

2008 Annual Report

AGRICHEMICAL MANAGEMENT



BUREAU

Table of Contents

Agricultural Resource Management Division Organizational Chart.....	4
Executive Summary	5
Agrichemical Management Bureau Organizational Chart and Contact List	6
Financial Overview.....	7
Agricultural Chemical Cleanup Program.....	14
Agrichemical Containment and Environmental Partners	16
Clean Sweep.....	18
Compliance and Investigation.....	24
Endangered Species Habitat Program.....	26
Feed.....	27
Fertilizer/Soil or Plant Additives/Lime.....	30
Pesticide Applicator Certification and Licensing	32
Pesticide Programs and Product Licensing.....	34
Water Quality Protection through Pesticide Management.....	41

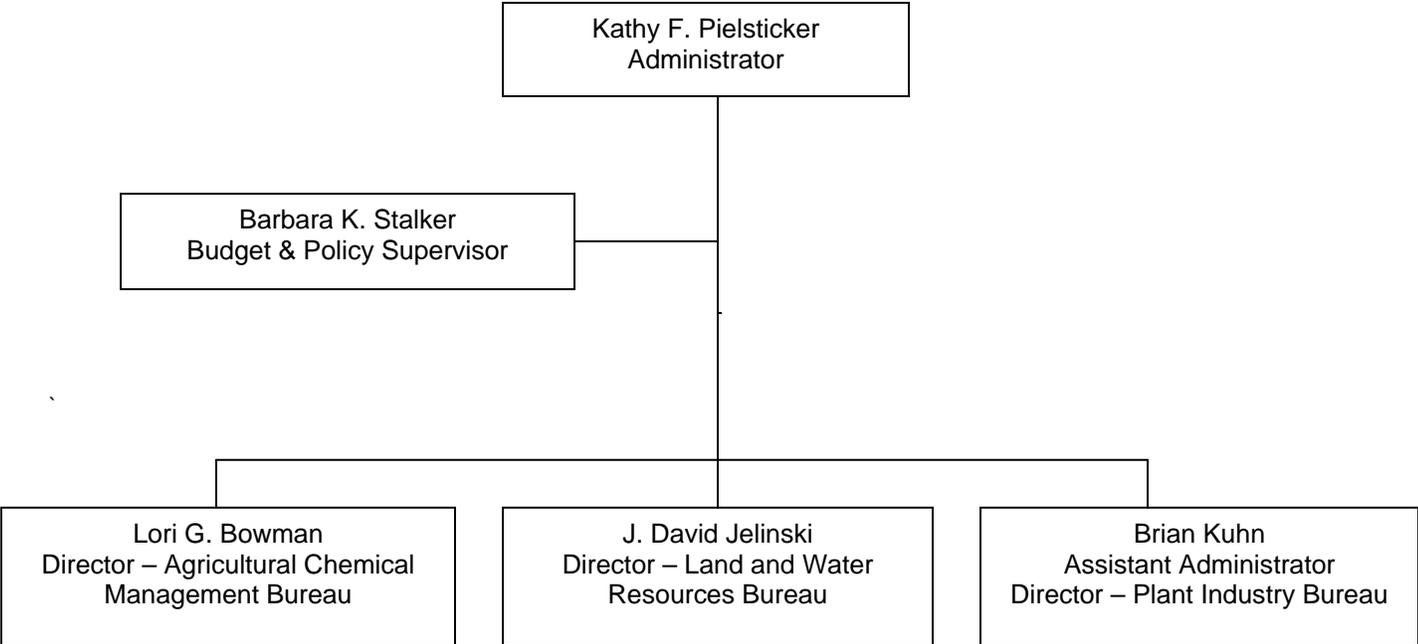
Agricultural Resource Management Division Organizational Chart

Board of Agriculture, Trade, and Consumer Protection

Rod Nilsestuen, Secretary

Randy Romanski, Deputy Secretary

Division of Agricultural Resource Management



Note: Organization Chart effective January 1, 2009

Executive Summary

The Agrichemical Management Bureau (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. The mission of the ACM Bureau is to protect human health and the environment, promote agriculture and assure a fair marketplace by mitigating risks and preserving the benefits of regulated products.

The ACM Bureau funds, manages and enforces 12 highly interrelated programs: Fertilizer, Commercial Feed, Pesticides and Pesticide Use (general), Pesticide Special Registrations, Pesticide Applicator Certification and Licensing, School Integrated Pest Management, Endangered Species and Habitat, Landscape Registry, Agrichemical Containment and Remediation, Groundwater Protection, Clean Sweep, and Worker Protection.

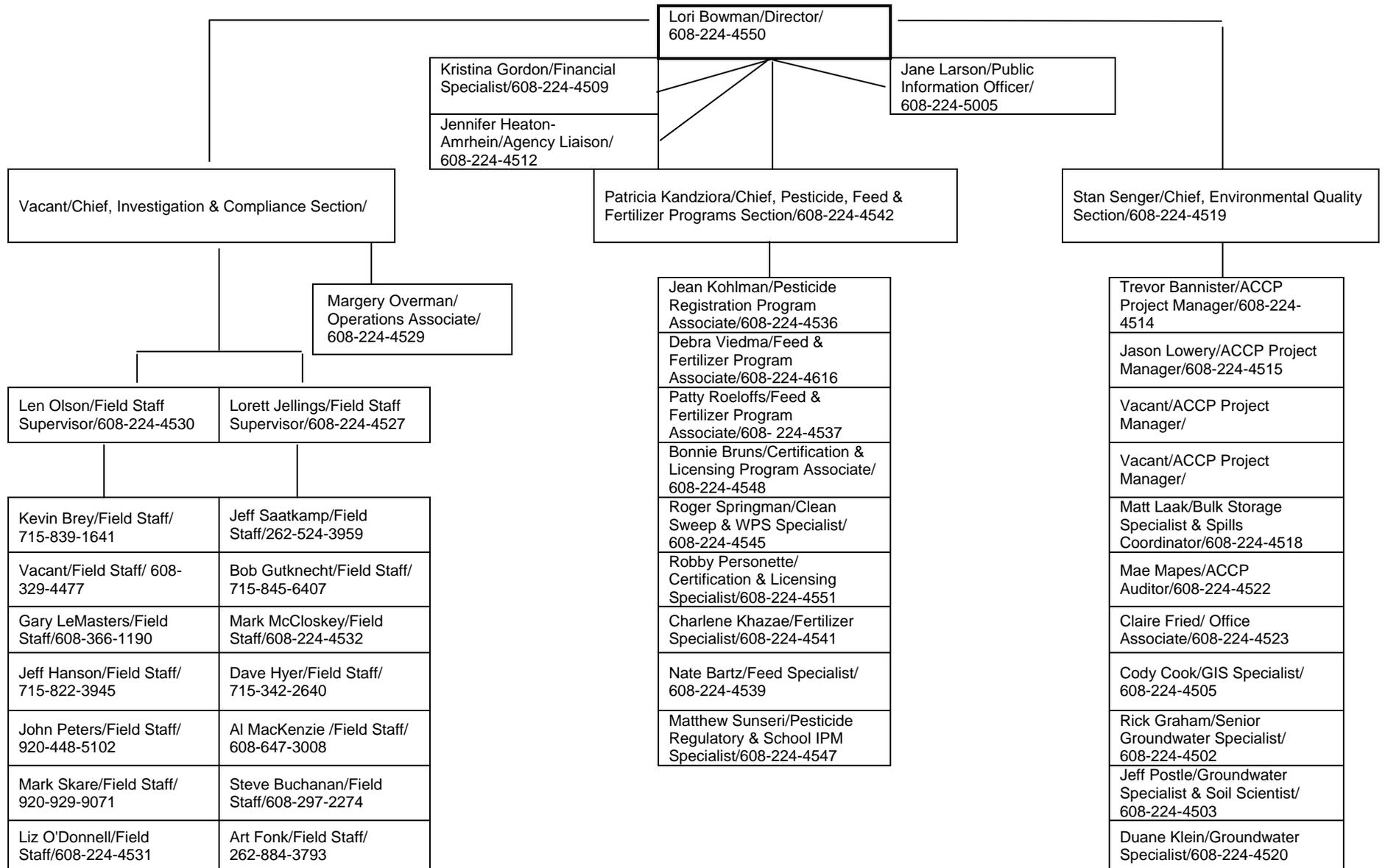
During 2008, the Bureau's program and compliance staff:

- ★ Issued 13,040 pesticide applicator, fertilizer, soil and plant additive, lime, feed and pesticide manufacturing licenses;
- ★ Certified 6,091 pesticide applicators, for a total of 25,948 certified applicators;
- ★ Managed 238 remediation cases at agrichemical facilities;
- ★ Responded to 53 agrichemical spills (a 20% increase over 2007);
- ★ Reimbursed nearly \$1.9 million in eligible clean-up costs to responsible parties;
- ★ Conducted 654 routine feed, fertilizer, and pesticide inspections;
- ★ Investigated 181 pesticide, feed and fertilizer complaints and took 113 enforcement actions;
- ★ Registered 11,332 pesticide products; and
- ★ Provided over \$1 million in grants to municipalities to collect and dispose of agrichemicals, hazardous household wastes, and unwanted prescription drugs.

Other notable activities and accomplishments of the ACM Bureau during 2008 include receipt of recommendations from a Task Force on how to manage land contaminated from the historic use of lead arsenic pesticides in orchards; administration of the statutory Agricultural Chemical Cleanup Program (ACCP) surcharge reductions; implementation of a new unused prescription drug Clean Sweep program and completion of the statewide groundwater survey.

Fees collected from the agrichemical industry are the primary source of funding for the ACM Bureau and its programs. The U.S. Environmental Protection Agency and the U.S. Food and Drug Administration also provide some funding. The ACM Bureau recognizes this important partnership 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 Bureau Organizational Chart and Contact List



Financial Overview

The Agrichemical Management Bureau (ACM Bureau) consists of 12 centrally coordinated programs that are administered in the office by program specialists and implemented in the field by environmental enforcement specialists (EES) located throughout the state. The ACM Bureau's three sections coordinate daily program activities to provide specialized knowledge in each program area and uniform regulation and enforcement.

Revenue Sources

The ACM Bureau manages its revenues and expenses across four funds:

- Agrichemical Management Fund (ACM Fund)
- Agricultural Chemical Cleanup Program Fund (ACCP Fund)
- Federal Grants (FED)
- Gifts, Grants and Special Projects

The ACM Fund and the ACCP Fund are comprised of many industry fees, as detailed later in this report. Both funds are considered segregated revenues (SEG), which means that these revenues are maintained separately from other state revenues and are to be used for specified purposes. However, occasionally the Legislature or the Department of

Administration have determined that revenues or fund balances from the segregated accounts may be directed towards other purposes. In 2008, Tables 1 and 2 show that some revenues from both

the ACM and ACCP funds were both lapsed to the state's general fund to help offset the budget deficit, and redirected to other priority programs for the agency and state.

Federal funding covers portions of several federal programs that the ACM Bureau implements and the ACM Bureau can also receive direct contributions for special projects. Each funding source identifies how the funds can be used. The following sections of this report will provide more information on each revenue type.

Fiscal Years and Fee Periods Covered in this Report

This financial overview covers the state fiscal year 2007-08 which ran from July 1, 2007 through June 30, 2008. Federal grants run on different cycles (October 1 through September 30) than the state fiscal year; this report covers those portions of the federal grants that occurred during the state fiscal year. Program-specific sections of the report reflect calendar year activities.

Financial Highlights

Revenues

- ★ \$6,814,201 -- ACM Fund
- ★ \$3,233,981 -- ACCP Fund
- ★ \$1,288,375 -- Federal Funds
- ★ \$25,027 -- Gifts and Grants
- ★ \$1,000,000 – Clean Sweep
- ★ \$1,883,393 – Other

Expenses

- ★ \$5,725,464 – Operations
- ★ \$1,880,406 – Reimbursements
- ★ \$886,356-- Federal Funds
- ★ \$24,484 -- Gifts and Grants
- ★ \$844,657 – Clean Sweep (remaining \$155,343 from recycling fund spent in FY09)
- ★ \$1,883,393 – Forwarded to other agencies

Agrichemical Management Fund (ACM Fund)

The ACM Fund is the primary source of funding for the regulatory, investigative and enforcement aspects of the ACM Bureau. The ACM Fund is comprised of fees collected from most of the agricultural, commercial and industrial segments regulated by the ACM Bureau for licenses,

permits, registrations and tonnage fees under the feed, fertilizer, soil and plant additive, lime, and pesticide programs. The Recycling Fund supports Clean Sweep grants to local governments and the revenue and expenditures for Clean Sweep grants are not included in the tables below.

Table 1
FY 2007-08 AGRICHEMICAL MANAGEMENT FUND

SOURCE	FEE	FY 07-08 REVENUE
Opening Balance		\$2,936,263
Feed License	\$25	\$ 32,187
Feed Tonnage	\$0.23/ton	\$ 850,628
Fertilizer License	\$30	\$ 20,746
Fertilizer Permits	\$25 one time	\$ 12,624
Fertilizer Tonnage	\$0.30/ton	\$ 455,022
Lime License	\$10	\$ 960
Pesticide Application Business	\$70	\$ 126,641
Pesticide Dealer-Restricted Use	\$60	\$ 22,920
Pesticide Individual Applicator	\$40	\$ 262,381
Pesticide Reciprocal Certification	\$75	\$ 24,360
Pesticide Registration* Household sales \$0-24,999	\$141	\$ 752,237
Pesticide Registration* Household sales \$25,000-74,999	\$626	\$ 221,604
Pesticide Registration* Household sales \$75,000 plus	\$1,376	\$ 536,640
Pesticide Registration* Industrial sales \$0-24,999	\$221	\$ 175,695
Pesticide Registration* Industrial sale \$25,000-74,999	\$766	\$ 62,812
Pesticide Registration* Industrial sales \$75,000 plus	\$2,966	\$ 278,804
Pesticide Registration* Non-household \$0-24,999	\$226	\$1,025,339
Pesticide Registration* Non-household \$25,000-74,999	\$796	\$ 256,312
Pesticide Registration* Non-household \$75,000 plus	\$2,966 + 0.2%	\$1,431,116
Soil & Plant Additive License & Permits	\$25 annual license \$100/1x permit	\$ 21,200
Soil & Plant Additive Tonnage	\$0.25/ton	\$ 9,731
Veterinary Clinic Permit	\$25/2 yr	\$ 9,800
Interest on ACM Fund and Miscellaneous		\$ 149,791
Late Fees		\$ 74,651
Total Revenue		\$6,814,201
Program Expenditures (see individual programs)		\$(5,725,464)
Ag in Classroom Grant		\$(100,000)
Lapse to General Fund		\$(82,000)
Grazing Grants (427)		\$(14,497)
Ag Investment Aids (425)		\$(194,835)
International Crane Foundation (768)		\$(48,325)
Miscellaneous Expense		\$(2,205)
FY 07-08 Ending Balance		\$3,583,138

* Pesticide registrations are deposited by statute to each fund, but the breakdown between fee levels is not recorded in the financial system. The breakdown shown here is based on apportioning the actual payments, including penalty fees, based on the estimated sales levels reported at the time of product registration.

The ACM Fund does not direct fee revenues to specific programs. Revenues deposited into the ACM Fund cover the combined costs of all the ACM programs.

Only a portion of the revenues collected by the ACM Bureau are deposited in the ACM Fund. Other portions of fees and surcharges are deposited to the ACCP Fund and still others forwarded to other agencies. Tables 1 and 2 detail the various industry fee rates and the total revenues collected for the ACM and ACCP Funds.

The ACM Bureau last adjusted the ACM Fund fees in 2003; the product sources upon which these fees are based have remained reasonably stable in recent years.

However, the economic downturn in 2008 and 2009 will likely impact future revenues since industry information projects a decrease in agricultural product sales.

Agricultural Chemical Cleanup Program Fund (ACCP Fund)

The ACCP Fund consists of industry fee surcharges to pay reimbursements for agricultural chemical spill cleanups under §94.73, Wis. Stats. These surcharges are set by rule with maximum levels dictated by statute. The ACCP Fund surcharges were reduced 30% in the 2007-2009 biennial budget, retroactive to July 2007.

Table 2
FY 2007-08 AGRICULTURAL CHEMICAL CLEANUP FUND

SOURCE	SURCHARGE	FY 07-08 REVENUE
Opening Balance		\$4,251,354
Fertilizer License	\$14 if no pesticide license	\$ 7,782
Fertilizer Tonnage	\$0.44/ton**	\$ 947,565
Pesticide Application Business	\$38	\$ 69,536
Pesticide Dealer-Restricted Use	\$28	\$ 10,912
Pesticide Individual Applicator	\$14	\$ 93,584
Pesticide Registration* Non-household \$0-24,999	\$3.50	\$ 14,756
Pesticide Registration* Non-household \$25,000-74,999	\$120	\$ 38,640
Pesticide Registration* Non-household \$75,000 plus	0.75% of sales	\$1,859,204
Interest on ACCP Revenues & Miscellaneous		\$ 192,002
Total Revenues		\$3,233,981
Expenditures (ACCP Reimbursements)		\$(2,187,144)
Food Safety Division		\$ (250,000)
Animal Health Division		\$ (125,000)
Discovery Farms		\$ (250,000)
Lapse to General Fund		\$ (266,000)
FY 07-08 Ending Balance		\$4,407,191

*Pesticide registrations are deposited by statute to each fund, but the breakdown between fee levels is not recorded in the financial system. The breakdown shown here is based on apportioning the actual payments based on the estimated sales levels reported at the time of product registration.

**The fertilizer tonnage surcharge is for the previous year's fertilizer sales.

Other Industry Fees

In addition to the fees paid to the ACM and ACCP Funds, the ACM Bureau collects fees directed to other state agencies or programs. Table 3 shows the FY 2007-08

fees collected for other agencies. Actual transfers may differ based on collection dates and transfers in prior or subsequent fiscal years.

Table 3
FY 2007-08 OTHER AGRICHEMICAL REVENUES AND USES

SOURCE	FEE AND AGENCY	FY 07-08 REVENUE
Fertilizer Tonnage	\$0.10 DNR	\$ 151,100
	0.10 UW Research	\$ 151,100
	0.10 UW Extension	\$ 145,689
	0.02 Weights & Measures	\$ 30,152
Feed Tonnage	\$0.02 Weights & Measures	\$ 73,923
Lime Tonnage	\$0.0125 UW Research	\$ 11,057
Pesticide Registration* Household sales \$0-24,999	\$124 DNR	\$ 609,348
Pesticide Registration* Household sales \$25,000-74,999	\$124 DNR	\$ 43,896
Pesticide Registration* Household sales \$75,000 plus	\$124 DNR	\$ 48,360
Pesticide Registration * Industrial sales \$0-24,999	\$94 DNR+\$5 for some wood preservatives	\$ 75,027
Pesticide Registration* Industrial sale \$25,000-74,999	\$94 DNR+\$170 for some wood preservatives	\$ 16,867
Pesticide Registration * Industrial sales \$75,000 plus	\$94 DNR+1.1% for some wood preservatives	\$ 37,652
Pesticide Registration* Non-household \$0-24,999	\$94 DNR	\$ 396,304
Pesticide Registration* Non-household \$25,000-74,999	\$94 DNR	\$ 30,268
Pesticide Registration* Non-household \$75,000 plus	\$94 DNR	\$ 32,242
Pesticide Well Compensation	\$150 DNR	\$ 23,184
Soil & Plant Additive Tonnage	\$0.10 DNR	\$ 3,612
	0.10 UW Research (deposited in fertilizer tonnage account)	\$ 3,612
TOTALS		\$1,883,393
DNR		\$1,467,860
UW		\$ 311,458
Weights and Measures		\$ 104,075

* Pesticide registrations are deposited by statute to each fund, but the breakdown between fee levels is not recorded. The breakdown shown here is based on registration records for each fee level.

When and How Paid

Industry fees for the ACM and ACCP Funds and the other agencies are assessed as

one fee and apportioned to the various funds as defined by statute. For example, when DATCP collects the fertilizer tonnage

fees, the industry is assessed \$1.06 per ton and the fee is then split among the UW, DNR, DATCP's Weights and Measures program, and the ACM and ACCP Funds, as shown in Tables 1 through 3.

Industry pays the fees for the various programs at different times of the year. Fertilizer tonnage and license fees are due in August of each year, pesticide licenses and registrations are due in December and feed fees are due in February. Table 4 shows the payment dates for all fees and

the period for which the fees are paid. Generally, permits, licenses and registrations are paid prospectively, while tonnage fees are submitted after each year's sales. Pesticide registrations represent a cross between these, since the license (registration) fee is based on an estimate of the licensing year sales. Upon renewal for the next licensing year, companies reconcile the actual sales total with the estimate to ensure they paid the proper fees.

Table 4
AGRICHEMICAL FEE PAYMENT DATES

SOURCE	DUE DATE	FOR PERIOD
Feed License	2/28/08	3/1/08-2/28/09
Feed Tonnage	2/28/08	Calendar 2007
Fertilizer License	8/14/07	8/15/07-8/14/08
Fertilizer Permits	Prior to distribution	Until product or label changes
Fertilizer Tonnage	8/14/07	7/1/06-6/30/07**
Lime License	12/31/07	Calendar 2008
Lime Tonnage	2/1/08	Calendar 2007
Pesticide Application Business	12/31/07	Calendar 2008
Pesticide Dealer-Restricted Use	12/31/07	Calendar 2008
Pesticide Individual Applicator	12/31/07	Calendar 2008
Pesticide Reciprocal Certification	Prior to work in Wisconsin	End of same calendar year
Pesticide Manufacturer (Product Registration)	12/31/07 estimate 12/31/08 final	Calendar 2008 (amount due based on sales 10/07-9/08)*
Pesticide Well Compensation	12/31/07	Calendar 2008
Soil & Plant Additive License	3/31/08	4/1/08-3/31/09
Soil & Plant Additive Permit	Prior to distribution	Until product or label changes
Soil & Plant Additive Tonnage	3/31/08	Calendar 2007
Veterinary Clinic Permit	12/31/07	Calendar 2008 and 2009

* The basis for a pesticide manufacturer license fee (more commonly known as product registration), changed effective in 2004 to an estimated fee paid at the start of the year and a final reconciliation paid at the end that year.

**The fertilizer tonnage surcharge is for the previous year's fertilizer sales.

Federal Grant Funds

The Bureau receives grants from three federal agencies:

- Environmental Protection Agency (EPA)
- Department of Agriculture (USDA)
- Food and Drug Administration (FDA)

The EPA pesticide grant is the largest of these grants (See Table 5). The ACM Bureau acts as EPA's agent for implementing, investigating and enforcing

federal pesticide use laws and regulations. The EPA grant includes several components, some of which are awarded based on an allocation formula (base), while other parts are awarded on a competitive basis (supplemental). The USDA grant provides funding for inspection of restricted-use pesticide records on farms. Our cooperative efforts with FDA, including the inspection contract and the Bovine

Spongiform Encephalopathy (BSE) expansion grants, provide funds for inspection of certain higher risk medicated feed producing establishments and allows for monitoring of the effected industries,

including feed manufacturers, ingredient transporters and ruminant animal feeders, which are all regulated by the BSE Feed Ban.

Table 5
FEDERAL GRANT FUNDING DURING STATE FY 2007-08

GRANTING AGENCY	PURPOSE	STATE FY 07-08 TOTAL
Environmental Protection Agency	Pesticide regulation and enforcement, applicator certification and special projects	\$981,552*
Food and Drug Administration	Medicated feed mill inspections	\$ 89,345
Food and Drug Administration	BSE Expansion grant	\$195,187
Department of Agriculture	Restricted-use pesticide recordkeeping	\$ 22,291
	TOTAL	\$1,288,375

*This total includes EPA grants that were awarded for FFY 07 and FFY 08 that were both received in SFY08.

Gifts, Grants and Special Projects

By statute, the Department may collect fees from the public or industry for laboratory tests completed by DATCP for programs under §93.06(1p), Wis. Stats. The Department may also cooperate with other state agencies and compensate or be compensated by these agencies for

services performed, as is done with the federal grants under §93.06(11), Wis. Stats. §20.115(8)(g), Wis. Stats., allows the Department to accept gifts and grants to carry out the program activities or special projects for which the grants are made. The following gifts and grants listed in Table 6 were received in Fiscal 2008.

Table 6
GIFTS AND GRANTS

SOURCE	PURPOSE	AMOUNT
Department of Health & Family Services (provider for EPA)	Environmental Public Health Tracking grant	\$16,106
Department of Administration, Coastal Management	Phragmites grant	\$ 8,921
	TOTAL	\$25,027

FY 2007-2008 Program Expenditures

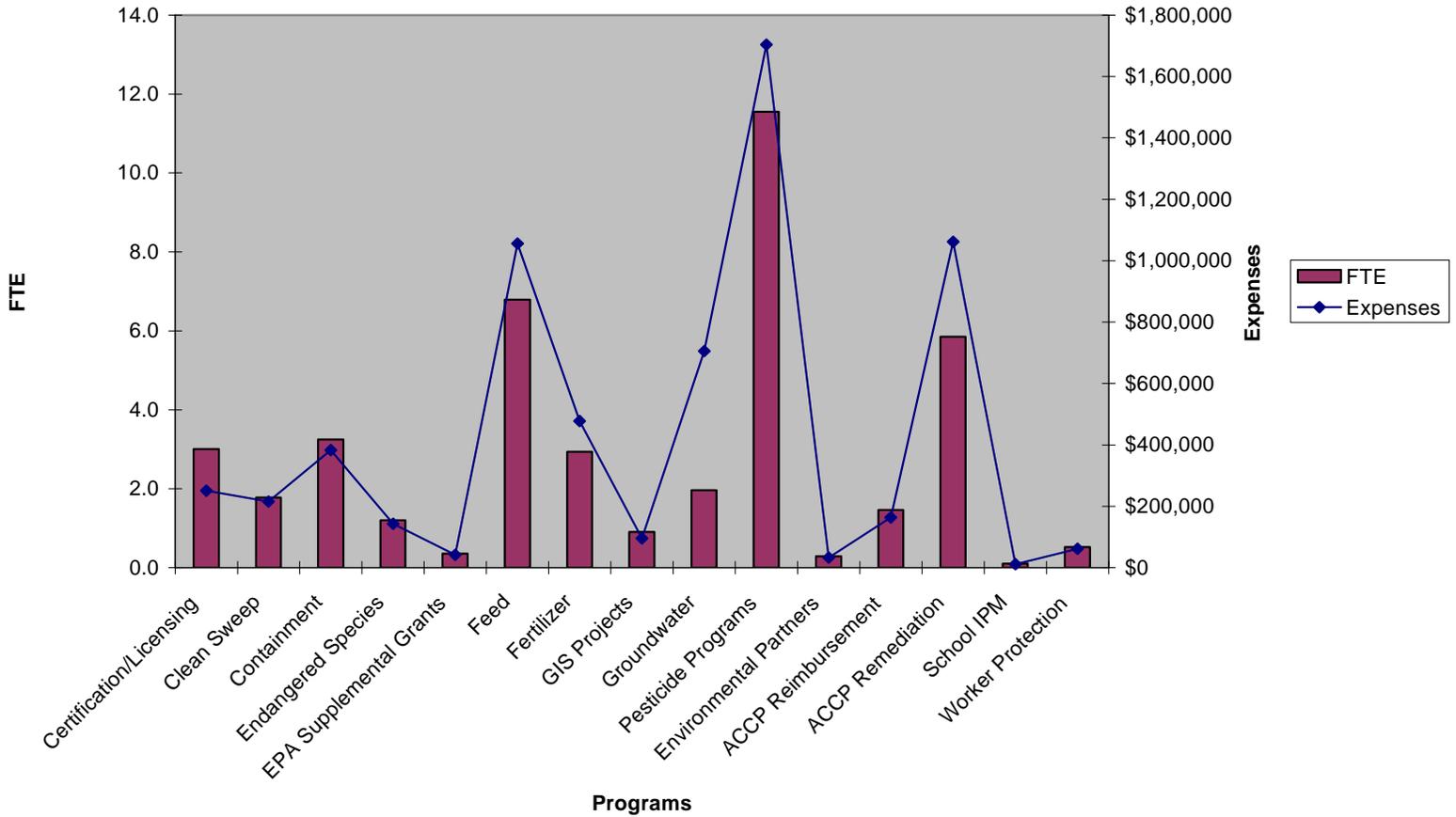
Each ACM program's activities and expenses are discussed in more detail in the related program section of this report. The program costs reported for each program are based on time reports kept by staff, multiplied by their respective salary and fringe costs and combined with each program's laboratory expenses. Compliance Section and laboratory staff time is distributed throughout the various programs per their time sheet reporting of investigations, inspections and other work in

each program. Supply and service costs that are not uniquely related to a single agrichemical program are pro-rated across all these programs based on agrichemical staff hours spent in each individual program. Many staff work in multiple programs on any given day and throughout the year, so if 10 percent of agrichemical staff hours are spent on feed program activities, 10 percent of building rent, office supplies, phone charges, computer expenses, and other similar costs are attributed to the total cost of the feed program shown in this report.

Chart 1 shows the distribution of time and expenses across all programs.

Chart 1

Program Staffing and Expenses



Note: The above chart does not include Clean Sweep grants to local governments or ACCP reimbursement payments.

Agricultural Chemical Cleanup Program

The Agricultural Chemical Cleanup Program (ACCP) directs the cleanup of pesticide and fertilizer spills to minimize contamination of surface water, groundwater and the surrounding environment by ensuring that spill cleanups are conducted effectively and in a timely manner. The program also provides reimbursement for a portion of eligible cleanup costs incurred by the responsible persons.

The program, established in 1994 by §94.73 Wis. Stats. and administered under ch. ATCP 35, Wis. Adm. Code, addresses both one-time spills resulting from incidents such as fires and traffic accidents, and long-term spills resulting from facilities' daily handling practices.

Staff and Funding

ACCP staff includes hydrogeologists and engineers who manage the technical aspects of the cases; environmental enforcement specialists who respond to spills, investigate contamination complaints and provide oversight on field activities; an auditor who reviews reimbursement applications and an office associate who provides administrative support. During fiscal year 2007-2008, the program required \$1,225,164 for the salary of 7.4 full-time staff, supplies and laboratory costs. The ACM Fund supported these expenses. The ACCP Fund finances the ACCP reimbursements.

Program Activities

Remediation: In calendar year 2008, the program closed 30 cases and initiated 14 new cases, bringing the total number of active cleanup cases to 238 (see Table 7). In addition, staff responded to 53 spills, closed 31 of them, and closed 14 spill cases from previous years. Remaining open spill

cases will be closed following completion of investigative and remedial actions and land spreading of contaminated soil.

Reimbursement: During calendar year 2008, we received 65 applications for reimbursement, totaling \$2,304,904.12. The number of applications submitted in 2008 decreased 26% from 2007. A small portion of the decrease continues to be related to a deadline established in 2000 which requires all costs eligible for reimbursement to be submitted within three years from when they also were paid. However, the majority of the decrease is due to vacant positions and the state's hiring freeze. In 2008, the section chief position was vacant for $\frac{3}{4}$ of the year, the number of hydrogeologists

available to process cases was two instead of four, and the number of environmental enforcement specialists available to investigate cases decreased from 15 to 13. With fewer staff available to direct and oversee the technical aspects, responsible persons performed fewer environmental cleanups. Since the responsible persons incurred fewer costs, the costs they will submit for reimbursement will decrease in proportion.

Staff met with the Agricultural Chemical Cleanup Council four times during the year to review reimbursement applications and recommend reimbursement payments. The ACCP Fund paid a total of \$1,880,406.21 in reimbursements in CY 2008. Due to the timing difference between when an application is submitted and when reimbursement is made, this amount includes applications that were received at the end of 2007. Similarly, applications

ACCP Highlights

- ★ **14 new ACCP cases initiated; 238 total active cases**
- ★ **53 new spill responses**
- ★ **30 ACCP and 45 spills cases closed**
- ★ **\$1.88 million reimbursed**

received at the end of 2008 will be reimbursed in early 2009.

Emerging issues

The Historic Lead Arsenate Pesticide Task Force concluded in January 2008 and released its final report and recommendations in May 2008. The Task Force provided direction on how to handle issues related to contamination from past applications of lead arsenate pesticide to Wisconsin orchards. The ACM Bureau will be entering into a Memorandum of Understanding with the Department of Natural Resources and Department of Health Services to memorialize several of the agreements made during the Task Force. The ACM Bureau will implement the remaining Task Force recommendations as staffing allows.

The 2007-2009 biennial budget gave the department statutory authority to develop an agricultural chemical pollution prevention grant program. The statute requires the department to write rules for the program prior to issuing any grants. Rulemaking began in 2008, when the department appointed and met with an advisory committee to obtain its input on modifications to Ch. ATCP 35, Wis. Adm. Code. However, the ACM Bureau has suspended work on the rules indefinitely due to budget constraints and ongoing staffing vacancies. The department will review the status and timeline of the rule revisions after adoption of the 2009-2011 state budget.

Table 7

ACCP REMEDIATION AND REIMBURSEMENT ACTIVITIES 2004-2008*

Activity	2004	2005	2006	2007	2008
New long-term (LT) cases	30	28	31	28	14
Total active LT cases	280	274	268	254	238
LT cases closed	33	35	42	42	30
Total closed LT cases	271	305	348	390	420
New Spill cases	46	49	36	45	53
Spill cases closed same year	30	30	23	32	31
Total spill cases closed each year	48	48	40	48	45
Total closed spill cases	681	729	768	816	861
Applications Received	91	67	87	97	65
Applications Reviewed	101	71	83	102	80
Payments (\$)	2,874,438	2,129,092	1,757,087	2,621,945	1,880,406

*Older numbers have changed from previous years' annual reports and are updated based on improved tracking capabilities. Numbers will differ slightly from those reported in the financial section of the report due to program records being kept on a calendar year, rather than fiscal year basis.

Agrichemical Containment and Environmental Partners

The **Agrichemical Containment**

(Containment) program requires the use of approved containment structures to help prevent spills of bulk pesticides and fertilizers from contaminating soil and groundwater (“bulk” means more than 55 gallons of liquid or 100 pounds of dry fertilizer or pesticide). If a spill of a bulk pesticide or fertilizer were to occur, a containment structure catches the release so that it can easily be recovered.

The program, authorized under §94.645 and 94.67-71, Wis. Stats. and administered under ch. ATCP 29 and 33, Wis. Adm. Code, includes bulk storage regulations and loading area containment requirements for non-bulk pesticide handling. The rules only apply to agrichemical facilities and dealerships, not farms.

The Containment program relies on inspections, warnings, complaints and orders to ensure compliance with the statutes and rules. Industry recognizes the importance of properly designed containment systems and compliance with major rule provisions is relatively high.

The **Environmental Partners** program is a subset of the Containment program that emphasizes pollution prevention at agricultural chemical storage and dealership sites. The goal of the Environmental Partners program is to encourage facilities to voluntarily exceed rule requirements by implementing best management practices (BMPs) at their facilities. These BMPs reduce the agrichemicals that escape into the environment during chemical storage and handling operations at a dealership location. The program operates cooperatively with Ambassadors from the

Wisconsin Crop Production Association. During 2008, the program provided training to 20 industry Ambassadors on Environmental Partners protocols and BMPs. In turn, the Ambassadors promote the benefits of volunteering for an Environmental Partners assessment to other dealers. Forty-six dealership sites have participated in Environmental Partners since its creation in 2001.

Staff and Funding

The Containment and Environmental Partners programs are funded by the ACM Fund and the EPA grant. During FY 2008, these programs required 3.8 FTE staff time and \$437,226 in staff and supplies.

Program Activities

Table 8 below summarizes inspections and enforcement actions completed by DATCP’s containment program

over the last five years. In 2008, DATCP returned to standard inspection modes after using 2007 to educate facilities about the revised bulk storage rules that went into effect on November 1, 2006. A common problem in 2008--that was first noted during the 2007 “educational inspections”--is how facilities manage rain water and rinsate that collects on mixing and loading pads and in secondary containment structures. The program will be conducting additional outreach on this topic in 2009.

Emerging Issues

DATCP is anticipating potential problems directly related to the economic recession. Meeting the containment rule requirements can be expensive. Most facilities include the overhead expenses related to environmental protection in the price they charge to their customers. As individuals recognize opportunities to distribute bulk

Containment and Environmental Partners Highlights

- ★ **82 inspections conducted**
- ★ **8 warnings issued**
- ★ **20 Ambassadors trained**

agricultural chemicals without these environmental protection expenses, there may be an increase in bulk fertilizer and bulk pesticide distribution businesses that do not meet the requirements of the containment rules. This increases environmental risk and it also puts the otherwise compliant facilities at an economic disadvantage. The department is monitoring this situation and will take appropriate action, as needed.

A second emerging issue is the elimination of asphalt mixing and loading pads by December 31, 2009, as required by rule.

The program is unsure about the impact this will have. Inspections over the past several years indicate that there are not that many asphalt pads in use for liquid mixing and loading. However, for those facilities that are using asphalt pads for mixing and loading, there will be some outlay to perform environmental assessments when the pads are removed, as well as additional costs for professional design and installation of a replacement portland cement concrete pad. The program does not anticipate the design plan review part of the workload increasing significantly.

Table 8
CONTAINMENT ACTIVITIES 2004-2008

Activity	2004	2005	2006	2007	2008
Full bulk inspections	23	21	24	-	13
Short bulk inspections	78	64	79	-	55
Mix/load inspections	8	14	9	0	3
Sump test inspections	72	40	42	-	0
2007 Bulk Rule Inspections	NA	NA	NA	316	NA
Total Inspections	181	139	154	316	82
Special orders	0	5	2	2	3
Complaints	0	4	5	10	0
Written warnings	29	15	15	8	8

Clean Sweep

Wisconsin Clean Sweep, authorized under §93.55 and §93.57, Wis. Stats and Ch. ATCP 34, Wis. Adm. Code., offers grants for the collection and disposal of agricultural (Ag), household hazardous wastes (HHW) and prescription drugs. The Ag Clean Sweep program began in 1990, and the HHW program was transferred from DNR to DATCP in 2003. The Legislature added unwanted prescription drugs to the program in 2007. Counties and county-affiliated units such as regional planning commissions are eligible for all grant-types, while cities, villages, towns, and other entities are eligible for HHW and prescription drug grants only. Grants are made available for temporary (one-day) or continuous collections (permanent facilities) and vary between \$9,000 and \$19,000 depending upon the type of grant request.

Wisconsin Clean Sweep improves environmental and human health protection by collecting unwanted pesticides, agricultural chemicals, household chemicals and prescription drugs for safe, legal disposal. Farms (both active and abandoned), households, and certain businesses, called Very Small Quantity Generators (VSQGs) are eligible to use program services. Only a small range of chemicals cannot be accepted by program waste haulers.

Grant funds primarily are used to collect, package, transport, and dispose of hazardous wastes at licensed, high temperature incinerators or at fuel blending operations across America. The resulting ash or residue is stored at Subtitle C, hazardous waste landfills. Veolia Environmental Services is the State of

Wisconsin's hazardous waste hauler for temporary collections. Municipalities with permanent facilities are allowed to select their own vendor.

Funding and Staff

In 2008, DATCP spent \$1,008,151 for direct grant aids to Wisconsin municipalities for clean sweep-related expenses. Of this total, \$225,591 was spent on Ag grants, \$710,533 on HHW grants, and \$72,027 on prescription drug grants. The Ag grant total includes \$11,194 in assistance to businesses for the collection of unwanted agricultural pesticides. In receiving the above grant aids, Wisconsin

municipalities provided \$875,435 in matching monies or assistance.

The program used 1.8 FTE staff in the ACM Bureau, with staff and supply costs totaling \$215,762 and derived from the ACM Fund. The increased staff and supply costs in 2008 is due to significant workload added to the program by the addition of the unwanted prescription drug grant program. A Land and Water Resources Bureau staff member also helped coordinate clean sweep administrative activities so the program specialist could focus on the new prescription drug clean sweep activities.

Program Activities for 2008

In 2008, DATCP funded 33 HHW grants and 25 Ag grants. Counties remain the dominant user of Wisconsin Clean Sweep

Clean Sweep Highlights

- ★ **70 grants totaling \$1 million**
 - **25 Agricultural**
 - **33 HHW**
 - **12 Prescription Drug**
- ★ **2,632,826 Pounds of Waste**
 - **157,524 lbs. Agricultural**
 - **2,467,931 lbs. HHW**
 - **7,371 lbs. Prescription Drugs**
- ★ **45,468 residents, farms and businesses served**

Program services with 54 counties using Program services in 2008.

In 2008, 808 farmers and 20 agricultural businesses brought in 157,524 pounds of agricultural wastes (see Table 9), an Ag waste increase of nearly 14% over the 2007 Ag collection total of 137,000 pounds and a 30% increase over 2006 collection totals. This increase reflects a more active Clean Sweep season with more counties being served, including a number of counties who had not sponsored collections in recent years. Given the decreasing number of farms and changes in pesticide application practices, it is likely that collection amounts will not increase much above the 150,000 pound range into the foreseeable future.

2008 HHW performance remained very strong and consistent with recent patterns (see Table 10). Over 39,500 residents brought in nearly 2.5 million pounds of waste at Clean Sweep collection sites. The waste total represents a 12% increase over 2007 results, but the participant increase represents a 30% increase over 2007 results. These increases reflect the large number of collection sites in 2008 and the continuing terrific citizen response to HHW services.

HHW waste intake outpaced Ag waste intake by a better than 10:1 margin in 2008. As has been noted in previous annual reports, given the rapid expansion and popularity of HHW collections and the continuing depression of farm numbers, it is expected that HHW activity in the Clean Sweep Program will continue to far outpace that of agricultural collections.

The number of businesses seeking the DATCP agricultural subsidy of 50% for agricultural pesticides dropped in 2008. In 2008, DATCP served 20 businesses while in 2007 DATCP served 29 businesses. Reasons for this drop are not clear, but it can be reported that collection sites are still an attractive option for businesses without agricultural pesticides. In 2008, the total number of businesses coming to Clean

Sweep collection sites went up nearly 60% from 2007; from 282 in 2007 to 446 in 2008. This reflects strong local promotion by collection sites and business recognition of the need to properly dispose of hazardous wastes. Lower-cost hazardous waste services through Wisconsin Clean Sweep are making a difference.

DATCP continued to work successfully with the Wisconsin Crop Protection Association (WCPA) in 2008 for the recycling of 2 ½ gallon pesticide containers and mini-bulks. A new vendor, AGSI, from Minnesota served WCPA collection sites and they offered improved servicing which was very well received. Between the 2 ½ gallon containers and mini-bulks, the program collected 107,000 pounds of plastic for processing.

2008 Pilot Prescription Drug Collection Grant Program

In fall 2007, the department began working on guidelines and procedures for a pilot program to collect prescription drugs from counties and municipalities. The pilot program was designed to collect unwanted prescription drugs from residents. The department encouraged local governments to try innovative or demonstration methods during the pilot period. Grant funds came from existing HHW funds set-aside specifically for this purpose. The pilot program will provide vital experience in these collection events prior to revision of the administrative code.

In April 2008, the department released a Request for Proposals (RFP) for prescription drug collection grants for July 1-Dec. 31, 2008. The department received 22 applications seeking \$162,999 in grant assistance. The department funded 12 grant requests for \$95,000, including one pilot mail-back program for Waukesha County. Most sites ran traditional collections where law enforcement witnessed the transfer of drugs, including controlled substances, and all controlled substances were then taken to

evidence vaults until witnessed destruction could occur. Non-controlled substances often were removed immediately for disposal. The pilot mail-back program used a reverse distributor, Capital Returns, as their collection agent, but this program could not accept controlled substances owing to Drug Enforcement Administration (DEA) limitations.

Table 11 provides the pilot program results. By nearly any measure, it was a solid success. 5,140 residents delivered 7,371 pounds of drugs, including 737 pounds of controlled substances, for disposal. Local collection managers used many volunteers, including pharmacists and police officers, to reduce program costs and as a result, collection costs generally came in below projected amounts. The department also helped communities save a total of \$20,000 by developing a shared witness burn system where a single law enforcement officer provided by the Wisconsin Department of Justice (DOJ) in cooperation with the Jefferson County Sheriff's Department delivered all controlled substances to the incinerator.

Emerging Issues

While demand for program services remains high, Wisconsin's 2009-2011 budget reduced funding for the program to \$750,000 and staffing to 0.75 FTE. This will require the department to streamline and make changes to the program.

The department's pilot prescription drug program proved very successful. Staff spent a considerable amount of time analyzing a variety of drug collection methods and asked the Department of Justice to provide a legal opinion on a number of issues. The DOJ released its informal opinion in December 2008 and DATCP communicated this opinion – which includes potential legislative remedies -- to Clean Sweep partners and stakeholders. The department is considering the needs of the pharmaceutical component as it discusses the future of Clean Sweep.

Of particular note in 2008 was the record request for \$300,000 in overage assistance. The popularity of HHW clean sweeps has challenged local governments. DATCP needs to identify methods to reduce demands on local governments while streamlining the internal process.

Table 9

2008 Wisconsin Clean Sweep: Ag Data Summary

County	Farmers Served	Businesses Served: Non-Ag/Ag	Pounds- Ag Businesses	Pounds- Farmers	Total Lbs. Collected	County Cost	Farm Cost	Business Cost	DATCP Cost
Barron	46	7/0	0	3,534	3,534	\$1,065	\$4,620	\$0	\$4,620
Buffalo	8	1/0	0	784	784	\$800	\$2,892	\$0	\$2,892
Dane/Columbia	17	57/3	633	2,429	3,062	\$2,041	\$6,246	\$577	\$6,823
Dodge	43	3/0	0	13,327	13,327	\$2,453	\$8,000	\$0	\$8,000
Dunn	12	18/1	109	3,195	3,304	\$2,983	\$11,803	\$109	\$11,912
Green Lake	23	0/0	0	6,599	6,599	\$5,713	\$8,000		\$8,000
Jackson	13	2/0	0	2,114	2,114	\$1,209	\$4,837	\$0	\$4,837
Jefferson	42	62/0	0	15,082	15,082	\$7,432	\$11,000	\$0	\$11,000
Langlade	9	5/0	0	6,858	6,858	\$1,750	\$7,000		\$7,000
Lincoln	6	0/0	0	2,766	2,766	\$2,687	\$3,000		\$3,000
Manitowoc/Calumet/Sheboygan	84	14/1	118	15,881	15,999	\$2,171	\$14,332	\$177	\$14,509
Marathon		9/1	5,121	3,247	8,368	\$10,702	\$6,398	\$525	\$6,923
Marquette	38		0	3,073	3,073	\$2,177	\$5,665	\$0	\$5,665
Northwest WI Clean Sweep*	66	54/1	48	10,936	10,984	\$10,450	\$40,000	\$48	\$40,048
Oneida/Vilas	14	48/0	0	1,630	1,630	\$1,287	\$4,301	\$0	\$4,301
Pepin	19	0/0	0	685	685	\$1,007	\$1,997	\$0	\$1,997
Pierce	94	26/1	551	11,162	11,713	\$7,711	\$8,000	\$60	\$8,060
Polk	72	10/0	0	3,578	3,578	\$3,056	\$10,348	\$0	\$10,348
Rock	20	25/4	940	1,240	2,180	\$831	\$1,917	\$498	\$2,415
St. Croix	32	34/0	0	9,876	9,876	\$3,253	\$12,000	\$0	\$12,000
Washington	27	39/2	4,195	11,499	15,694	\$16,147	\$8,000	\$249	\$8,249
Waukesha	0	0/1	120	0	120				
Western WI Clean Sweep**	107	34/0	0	13,829	13,829	\$12,596	\$28,987	\$0	\$28,987
Wood	16	7/0	0	1,622	1,622	\$2,658	\$5,054	\$0	\$5,054
Special VSQG Work Through Brown and Walworth Counties		17/5	743		743				
Summary	808	438/20	12,578	144,946	157,524	\$102,179	\$214,397	\$11,194	\$225,591

* The Northwest WI Clean Sweep served the following counties: Ashland, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Taylor, and Washburn.

** The Western WI Clean Sweep served the following counties: LaCrosse, Monroe, Adams, Juneau, Crawford, and Vernon.

Table 10
2008 Wisconsin Clean Sweep: HHW Municipal Data Summary

Municipality	Residents Served	Pounds Collected	Municipality Cost	DATCP Cost
Barron County	400	15,081	\$4,534.00	\$23,580.00
Brown County	8,932	458,369	\$253,809.00	\$26,149.00
Buffalo County	24	617	\$2,120.00	\$5,876.00
City of Burlington	65	3,015	\$2,294.00	\$8,835.00
Village Caledonia/Town Mt. Pleasant	263	11,925	\$5,295.00	\$19,600.00
Dane/Columbia Counties	7,309	834,689	\$49,419.00	\$22,177.00
Dodge County	518	20,747	\$14,000.00	\$14,000.00
Dunn County	262	16,683	\$3,318.00	\$13,269.00
Green Lake County	178	12,302	\$7,397.00	\$14,700.00
Jackson County	80	7,397	\$2,348.00	\$9,390.00
Jefferson County	512	35,261	\$7,432.00	\$20,300.00
Langlade County	332	15,744	\$3,500.00	\$15,200.00
Lincoln County	200	9,400	\$3,044.00	\$8,200.00
Manitowoc/Calumet/Sheboygan Counties	1,685	122,615	\$85,066.00	\$59,071.00
Marathon County	769	33,264	\$42,266.00	\$17,972.00
Marquette County	218	12,539	\$11,249.00	\$15,335.00
Northwest WI Clean Sweep *	1,715	101,035	\$17,885.00	\$51,200.00
Oneida/Vilas Counties	526	39,508	\$23,059.00	\$25,699.00
Outagamie/Calumet/Winnebago Counties	352	20,330	\$6,464.00	\$24,334.00
Pepin County	131	13,296	\$3,532.00	\$11,659.00
Pierce County	704	50,907	\$12,280.00	\$24,200.00
Polk County	181	20,959	\$4,584.00	\$16,539.00
Portage County	101	4,930	\$5,374.00	\$9,412.00
City of Racine	582	30,324	\$11,247.00	\$20,300.00
Rock County	204	13,228	\$8,804.00	\$18,000.00
Village/Town of Rochester	198	27,327	\$2,671.00	\$14,775.00
St. Croix County	488	42,691	\$4,503.00	\$19,200.00
Walworth County	583	28,153	\$6,675.00	\$16,602.00
Washington County	597	34,421	\$56,161.00	\$16,300.00
Waukesha County	5,309	200,450	\$6,323.00	\$26,700.00
Waupaca/Waushara Counties	204	8,117	\$11,138.00	\$18,000.00
Western WI Clean Sweep **	5,185	199,537	\$34,021.00	\$81,013.00
Wood County	703	23,070	\$6,493.00	\$22,946.00
Summary	39,510	2,467,931	\$718,305.00	\$710,533.00

* The Northwest WI Clean Sweep served the following counties: Ashland, Bayfield, Burnett, Douglas, Iron, Price, Rusk, Sawyer, Taylor, and Washburn. ** The Western WI Clean Sweep served the following counties: LaCrosse, Monroe, Adams, Juneau, Crawford, and Vernon.

Table 11

2008 Pilot Prescription Drug Grant Program Summary

Municipality	Number of Participants	Drug Breakdown: Pounds Collected Uncontrolled/Controlled#	Total Pounds Drugs Collected	Municipal Cost	DATCP Cost
Brookfield City aka Waukesha Mailback*	1,378	210/0	210	\$9,100	\$10,000
Dane County/Madison City	761	1,335/160	1,525	\$1,991	\$5,804
Dunn County	227	280/74	354	\$2,171	\$4,025
Jefferson County	512	920/12	949	\$8,224	\$5,000
Kewaunee/Door Counties	254	461/21	482	\$6,143	\$7,983
Manitowoc/Sheboygan Counties	721	1,199/76	1,297	\$3,955	\$10,000
Oconto County	70	265/34	306	\$1,641	\$3,815
Oneida/Vilas Counties	122	196/45	122	\$1,499	\$4,980
Rock County	205	338/30	384	\$10,225	\$5,448
Walworth County	119	281/24	316	\$1,154	\$2,507
Waupaca/Calumet/Outagamie/ Winnebago Counties	771	1,095/233	1,366	\$7,485	\$10,188
Wood County **	---	32/28	60	\$1,363	\$2,277
Totals	5,140	6612/737	7,371	\$54,951	\$72,027

*The City of Brookfield sponsored a prescription drug mail-back program for Waukesha County. This program allowed residents to mail non-controlled drugs to Capital Returns, a reverse distributor. Controlled substance drugs cannot be mailed.

** Wood County held additional collections that were not funded by DATCP. Wood County sponsored continuous collections at two law enforcement offices in 2008, but no participation record was kept. A total of 142 pounds of drugs were collected.

Controlled substances are often narcotics and pain relievers of particular interest for theft and street crimes. DATCP sponsored a shared witness burn for controlled substances in December 2008 for ALL counties/cities along with grantees to reduce costs and improve efficiency. Nearly 900 pounds of controlled substances were taken to an incinerator near St. Louis, MO.

Compliance and Investigation

The Compliance and Investigation (Compliance) Section investigates a wide variety of complaints related to feed, fertilizer, soil and plant additives, seed, lime and pesticides each year, including those related to product distribution, use, disposal and environmental contamination.

Staff and Funding

The Compliance Section has 14

Environmental Enforcement

Specialists who conduct inspections and investigations for the ACM Bureau. Most formal enforcement actions are prepared by office and supervisory staff of this section. While the section includes 18 staff, the FTE time and

program costs are included within the totals for each ACM program, based on the time spent conducting these inspections, investigations and compliance activities.

Program Activities

In 2008, ACM investigated 181 complaints. Pesticide complaints were again the largest area of activity. Of the total complaints, 141 cases involved potential violations of ch. ATPC 29, Wis. Adm. Code, Wisconsin's pesticide use and control rule. The 141 complaints of pesticide misuse in 2008 were nearly unchanged from 2007, which had 142. There also were two investigations of pesticides or nitrates exceeding health standards in groundwater and 11 new site-remediation cases. Figure 1 shows the number of violations by program.

Not all complaints become cases, and not all cases have violations. Excluding groundwater and remediation cases from the total, there were 168 pesticide, feed, and fertilizer cases in 2007, 4 less than in 2007. The Section documented violations in

113, or about 67 percent, of the cases investigated in 2008. This compares to the violation rate of 52 percent in 2007. The increase in the violation rate is due almost entirely to a 14% reduction in the number of complaints; the number of violations is actually very similar to 2007. Chart 2 provides a historical summary of cases and violations.

Compliance and Investigation Highlights

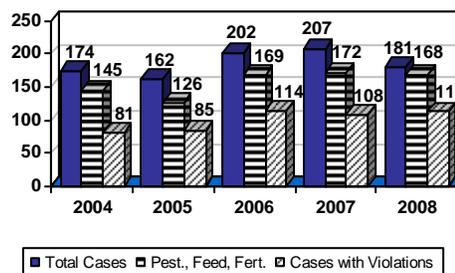
- ★ **181 complaints investigated**
 - 141 pesticide related
 - 113 violations
 - 67 percent violation rate
- ★ **230 enforcement actions**

Violations may result in actions ranging from verbal warnings issued in the field to court action invoking civil or criminal penalties. Pesticide violations involving federal requirements also can be referred to the EPA for further action; one referral was made to EPA this year. Table

12 shows the number and type of enforcement actions taken during 2008. The department assigns the highest response priority to complaints involving human exposure to pesticides. In 2008, staff

Chart 2

Violation Rates 2004 - 2008



investigated four cases involving potential human exposure and found exposure occurred in two of these cases resulting in one civil forfeiture action. The second case involved a homeowner application exposing their infant son, and no legal action was taken. Out of 56 complaints of

alleged pesticide drift in 2008, investigations documented drift violations in 27 of them. During 2008, staff responded to 12 complaints involving the aerial application of pesticides and determined that violations

occurred in seven of these cases. Civil forfeiture actions are pending. Table 13 summarizes case investigations and violation rates for the major categories of pesticide use.

Table 12
ENFORCEMENT ACTIONS -- 2008

Action Taken	Number of Actions
Informational letters	4
Letter of Concern	17
Criminal Action	3
Warning Notice – Investigator	47
Warning Notice – Office	15
Administrative Order	13
Civil Forfeiture Action	67
Referred to US EPA	1
Administrative Conference	63
TOTAL ACTIONS	230

Figure 1
Violations by Program

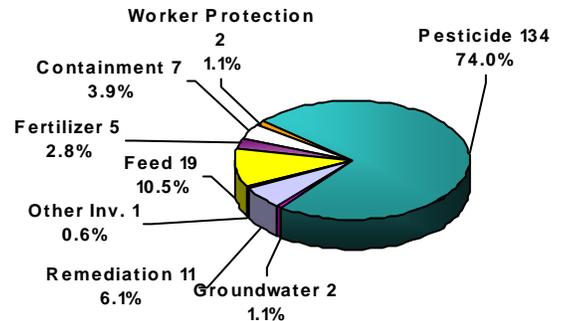


Table 13
PESTICIDE VIOLATIONS 2004-2008

Type of Case	Number of cases (percent with violations)				
	2004	2005	2006	2007	2008
<i>Aerial – Airplane</i>	1 100%	1 0%	5 40%	8 38%	10 60%
<i>Aerial – Helicopter</i>	3 0%	3 67%	1 100%	0 0%	2 50%
<i>Greenhouse – Nursery</i>	1 100%	0 0%	3 100%	1 100%	1 0%
<i>Ground Application-Ag</i>	26 54%	30 43%	36 69%	53 62%	50 74%
<i>Improper Disposal</i>	6 100%	2 0%	1 0%	1 100%	2 50%
<i>Other Non-Ag</i>	12 50%	12 62%	16 44%	11 55%	6 83%
<i>Poor Operating Practices</i>	4 50%	8 75%	7 71%	5 80%	4 75%
<i>Right-of-Way</i>	3 0%	0 0%	1 100%	2 0%	4 25%
<i>Structural</i>	12 92%	6 100%	7 86%	10 100%	11 82%
<i>Turf & Ornamental</i>	35 66%	31 66%	33 64%	43 60%	36 75%
<i>Vandalism</i>	5 60%	1 0%	3 67%	5 60%	3 00%

Endangered Species Habitat Program

DATCP's Endangered Species Habitat Program (ESHP) assists the U.S. Environmental Protection Agency's (EPA) Endangered Species Protection Program mandated by the federal Endangered Species Act of 1973. The U.S. Fish and Wildlife Service oversees this Act. The ESHP works to protect the federally endangered and threatened species found in Wisconsin from pesticide and related harm while minimizing economic harm to affected parties.

Staff and Funding

In 2008, the Endangered Species Habitat Program accounted for 1.4 FTE and \$163,875 in program costs funded through an EPA grant (.1 FTE) and the ACM Fund (1.3 FTE).

Program Highlights

Outreach and education:

Staff worked with over 200 landowners, neighbors, managers, resource personnel and the public regarding endangered species conservation or related pesticide use and planning. We assisted other agencies and non-profits to make landowner contacts, collect species data and complete other projects.

Pesticide permit reviews: We reviewed over 150 pesticide related bird/ mammal permits to ensure endangered species protection.

Species inspections and monitoring: Staff--with help from owners, neighbors, and other partners--conducted inspections and monitoring of species and habitats.

- Observed 860 plants at 10 Eastern Prairie Fringed Orchid sites statewide, despite the heavy toll by flooding in 2008.
- Found 2325 plants at 14 Prairie Bush Clover sites
- Located 735 plants at one Pitcher's thistle site.
- Inspected 10 Dwarf Lake Iris sites and found a variety of situations from almost

destroyed to doing well. Invasive species are becoming more of a problem for this species.

Hine's emerald dragonfly sampling: The best sites for this species globally are located in Door County near orchard operations. Eight creeks were retested in Door County in 2008 (original testing in 2007) and no orchard pesticides detected at known harm levels.

Phragmites australis: Common reed grass is a tall invasive overtaking Lake Michigan's shores, especially on the exposed lake bed. Our Coastal Management grant resulted in a Master's thesis and four public presentations about the control of common reed grass in native and threatened species habitats in 2008. Presentations were made to the public in two affected counties,

Door and Marinette. The Master's thesis and talk are available on the DATCP website.

Karner blue butterfly: DATCP is a partner to the Karner blue butterfly Habitat Conservation Plan (HCP), which includes the agricultural community in the Incidental Take permit. The HCP is being redrafted for its second 10-year term to begin in September 2009.

EPA's Endangered Species Protection Program: Late in 2008, staff participated in the review of EPA's first bulletin to protect the Karner blue butterfly and its high priority habitat from potential harm from methoxyfenozide (Intrepid). Our review included agencies, the university and a grower group. We succeeded in minimizing the affected locations and stream-lining the language. This bulletin was launched in 2009.

Endangered Species and Habitat Protection Highlights

- ★ **8 creeks tested in Door County; no orchard pesticides detections found at known harm levels**
- ★ **35 sites inspected or monitored**

Feed

The Feed program's purpose is to assure the public and manufacturers that animal feed and feed ingredients are unadulterated, meet label guarantees, and are safe and effective. This is accomplished by feed mill and transporter inspections and surveillance sampling under authority of §94.72, Wis. Stats. and ch. ATCP 42, Wis. Adm. Code.

Staff and Funding

The feed program work includes sampling, performing field investigations, issuing licenses, collecting and auditing tonnage fees, reviewing labels for compliance with the feed law, and conducting education, training and information outreach activities with the industry, consumers and field investigators. The program required 6.8 FTE staff and spent \$1,055,681 for supply and laboratory costs from the ACM Fund and the Food and Drug Administration (FDA) inspection contract.

Program Activities

The feed industry has been fairly stable, showing little change in the numbers of licensed manufacturers and distributors over the past several years. However, the feed industry does appear to be slowly phasing out smaller companies and consolidating facilities. During 2008, the department issued commercial feed licenses to 1312 firms. These firms distributed a collective 3.5 million tons of commercial feed and feed products, a 1% decrease from 2007.

The program continues to monitor compliance through Good Manufacturing Practices (GMP) inspections supported by product sampling. The GMP inspections are a detailed review of systems and practices that are essential to maintain safety of medicated feeds and medicated feed ingredients. The inspection process evaluates a firm's facilities and equipment, and the receipt, use and distribution of

medicated feeds and feed ingredients. It also documents practices to ensure compliant feed and ensures facilities are able to trace non-compliant feed into the marketplace or back to suppliers, to protect animals and consumers.

During GMP inspections, samples of feeds and components may be collected for analysis. These samples are examined for drug concentrations and contaminants and also confirm quality guarantees.

Compliance activities and special projects: In 2008, staff completed 100 GMP inspections and collected and analyzed 66 medicated feed samples at Wisconsin medicated feed producers. The number of feed samples decreased by 40% from 2007 to 2008. The drop in samples can be attributed to feed specialist and field staff vacancies and higher workplan priorities. The samples assist in the assessment of a facility's ability to produce feeds that are not misbranded or adulterated. From the inspections, the program identified 17 firms as suspected of being in violation of

Feed Highlights

- ★ **1312 licenses issued**
- ★ **3.5 million tons sold**
 - **1 percent decrease from 2007**
- ★ **289 inspections conducted**
- ★ **66 medicated feed samples analyzed**
- ★ **17 significant violations found**
- ★ **BSE expansion grant implemented**

Wisconsin's or FDA's feed regulations. The noted violations were similar to violations identified during previous inspections, typically failure to follow good manufacturing practices.

Industry training sessions: Staff held four regional training sessions designed to help feed manufacturers and labelers to better understand state and federal feed regulations. The training topics covered common areas of violation and inquiry by the industry. Program staff will monitor future inspections to see if there is a downturn in violation trends that were the focus of these sessions. Staff will consider repeating this type of training if it proves useful to the industry.

FDA Inspection Contract: Mills that use certain types of medications and antibiotics in feed products are required to hold a medicated feed license with the FDA. The FDA contracts with DATCP to inspect these mills. Staff inspected 8 of 31 mills in 2008. FDA also contracted with the department to inspect feed manufacturers for compliance with 21 CFR 589.2000, Animal Proteins Prohibited from Use in Ruminant Feeds. This federal regulation is commonly known as the Bovine Spongiform Encephalopathy (BSE) Feed Ban. In 2008, staff completed 181 contract inspections, a 37.5% decrease from 2007. The reduction is attributed to a more educational focus for the BSE program in 2008.

Toxic Response: The commercial feed specialist serves as DATCP's coordinator for toxic response investigations. These cases involve illness or death of primarily food producing animals from unknown causes. Cases also may be conducted as toxic responses if non-food producing animal deaths of significance occurs. In 2008, there were no toxic response cases.

Homeland Security: Feed program staff worked with other department personnel to develop, test and implement response plans to protect the state's animal industries from

potential bio-terrorist attacks and foreign animal disease outbreaks.

Emerging Issues

FDA BSE (Bovine Spongiform Encephalopathy aka: "Mad Cow")

Program Expansion Grant: In 2006, Wisconsin was one of only eight states to receive multi-year FDA grant funds to expand BSE inspection surveillance, education and increased enforcement as needed to improve compliance and to enhance the level of consumer and trading partner confidence.

Grant funds were used to purchase equipment and supplies to conduct analysis for materials prohibited in ruminant animal feeds. In addition, the grant provided funds for staff training and two positions used exclusively for investigations, sampling and analysis to verify the level of compliance within both the feed industry and ruminant animal feed operations.

In 2008, the program emphasized inspection of farms, transporters and feed manufacturers and provided them with information to handle feed safely and legally. Where appropriate, the department took enforcement action.

The farm inspections revealed many farmers were not receiving product labeling from their suppliers; or, if received, they did not keep the label – which could be useful to them not only in feeding animals properly, but in case there is a feed quality problem.

Transporters were found to have an understanding of BSE requirements and cleanout procedures although they generally did not keep records of their cleanout activities. Again, records could be useful to transporters if they receive consumer concerns about feed coming into contact with harmful ingredients while in their vehicle.

Program staff found feed manufacturers also have knowledge of labeling, equipment

cleanout and BSE regulations, but lacked records of these activities. Staff conducted outreach and initiated investigations to determine the source of violations. The department initiated one case, which is still open, against a feed licensee.

In addition to on-site instruction and compliance assistance, the program developed educational materials to inform the farmer, transporter and feed manufacturer of their responsibilities and methods to get and stay in compliance. The fact sheets How to Prepare for an On-farm BSE Inspection and the BSE Feed Sampling Information Sheet are available on the DATCP website.

Pet Food Labels: A significant area of emphasis of the Feed Program is the review of branded labels. The program evaluates products for conformity with feed labeling regulations and helps companies (those

already holding a license or pursuing one) properly present guarantees and claims. The pet food industry is a growing sector, with high turnover relative to the feed industry as a whole. Review of pet food labels is requiring increasing program support to individuals who want to produce pet treats in their homes or make home-remedies.

BSE Rule: In 2008, the FDA passed a new regulation governing what parts of rendered bovine can be used in animal feed. This rule went into effect on April 28, 2009. It has potential impacts on feed manufacturers who derive their supplies from producers who must comply with the new rule. Staff issued guidance to licensees about the impending changes and is working as part of an intra-agency team to address the impacts to all sectors and provide them with guidance.

Table 14
FEED PROGRAM 2004 – 2008

	2004	2005	2006	2007	2008
Total Licenses	1,300	1,286	1,270	1,340	1,312
Total Tonnage	2,670,004	3,233,068	3,720,000	3,600,000	3,500,000
Number of Federal Inspections (BSE and Medicated Feed)	208	192	215	302	189
Number of GMP Inspections	155	131	95	81	100
Total Number of Inspections	363	323	310	383	289
Number of Samples	104	128	124	111	66

Fertilizer/Soil or Plant Additives/Lime

The Fertilizer, Soil or Plant Additive and Lime (Fertilizer) program is responsible for enforcing the laws and rules under §94.64, §94.65, §94.66, Wis. Stats., and ch. ATCP 40 and 41, Wis. Adm. Code. This program regulates agricultural, household, commercial lawn care, athletic turf fertilizer, soil or plant additives and agricultural lime. The primary goals of the program are to protect consumers, against unfair and deceptive practices in the sale of these products; to protect businesses against unfair and deceptive methods of competition; and to prevent certain hazards to persons, property, and the environment. Manufacturers, labelers and distributors of these products are required to be licensed and product labeling must be approved and/or permitted before being distributed into the state. The label review and permitting process ensures that products sold in the state are efficacious, useful, and not misleading. The department inspects fertilizer blending facilities and collects and analyzes samples in order to ensure that the products meet their label guarantees.

Staff and Funding

The fertilizer program collect revenues as described in the financial summary. In 2008, these programs required 2.9 FTE staff, with total staff, supply and laboratory costs of about \$477,675. The ACM Fund supports the programs' operations and activities.

Program Activities for 2008

License numbers for the liming industry have remained fairly constant in recent years; however the numbers of fertilizer and

soil or plant additive licensees increased significantly from 2007 to 2008.

The fertilizer licensing year is August 15th until August 14th of the following year. As Table 15 indicates, in 2008 the program issued 709 fertilizer licenses, a 13% increase compared to the 626 issued in 2007. There also was a substantial increase in the number of non-agricultural and special use fertilizer permits issued in 2008, mostly as a result of the high volume of applications received in 2007. The total of 1,087,112 tons of fertilizer sold in Wisconsin in 2008 decreased approximately 23% from the 1,403,500 tons sold in 2007. The decrease is attributed in part to the increasing cost of fertilizer during this time period, resulting in less fertilizer sold.

The soil or plant additive licensing year is from

April 1st until March 30th the following year. The number of soil or plant additive licenses issued in 2008 was 121, a 63% increase from 2007. In addition, Table 16 shows a six-fold increase in the number of soil or plant additive permits issued in 2008 from the previous year. Again, this is due to the large number of non-agricultural permit applications received in 2007, following a special marketplace inspection effort. Tonnage for 2008 decreased substantially from 2007 and returned to more typical levels.

The licensing period for liming materials runs from January 1st until December 31st of the same year; tonnage reports are not due until February 1st of the following year. Tonnage for the 2008 reporting period has not been compiled. Table 17 shows the

Fertilizer/Soil or Plant Additives/Lime Highlights

- ★ **924 licenses issued**
 - **709 fertilizer**
– **13% increase from 2007**
 - **121 soil or plant additives**
– **63% increase from 2007**
 - **94 lime**
- ★ **1,087,112 tons fertilizer sold**
– **23% decrease 2007**

number of tons sold in 2007 took a slight dip from previous years. Lime products do not require a permit for distribution.

Table 15
Fertilizer Program 2004-2008

Year	Number of Licensees	Permits Received/ Issued	Tons Sold
2004	540	246/182	1,338,695
2005	640	251/203	1,188,930
2006	639	229/76	1,230,376
2007	626	420/100	1,403,500
2008	709	187/507	1,087,112

Table 16
Soil or Plant Additive Program 2004-2008

Year	Number of Licensees	Permits Received/ Issued	Tons Sold
2004	63	110/55	NA
2005	77	96/72	10,089
2006	70	60/23	4,806
2007	74	208/35	35,044
2008	121	76/208	7,931

Table 17
Lime Program 2004-2008

Year	Number of Licensees	Tons Sold
2004	89	1,197,223
2005	92	1,163,760
2006	90	1,162,145
2007	93	997,438
2008	94	NA

In 2008, the department's laboratory staff analyzed 243 fertilizer samples from blending facilities, which included liquid, dry bulk and bagged fertilizer. Approximately 83% of all samples collected and analyzed met their required guaranteed nutrient content and economic value. The number of incorrectly labeled liquid and dry bulk samples analyzed in 2008 decreased slightly from 2007. In 2008, 19% of liquid fertilizer samples were mislabeled compared to 26% in 2007. Only 15% of dry bulk samples analyzed in 2008 did not meet their labeled guarantees compared to the

21% of dry fertilizer samples that were mislabeled in 2007. Bagged fertilizer, however, had a failure rate of almost 32% in 2008, an increase over the 22.5% of bagged fertilizer mislabeled in 2007.

Compliance Actions

Two blending facilities entered into Voluntary Assurances of Compliance in 2008 and a third facility required additional oversight and compliance assistance because of past labeling deficiencies. Field staff investigated three fertilizer-related complaints. The department continued its outreach and compliance efforts by increasing the number of facilities from which field staff collected fertilizer samples. Facilities with ongoing blending deficiencies, especially of bagged product, will be a focus during the 2009 fertilizer sampling season.

Emerging Issues

The shortage of higher quality fertilizer components and market instability continued into 2008. The fertilizer program is aware of the volatile fertilizer market and the potential impacts on the regulated community. There has been an increase in fertilizer and soil or plant additive products derived from industrial, agricultural, and municipal waste entering the Wisconsin marketplace. Examples of these include dry wall and flue gas desulfurization by-products and, new in 2009, the possibility of rendered cattle material that is now prohibited in animal feed - such as brains and spinal cords. The program's focus has been to weigh the agricultural and horticultural benefits of re-using these components against the potential environmental and safety problems they may cause. The program continues to monitor and evaluate the introduction of new ingredients in this context and track research on these issues.

Also in 2009, the department will implement a new law prohibiting the sale and use of turf fertilizer containing available phosphate.

Pesticide Applicator Certification and Licensing

The Pesticide Applicator Certification and Licensing program implements and administers state and federal pesticide laws and regulations in order to minimize or eliminate potential risk and injury during pesticide use. The related licenses and permits (See Table 18) include:

- **Business location license**, required for any business making for-hire pesticide applications.
- **Individual commercial applicator license**, required for persons applying any pesticide on a for-hire basis--excluding janitorial use of sanitizers, disinfectants and germicides--and any person using a restricted-use pesticide as a commercial applicator.
- **Veterinary clinic permits**, required if a clinic uses pesticides in animal treatment.
- **Restricted-use pesticide dealer license**, required for pesticide dealers selling restricted-use pesticides.

Staff and Funding

During 2008, the Certification and Licensing Program required 3 FTE staff, several of whom were limited-term employees who work during critical time periods for re-licensing and certification. In FY 2008, staff and supply costs for this program totaled \$250,805 and were funded through the ACM Fund and EPA Cooperative Agreement.

Program Activities

Commercial *for-hire* pesticide applicators and handlers must be both licensed and certified, whether they are using restricted-use or general use pesticides. Commercial *not-for-hire* applicators must be certified and licensed only if applying or handling restricted-use pesticides. In 2008, there were 5,739 licensed commercial for-hire applicators, and 1,284 licensed commercial not-for-hire applicators (See Table 18). Of the commercial not-for-hire applicators, 620

of these license holders were employees of governmental or educational institutions. The licenses must be renewed each year, but the certification exam per category is taken every five years. Commercial applicators can be certified in 20 different categories.

Private applicators must be certified if applying or handling

restricted-use pesticides, on property that is owned, or rented by them or their employer, that is used for the production of an agricultural commodity. Private applicators can be certified in six different categories. A private applicator certification exam must be taken every five years. The department cooperates with the University of Wisconsin - Extension, Pesticide Applicator Training Program by assisting with pesticide applicator training issues and concerns. See Table 19 for applicator certification statistics. The total number of private applicators has been decreasing annually for the last five years, while the number of commercial applicators is increasing modestly.

Pesticide Applicator Certification and Licensing Highlights

- ★ **25,948 Total Certified Applicators**
 - **13,792 Private**
 - **12,156 Commercial**
 - **6,091 Certified in 2008**
- ★ **9,567 Licenses**
 - **1,798 Business Location**
 - **7,023 Individual Commercial**
 - **383 Restricted Use Dealer**
 - **363 Veterinary Clinic**
- ★ **14 Training Sessions**

Table 18
LICENSES AND PERMITS 2004-2008

Type of license/permit	2004	2005	2006	2007	2008
Business location license	1,362	1,305	1,685	1,721	1,798
Individual Commercial Applicator license	6,772	6,921	7,304	7,032	7,023
Restricted-Use Dealer license	344	343	383	379	383
Veterinary Clinic permit	305	279	373	384	363

Table 19
CERTIFICATIONS 2004-2008

	2004*	2005*	2006*	2007*	2008*
Certified Pesticide Applicators					
Private Certified	2,210 (2,189)	2,097 (2,070)	3,953 (3,944)	2,202 (2,194)	3,456 (3,392)
Private Exams Given	2,239	2,142	4,011	2,224	3,527
Commercial Certified	2,622 (2,427)	2,636 (2,430)	2,584 (2,415)	2,784 (2,595)	2,892 (2,649)
Commercial Exams Given	3,425	3,536	3,510	3,760	3,792
Total Applicators Holding Valid Certifications					
Private	16,298 (16,165)	15,919 (15,770)	15,101 (14,960)	14,528 (14,379)	13,946 (13,792)
Commercial	12,025 (10,897)	12,607 (11,398)	12,901 (11,656)	13,011 (11,734)	13,487 (12,156)
Total	28,323 (27,062)	28,526 (27,168)	28,002 (26,616)	27,539 (26,113)	27,433 (25,948)
Certification training sessions					
Private	150	157	74	75	81
Commercial	16	12	13	15	13
Total	166	169	87	90	94

Areas within the "Certified Pesticide Applicators" and "Total Applicators Holding Valid Certifications" sections are dividend into two fields. The top number contains the number of applicators that have passed a certification exam (total number of exams passed), and the bottom number is the total number of certified applicators (applicators certified in one or more categories).

Pesticide Programs and Product Licensing

General Overview

The pesticide programs cover a variety of pesticide activities, including product registration and licensing, worker protection, landscape registry, special registrations and school integrated pest management. The staff and program costs for all the above pesticide programs during FY 2008 totaled 12.1 FTE and \$1,776,553.

Pesticide Registry and Licensing

Prior to distribution of pesticides for use in Wisconsin, pesticide manufacturers and labelers must be licensed and register their products in the state. Licensing ensures that products offered for sale in the state are properly registered by EPA, and creates a level playing-field for the pesticide industry. License fees are based on the type of product and the amount of product estimated to be sold in the current year. These fees are part of the ACM fund that supports the work of all of the department's pesticide-related programs.

The program requires licensees to calculate product registration fees based on estimated sales for the

current licensing year. At the end of a licensing year, the licensee reconciles the fees based on the actual sales for the previous year. The program continues to review the licensing system to find ways to make this process more efficient for the department and licensees.

<p style="text-align: center;">Pesticide Programs Highlights</p> <p>Pesticide Registry and Licensing</p> <ul style="list-style-type: none">★ 1,237 licenses issued★ 11,332 products registered <p>Landscape registry</p> <ul style="list-style-type: none">★ 1,061 individuals★ 15,991 addresses★ 29 complaints <p>Worker Protection</p> <ul style="list-style-type: none">★ 40 inspections<ul style="list-style-type: none">▪ 40% increase over 2007★ 10 violations <p>Special Registrations</p> <ul style="list-style-type: none">★ 8 EPA exemptions★ 4 local use

Program Activities

Staff renewed or issued pesticides licenses to 1,237 manufacturers and labelers in 2008 and registered 11,332 pesticide products, a slight increase from 2007's licenses and products. For registration purposes, pesticides are classified as household, industrial, wood preservatives, or non-household products. Most products are registered for household, industrial, or non-household use with sales under \$25,000. Table 20 summarizes licenses and product registrations for the prior five years.

Emerging Issues:

The department is continuing to modify the licensing system to streamline the process for program staff and industry. The program will provide extensive outreach to the industry on the new process as it is implemented.

Table 20

LICENSEES AND REGISTERED PRODUCTS 2004 - 2008

	2004	2005	2006	2007	2008
Number of Licensees	1,214	1,149	1,184	1,206	1,237
Registered Products	10,906	10,754	10,835	11,227	11,332

Landscape Registry

Since January 1993, ch. ATCP 29, Wis. Adm. Code, has required professional lawn and landscape companies to notify neighboring residents (who have requested this information) prior to applying pesticide treatments and to post landscapes that have been treated with pesticides. This information provides the public the information they need to be aware of pesticide applications so they may take steps to avoid possible exposure from pesticides to themselves, their children, or their pets.

The names and telephone numbers of persons wishing to be notified of neighboring landscape applications are maintained by the program on an annual registry and provided to all licensed landscape businesses, which are required to provide the notice. No fee is required to be on the registry. Persons may list any property for which they want advance notification on their block of residence or any immediately adjoining blocks.

Program Activities

1,061 people applied to be on the landscape registry in 2008. They listed 15,991 addresses for which they requested advance notification of pesticide applications in their neighborhoods, down slightly from 2007. The department received 29 complaints related to non-notification, and sent 14 warning letters. In general, the landscape companies continue to be cooperative in working with the department

to make this program successful.

Emerging Issues

The pesticide registry and landscape pesticide notification program continues to be popular with the public. The ACM Bureau is evaluating electronic registration as a mechanism to streamline this program.

Worker Protection

DATCP enforces regulations issued by the US EPA and adopted into ch. ATCP 29, Wis. Adm. Code to protect employees on farms, forests, nurseries, and greenhouses at greatest risk from occupational exposures to agricultural pesticides. The federal Worker Protection Standard (WPS), issued in 1992, covers workers and handlers who apply pesticides or work in treated areas. WPS regulations require employers to provide information on pesticide applications and entry restrictions (REIs). In addition, employers are required to provide workers with pesticide safety training, personal protective equipment (PPE), decontamination supplies, and emergency medical information.

WPS provides protections for migrant labor and seasonal workers in Wisconsin. It can also reduce employer liability by assuring that workers and handlers have received training on pesticide exposure risks and what can be done to limit exposures.

Program Activities in 2008

The program conducted compliance inspections at 40 facilities--a 30% increase over 2007. Much of this increase can be

attributed to a new inspection system calling for alternating inspection years between food and non-food related establishments. 2008 inspections concentrated on food-related establishments.

The program also conducted 31 Tier I inspections and 9 Tier II inspections during the inspection year. Tier I inspections are those inspections conducted within 30-days after the end of the Restricted- Entry Interval (REI). Of the 40 inspections, 60% (25) were conducted at food-producing establishments such as orchards, fresh market operations, vineyards, cranberry bogs, and vegetable farms. Nine inspections (20%) were conducted at nurseries, landscape companies, or cut-flower operations and the remaining ones were conducted at sod farms, research farms, grain operations, and seed farms. This significant increase in food establishment inspection was viewed as a major accomplishment for 2008.

The department filed initial enforcement actions against 10 establishments, 9 of which occurred during the Tier I period. These initial actions took the form of Warning Notices based on violations of state/federal regulations. Of particular interest was that a number of food producing establishments were not aware of WPS and were substantially out of compliance. The most common problems centered around pesticide safety training for workers, including poor record keeping, and violations of central posting requirements, including the lack of field records, along with a host of other things such as inadequate personal protective equipment (PPE), lack of decontamination facilities, and inadequate emergency assistance information.

Enforcement staff also increased their monitoring of sectors with more persistent problems. Cabbage producers and vineyards have been found to be more prone to systemic WPS problems. Staff conducted 10 inspections of these sectors

in 2008. Cabbage producers showed marked improvement while vineyards need some continuing attention.

Program staff worked with the University of Wisconsin agricultural research farm system to create the nation's most comprehensive response to WPS needs in agricultural research farms. This work arose as a result of a set of serious legal actions taken against the Marshfield agricultural research farm for a pesticide incident in summer 2007. To improve their WPS, the Farm agreed to develop a safety post system that provides in-field safety information and to train all students and workers who may enter fields.

Finally, the department settled one old case involving a stipulated settlement during the year. Three cases remain pending based on 2007 and 2008 violations. One of these cases is a vineyard case.

Emerging Issues

WPS has existed for 15-years and its materials and application have not kept up with the changing nature of agriculture. Wisconsin farms are more mechanized than ever and farm types and sizes have changed significantly over the years. If WPS is to remain a viable, accepted program, it is vital to respond to the needs of various industry sectors. Specifically, some sectors-- such as the potato and vegetable growers, nurseries and greenhouses, cranberry growers and Christmas tree producers have become less problematic because of the presence of professional organizations which provide routine communication and training. Others--such as fresh market, sod operations, orchards, and vineyards--have been more independent, small, and family-oriented leaving them more on the margins of WPS implementation. Professional organizations are available, but fewer remain current on WPS rules.

The program will be updating its WPS materials to emphasize another important

aspect of WPS: liability protection. Establishments that do not provide quality pesticide safety for their workers and customers can find themselves subject to lawsuits or court actions, especially in the wake of exposure incidents. Reminding owners and managers of their need to perform due diligence on pesticide safety is a compelling supplemental strategy. Encouraging membership in professional organizations also can facilitate improved WPS implementation.

Special Registrations

The Special Registrations program responds to emergencies and special pest management needs of Wisconsin's agriculture producers and others. Most special registrations pertain to minor food crops, where effective pesticide products have not yet been fully registered or labeled for use in crop management situations involving newly arriving or burgeoning populations of pests. Users must obtain, and have in their possession at the time of application, authorized use directions in order to legally use pesticide products that have special registrations. The department issues two types of "special registrations":

1. Emergency exemptions [Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 18] whereby the program submits a request to the Environmental Protection Agency (EPA) for review and authorization. EPA establishes temporary food tolerances for time-limited use of these pesticide products to prevent significant economic loss, prevent significant health risks posed to humans or other animals, or address crises of imminent threat. EPA may consider emergency exemptions as progress toward full federal registration of products (FIFRA Section 3).

2. Special local need (SLM) registrations [FIFRA Section 24(c)], whereby the program authorizes time-limited uses of pesticides to meet a routine, non-emergency need when other pesticides are not registered for the needed use or may not be effective. Those products intended for application to food crops have already been evaluated by EPA under the Food Quality Protection Act (FQPA) regarding environmental fate concerns and the requested use sites are already approved for labeling. Manufacturers request that the Department allow the addition of a site(s) of application to the product use directions for marketing purposes.

Program Activities

Staff responded to inquiries and special registration requests from the pesticide industry, university faculty, crop industries, and other stakeholders including pesticide applicators.

In 2008, the program issued four special local needs registrations and EPA authorized eight emergency exemptions:

Special local needs registrations issued

The presence of emerald ash borer (*Agrilus planipennis* Fairmaire) was first positively identified in Wisconsin on August 1, 2008. This highly destructive beetle has already killed millions of ash trees in other states including Michigan, Indiana, and Ohio. The program issued two special local needs registrations to provide additional tools for managing this pest:

- Safari Insecticide, containing the active ingredient dinotefuran, is applied as a trunk spray.
- TREE-age (emamectin benzoate) is applied as a trunk injection.

The program also issued special local needs registrations for:

- Stinger (clopyralid) for use against various weeds in cranberry production.

- Coragen, containing the relatively new active ingredient chlorantraniliprole, for use against Colorado potato beetle on potatoes.

Emergency exemptions authorized by EPA

EPA authorized a new emergency exemption for the following use:

- Coragen (chlorantraniliprole, also called Rynaxypyr) for use against corn earworm on sweet corn

The program declared a crisis emergency exemption for the following use:

- Lorsban (chlorpyrifos) for use against various root-damaging insect larvae in ginseng production. The program has a pending request with EPA for a 2009 exemption for this use.

Additionally, several emergency exemptions had previously expired and EPA re-authorized these uses for 2008:

- Avitec, containing 9,10-anthraquinone (“AQ”), for use as a corn seed treatment to repel sandhill cranes.
- Bravo Weather Stik (chlorothalonil) for use against Botrytis blight and Alternaria stem and leaf blight on ginseng
- Carzol SP (formetanate hydrochloride) for use against onion thrips on dry onion bulbs
- Dithane DF Rainshield (mancozeb) for use against Alternaria stem and leaf blight on ginseng
- Gavel 75DF (zoxamide and mancozeb), for use against Phytophthora blight on ginseng
- Spartan (sulfentrazone) for use against various weeds in strawberry production.

The program continued to update an online listing of current Wisconsin special registrations. Users can:

- Access use directions (labels) for all current special registrations by clicking on the product name.
- Permanently and directly bookmark the web page.

The program held a workplanning session with University of Wisconsin faculty/staff. At the session staff:

- Shared a revised handout summarizing the differences between emergency exemptions and special local needs
- Discussed expiring special registrations
- Discussed anticipated registration requests for 2009

Emerging Issues

Endangered species are uniquely addressed on Wisconsin special registration use directions (labels) to provide applicators with practical instructions for protecting species. The program continued to work with the DATCP Endangered Species and Habitat Program to determine how to best implement an upcoming change in EPA’s national endangered species program, namely the implementation of enforceable Endangered Species Protection Bulletins. This will involve providing outreach and training to various stakeholders including internal partners, other agencies, and agricultural producers.

Experimental Use Permits

The program also allows pesticide manufacturers to test pesticides to gain experimental information on the effectiveness of new pesticides under Wisconsin conditions through experimental use permits.

Experimental use permits (EUPs) [Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) Section 5], which permit pesticide testing prior to federal registration. Federal regulations require manufacturers to obtain an EUP if experiments are to be conducted on more than 10 acres nationwide. Manufacturers are required to indicate those states where the product may be used. When a federal EUP is not required, Wisconsin requires a state-issued EUP if a single test site is at least 0.5 acres in size or

if multiple test sites encompass more than five acres total. The program conducts an Environmental Assessment for state-issued EUPs.

Program Activities

The program manager responded to inquiries regarding Wisconsin requirements for EUPs and provided feedback to EPA regarding the directions for use of Clearcast Herbicide in aquatic weed management, under a 2007 federal EUP. The program did not issue any state EUPs in 2008.

Integrated Pest Management

The School Integrated Pest Management (IPM) program provides support to Wisconsin's K-12 schools that want to develop customized IPM plans to meet the individual pest management needs and goals of each school district. The program makes available to schools the regulatory, technical and administrative information necessary to manage pests and use pesticides safely. The program offers IPM training, pest and pesticide consultation, staff workshops, and assistance to parents and guardians interested in their district's pest management practices and is networked with support staff from other agencies. The IPM program also has become a resource to people who work in non-school settings.

Program Activities

The Wisconsin IPM program historically has reached more than 86 percent of the state's school districts in regional sessions, distribution of the IPM manual and with direct, one-on-one district consultation. The department provides assistance on a variety of pest concerns including bats, pest bird populations, rodents, seasonal insect problems and on pesticide safety and selection issues.

In 2008, the program continued to respond to public inquiries regarding the Wisconsin

School IPM Manual and services provided by the program, track federal legislative activity regarding school IPM and work with the Compliance Section on drafting and implementing a special order to institute an approved IPM program in a Wisconsin school district as a result of pesticide violations.

The department also joined the North Central Region School IPM Working Group, which is involved in a national effort to implement high-level IPM in all schools in the United States by 2015. The program participated in the first meeting of the group in Champagne, IL, which included a hands-on walk-through assessment of a school, in addition to teleconferences.

Staff began preparing the Wisconsin School IPM manual for revision and online availability in 2009.

Pesticide Use

Chapter ATCP 29, Wis. Adm. Code, also requires strict compliance with directions on labeling associated with EPA-registered pesticide products including storage, handling, and use. The program reviews all pesticide use inspections for trends and needed follow-up with industry or the public. Many of the Compliance Section's activities (see earlier section in this report) are inspections of these practices and their associated records, as well as investigations of potential violations of the general label provisions or specific prohibitions contained in Ch. ATCP 29, Wis. Adm. Code.

In 2008, the ATCP Board approved a scope statement to open ATCP 29 for revision. Major issues to be considered during the rule revision process are aquatic applications, structural applications, consistency with C. ATCP 33, Wis. Adm. Code, and residential chemigation systems.

Chapter ATCP 30, Wis. Adm. Code, includes restrictions for specific pesticides including atrazine, aldicarb, and metam-sodium. The revised Ch. ATCP 30, Wis. Adm. Code took effect August 1, 2007. The rule revision impacts potato growers and state owned tree nurseries that use metam-

sodium or chloropicrin to control nematodes or other plant pests and diseases found in soil. Under the rule change, metam-sodium soil fumigant use requirements changed slightly and the use of chloropicrin soil fumigants are now regulated in the same manner as metam-sodium soil fumigants.

Water Quality Protection through Pesticide Management

One of the responsibilities of the Environmental Quality (EQ) Section is to implement regulations to protect groundwater from pesticide and nutrient contamination under the groundwater protection rules contained in ch. ATCP 30, Wis. Adm. Code, Pesticide Use Restrictions and ch. ATCP 31, Wis. Adm. Code, Groundwater Protection Program.

Staff identify and analyze problem areas within the state, investigate wells that exceed groundwater standards to identify potential sources of contamination, and conduct statewide sampling surveys to characterize groundwater contamination and to evaluate the effectiveness of the department's water quality activities.

The groundwater monitoring program collects and uses sample data to determine which pesticides are contaminating groundwater. As information from these sources becomes available, the department develops regulations to prevent contamination above applicable groundwater standards. The EQ Section also provides information to the public and to other state and federal agencies involved in water resource protection.

Staff and Funding

The ACM Fund and the federal EPA grant fund the water quality program. In fiscal year 2008, the program used 2.9 FTE staff for program activities, with staff, laboratory

and other supply and service costs totaling \$801,174.

Program Activities

Monitoring well program Table 21 summarizes the number of monitoring well samples that were collected by the groundwater program from 1998 to 2008. In

2008, there were three different types of monitoring sites where groundwater samples were collected: agricultural fields, tree seedling nurseries and infiltration basins in residential settings.

In 2008, the EQ Section collected 74 groundwater samples from monitoring wells located near 23 agricultural fields and analyzed them for nitrate-N, ammonium-N and pesticides of interest. Section staff also monitored groundwater at three infiltration basin

sites and two forest seedling nursery sites. The purpose of monitoring at the infiltration basins is to determine whether pesticides used in residential settings could enter groundwater via the infiltration basins. The purpose of the monitoring at the nurseries is to determine if pesticides used in nursery production could cause groundwater contamination.

Staff detected 21 compounds in groundwater in the monitoring wells and found three of these compounds (nitrate-N, total atrazine, and alachlor ESA) at levels above an existing enforcement standard. Table 22 lists the compounds detected in 2008 and the frequency of detection at the monitoring well sites. Thiamethoxam is a

Water Quality Highlights

- ★ **179 groundwater samples analyzed**
- ★ **59 surface water samples analyzed**
- ★ **4 groundwater investigations**
- ★ **21 compounds detected in water**
 - **3 compounds above existing enforcement standard**
- ★ **One new atrazine prohibition area proposed**

Table 21
MONITORING WELLS 1998-2008

Year	Locations	Wells Sampled	Number of Samples
1998	26	83	79
1999	25	80	31
2000	22	33	37
2001	25	29	29
2002	16	20	20
2003	16	19	19
2004	16	17	17
2005	16	17	17
2006	23	29	58
2007	28	44	81
2008	28	55	116

pesticide primarily used for potatoes that we detected in the monitoring

wells for the first time during 2008. We detected it at six different monitoring well sites and in 20% of the samples we collected (see emerging issues). Pesticides were detected at both basin and nursery sites but no detections exceeded current groundwater standards.

Groundwater Investigations In 2008, the EQ Section worked on four groundwater investigations at private well sites that exceeded an enforcement standard for nitrate-N, atrazine, alachlor ESA or simazine. Section staff worked with compliance section staff to conduct the investigations and to identify potential point and nonpoint source contributions to the contamination in the wells.

Atrazine Rule Development In 2008, well sampling confirmed atrazine in a well near Poynette at a concentration exceeding 3 ug/L total atrazine (the Enforcement Standard set in ch. NR140, Wis. Adm. Code). The subsequent investigation confirmed that the atrazine contamination was likely the result of the application of atrazine on fields at label rates. Therefore, to prevent further degradation of the groundwater, the EQ staff requested that

the Board of Agriculture, Trade and Consumer Protection (ATCP) approve the creation of an additional atrazine prohibition area in Columbia County. The proposed prohibition area took effect April 1, 2009. Wisconsin now has 101 atrazine prohibition areas covering approximately 1.2 million acres.

Atrazine Research Exemption Permit The University of Wisconsin's Arlington Research Station (ARS) is located within atrazine Prohibition Area PA-09-11-01. As such, the use of atrazine on research test plots requires that ARS request a "Research Exemption" from DATCP on an annual basis. Ongoing atrazine contamination in a nearby drinking water well prompted DATCP to place conditions on the "research exemption", including the requirement that ARS install monitoring wells adjacent to the test plots where atrazine will be applied and sample groundwater. DATCP worked closely with University of Wisconsin research faculty, ARS staff and Wisconsin Geological and Natural History Survey staff to design and install a network of monitoring wells that will be tested as a condition of future use of atrazine during research at the station. The data will help the department determine whether atrazine should be allowed for ongoing weed science research at the facility.

Simazine Special Orders In 2008 the Compliance section, working with the EQ Section, issued five special orders to prohibit the application of the herbicide simazine near two wells in Sauk County that exceeded the groundwater enforcement standard for total atrazine. Atrazine and simazine are both triazine herbicides and share two common metabolites. The investigation determined that simazine was the likely source of the contamination in these wells. EQ staff will be on the lookout for other areas in the state where simazine may be impacting groundwater, as well as closely monitor the Sauk County area to determine the effectiveness of the orders.

Surface Water Quality Investigation

Between April and September 2008 the EQ Section, in cooperation with Department of Natural Resources regional water biology staff, collected surface water samples on a monthly basis from ten rivers in smaller watersheds across Wisconsin. The department's Bureau of Laboratory Services analyzed a total of 59 surface water samples for seven common pesticides and their breakdown products as a part of this project.

The results of the analyses indicate that low concentrations of pesticides enter the streams during or after the main pesticide application season and storm events in June and July. The results also show that low levels of pesticide metabolites, predominately metolachlor ESA (in 95% of all samples collected) and alachlor ESA (in 56% of all samples collected), enter the

stream as base flow independent of the timing of pesticide application or river stage. Base flow is the component of stream flow that comes from groundwater discharge rather than surface runoff. Other pesticide metabolites found that are likely being discharged into the streams as a part of base flow include metolachlor OA (36% of all samples) and acetochlor ESA (in 24% of all samples).

Monitoring of private wells that have exceeded standards (Exceedence Survey) In 2008, the EQ Section collected and analyzed groundwater samples from 30 private wells that have historically exceeded groundwater enforcement standards. The main purpose of the *Exceedence Survey* is to track how the pesticide and nitrate-N levels in these highly-impacted wells are changing over time. Most of these wells are within atrazine prohibition areas and most

Table 22

2008 DATCP MONITORING WELLS RESULTS

Compound	Percentage of Wells with Detects by Compound	Concentration Range in Groundwater (ug/l)	Groundwater Enforcement Standard (ug/l)
Acetochlor ESA	26	.123 to 5.44	
Acetochlor OA	5	.124 to .479	
Alachlor ESA	84	.104 to 23.9	20
Alachlor OA	34	.1 to 2.28	
Atrazine	4	.381 to .445	
Deethyl Atrazine	5	.304 to .445	
Deisopropy Atrazine	14	.368 to .875	
Diamino Atrazine	11	.508 to 2.02	
Total Atrazine	23	.368 to 3.32	3
Dacthal from Metabolites	43	1.3 to 112	
Dicamba	5	.085	
MCPP	5	.261	
Metalaxyl*	1	.582	
Metolachlor	18	.499 to 4.84	15
Metolachlor ESA	92	.101 to 173	
Metolachlor OA	70	.108 to 154	
Metribuzin	24	.051 to 6.37	250
Simazine	1	.212	4
Thiamethoxam*	20	.638 to 7.85	
Nitrate-N	99	.701 to 49.4 mg/l	10 mg/l
Ammonium-N	76	.502 to 1.46 mg/l	

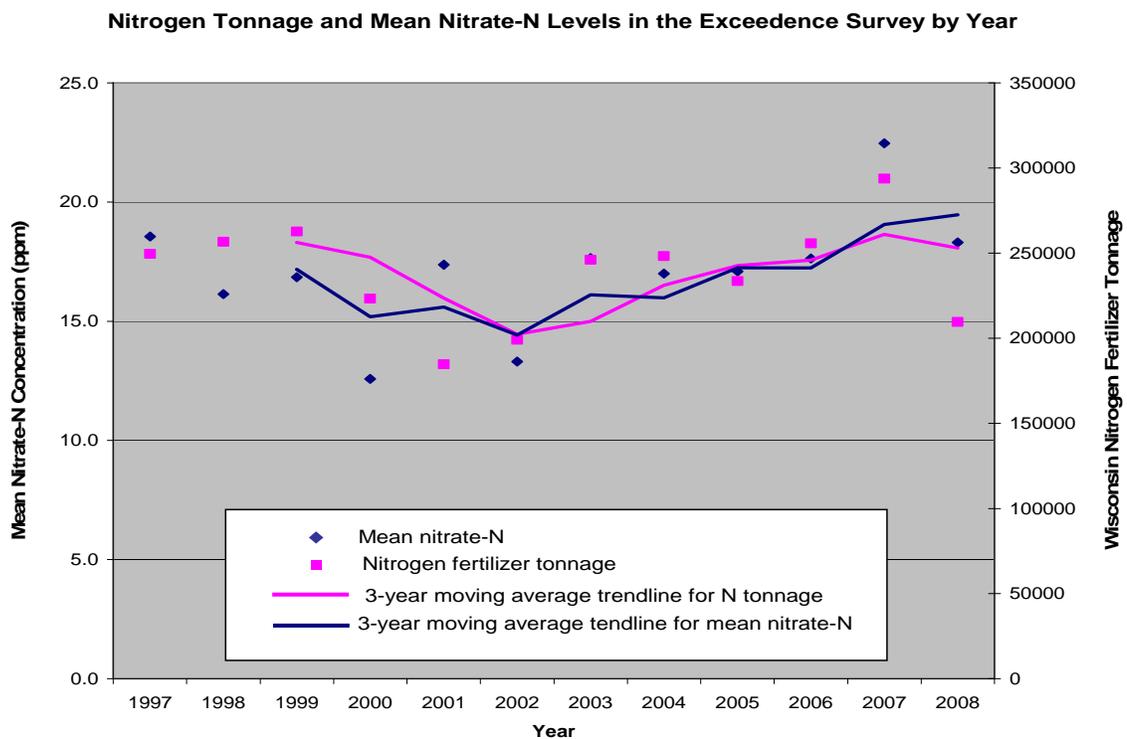
* Includes 398 samples in the Statewide GW survey.

have shown declines in atrazine concentration. As of 2008, five wells remain above the atrazine enforcement standard.

In 2008 we also did some more detailed analysis of the nitrate-N results from the wells in the Exceedence Survey since these wells are one of the best sources in the State for long-term sampling of a group of private wells. We analyzed the nitrate-nitrogen results for the subset of wells in this program with the longest history of

sampling and related these results to the nitrogen fertilizer tonnage data also collected by the ACM Bureau. A summary of this analysis is shown in Chart 3 and shows a strong relationship over time between the nitrate-N results in the Exceedence Survey wells and the nitrogen fertilizer tonnage data for Wisconsin, especially when three year moving averages were applied to the data to “smooth” short-term variability.

Chart 3



Targeted private well sampling

In June and July of 2008 we collected 18 samples in the Lower Wisconsin River Valley between Mazomanie and Lone Rock to assess whether simazine metabolites might be contaminating groundwater in this area. Specifically we wanted to see whether the use of simazine in the River Valley might be causing exceedences of the total atrazine groundwater standard similar to what we saw in three wells west of Spring

Green. We found four wells that had results that were suspicious for simazine (higher levels of deisopropyl atrazine and diamino atrazine, which are the shared triazine metabolites). One of these was over the 3.0 ppb total atrazine standard, but this well also had low levels of parent atrazine and deethyl atrazine, so we will do some follow-up work on possible illegal atrazine use in 2009.

We found nitrate-N over the 10 ppm standard in 15 of the 18 private wells in the

Table 23

PRIVATE WELLS 2002-2008

Year	Number of Samples
2002	36
2004	32
2005	36
2006	40
2007	429*
2008	63

* Includes 398 Statewide GW survey samples.

Lower Wisconsin River Valley. The highest level we found was 40.5 ppm. We also found surprisingly high levels of parent metolachlor and its metabolites ESA and OA, although we didn't find any wells that exceeded the 15 ppb enforcement standard for parent metolachlor. We found several wells, however, with combined metolachlor residues upwards of 40 ppb.

We found the insecticide thiamethoxam at low levels (0.656 and 0.693 ppb) in two private wells. This is the first time we have detected this compound in groundwater in Wisconsin. This compound is very soluble, has low adsorption to soil, and is fairly persistent. On the other hand it has a very low application rate. It is used on potatoes and also as a seed treatment. It was used on 35% of the Wisconsin potato crop in 2005.

2007 Groundwater Survey of Agricultural Chemicals in Groundwater Program

Staff spent a significant amount of time finalizing and presenting the results of this project in 2008. The results of the survey were presented to the ATCP Board, the WASS enumerators and the UW Nutrient and Pest Management advisory board.

Mapping and Database Activities In 2008, the EQ Section Geographic Information Systems (GIS) Specialist created a variety of maps in support of the Section's projects including the Atrazine Prohibition Area expansion and the statewide groundwater survey report. The specialist also kept the Drinking Well and Monitoring Well

databases up-to-date by downloading sample results from the lab and from the DNR Groundwater Retrieval Network and also worked with the Agency's IT bureau to develop a web-based mapping application for locating well construction reports. This application has been made available for use by DNR and other state agencies.

The GIS specialist also works on a variety of projects across the agency. Some examples of these projects include: training Compliance Section and other agency staff on global positioning system (GPS) equipment, developing a web-based application for the agency's Farm Center staff and providing GIS support for the agency during statewide emergency management efforts.

Emerging Issues

In 2008 we discovered the insecticide thiamethoxam in Wisconsin groundwater for the first time. Depending on how extensively this compound is found in groundwater and the level at which a future enforcement standard is set, we may have to take measures to manage this pesticide.

Also in 2008, the state established a groundwater standard foralachlor ESA. Metolachlor ESA is currently on the list for the next cycle of standards development. These two herbicide metabolites are the most commonly detected pesticide compounds in Wisconsin groundwater so additional actions may be needed to minimize the potential for further contamination.

We will also be following simazine use in atrazine prohibition areas to determine if simazine use is contributing triazine metabolites to groundwater and causing exceedences of the atrazine plus metabolite groundwater standard. Additional special orders may be needed if additional problems with simazine are documented.



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