



Agricultural Chemical Response and Reimbursement Account (ACRRA) Stakeholder Meetings

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Legislative Action

SF 958 - 4th Engrossment - 92nd Legislature (2021 - 2022)

4tSec. 25. REPORT REQUIRED; AGRICULTURAL CHEMICAL RESPONSE AND REIMBURSEMENT ACCOUNT PROGRAM.

The commissioner of agriculture must convene stakeholders and develop recommendations regarding the maximum reimbursement or payment amount under Minnesota Statutes, section 18E.04, subdivision 4. The report must include an analysis of what the maximum reimbursement or payment would be if adjusted for inflation. By February 1, 2022, the commissioner must report these recommendations to the chairs and ranking minority members of the legislative committees and divisions with jurisdiction over agriculture finance. Participating stakeholders must be given an opportunity to include written testimony to the legislative committees in the commissioner's report.

History of ACRRA Reimbursements

- The ACRRA program was created as part of the 1989 Minnesota Groundwater Protection Act to provide financial assistance for cleaning up incidents causing agricultural chemical contamination.
- The ACRRA program funds are administered by the Agricultural Chemical Response Compensation Board. The five-member board consists of representatives from agricultural chemical registrants, manufacturers/dealers, farmers, and the Commissioners of the Minnesota Departments of Agriculture and Commerce.
- The ACRRA Board is governed by Minnesota Statute 18E and Minnesota Rules 1512.0100- 1512.1100.

ACRRA Reimbursements

The ACRRA statute is set up to reimburse for costs incurred by incident.

The definition of incident is:

"Incident" means a flood, fire, tornado, transportation accident, storage container rupture, leak, spill, emission discharge, escape, disposal, or other event that releases an agricultural chemical accidentally or otherwise into the environment and may cause unreasonable adverse effects on the environment. Incident does not include a release from the normal use of a product or practice in accordance with law.

ACRRA Reimbursements

In order for the Commissioner to make reimbursements to an eligible party the following has to be met:

Reimbursement of response costs.

The commissioner shall reimburse an eligible person from the agricultural chemical response and reimbursement account for the reasonable and necessary costs incurred by the eligible person in taking corrective action as provided in subdivision 4, if the board determines:

- (1) the eligible person takes all reasonable action necessary to minimize and abate an incident and the action is subsequently approved by the commissioner;
- (2) the eligible person complies with any reasonable requests for corrective action issued to the eligible person by the commissioner;
- (3) the eligible person complied with corrective action orders if issued to the eligible person by the commissioner; and
- (4) the incident was reported as required in chapters 18B, 18C, and 18D.

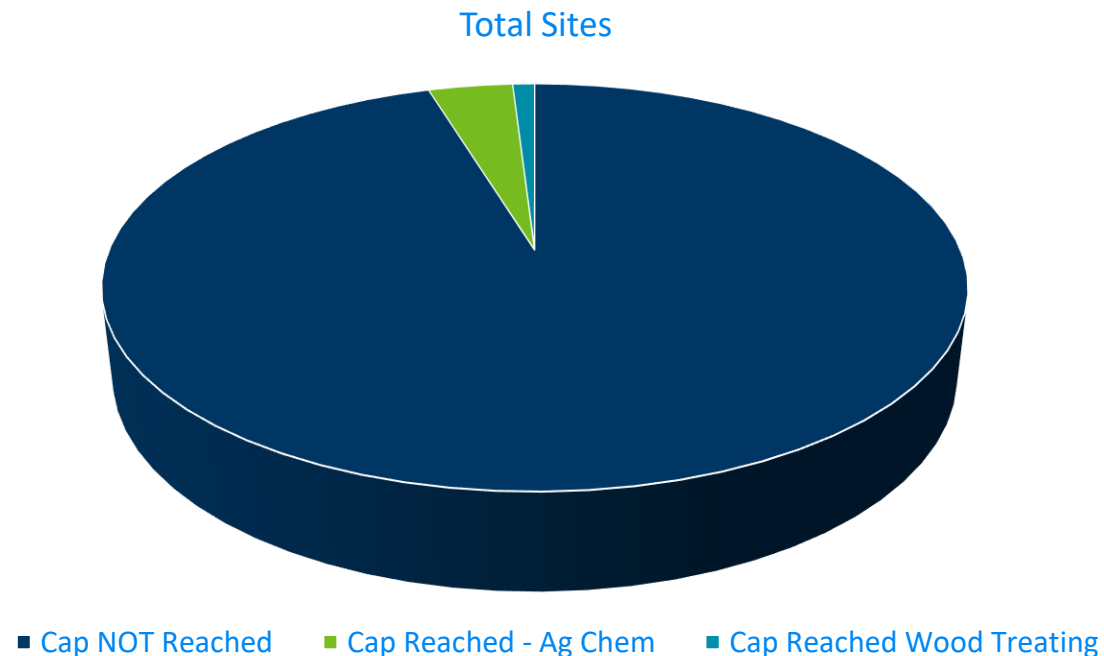
History of ACRRA Reimbursements as of 6/30/2021

- Since inception, the ACRRA program has disbursed over \$50 million to cover eligible corrective action clean-up costs.
- There have been 1,465 applications processed for 630 sites.
- 31 sites have gone over the maximum amount of \$350,000 allowed per site.

History of ACRRA Reimbursements as of 6/30/2021

A total of 4.9% sites have reached their cap.

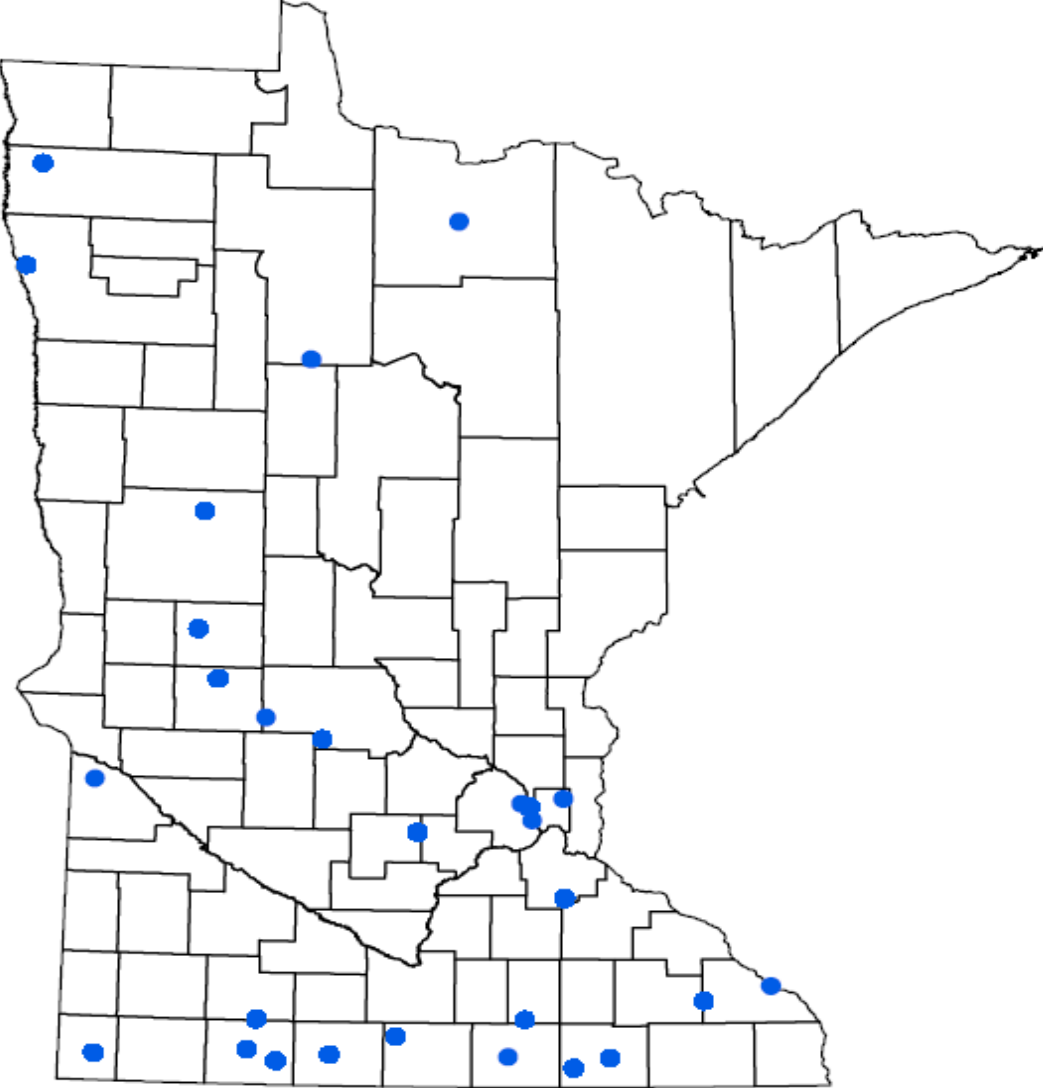
Of the 31 sites that have reached the cap, 25 are agricultural chemicals sites and six are wood treating sites.



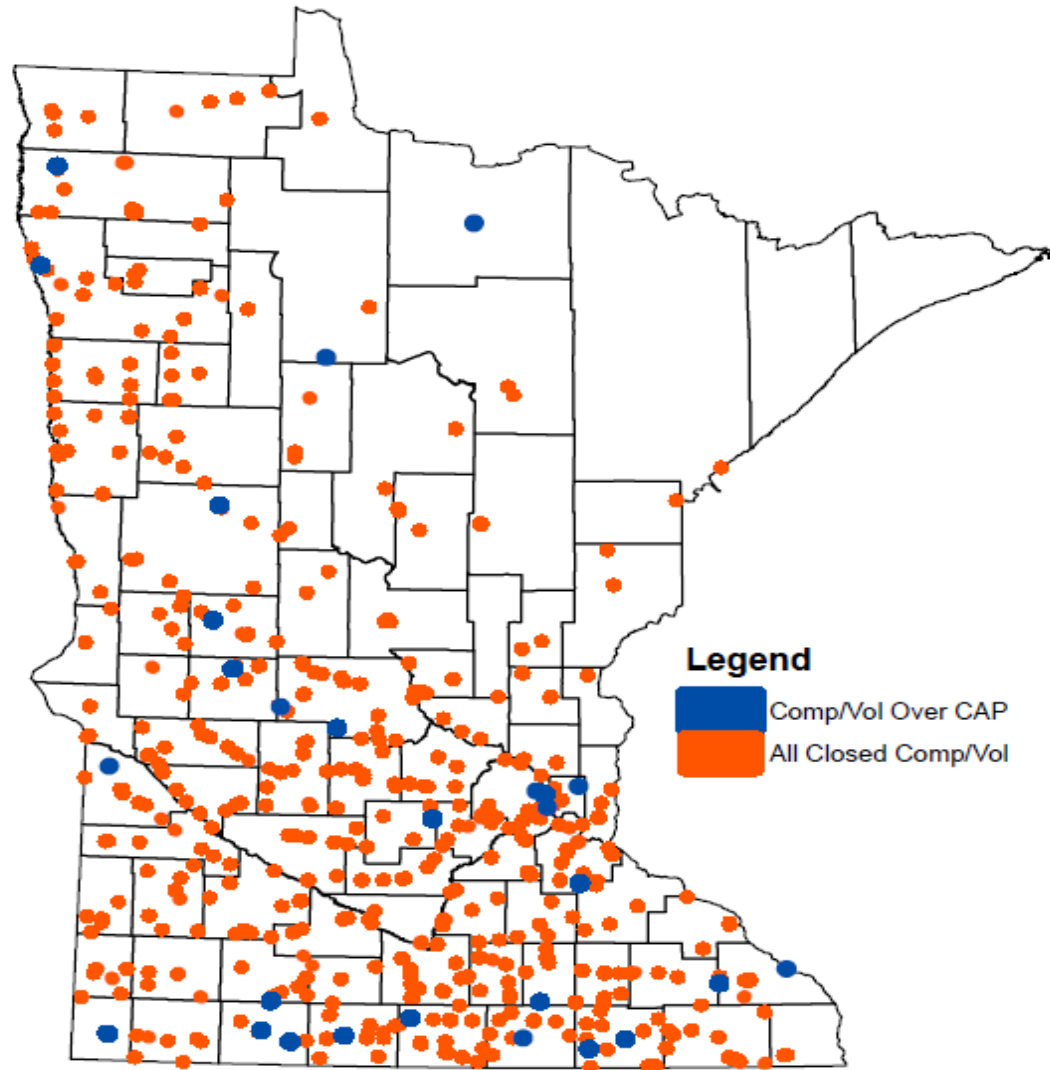
History of ACRRA Reimbursements

The MDA Commissioner sets the surcharge rate to maintain a minimum balance of one million dollars and an upper balance of five million dollars.

Investigations Over The ACRRA Cap

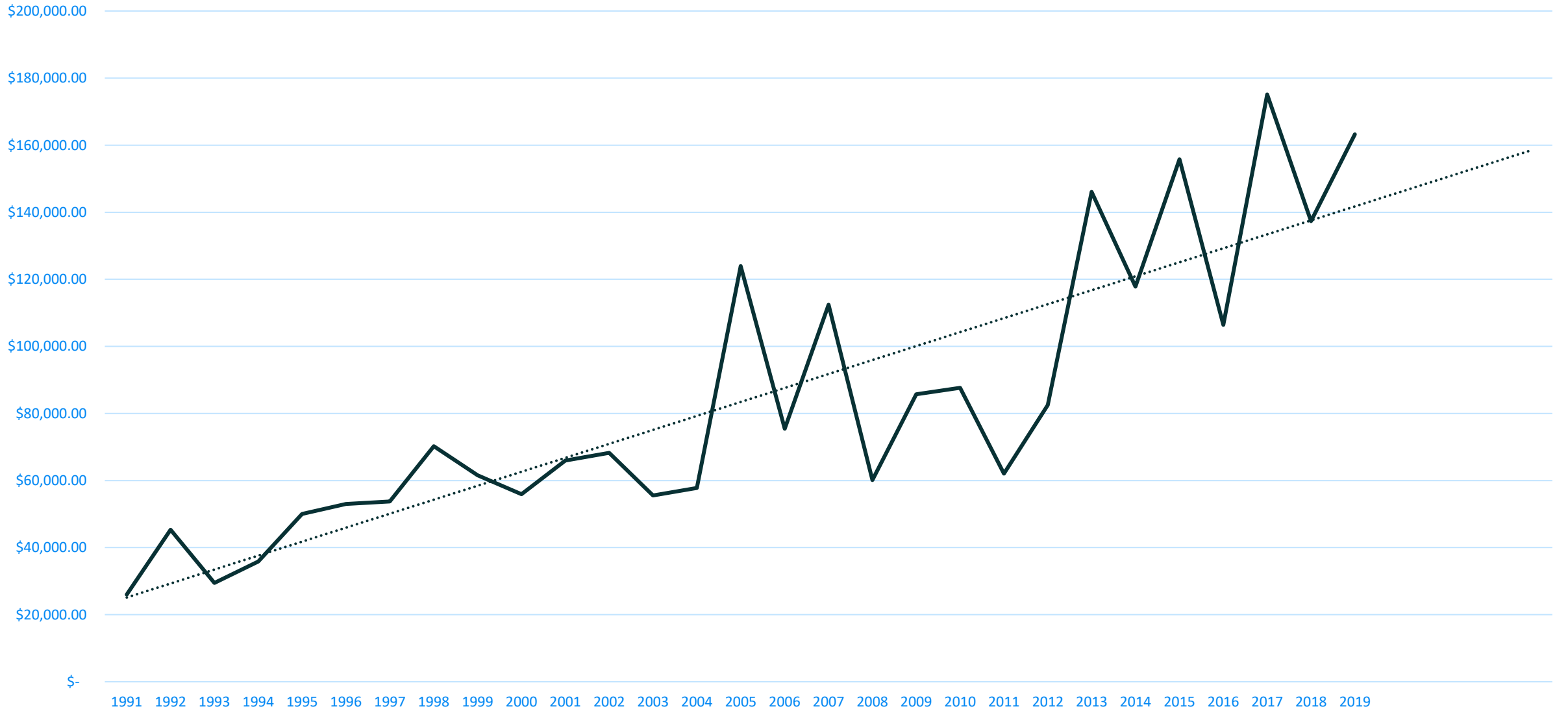


Comprehensive and Voluntary Investigations

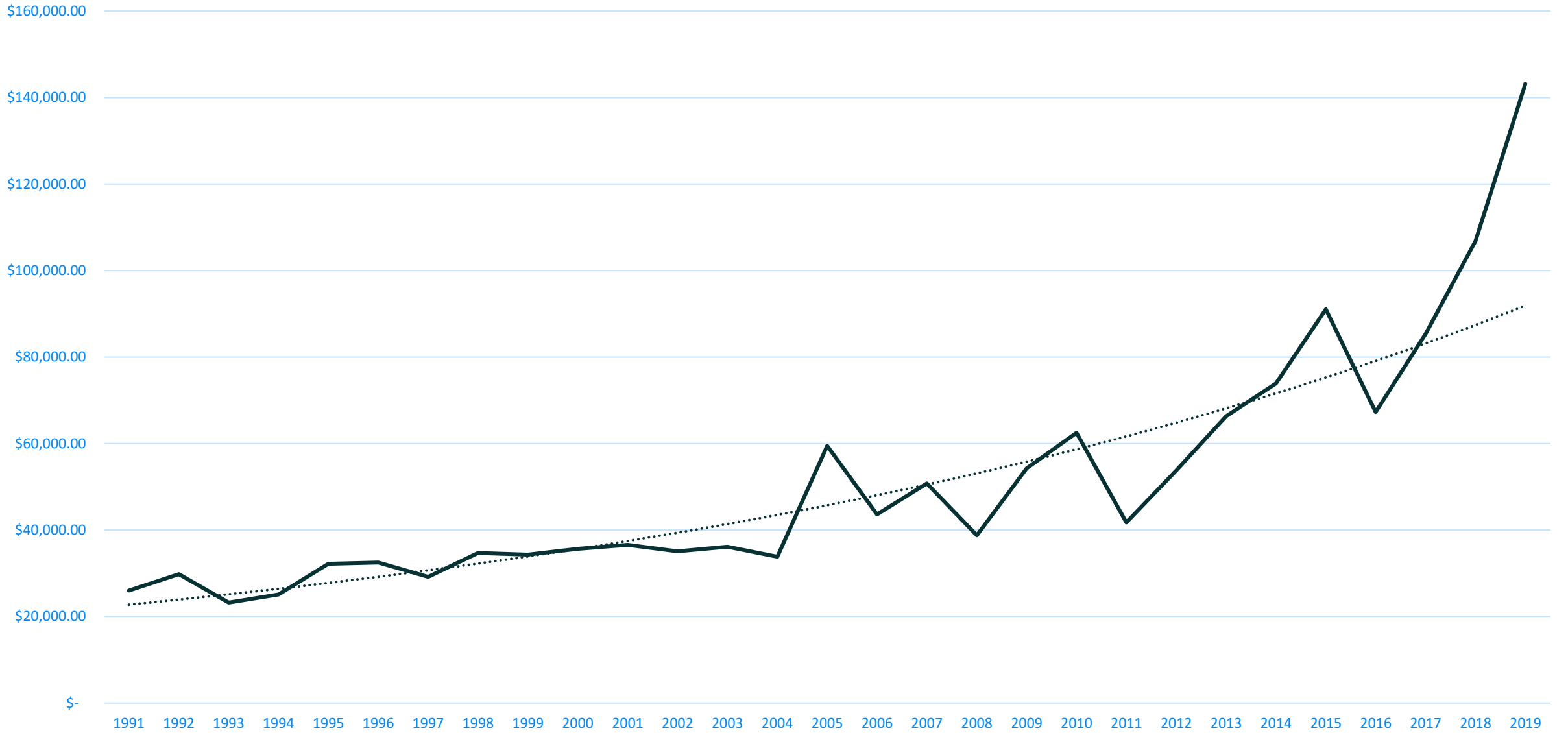


June 30, 2020

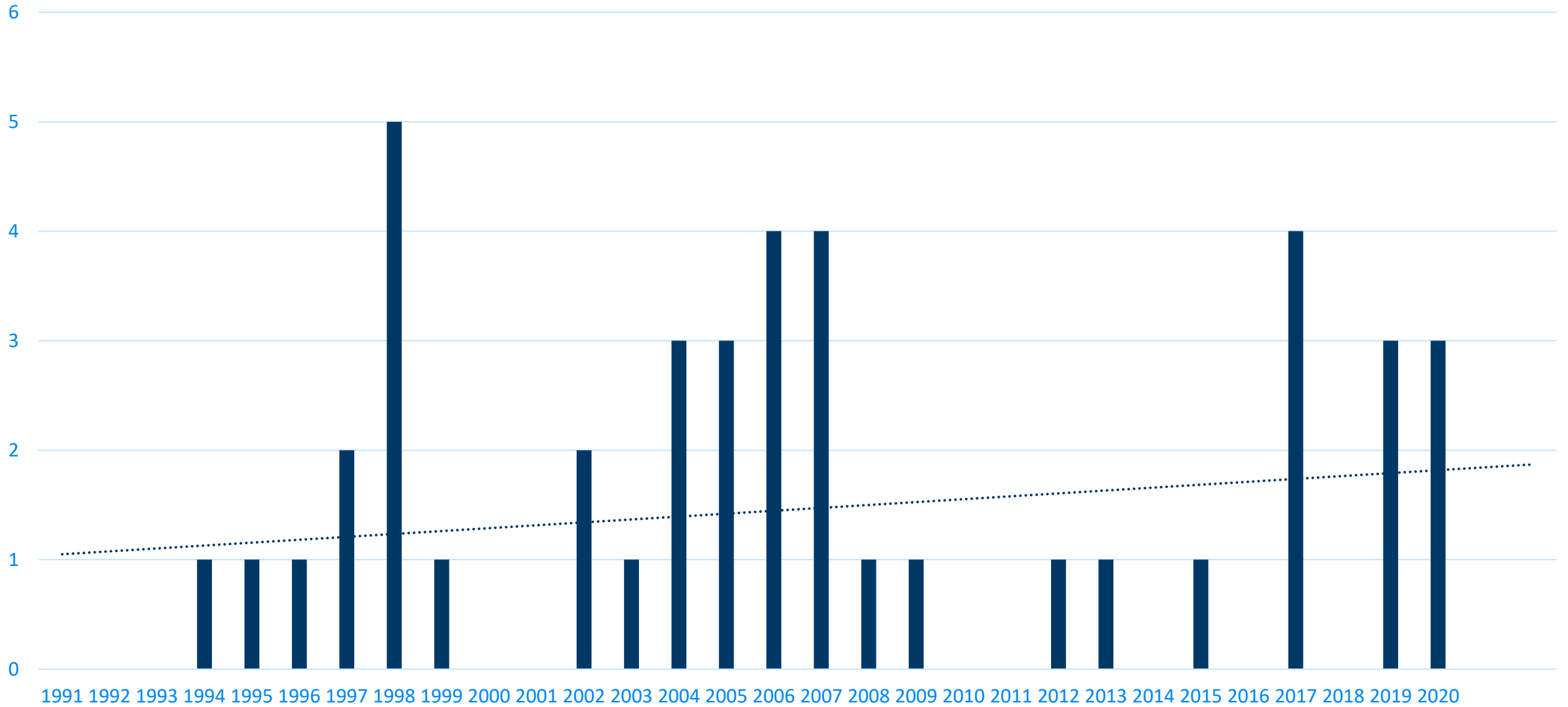
Yearly Average Total



Yearly Median Totals



Number of Sites Over Cap by Year



Current Fee Structure

Type of License	New Surcharge as of 1/1/2022
Commercial & Non-Commercial Pesticide Licenses	\$25
Structural Pest Control Company Licenses	\$100
Fertilizer Licenses	\$50
Pesticide Dealer License (Ag & Non-Ag)	\$75
Fertilizer Tonnage	\$0.32/ton
Pesticide Registration (percent of sales)	0.32%
Out-of-State Pesticides Distributors (each site-annually)	\$3,135

Fees as represented on a per acre cost with the new surcharges as of 1/1/2022

Crop	Fertilizer Cost for farmers using fertilizer	Fertilizer pounds per acre on average	Cost per acre of the ACRRRA surcharge for fertilizer tonnage	Pesticide Cost farmers using pesticides	Cost per acre of the ACRRRA surcharge for pesticide percent of gross sales
Corn	\$119.50	453	7.4 cents	\$31.53	10.1 cents
Soybeans	\$30.65	67	1 cent	\$40.00	12.9 cents
Wheat	\$87.49	275	4.4 cents	\$30.00	9.7 cents
Alfalfa	\$59.88	125	1.9 cents	\$11.00	3.4 cents
Sugar Beets	\$87.36	368	5.9 cents	\$113.07	36.5 cents
Oats	\$46.87	112	1.9 cents	\$15.54	4.9 cents

Fertilizer and pesticide costs for the 2019 crop year, University of Minnesota FINBIN data.

Fertilizer pounds per acre were based on 2017 data, the last year that we have available for fertilizer sales in Minnesota. USDA NASS census was a basis for the data and compared to MDA fertilizer data, NASS survey data for fertilizer applied per crop and USDA NASS survey data.

Percent Revenue by Type - FY21

Fund	Account	Account Descr	Sub Account	FY21	%
2018	512001	ITC Interest Earnings		\$16,897	1%
2018	600339	ACRRA License Surcharge	3310	\$242,105	11%
2018	600339	ACRRA-Fertilizer Tonnage Surcharge	3320	\$715,778	33%
2018	600339	ACRRA-Pesticide Gross Sale Surcharge	3321	\$1,179,975	55%
				\$2,154,755	

Maximum Reimbursement Adjusted for Inflation

Maximum Reimbursement	Year	Consumer Price Index Buying Power as of 8/1/2021
\$200,000	1998	\$338,573
\$350,000	2000	\$567,230

About the CPI Inflation Calculator

The CPI inflation calculator uses the [Consumer Price Index](#) for All Urban Consumers (CPI-U) U.S. city average series for all items, not seasonally adjusted. [This data](#) represents changes in the prices of all goods and services purchased for consumption by urban households.

U.S. Bureau of Labor Statistics

https://www.bls.gov/data/inflation_calculator.htm

Other Potential Statutory Changes Needed:

- Alternative sources of drinking water as an eligible expense
- Minimum and Maximum account balance (\$1 Million - \$5 Million)
- Recontamination extending beyond 5 years
- Clarifying the discovery of an incident that may have not occurred prior to July 1, 1989
- Should the immediately reporting be an “all or nothing” eligibility requirement
- Completed applications must be submitted at least 60 days prior to a meeting
- Board staff and other administrative costs and the commissioner's incident response program costs related to eligible incident sites, up to \$450,000 per fiscal year (last update 2009)

Public Comments

- All comments received were in support of raising the maximum reimbursable amount.
- There were several reasons given for raising the maximum amount, but the vast majority of the comments suggested raising the maximum to be roughly equivalent to the amount reflected by the inflation analysis of approximately \$567,000.
- Many comments suggested raising the amount the Department can use for administrative support (currently \$450,000) based on inflation. This amount would be \$590,000.

Potential Issues

- If the maximum reimbursable amount was to raise to \$567,000, which is more than half of the minimum account balance, it would become very difficult to support the program within the current statutory mandated fund balance of \$1 million to \$5 million.
- Based on the current number of sites seeking reimbursement, it would be impossible to support this increase without a substantial increase in the current fees.
- Because the current statute (MS 18E.03, Subd 4) puts a maximum amount of the fee on the license categories, any increase in fees would need to be done solely on the fertilizer tonnage and pesticide gross sales fees.
- If there is any attempt to make such a change to the maximum reimbursement retroactive, it would only increase the level of the current fees even higher.