACCP, working closely with the responsible person(s) to ensure cleanups are completed consistent with environmental regulations in a cost effective manner. Remediation investigations are triggered by a notification to DATCP from the person or entity responsible for the property or facility, observed contamination by DATCP or other state employees, or other concerned parties. Remediation efforts may also be undertaken as a result of lead arsenate reports from the DNR, DHS, or other responsible persons. An average of 30 remediation investigations were performed annually between 2003 and 2007. Since 2007, approximately 10 remediation investigations have been performed annually. Once a remediation case is opened, the process can take many years to obtain closure due to the complexity of site issues, including multiple contaminated areas and contamination beneath structures. Consequently, the investigation and cleanup can have many phases.

ACCP – Reimbursement

The ACCP reimbursement program focuses on reimbursing a portion of the eligible cleanup costs. The program auditor receives requests for reimbursement of costs to clean up spills and remediate cleanup sites, evaluates eligibility for reimbursement, tracks costs and issues payments in close coordination with technical staff. The reimbursement process begins when an application for reimbursement for a cleanup project is submitted by a responsible person. The department has 90 days to review completed applications and provide a written decision on cost eligibility. The department makes reimbursement payments at the end of each quarter through the state of Wisconsin's financial accounting system.

ACCP – Spills

ACCP staff oversee the investigation and cleanup of agrichemical spillage, as well as monitors drinking water wells that might be affected by spillage. An average of 40 spill responses are performed annually. Investigation and Compliance Section staff are also directly involved in the spill response investigation. Once the spill has been cleaned to satisfactory levels, excavated soil has been documented to be properly landspread (including issuing any required landspreading permits) or disposed of, and wells have been determined to not have been impacted, the case is closed with no further action. If significant soil contamination is left in place the spill may be closed with a DNR GIS registry that tracks properties with known contamination left in place.

Containment

The containment program regulates the storage and handling of bulk fertilizer, bulk pesticide, and non-bulk pesticide, with the goal to protect against groundwater contamination resulting from both chronic and acute fertilizer and pesticide spillage at storage and handling facilities. Staff reviews the design and construction of such facilities, conducts ongoing inspection of such facilities, and investigates facilities that are not complying with the fundamental environmental protection sections of the various rules and statutes. Facilities submit plans to the department via USPS, e-mailed PDF format drawings, or both. Department staff may inspect a construction or alteration of a containment facility. Containment structure construction observations are performed by conservation engineering staff in DATCP's Bureau of Land and Water Resources.

Groundwater

The groundwater program includes field edge monitoring, targeted sampling, monitoring of the sale and use of prohibited or restricted use pesticide products – such as atrazine – through inspections and use observations (subject to the state groundwater law) and other special project groundwater sampling. Currently there are approximately 750,000 groundwater results tracked within the groundwater database. In addition, there is a surface water database that has an additional 20,000 results. All of the information related to agrichemical water sample results is gathered and compiled into one of these two databases. The DNR also provides pesticide and nitrate data from its Groundwater Retrieval Network (GRN) data base semiannually to be included in the groundwater data base.

Pesticide Manufacturer and Labeler Licensing and Pesticide Product Registration

Pesticide products distributed, sold, or used in Wisconsin must be registered with the EPA and the manufacturer or labeler must be licensed in the state. Companies must be licensed to sell or distribute pesticide products for distribution in

Wisconsin, regardless of whether the company is located in Wisconsin or manufactures pesticides here. The person or firm whose name and address is on the pesticide product label is required to obtain this license. A Wisconsin Pesticide Manufacturer and Labeler (PML) license application must be submitted to DATCP at least 15 days prior to distributing pesticide products in Wisconsin.

The Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) provides for several types of pesticide registrations. The PML license lists two types of products, based on FIFRA classifications. Wisconsin charges a fee to list FIFRA Section 3 products (those products regulated by the EPA) on the state registry. The annual product listing fee is based on product sales from October 1 through September 30 of each year; Section 25(b) products are listed on the state registry, but exempted from fees. Listing of these products ensures they are properly registered by the EPA and are exempt from registration. Annual license fees are based on the type of product and the amount sold annually in Wisconsin.

The PML business license is an annual license from January 1 through December 31 and is not transferable. Staff mails out license renewals in mid-September each year for previously listed products. The deadline for these renewals is October 31. Payment of the fees is due by December 31. The PML program licenses approximately 1,250 companies and lists almost 13,000 associated products.

Pesticide Product Special Registrations and Use Authorizations

Pesticide products are registered and labeled for specific uses and must be used according to label directions. Ch. ATCP 30, Wis. Admin. Code provides additional restrictions for certain pesticide products, which include prohibited pesticides, special use permit pesticides, and pesticide use restrictions and reporting. Under the pesticide special registration program included in ATCP 29, the department processes various types of requests for pest control: Federal Section 18 emergency exemptions, Wisconsin emergency use permits and special local need (SLN) registrations. DATCP also receives requests to conduct experimental research with pesticides in Wisconsin. If a request is authorized, pesticide users must obtain, and have in their possession at the time of application, authorized special use directions to legally use pesticide products for the requested purposes.

Commercial Pesticide Applicator Business Licensing

Businesses that make pesticide applications on a "for hire" basis must obtain a Pesticide Business License (PBL) and must employ individuals who are licensed as individual commercial applicators (ICAL). Currently, over 2,000 business sites hold PBL. If the company is subcontracting its pesticide application work, the company must list the contractors and their PBL numbers.

Pesticide Restricted Use Dealers and Distributors Licensing and Sales Records

A Restricted Use Pesticide (RUP) license is required of any business that sells or distribute RUPs, either into the state or within the state. Currently, there are 420 businesses licensed as RU dealers. RUPs can only be sold to individual pesticide applicators certified to apply restricted use pesticides, licensed pesticide application businesses, or other licensed RUP dealers. The ACM Investigation and Compliance Section completes an average of 40 dealer record inspections of pesticide businesses who sell RUPs each year.

Individual Commercial Pesticide Applicator Licensing and Inspections

Persons applying any pesticides on a for-hire basis or applying RU pesticides for any reason are required to be licensed as individual commercial applicators. Commercial applicators must be certified within a base category and must submit a completed license application to DATCP with fees and surcharges. An ICAL is valid for one calendar year. When renewing the license, the individual must continue to meet the certification requirements. The investigation and compliance section conducts commercial applicator records (CAR) inspections each year to verify that pesticide applicators are commercially certified and licensed to apply pesticides, recording the necessary elements of recordkeeping, and providing the required pre and post application information to customers.

Commercial and Private Pesticide Applicator Certification

The pesticide applicator certification program certifies individuals, via written examination or reciprocal equivalency, to use and/or direct the use of pesticide containing products. Certification is available for both commercial and private pesticide applicators. Commercial pesticide applicator certification is required for individuals making pesticide applications for-hire or to any public school property, or to their own commercial property if they are using an RUP. Private pesticide application certification is required only if individuals are applying restricted use pesticides on property that they and/or

their employer owns, rents, controls and that is used for the production of an agricultural commodity. Currently there are approximately 17,800 commercial pesticide applicators certified and about 12,500 certified private pesticide applicators. Annually, there are approximately 3,000 individuals who take the commercial certification exam, and 2,200 who take the private certification exam. Commercial applicators must pass the exam with a score of 70% or more, while private applicators must score 50% or higher. Both certifications are valid for five years, although if an applicator adds certification categories during the five year period, all certifications will expire at the original five year expiration date.

Reciprocal certification is required of an individual who resides in another state, and applies pesticides in Wisconsin. Reciprocal certification may be granted to an out-of-state resident who is certified in that state to make pesticide applications for-hire, or to any government or public school property. Currently, there are approximately 300 individuals who are issued reciprocal commercial certification annually.

Temporary pesticide applicator certification allows an individual to make pesticide applications for-hire while under the direct supervision of an applicator who is certified and licensed. Temporary certification is valid for 30 days and an individual may not register for temporary certification more than once in the same category. A certification number is not generated, and a card is not issued in the current system. Approximately 50 individuals annually apply for temporary certification.

Private Pesticide Applicator Records

The private applicator records (PAR) inspection program performs inspections of individuals who purchase and/or apply RUPs to determine whether applicable recordkeeping requirements are being followed. Private applicators must keep a legible record of each RUP application for at least two years or three years if atrazine-containing pesticides are applied. Staff annually complete approximately 30 PAR inspections, chosen from approximately 12,500 certified private applicators who have purchased pesticides from approximately 2,300 dealers.

Landscape Applications, Notifications, and Registry

The Landscape Registry allows Wisconsin residents to be notified before lawn care and landscape companies apply pesticides to neighboring property. The registry only applies to commercial lawn and landscape pesticide applications. Individuals must specify each of the addresses for which they want to receive notification of pesticide application, and lawn and landscape companies are required to notify individuals at least 12 hours in advance when registered addresses are to be treated with pesticides. The Landscape Registry is open for registration from November 1 to February 1 each year. Renewal notices are sent to users in early November.

Agricultural Worker Protection

WPS is an EPA regulation, adopted in whole in Wisconsin law, that requires employers to protect workers and handlers who apply pesticides, or work in pesticide treated areas. Wisconsin's WPS inspections are part of the annual cooperative agreement between DATCP and the EPA. The cooperative agreements runs on the federal fiscal year, October 1-September 30. ACM performs between 30 and 40 WPS inspections each year.

Clean Sweep Program

The Clean Sweep program provides grants to municipalities, tribes and regional planning commissions to help them create and operate local programs for the collection and disposal of household hazardous waste. The goal of the Clean Sweep program is to reduce the health and environmental risks posed by hazardous wastes, unwanted chemicals, and unwanted prescription drugs. Administering the Clean Sweep program requires numerous processes, including a request for proposal, receipt of grant applications, application scoring and ranking, grant awards, contracts, purchase requisitions/purchase orders, final reports, reimbursements, program reports and data analysis.

Feed Program

The ACM Bureau licenses about 1,300 commercial feed and pet food companies. Companies also submit labels of the feed products they distribute. Each year, these companies distribute about 5.1 million tons of livestock feed and pet food in Wisconsin. The feed program includes inspections of licensed feed mills for good manufacturing practices and sampling of feed to ensure the feed meets the label guarantees and does not contain prohibited substances. Samples are sent to the DATCP Bureau of Laboratory Services (BLS) for analysis. Approximately 500-600 samples are collected and analyzed annually.

The feed program also issues about 300 certificates of free sale annually to company's exporting feed ingredients or products. The certificate of free sale confirms that the company is licensed and legally able to sell in Wisconsin the feed product being exported.

Fertilizer Program

Fertilizer, SPA, and lime licenses are required for each business location and each mobile unit used for manufacturing or distributing fertilizer, SPA, or lime. Approximately 800 fertilizer, 140 SPA and 100 lime licenses are issued annually.

The fertilizer program has a tonnage reporting requirement that involves the reporting of tons of fertilizer distributed and submitting inspection fees and surcharges collected during the previous fiscal year (July 1-June 30). The SPA and lime programs also have a tonnage reporting requirement that involves the reporting of tons of SPA or lime distributed during the previous calendar year and submitting inspection fees collected. Approximately 1.8 million tons of fertilizer, 165,000 tons of SPAs and 1 million tons of lime are reported distributed in Wisconsin annually.

Permits are issued for some fertilizer and all SPA products. The fertilizer program issues a permit for products under 24 NPK after an applicant has paid the permit fee and met all labeling requirements. Permit applications can be filed any time during the year for new products. The fertilizer program has approximately 2,320 fertilizer products permitted, with about 500 permitted annually.

All SPA products require a permit. The SPA program issues a permit to an applicant that has paid a permit fee and met all the necessary labeling requirements. The SPA permit does not have a renewal period. The SPA program has approximately 701 products permitted, with about 240 products permitted annually.

The fertilizer program includes sampling to ensure the fertilizer meets the label guarantees and economic value. Samples are sent to the DATCP Bureau of Laboratory Services (BLS) for analysis. Approximately 300-400 samples are collected and analyzed annually.

Investigation and Compliance Section

The investigation and compliance section supports the functions of the program staff in each of the two other sections of the bureau, and is responsible for compliance and enforcement related to the following programs: ACCP, containment, feed, fertilizer, groundwater, lime, and pesticides. The section has 14 environmental enforcement specialists (EES), located throughout the state, who conduct inspections and investigations in all of these program areas for the ACM Bureau. The section typically conducts approximately 750 inspections and 130 investigations annually.

Enforcement activities also fall within the scope and responsibilities of the investigation and compliance section. Enforcement actions are taken in response to the discovery of violation of Wisconsin statutes and/or administrative rules and include warnings, special orders such as quarantines, holding orders, administrative cases (whether stipulated or contested), and court actions.

WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

Division of Agricultural Resource Management

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