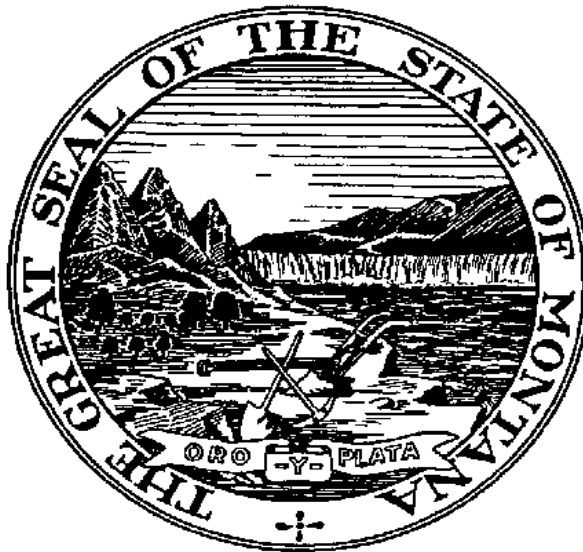


REPORT TO
ENVIRONMENTAL QUALITY COUNCIL ON PESTICIDE
AND GROUND WATER ENFORCEMENT PROGRAMS
PURSUANT TO TITLE 75, CHAPTER 1, PART 3, SECTION
314



MONTANA DEPARTMENT OF AGRICULTURE
RALPH PECK, DIRECTOR
February 2004

Montana Department of Agriculture

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This report is prepared to comply with Section 75-1-314, Montana Code Annotated, requiring specific compliance and enforcement information to be reported to the Environmental Quality Council. Subsections correspond to categories listed in 75-1-314.

PESTICIDE PROGRAM

The Montana Department of Agriculture (MDA) enforces the Montana Pesticide Act (MPA) and Federal Insecticide, Fungicide and Rodenticide Act (FIFRA). Enforcement of the federal law is accomplished through a cooperative agreement with the U.S. Environmental Protection Agency (EPA). This agreement provides primacy to Montana acting through the MDA to enforce pesticide laws.

In FY 2000, a cooperative agreement between the United States Department of Agriculture (USDA) and the MDA was agreed upon for the inspection of application records involving the use of restricted use pesticides on private farms. The MDA and USDA agree that the USDA will handle any enforcement actions resulting from inspections.

1a. Activities and Efforts Taking Place to Promote Compliance Assistance and Education

The pesticide program has undertaken many activities to promote compliance within the pesticide community. These activities include providing information and education, technical assistance, conducting sampling and inspections, investigating complaints and issuing enforcement actions consistent with statute.

Information and Education

The pesticide program promotes education to ensure that dealers and applicators are qualified. As required under Section 80-8-109, MCA, the MDA develops and conducts appropriate educational programs. The educational programs inform individuals dealing with pesticides of the correct methods for formulating, applying, storing, disposing, handling and transporting pesticides.

The MDA conducts educational programs for pesticide dealers, commercial applicators and government applicators. In cooperation with MSU Extension Service, the MDA provides initial training and testing for both commercial applicators and private farm applicators. Subject to available funds, the MDA and MSU Extension Service establish programs for the general public and retailers on pests, pesticides and alternative control methods. A variety of training manuals are available to provide education on pesticide sales, handling, use, application, and disposal. Passing a qualification exam given by the MDA is required for licensing of applicators. Once licensed, these individuals must obtain re-certification credits to remain qualified. An 80% or higher score on the examination is required for an applicator to be "certified" and qualified to use "restricted use" category pesticides.

Education gives the MDA an opportunity to encourage participants to comply with pesticide laws by discussing reasons for the law, training individuals on how to comply and help them understand each specific requirement of pesticide law. The information provided informs participants of the consequences of noncompliance including the detrimental effects from illegally used or sold pesticides.

Technical Assistance

The MDA assists the regulated community and the general public by providing information and technical expertise on pesticide related issues and is able to provide one-on-one personal assistance to members of the regulated community. This assistance is available at field offices and from Helena-based Agricultural Specialists, through formal training sessions, testing, routine inspections and compliance assistance inspections.

Sampling and Inspections

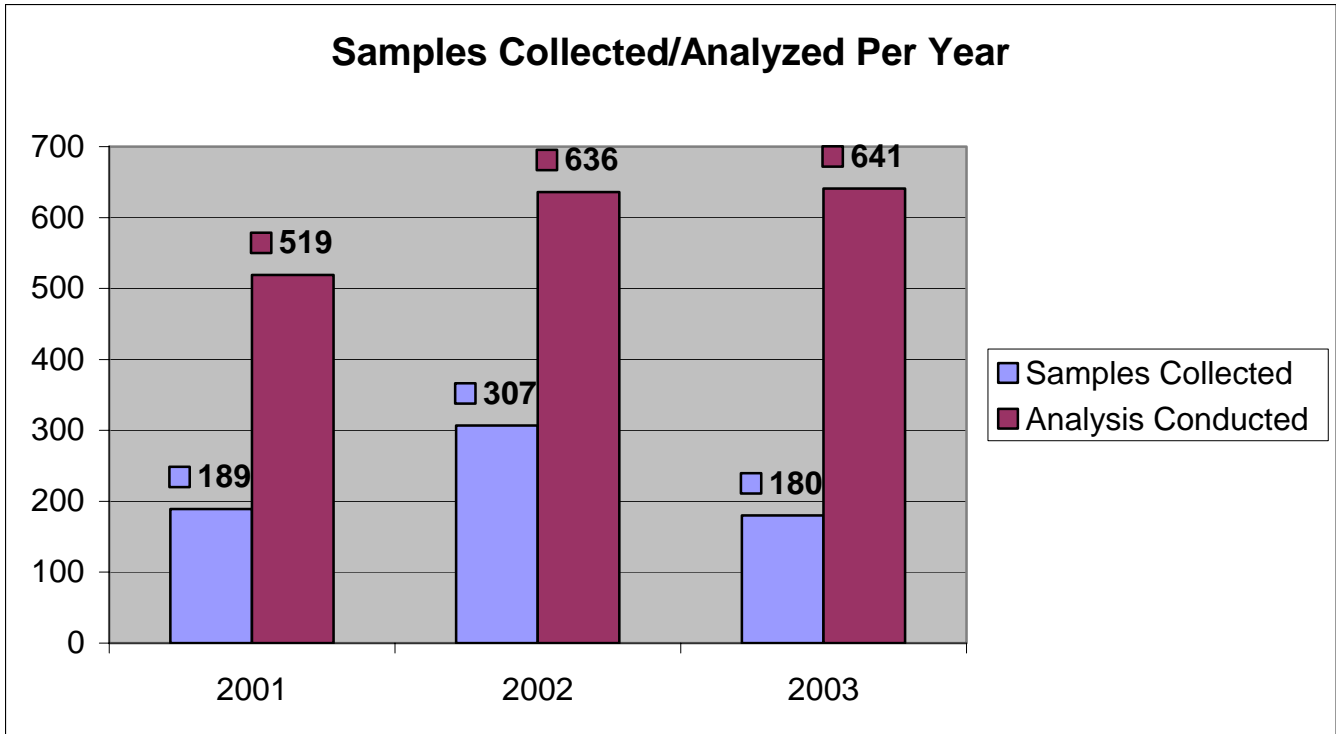
The Legislature established authority to sample (Section 80-8-302, MCA); inspect (Section 80-8-304, MCA) and analyze pesticides or devices distributed within the State of Montana to determine whether such pesticides or devices meet the minimum requirements of the label. The Laboratory Bureau, located on the Montana State University campus, performs the chemical analyses for the MDA, Extension Service and the general public.

The inspection and investigation authority granted under Section 80-8-304, MCA, allows staff or authorized agents, upon reasonable cause, with a warrant or consent of the inhabitant or owner, to inspect or investigate. Compliance inspections of licensed dealers and applicators are conducted in the first year of licensure and routinely every 5-6 years thereafter. Routine inspection goals are determined prior to the inspection year and average approximately 700 inspection events per year. The routine inspections are conducted with commercial/government applicators, dealers and permitted farm applicators. In addition to the routine inspection program, inspections are conducted with individuals upon the receipt of a complaint or reason to believe that someone is in noncompliance with the law, the label directions or is in violation of the Federal Worker Protection Standard (WPS).

The number of complaint investigations varies from year to year because pesticide use varies greatly with weather conditions, pest outbreaks, rainfall, crop types and commodity prices. The number of complaints, reports of damage and referrals from other agencies also vary from year to year for the same reasons. Routine marketplace inspections are conducted at retailers to verify that products offered for sale meet the minimum registration requirements.

The Legislature also established the authority under Section 80-8-304, MCA, to take residue samples related to either routine inspections or complaint investigations. The number of samples per year varies according to the number of inspections/investigations conducted during the use season. The number of samples collected per investigation depends on the number of pesticides involved in the investigation and the scope of the investigation. Analytical results are evidence for enforcement decisions.

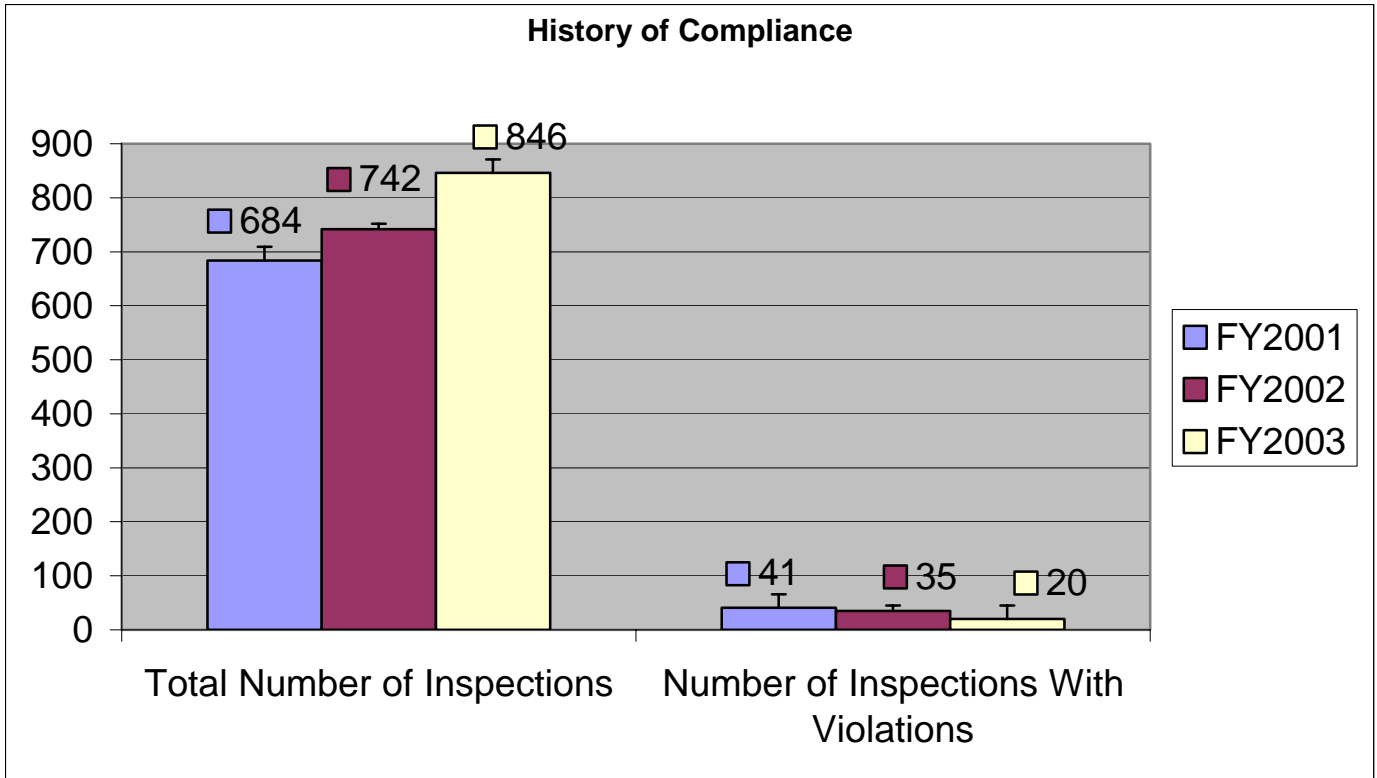
The following graph depicts the number of enforcement samples collected and the number of analysis conducted during 2001-2003:



History of Compliance

The MDA conducts comprehensive inspections and investigations. Inspections and investigations cover such topics as use, selling, labeling, registration, storage, records and licensure compliance. One inspection therefore, can result in multiple violations for each of the above categories.

The graph on page 4 illustrates the number of inspections conducted yearly and the number of inspections that resulted in one or more violations. This data indicates that about 94 to 97 percent of pesticide applicators and dealers are in full compliance.

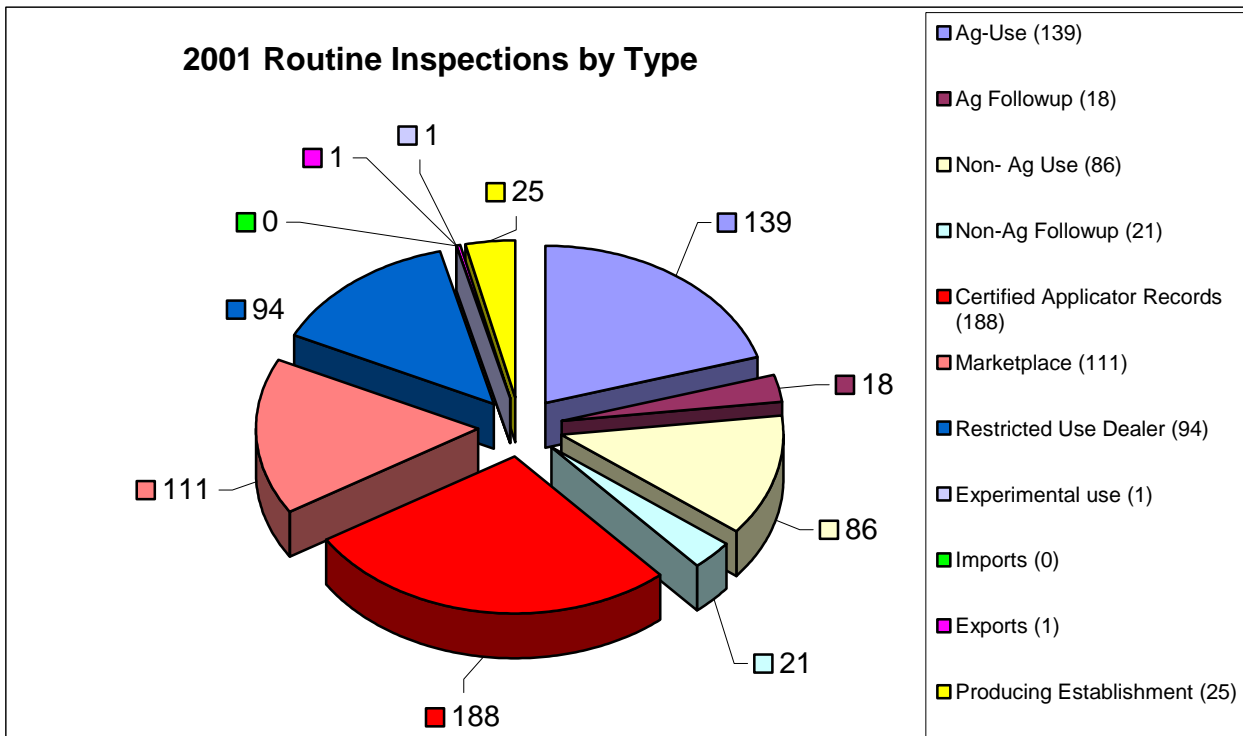


Private Applicator Records Inspection

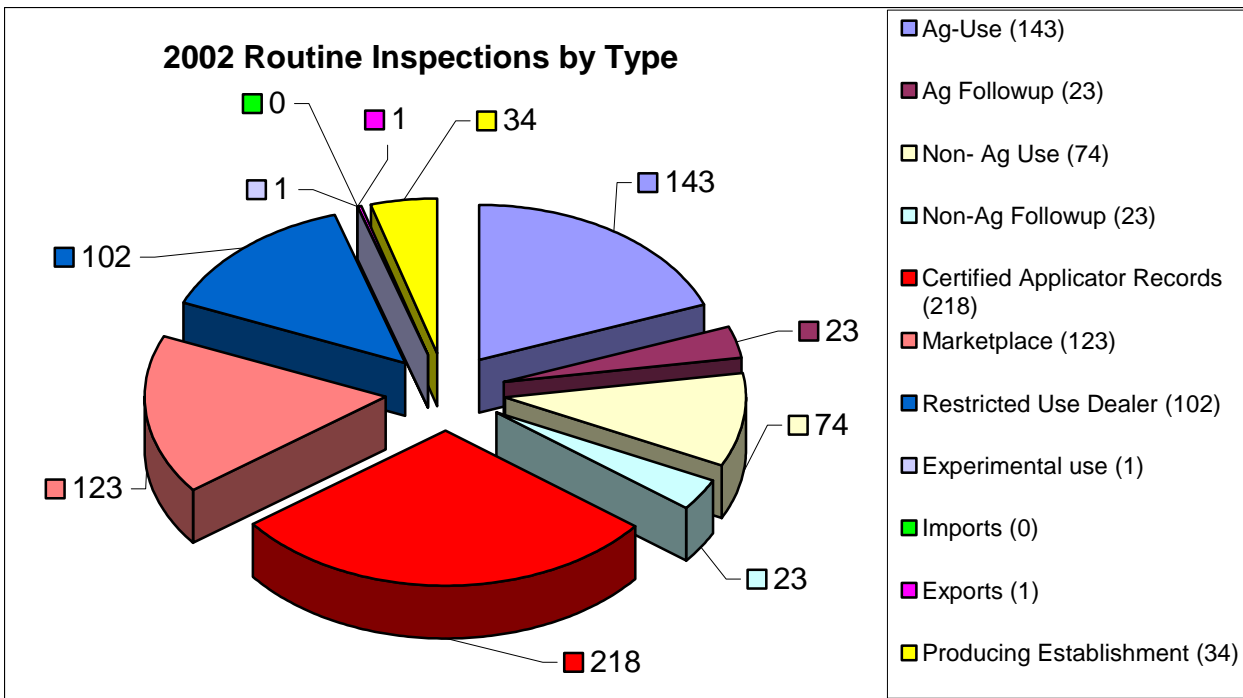
In FY 2001 through FY 2003, inspections were conducted to check records of restricted use pesticide applications that were conducted by private (farm) applicators. This program is funded through a Cooperative Agreement between United States Department of Agriculture (USDA) and MDA. The staff routinely conducts 145 of these inspections following guidelines set forth by USDA.

The following charts represent the number of routine inspections conducted in fiscal years 2001, 2002 and 2003. The inspections are classified according to the licensee type (marketplace, agricultural applicator, non-agricultural applicator, etc.) or the purpose of the inspection. For example, follow-up inspections are for-cause, usually a citizen complaint. Generally, inspection members are the result of planning to meet department goals and generate an enforcement presence in the regulated community. For the three years demonstrated in the graph, the distribution of inspections among various parts of the regulated community has remained relatively constant.

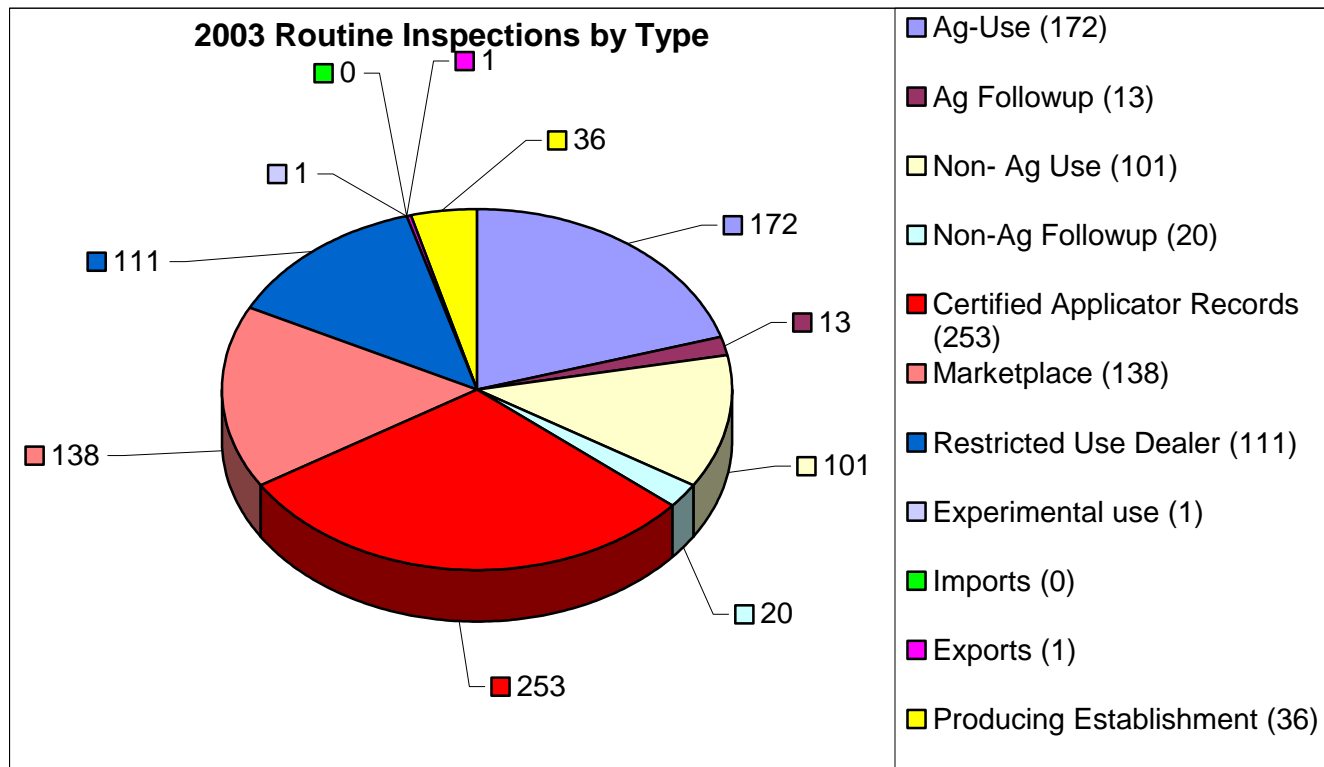
2001 Total: 684



2002 Total: 742



2003 Total: 846



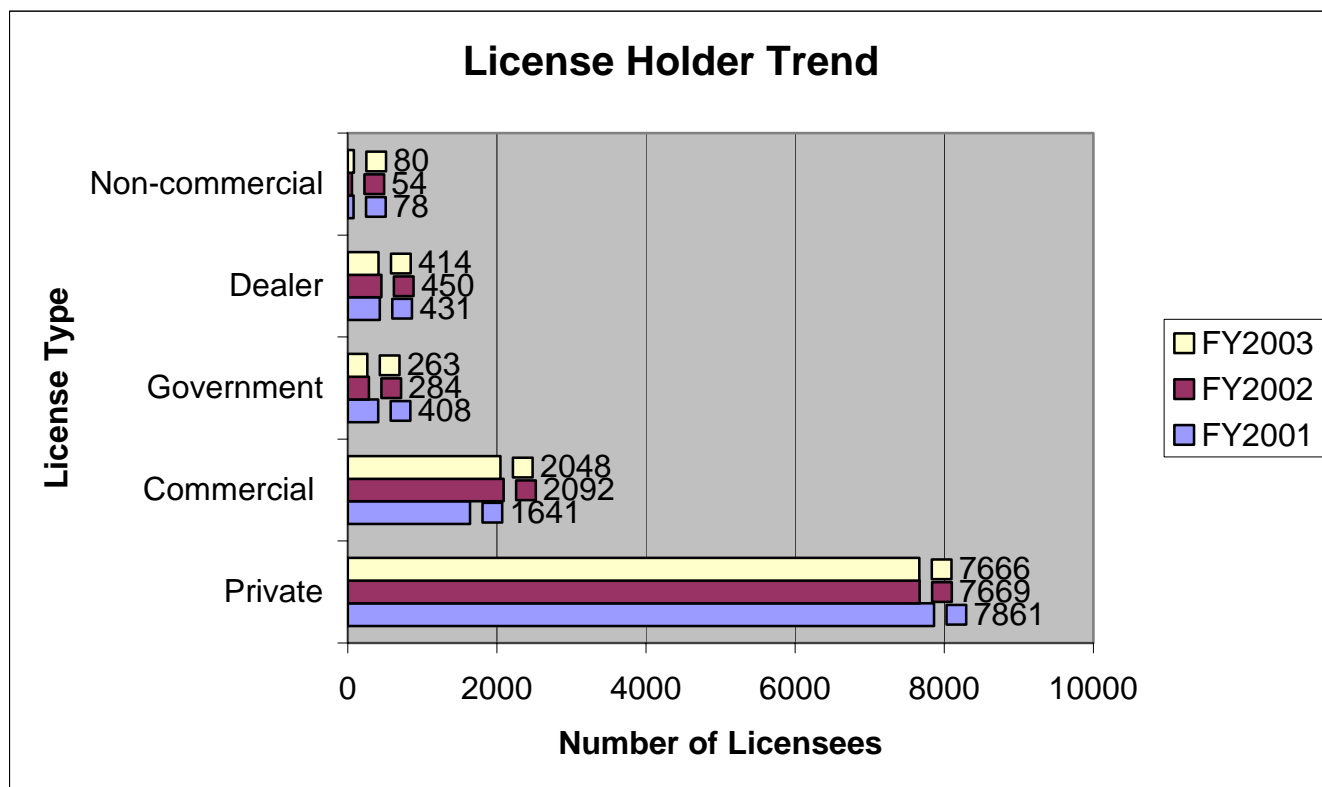
1b. The Regulated Community and Portion in Compliance

Pesticide manufacturers and formulators are businesses that repackage or actually produce pesticides. They can be identified because they are required to register as a producer with the Environmental Protection Agency (EPA). Approximately 220 producer establishments are currently registered with EPA and doing business in Montana. The Department conducts between 10 and 25 inspections per year that specifically target these facilities.

Pesticide dealers are required to become licensed. The number of licensed pesticide dealers has remained stable from 2001 to 2003 ranging from 414 to 450. Dealers who sell pesticides for home and garden use only are not required to be licensed, however remain part of the regulated community. Staff conducted 205 routine dealer inspections in FY 2001, 225 in FY 2002 and 249 in FY 2003.

Commercial and government applicators are also required to obtain a Montana license. Commercial applicators are persons who apply pesticides for hire, and government applicators are persons who apply pesticides for a public entity for whom they are employed. Operators are persons who apply pesticides under the supervision of a certified or licensed applicator. The supervising applicator is required by law to train and license their operators. The number of people licensed as pesticide applicators and operators between 2001 and 2003 has remained stable (see following chart).

Non-commercial applicators are individuals who cannot be classified as a commercial, public utility, or government certified applicator or who cannot be classified as a private applicator but desire the use of restricted use pesticides. A certified non-commercial application may only use restricted use pesticides on lands owned, rented, or leased by his employer or him/herself. The number of people licensed as non-commercial applicators between 2001 and 2003 has also remained consistent (see following chart).



Farm applicators are required to obtain a license only if they wish to apply “restricted use” pesticides. The license is good for 5 years and requires 6 credit hours of training over that period to remain qualified. Montana has averaged approximately 7,700 licensed private (farm) applicators between 2001 and 2003. There are an unknown number of people who apply general use pesticides to their own property and are not required to become licensed.

As of September 1, 2003 the total number of licensed applicators and dealers in Montana was approximately 10,471.

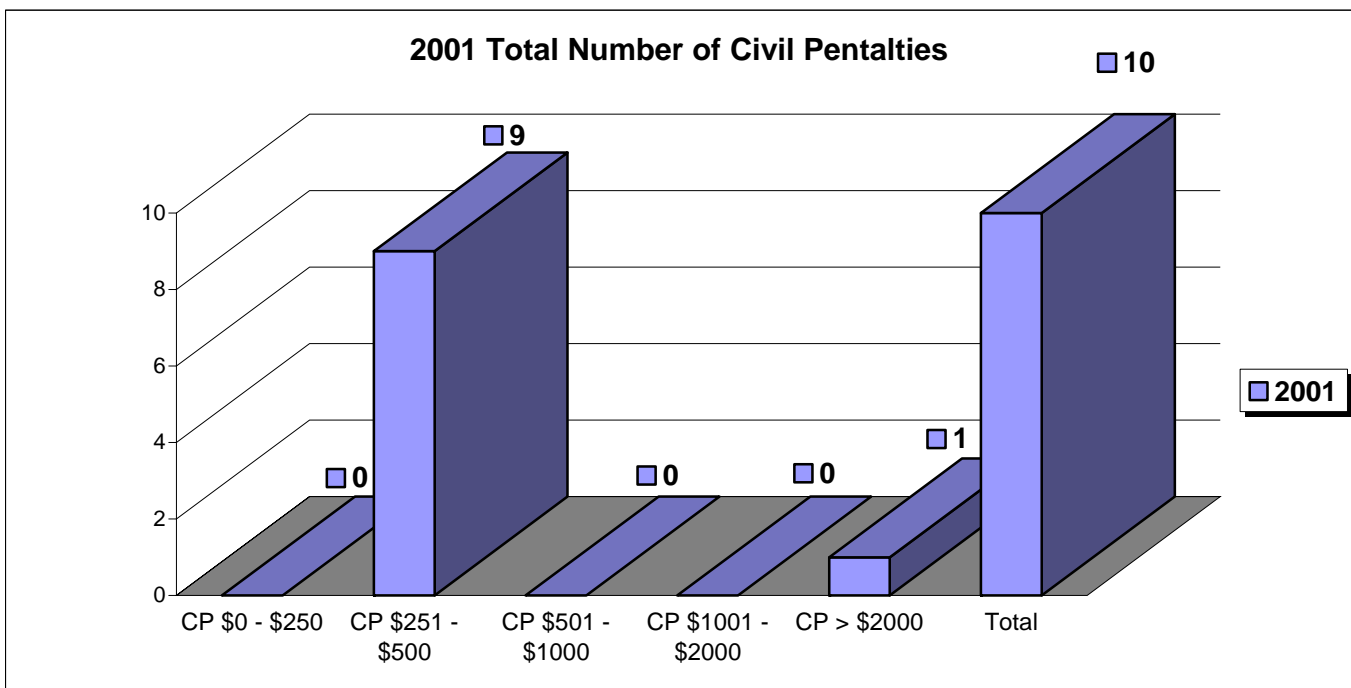
1c. Number, Description, Method of Discovery

During FY 2001-2003, the number of investigations averaged between 35-45 per year. Most pesticide use violations are discovered through complaint investigations resulting from tips and complaints. Case significance or severity depends on a number of factors including the type of violation and potential or actual occurrence of harm from pesticides. Each case has its own unique set of circumstances and is investigated according to Standard Operating Procedures.

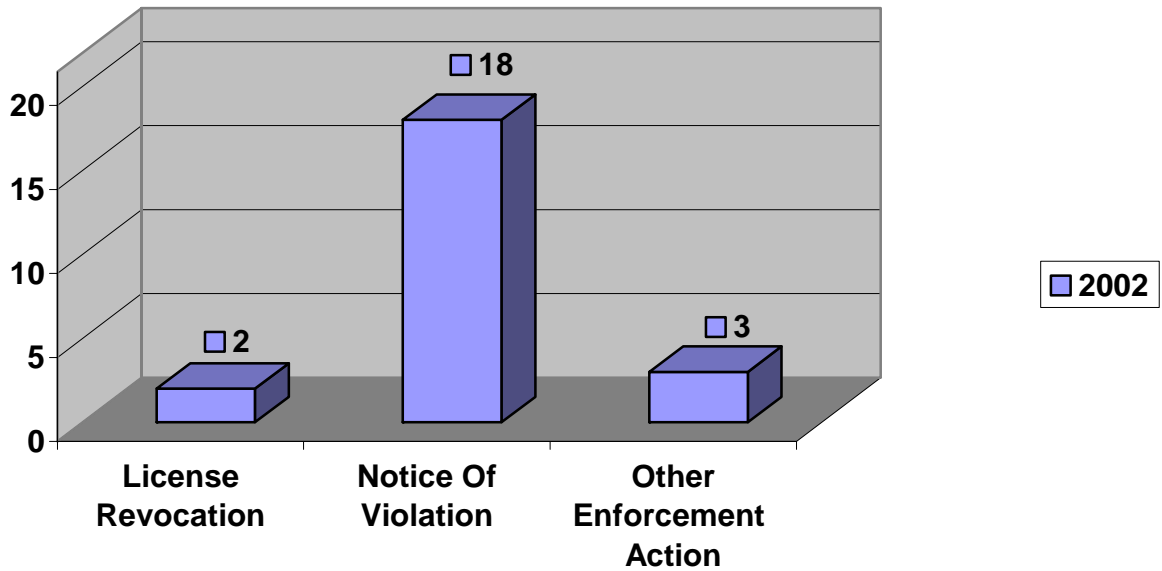
Significance of Noncompliance and Enforcement Options

Section 80-8-211, MCA, establishes violations that are cause for revoking or modifying a license. Section 80-8-303, MCA authorizes the MDA to embargo pesticides that are adulterated, misbranded, or not registered. Section 80-8-304, MCA authorizes compliance orders requiring a person to correct violations and clean up pesticide spills. Upon completion of the investigation, a review process determines if there is sufficient evidence to support enforcement action. Section 80-8-306, MCA, authorizes written warnings and administrative civil penalties, and enables the department to seek judicial civil penalties or criminal penalties. Minor violations often involve general use pesticides or record keeping violations that do not result in harm to humans or the environment.

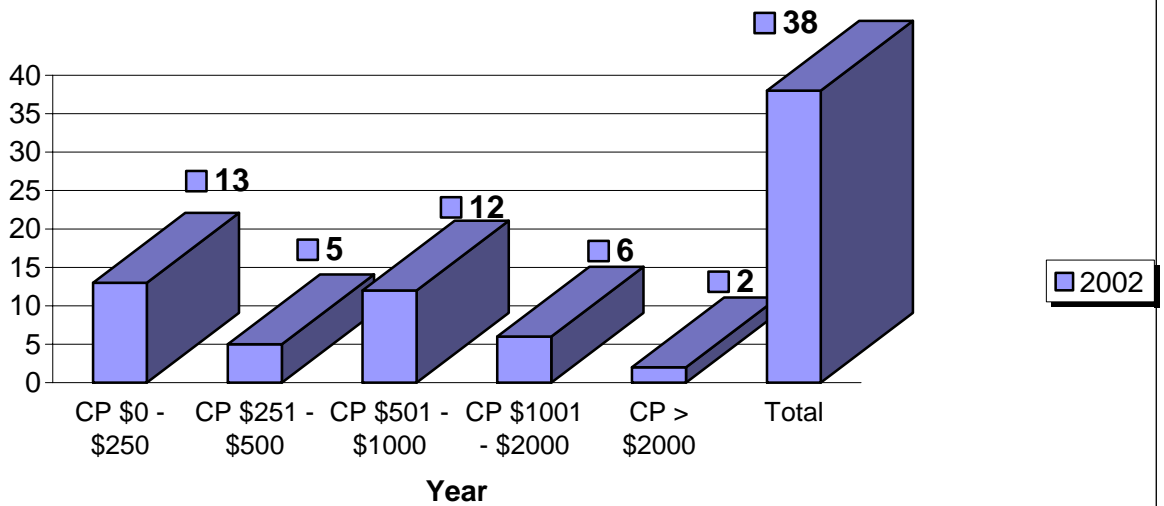
The Montana Pesticide Act defines major or serious violations that are subject to civil penalties in Section 80-8-306 (5)(e), MCA. The Act specifically states that the MDA, in determining an appropriate amount of civil penalty is required to consider the effect on the persons ability to continue in business, the degree of harm, certain gravity factors associated with the violation; and the degree of care taken by the offender. The MDA considers all of these factors when determining the amount of the civil penalty for a violation. Actions are subject to appeal according to provisions of the Montana Administrative Procedure Act.



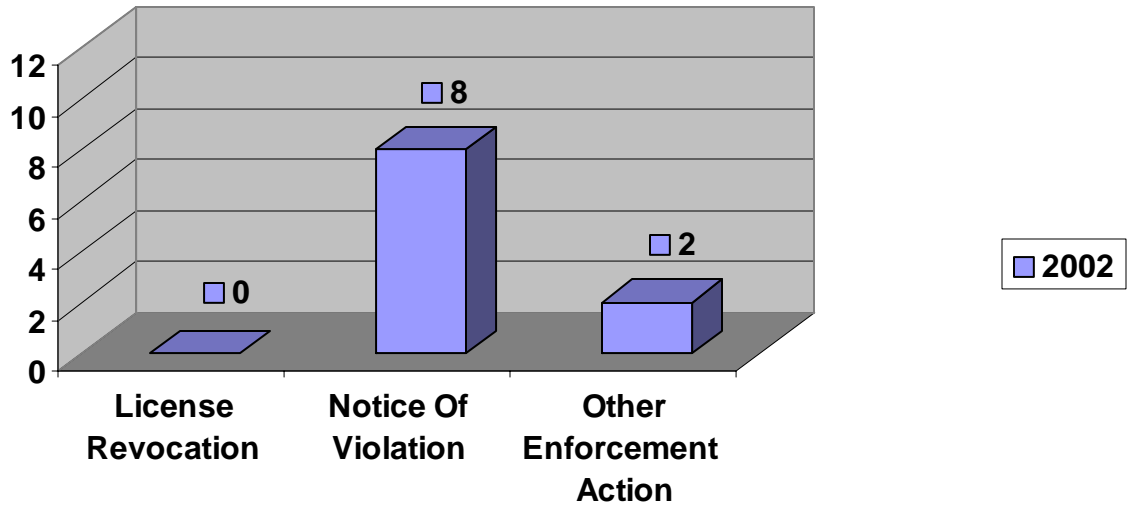
2001 Other Administrative Actions



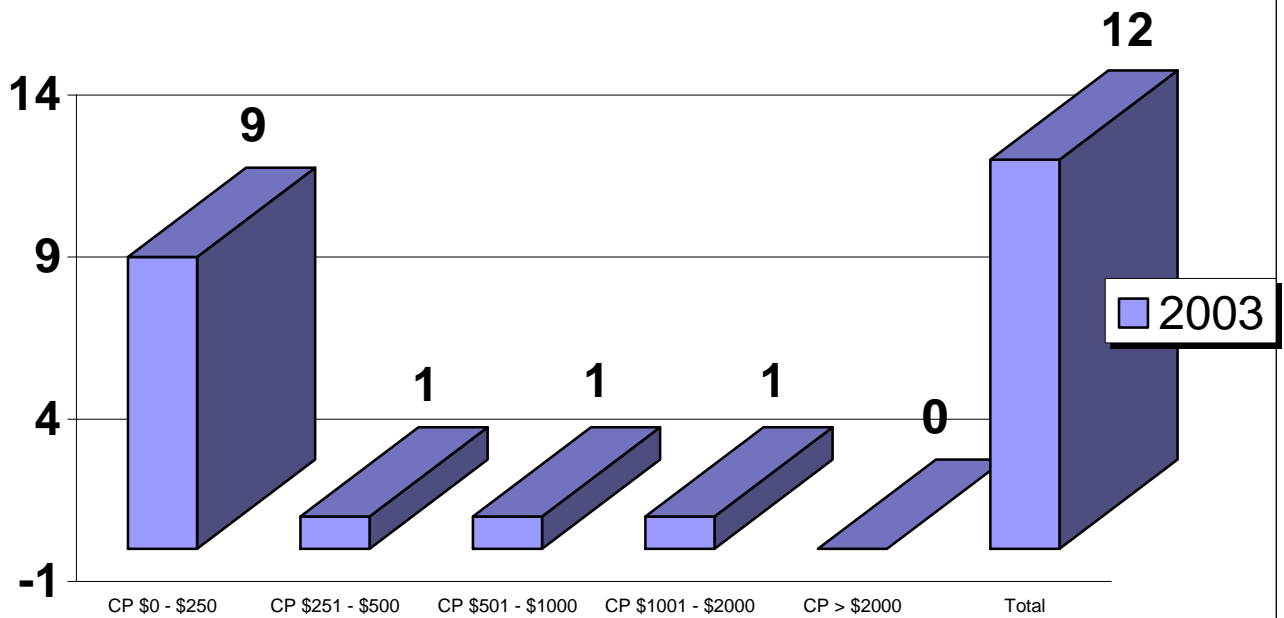
2002 Total Number of Civil Penalties

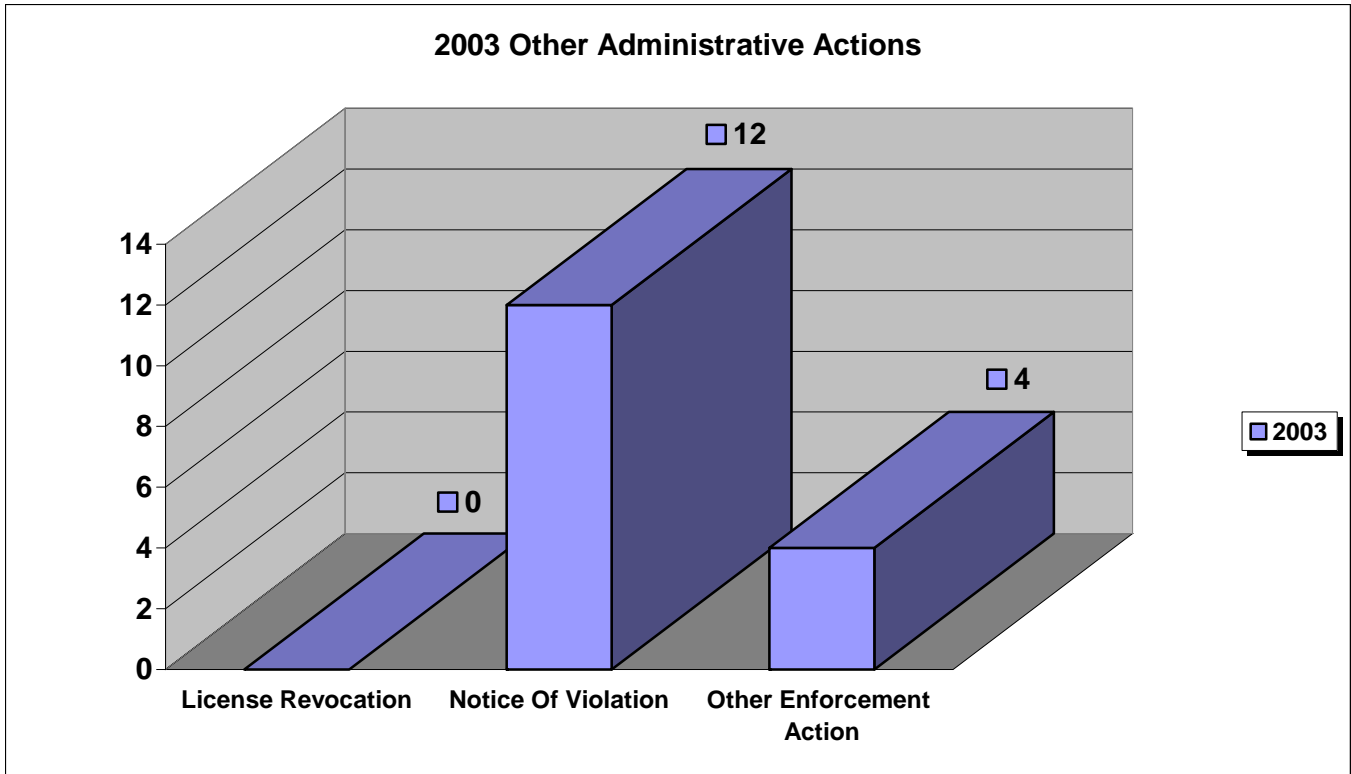


2002 Other Administrative Actions



2003 Total Number of Civil Penalties





1d. Unresolved Noncompliance Issues

Very few cases go unresolved past the fiscal year end. On an average, only 3-4 cases are in what would be called “unresolved” status. Generally, these are cases that resulting from complaints received by the department late in the use season and are in the final stages of completion. These may also be cases that are in final negotiation of a Consent Agreement and Order that would complete the case.

GROUND WATER PROTECTION PROGRAM

The Montana Agricultural Chemical Ground Water Protection Act (MACGWPA) was enacted in 1989. Program accomplishments include:

- Adoption of rules
- Implementation of a statewide groundwater monitoring system
- Promotion of research of Montana's aquifers
- Building cooperative working relationships with private and government groups
- Completion of a General Management Plan for state driven pesticide-groundwater issues and a Generic Management Plan for federally mandated pesticide-groundwater management plans. Both of these documents are meant to serve as the foundation for Specific Agricultural Chemical Management Plan (SMP) and Pesticide Management Plans (PMP's)
- Adoption of a Specific Management Plan to protect groundwater in the area of the Fairfield Bench

The MDA implemented its first Specific Agricultural Chemical Management Plan (SMP). SMP rules were adopted in 2001 to manage the wild oat herbicide Imazamethabenz-methyl (Assert, Syngenta Crop Protection) for the protection of groundwater in the Fairfield Bench area. Concentrations of Assert residues in groundwater are extremely low (average residue concentration is approximately 1/100th of the Montana Water Quality Standard), therefore the plan is focused on voluntary implementation of Best Available Technology (BAT's).

The MACGWPA requires the Department of Environmental Quality (DEQ) to adopt standards for agricultural chemicals in ground water. In 1999, DEQ adopted standards for 94 agricultural chemicals, including the standard for Imazamethabenz-methyl (trade name Assert). A standard of 400 parts per billion (ppb) was established for Imazamethabenz-methyl. Four hundred parts per billion is the level at which adverse health effects *may* be expected to occur over a lifetime of consumption. When DEQ develops a standard, they include one or more "margin of safety" factors, resulting in a standard that is likely to be more protective, above and beyond, the actual risk posed by the presence of the agricultural chemical in groundwater resources.

MDA has been monitoring in the area since 1994. Concentrations of Imazamethabenz-methyl in groundwater and surface water have ranged from the Level of Quantitation of 0.20 ppb to 7.9 ppb. During 2003, concentrations ranged from 0.20 to 5.8 ppb. The majority of detections range from below 0.20 ppb to 4.00 ppb during the growing season. Detections of Imazamethabenz-methyl peaked in mid July through early August of each year. Concentrations begin to decline in the fall, reaching a yearly low of 0.20 ppb in late spring. Continued monitoring indicates that there have been no violations of the Montana Water Quality Standard for Imazamethabenz-methyl. Department monitoring also includes analysis of new agricultural chemical use in this area. MDA will also be contracting with a statistician from Montana State University to evaluate monitoring data for trends.

1a. The Activities and Efforts Taking Place to Promote Compliance Assistance and Education

The Ground Water Protection Program has undertaken the following to promote compliance with the statutory goals of the program:

Information/Education

The ground water program promotes research and technical assistance. The department is dedicated to providing information and assistance to prevent groundwater contamination by agricultural chemicals. Through education and outreach, the department provides information on groundwater and agricultural chemical characterization, Best Management Practices (BMP's) and on Specific Management Plans (SMP's). These plans provide for the management of agricultural chemicals to prevent, minimize and mitigate their presence in groundwater. The department is involved in an ongoing process of identifying environmentally sensitive areas, soil, and aquifers. Information about agricultural chemicals in Montana ground water is provided through analytical results from the MDA's statewide monitoring program. Public meetings and certification training are used as a venue to inform the public about the locations and extent of the vulnerable or sensitive aquifers in Montana.

It is the public policy of the state, Section 80-15-103, MCA, to protect groundwater from impairment, allow for the proper use of pesticides and to provide education and training to pesticide applicators and the general public. As required under Section 80-15-106, MCA, the department is required to develop and conduct appropriate educational programs. Groundwater protection is a component of all pesticide applicator training, which assures that dealers and applicators have the necessary knowledge to safely apply pesticides in Montana. The MDA provides education and training for applicators and the general public on groundwater protection, agricultural chemical use, and the use of alternative agricultural methods. Education gives the department an opportunity to convey information about pesticide and groundwater protection laws, compliance with and consequences of non-compliance with the laws as well as the detrimental effects, which can occur as a result of illegally used agricultural chemicals. In addition, training provides guidance and assistance on how to comply with laws and regulations governing pesticides.

The MDA in cooperation with MSU Extension Service provide initial and recertification training and testing of farm applicators. One of the major topics covered during the recertification training courses is how to protect Montana's ground water from pesticide or fertilizer contamination. A variety of training manuals are available at a nominal charge to provide education on agricultural chemical handling, use, application, and disposal. The Montana General Agricultural Chemical Ground Water Management Plan is a comprehensive strategy for Montana to protect ground water from agricultural chemicals. Protecting Our Water Resources, developed in cooperation with MSUES, provides information to fertilizer users and facilities about ways to protect ground water. The Generic Management Plan discusses the philosophy; requirements, development and implementation of federally mandated management plans and outline the process to be used in their development.

Technical Assistance

The position of the MDA, as guided by the Montana constitution and statute, is that agriculture and ground water in the state can be protected. The department dedicates most of its program effort to prevention of ground water contamination by agricultural chemicals through the use of MDA, EPA, and MSU Extension Service bulletins, brochures, and other training aids.

The Agricultural Chemical Ground Water Protection Program is presently a research and technical assistance program. General statewide ambient ground water monitoring for contamination by agricultural chemicals has been ongoing since 1984, before the law was passed. The MACGWP Act required the development of the General Management Plan principally as a tool to identify environmentally sensitive areas, soils, and aquifers and to develop Best Management Practices for the use of agricultural chemicals in Montana.

When Montana implements SMP's it is often necessary to have additional educational training of pesticide applicators who apply within the targeted area specific to the agricultural chemical(s) as well as one-on-one outreach sessions with the agricultural chemical users who may be impacted by the plan requirements.

Section 80-15-202, MCA directs the Department to conduct monitoring to determine if agricultural chemical residues are present in groundwater resources and to determine the likelihood of agricultural chemicals to enter groundwater. The Department initiated a ground water monitoring program in 1984. The Department established a Permanent Monitoring Well network in 1991. The network has grown from the initial 8 dedicated monitoring wells to its present size of 16. During the next two years, an additional 12 wells will be added to the network. Wells are located in areas that are representative of Montana agricultural production. Monitoring of these wells has occurred just prior to and just after the growing season for the agricultural chemicals being used in that particular area and given the current use of agricultural chemicals. The Department also conducts project specific monitoring to augment permanent well monitoring efforts; meet states identified needs, and comply with federal EPA requirements. Timing and frequency of sampling are determined by the project objectives and thus vary.

The Department currently lacks the ability to precisely illustrate the number of wells sampled, number of samples collected and number of analyses completed due to the failure of the groundwater database. Work is on going to complete work on the database, which will allow the Department to provide data on monitoring efforts.

Monitoring results indicating the presence of an agricultural chemical are evaluated to determine if a Montana Water Quality Standard has been violated and determine an appropriate response. An appropriate response may include well owner notification, recommendations, additional monitoring, referral to the Department of Environmental Quality, referral for enforcement action, investigation or study, and development of a Montana Specific Agricultural Chemical Ground Water Management Plan (SMP) pursuant to Section 80-15-212, MCA. Monitoring activities and data are also incorporated into technical, educational and compliance assistance activities to promote awareness and resource stewardship.

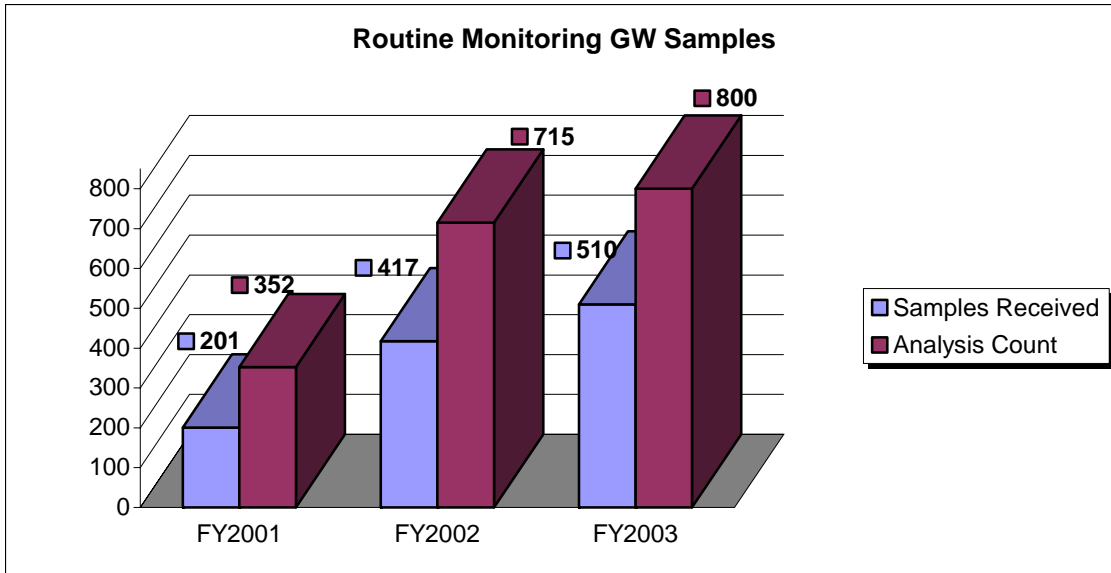
Inspections

The Act allows routine inspection of persons subject to the Specific Management Plans. The department has authority (Section 80-15-401, MCA) to sample, conduct inspections, collect samples for analysis, inspect monitoring equipment, and inspect and copy records required by the Montana Agricultural Chemical Ground Water Protection Act. The MDA can investigate conditions relating to compliance with agricultural chemical labels, management plans, monitoring requirements, groundwater protection requirements and violations of plans or compliance orders. The MDA Laboratory Bureau located on the Montana State University campus conducts laboratory analysis for the MDA, MSU Extension Service and the public.

The inspection authority granted under Section 80-15-401, MCA, allows department staff or authorized agents, upon reasonable cause, with a warrant or consent of the inhabitant or owner to inspect or investigate at reasonable times. Pesticide inspection records in FY 01,02, and 03 show a total of 373 inspections included a ground water component. This component includes activities such as checking for compliance with ground water protection requirements on labels, sampling groundwater and investigating conditions related to agricultural chemicals in ground water.

Specific Management Plans (SMP)

Section 80-15-212, MCA, requires the MDA to adopt "Specific Agricultural Chemical Ground Water Management Plans" when necessary to protect groundwater. Such plans are required when monitoring shows that amounts of a pesticide or fertilizer are present in ground water, are increasing, migrating, or at 50% of a standard. To date, the department has adopted one SMP. That SMP is for the wild oat herbicide, Imazamethabentz-methyl; and it applies to persons in the Fairfield Bench area who apply this pesticide. The SMP establishes voluntary procedures including irrigation management, chemical rotation, calibration, integrated pest management and record-keeping. In 2004, the MDA will evaluate the level of compliance by conducting structured interviews with users of imagamethabentz-methyl in the regulated area.



The Ground Water Protection Program has undertaken the following to promote compliance with the Imazamethabenz-methyl SMP:

Educational and outreach efforts for the Imazamethabenz-methyl Specific Management Plan (SMP) have been ongoing since 2001. The MDA has sponsored and hosted two calibration clinics and MSU Extension has conducted one-on-one sessions with producers to make them aware of the Specific Management Plan (SMP). These clinics also provide information on the Best Available Technologies (BAT's). Assistance to individual farmers is also available for implementation of management practices. MDA and MSU Extension have also provided training and education on all BAT's through private pesticide applicator trainings, field days, Anheuser Busch Agricultural Resources, Inc. contract meetings, seminars and other venues.

Routine compliance activities would normally be linked to the development and implementation of SMP's. The SMP for Imazamethabenz-methyl on the Fairfield Bench is a voluntary and educationally based. Nevertheless, compliance assistance has been available to persons subject to the Assert SMP since the adoption of SMP rules in 2001. This assistance is necessary to ensure the regulated community is aware of the SMP and it's components, understands the risk associated with the presence of Imazamethabenz-methyl in groundwater and to assist individuals with implementing the BAT's. In 2004, the MDA will be conducting a compliance survey to assess landowner knowledge of the plan and the level of implementation. Monitoring data and the information gleaned from the compliance survey will be used as the primary source for measuring the effectiveness of the plan. The survey will help the Department assess if additional efforts need to be made in promotion, and if so, what the focus of those efforts should be. The survey will also assist the Department and the Imazamethabenz-methyl SMP Voluntary Advisory Committee in evaluating the success of the SMP. If the evaluation indicates that we have not successfully addressed the groundwater impairment condition, re-evaluation of the "voluntary approach" and components of the SMP will be necessary. If the SMP is determined to have failed to meet the objectives of a SMP, as outlined in the MACGWPA, the SMP would be revised and the appropriate changes to the

adopted rule will be made. Possible changes could include a mandatory rather than voluntary approach, required education prior to continued use of the product rather than simply providing educational opportunities to the regulated community and public, and, potentially, required record keeping of agricultural chemical use. If a mandatory plan were implemented, it would be accompanied by regular SMP inspections to ensure compliance.

1b. *The Size and Description of the Regulated Community and the Estimated Proportion of that Community that is in Compliance*

The Size and Description of the Regulated Community

All persons licensed as pesticide dealers, fertilizer dealers, commercial, government and farm pesticide applicators and an unknown number of persons who sell or apply general use pesticides and fertilizers but are not required to be licensed are regulated. In general, they are required to use agricultural chemicals in a manner that does not violate groundwater standards or result in ground water impairment, and they must comply with adopted SMP's.

The regulated community is not as easily identifiable as with other programs. The regulated community is essentially the landowners above the potentially affected aquifer or the person(s) who use agricultural chemicals that could contaminate an aquifer. These include chemical applicators, chemical dealers or manufacturers (through spills and mishandling) and individual landowners. Pesticide dealers, fertilizer dealers, and some pesticide applicators are required to be licensed by the MDA and would be identifiable for training and possible regulation. The same is true for landowners who desire training on groundwater pollution prevention techniques or Best Management Practices (BMPs) and Best Available Technology (BATs).

The Estimated Proportion of That Community That Is In Compliance

Monitoring is used to determine if a Montana Water Quality Standard (MWQS), as set by the Department of Environmental Quality, has been violated. To date, the presence of Imazamethabenz-methyl in ground, as determined by laboratory analysis of groundwater samples, has not reached nor exceeded the established MWQS. During 2003, concentrations represented approximately 1/100th of the MWQS.

To date, compliance has only been measured through monitoring because of the voluntary-educational approach under the current SMP.

1c. *The Number, Description, Method of Discovery and Significance of Non Compliances, Including those Non Compliances that are pending*

Number, Description and Significance of Noncompliance

An agricultural chemical user may be out of compliance if they violate the provisions of an SMP; or if they contaminate groundwater in excess of a standard, or violate an Administrative Order.

Since the Act became effective, the MDA has issued 4 Administrative Orders requiring cleanup of pesticide spills, sampling soils and groundwater, and some soil removals. These orders were issued using authority of the Montana Pesticide Act. The department has issued informative letters to fertilizer facilities where soils may be contaminated with high levels of nitrate that have the potential of impacting groundwater. The letters provided information to improve operational activities to minimize further contamination. The information contained Best Management Practices for handling and storage containment of fertilizers.

To date, none of the verified non-point source detections for agricultural chemicals identified from ambient monitoring of groundwater have exceeded a Montana Water Quality Standard. The Departments are working together to address the following agriculturally related water quality concerns.

Montana Specific Agricultural Chemical Ground Water Management Plans:

During evaluation of the non-point monitoring results, the Department determines if verified detections meet criteria specified in Section 80-15-212, MCA, requiring development of a Specific Agricultural Chemical Ground Water Management Plan (SMP). Detections for Imazamethabenz-methyl (trade name Assert) meet conditions (b), (c), and (e) under Section 80-15-212(1), MCA. In 2001, a SMP for Assert was adopted as rule. Completion of a 3 year monitoring assessment of tralkoxydim (trade name Achieve, Syngenta Corp.) won't be complete until the end of 2004. At that time, monitoring data will be analyzed to determine if data and information gathered meets any of the criteria requiring development of an SMP.

Shepherd School Monitoring Well:

Atrazine levels in 2001 were 0.97 parts per billion, approximately one-third the 3.00 parts per billion MWQS. In addition to Atrazine detections, nitrate levels were, initially, 77.00 parts per million. The MWQS for nitrate is 10.00 ppm. Given the multiple sources of nitrates, complexity of agriculturally related issues and the involvement of a public water supply as well as a confined animal feeding operation, this site was referred to the Department of Environmental Quality for further investigation and evaluation in 2001. Work is on going between the agencies. Current Atrazine levels range from 0.18 to 0.27 parts per billion and nitrate levels were 7.6 parts per million, due largely to a change in land use in the immediately area. To date no compliance issues have been identified. Results and decision-making are still pending.

Lost Creek Nitrates:

The Department of Agriculture is working with the Department of Environmental Quality and the Montana Bureau of Mines and Geology to evaluate the presence of nitrates in the Lost Creek area, near Kalispell. There are multiple potential sources of nitrate in this area. The Department of Environmental Quality is the lead agency on this issue.

The Department will continue to monitor groundwater for the presence and concentration of agricultural chemicals. Analytical results are evaluated against the established Montana Water Quality Standard. Evaluation of the Imazamethabenz-methyl SMP is not yet complete, therefore, noncompliance with the provisions of the SMP cannot be determined, at this time.

Upon completion of the compliance survey, the level of voluntary compliance with the Assent SMP can be assessed and appropriate conclusion's can be made.

Method of Discovery

Monitoring results are used to determine if a pesticide is present in groundwater resources. Additional sampling is conducted to verify all initial detections. Verified detections are further evaluated to determine the relative health and environmental risk that an agricultural chemical presence represents. The Department of Environmental Quality is responsible for development of human health and environmental standards. The relative significance of an agricultural chemical residue in groundwater is related to the percentage of the Montana Water Quality Standard meet. The Department of Agriculture determines the source(s), extent and magnitude of impaired or contaminated groundwater conditions. Dependent upon the causal source, i.e., point or non-point source, the Department discusses and implements an appropriate response.

1d. Description of How the Department has addressed the Non Compliance Identified in Subsection (1)(c) and a List of the Non Compliance Left Unresolved

A description of how the Department has addressed noncompliance and a list of unresolved noncompliance is not available at this time because the Department has not yet determined if compliance issues exist under the Specific Agricultural Groundwater Management Plan for Imazamethabenz-methyl.

If noncompliance of the SMP exists, the Department will need to determine the impact of noncompliance and possibly move toward mandatory elements or stronger enforcement action.