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Chapter ATCP 30

PESTICIDE PRODUCT RESTRICTIONS

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Note: Chapter Ag 30 was renumbered chapter ATCP 30 under s. 13.93(2m) (b) 1., Stats., Register, April, 1993, No. 448.

Note: Pesticide products are registered and labeled for certain uses, and must be used according to label directions. (See ch. ATCP 29.) This chapter spells out additional restrictions that apply to some pesticide products.

Subchapter I — Definitions

ATCP 30.01 Definitions. In this chapter:

(1) "Apply a pesticide" means to bring, or attempt to bring, a pesticide into contact with a target organism or site.

(2) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(3) "Distribute a pesticide" means to distribute a pesticide for sale or use in this state.

(4) "Environment" has the meaning given in s. 94.67 (12), Stats.

(5) "Individual" means a natural person.

(6) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, trust or other organization or entity. "Person" includes a county or local government entity, but does not include a state or federal government entity.

(7) "Pesticide" has the meaning given in s. 94.67 (25), Stats., and includes a pesticide−fertilizer mixture.

(8) "Sell" means to sell, offer for sale, display for sale or hold for sale in this state.

(9) "Use" a pesticide means to mix or load a pesticide, apply a pesticide, or engage in any of the following activities which is related to the mixing, loading or application of a pesticide:

(a) Activities which the pesticide label requires of the mixer, loader or applicator.

(b) Handling an open pesticide container, other than an empty container that has been triple−rinsed or cleaned according to the pesticide label.

(c) Cleaning or rinsing an open pesticide container, pesticide application equipment, or a mix or nurse tank.

(d) Disposing of a pesticide or pesticide rinsate.

(e) Aerating or ventilating spaces treated with a fumigant pesticide.

History: Cr. Register, May, 1998, No. 509, eff. 6−1−98.

Subchapter II — Prohibited Pesticides

ATCP 30.05 Prohibited pesticides. (1) PROHIBITION. Except as provided under sub. (2), no person may sell, distribute, purchase or use any of the following pesticides in this state:

(a) DDT (DDE or TDD)

(b) TDE (DDD).

(c) Endrin.

(d) Cadmium.

(e) Thallium sulfate.

(f) Aldrin.

(g) Chlordane.

(h) Dieldrin.

(i) Heptachlor

(j) 2,4,5−Trichlorophenoxyacetic acid (2,4,5−T).

(k) 2−(2,4,5−Trichlorophenoxy) propionic acid (silvex).

(L) Dinoseb.

(m) Kelthane.

(n) Ethyl parathion.

(2) EXEMPTIONS. Subsection (1) does not apply to any of the following:

(a) Use authorized by an emergency permit under s. ATCP 29.70 or an experimental use permit under s. ATCP 29.71.

(b) Use of DDT, or the isomers or metabolites of DDT, authorized by the department under s. 94.709, Stats.

(c) The purchase, sale or use of pesticides other than DDT, or the isomers or metabolites of DDT, for bona fide laboratory research or as laboratory standards or educational exhibits.

History: Cr. Register, May, 1998, No. 509, eff. 6−1−98; correction in (2) (b) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519.

Subchapter III — Pesticides Requiring Special Use Permit

ATCP 30.10 Pesticides requiring special use permit. (1) PERMIT REQUIRED. Except as provided under sub. (2), no person may purchase or use any of the following pesticides without a written permit from the department:

(a) Sodium fluoroacetate (1080).

(b) Strychnine, including products containing strychnine sold or purchased for use as pesticides.

(c) Any pesticide used to control insects or rodents in public sewers, except when used by a commercial applicator certified under s. ATCP 29.31 (11).

(2) EXEMPTIONS. Subsection (1) does not apply to any of the following:

(a) Use authorized by an emergency permit under s. ATCP 29.70 or an experimental use permit under s. ATCP 29.71.

(b) The purchase, sale or use of a pesticide for bona fide laboratory research, or as a bona fide laboratory standard or educational exhibit.

(3) PERMIT APPLICATION. To obtain a permit under sub. (1), a person shall apply on a form provided by the department. In an emergency, the department may accept an oral application which the applicant confirms in writing within 48 hours. An application shall include all of the following:

(a) The applicant's name and address.

(b) The name and address of each individual applicator who will apply the pesticide in the name of the applicant.

(c) The name and formulation of the pesticide for which the applicant seeks a permit.

(d) The proposed use of the pesticide, including purpose, location and quantity.

(e) The special circumstances that justify the purchase and use of the pesticide.

(f) Any special controls or precautions that will apply.

(g) Any information required under sub. (7) (b) if the applicant is applying to purchase or use sodium fluoroacetate (1080).

(h) Other relevant information required by the department.

(4) ACTION ON PERMIT APPLICATION. The department shall grant or deny a permit application within 60 business days after the applicant files a complete application with the department.

(5) ISSUING A PERMIT. The department may issue a permit under sub. (1) if the department finds that the pesticide use is justified by special circumstances, that there is no effective alternative to the pesticide use, and that the proposed use does not pose an unreasonable risk to persons, property or the environment.

Note: The department must prepare an environmental assessment on each permit issued under this subsection. See ch. ATCP 3.

(6) PERMIT CONDITIONS. The department may impose permit conditions which it considers appropriate. No person may use a pesticide contrary to the conditions which the department specifies.

(7) SODIUM FLUOROACETATE (1080) PERMIT. (a) No permit under sub. (1) may authorize the purchase or use of sodium fluoroacetate (1080) for any purpose other than the control of rats or mice by a commercial applicator who is licensed under s. ATCP 29.25 and certified for that purpose under s. ATCP 29.26.

(b) An application for a sodium fluoroacetate (1080) permit shall include all of the following information:

1. The nature of the application site and surrounding area.

2. The types of wild animals frequenting the site, if any.

3. The form in which the sodium fluoroacetate (1080) will be used, including the type of bait used.

4. The method of application.

5. The method for disposing of rat or mouse carcasses.

(c) The following conditions apply to all permits under this section or s. ATCP 29.70 authorizing the use of sodium fluoroacetate (1080):

1. The application site shall be secured against entry by nontarget animals, and by persons other than the pesticide applicator.

2. The applicator shall apply the pesticide so that the application site is not contaminated. The applicator shall remove all unconsumed pesticide before the application site is reopened for access by other persons or nontarget animals.

3. An applicator making an outdoor application shall use a tamper−proof bait box that precludes any hazard to humans or nontarget animals.

4. The applicator shall promptly remove all rats and mice killed by the pesticide, to prevent access by humans or other animals. The applicator shall dispose of the carcasses in a landfill licensed by the department of natural resources s. 289.31, Stats.

5. The applicator shall keep records of the application for at least 2 years, and shall make those records available to the department for inspection and copying upon request. Records shall include the date and time of application, the site at which the pesticide was used, the form in which the pesticide was used, the method of application, and the site used for carcass disposal.

(8) SRYCHNINE PERMITS. No permit under sub. (1) may authorize the purchase or use of strychnine for any but the following purposes:

(a) Registered uses below ground.

(b) Registered uses to control rats or mice.

(9) SODIUM FLUOROACETATE OR STRYCHNINE SALES. (a) No person may sell sodium fluoroacetate (1080) or strychnine to any person who does not have a permit under sub. (1).

(b) A person selling sodium fluoroacetate (1080) or strychnine shall keep all of the following records related to each sale:

1. All of the records required under s. ATCP 29.15 (8).

2. The purchaser's permit number under sub. (1).

(c) A person selling sodium fluoroacetate (1080) or strychnine shall keep the records required under par. (b) for at least 2 years, and shall make those records available to the department for inspection and copying upon request.

(d) No person holding a permit under sub. (1) may resell or distribute a pesticide identified under sub. (1) to any person not covered by that permit.

History: Cr. Register, May, 1998, No. 509, eff. 6−1−98.

Subchapter IV — Pesticides Allowed Only For Certain Purposes

ATCP 30.15 Pesticides allowed only for certain purposes. (1) GENERAL. No person may label, sell, purchase or use any pesticide identified in this section except for a purpose identified in this section. This section does not prohibit any of the following:

(a) Use authorized by an emergency permit under s. ATCP 29.70 or an experimental use permit under s. ATCP 29.71.

(b) The purchase, sale or use of a pesticide for bona fide laboratory research, or as a bona fide laboratory standard or educational exhibit.

Note: A pesticide must be registered and labeled according to ch. ATCP 29, and used according to label directions. This section does not authorize any person to use a pesticide for any purpose for which that pesticide is not registered and labeled.

(2) CHROMIUM. (a) Pesticides containing chromium may be used to pressure treat lumber against wood−damaging pests such as termites and decay−producing fungi.

(b) Potassium dichromate may be used to preserve composite milk samples for testing. Milk samples treated with potassium dichromate may not be sold or distributed for consumption by humans or other animals. The following information shall appear on milk containers containing potassium dichromate, or on the shipping container in which they are shipped:

1. The statement **"NOT FOR SALE OR CONSUMPTION — CONTAINS POTASSIUM DICHROMATE."**

2. The signal words **"DANGER−POISON."**

3. A skull and crossbones, or other readily recognizable poison prevention symbol.

Note: Milk samples treated with potassium dichromate are classified as hazardous waste under chs. NR 660 to 670. Disposal must comply with those chapters.

(3) LINDANE. (a) Lindane (gamma isomer of benzene hexachloride) may be used only according to the label for the following purposes:

1. Treating animals, other than dairy or lactating animals, for mange and lice.

2. Treating sheep for fleeceworms.

3. Spot treating animals, other than dairy or lactating animals, to protect flesh and flesh wounds against insect infestation.

4. Treating seeds.

5. Treating yard and non−commercial garden ornamentals.

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6. Treating Christmas trees in tree plantations to control pine root collar weevil, pales weevil and pine root tip weevil.

7. Treating white pine Christmas trees and spruce Christmas trees in tree plantations to control white pine weevil.

(4) MERCURY. Mercury may be used only to control winter turf disease on golf tees and greens.

(5) DAMINOZIDE. Daminozide may be used only to treat ornamental plants that are not used for food production.

History: Cr. Register, May, 1998, No. 509, eff. 6−1−98.

Subchapter V — Pesticides Used To Control Bats

ATCP 30.19 Pesticides used to control bats. **(1)** PROHIBITION. No person may sell, distribute or use any pesticide, other than naphthalene, for the purpose of killing, injuring, repelling or affecting the behavior of bats unless that person has an emergency use permit from the department under sub. (2).

(2) EMERGENCY USE PERMIT. The department may issue a permit, under s. 94.708 (4), Stats., authorizing the emergency use of a pesticide other than naphthalene on a bat colony if a rabies outbreak or other condition in that bat colony threatens the health or welfare of any person. The department shall issue the emergency use permits according to the procedure specified under s. ATCP 29.70. The department may not issue a permit based solely on a finding of a single rabid bat.

Note: See s. 94.708, Stats., which also restricts the advertising and promotion of pesticides to control bats.

History: Cr. Register, May, 1998, No. 509, eff. 6−1−98.

Subchapter VI — Chloropicrin and Metam Sodium Pesticides

ATCP 30.22 Metam sodium pesticides; use restrictions. **(1)** DEFINITIONS. In this section:

(a) "Chemigation" has the meaning given in s. ATCP 29.54 (1) (d).

(am) "Chloropicrin pesticide" means any soil fumigant or other pesticide containing chloropicrin.

(b) "Metam sodium" means Sodium N−Methyldithiocarbamate, also referred to as metham sodium.

(c) "Metam sodium pesticide" means any soil fumigant or other pesticide containing metam sodium.

(d) "Public building" has the meaning given under s. 101.01 (12), Stats., but does not include a residential structure.

(e) "Residential structure" means a structure which is used wholly or in part as a human residence, and includes all lawns, grounds, facilities, and furnishings pertaining to that structure. "Residential structure" includes all of the following:

1. A residential structure occupied on a rental basis.

2. A mobile home and the site on which it is located.

3. A hotel, motel or similar premises occupied on a transient basis.

4. A hospital, nursing home, or similar facility occupied by persons receiving medical care or related services.

5. A prison, jail or other place of detention.

(f) "Tarped application" means an application to a site that is required to be covered with a tarp or other impermeable barrier, as provided in sub. (4).

(g) "Untarped application" means an application other than a tarped application.

(2) APPLICATOR CERTIFICATION. (a) No individual may apply a metam sodium pesticide unless that individual is one of the following:

1. Licensed and certified as a commercial applicator under ss. ATCP 29.25 and 29.26. The individual shall be certified as a commercial applicator in the appropriate use category or categories under s. ATCP 29.31.

2. Certified to make that application as a private applicator under s. ATCP 29.27.

3. Applying the pesticide solely for household purposes around that individual's residence.

(b) No individual may apply a metam sodium pesticide by means of chemigation unless that individual is certified under s. ATCP 29.29 (2).

(c) No individual may apply a metam sodium pesticide by means of soil fumigation unless that individual is certified under s. ATCP 29.29 (3) or (4).

(3) AGRICULTURAL APPLICATION SITES. (a) *Tarped applications.* No person may make a tarped application of a chloropicrin pesticide or a metam sodium pesticide for any agricultural purpose within 1/8 mile of any of the following:

1. A hospital, nursing home, jail or prison.

2. A school that will be in session during the application or within 48 hours after the application is completed.

3. A licensed daycare facility that will be in session during the application or within 48 hours after the application is complete. This subdivision does not apply to an application to a plant nursery that was in existence prior to the date the daycare was first licensed if the plant nursery operator provides notice of the application to the daycare operator at least 24 hours in advance of the application and at a time when the daycare is in session.

Note: A listing of licensed daycares in each county can be found at http://dcf.wisconsin.gov/childcare/licensed/search.HTM

(b) *Untarped applications.* Except as provided in par. (a) 3., no person may make an untarped application of a chloropicrin pesticide or metam sodium pesticide for any agricultural purpose within 1/4 mile of any structure identified in par. (a).

(4) AGRICULTURAL APPLICATION METHODS. (a) A person who applies a chloropicrin pesticide or a metam sodium pesticide for an agricultural purpose shall cover the application site with a tarp or other impermeable barrier, as prescribed by the pesticide label, immediately after that person applies the pesticide to the soil surface or incorporates it into the soil by discing or tilling.

(b) Paragraph (a) does not apply to any of the following:

1. An application in which the pesticide is injected beneath the soil surface.

2. A chemigation application complying with sub. (5).

(c) No person may apply a metam sodium pesticide for any agricultural purpose by means of knife rig injection when the soil temperature is greater than 75° Fahrenheit measured at a depth of 5 to 6 inches.

(5) CHEMIGATION. A chemigation application of a chloropicrin pesticide or a metam sodium pesticide shall comply with s. ATCP 29.54 and all of the following:

(a) The person making the application shall provide 72 hours advance written notice of the application to the county public health agency and to every individual or household residing within 1/4 mile of the chemigation application site. If an individual or household resides in a residential structure other than a one−family or two−family dwelling, written notice to the manager of the residential structure constitutes notice to that individual or household under this paragraph. Notice under this paragraph shall include all of the following:

1. The location of the application site.

2. The earliest possible date and time when application will begin.

3. The brand name of the chloropicrin pesticide or metam sodium pesticide that will be applied.

4. Notice that eye irritation is an early symptom of chloropicrin or metam sodium exposure, and that eye irritation may be alleviated by leaving the affected area.

5. Notice that a resident may obtain the pre−application information under par. (b) if that resident requests the information at least 24 hours before the application is scheduled to occur.

6. The name, address and telephone number of an individual who will provide further information upon request, including pre−application information under par. (b).

(b) If a resident requests pre−application information under par. (a) 5., the person making the application shall provide the following written information to the requester before making the application:

1. A copy of the pesticide label.

2. Metam sodium and chloropicrin toxicology and poisoning manifestations as described in *Recognition and Management of Pesticide Poisonings*, United States environmental protection agency, EPA 735−R−98−003, March 1999, fifth edition, or in other materials approved by the department.

Note: The department will provide a free copy of the information under subd. 2. to a person making a metam sodium or chloropicrin pesticide application. To obtain a copy, you may contact the department at the following address: Department of Agriculture Trade and Consumer Protection, Division of Agricultural Resource Management, Bureau of Agrichemical Management, P.O. Box 8911 Madison, WI 53708−8911.

3. The date on which the pesticide will be applied. With the prior consent of the requesting resident, the person making the application may give the application date orally, rather than in writing.

(c) An applicator certified according to s. ATCP 29.29 (2) shall be present at the chemigation site at all times during the chemigation application.

(d) No metam sodium pesticide may be applied by chemigation if the air temperature at the application site exceeds 80° Fahrenheit.

(e) No metam sodium pesticide may be applied by chemigation if the soil temperature at the application site exceeds 70° Fahrenheit at a depth of 5 to 6 inches.

(f) No metam sodium pesticide may be applied by chemigation if a local weather forecast indicates that more than 3/4 of an inch of rainfall may occur in the area of the application site within 6 hours following application.

(6) MONITORING AND REPORTING. (a) Whenever a chloropicrin pesticide or a metam sodium pesticide is applied for agricultural purposes, a certified applicator shall inspect the application site within one hour of sunset on the day of application.

(b) An applicator making an inspection under par. (a) shall do all of the following as part of that inspection:

1. Check the treated area and surrounding areas for volatilized gas odors resulting from the application.

2. Carefully monitor all locations where gases have volatilized.

3. Initiate follow−up action under this subsection, if required.

4. Use proper safety equipment and precautions.

(c) If any person making a chloropicrin pesticide or metam sodium pesticide application has reason to believe that gas volatilization from the application may result in significant pesticide drift under s. ATCP 29.50 (2), that person shall immediately do all of the following:

1. Irrigate the application site with 1/4 inch to 1/2 inch of water if it is possible to do so.

2. Notify the department.

3. Notify Wisconsin emergency management if it appears that a residential structure or public building may be exposed to significant pesticide drift under s. ATCP 29.50 (2). Notice shall include the location of the application site and the affected residential structure or public building.

Note: The telephone number for Wisconsin emergency management is 1−800−943−0003. The telephone number for the department is (608) 224−4500.

(7) RECORDKEEPING REQUIREMENTS. (a) A person applying a chloropicrin pesticide or a metam sodium pesticide shall keep all of the following records:

1. Applicable records required under s. ATCP 29.21 or 29.33.

2. The time of each inspection under sub. (4), the results of the inspection, and any actions taken under sub. (4) as a result of the inspection.

3. The soil temperature at the time of application if the application is made by knife rig injection or chemigation. The soil temperature shall be measured 5 to 6 inches below the soil surface.

(b) A person shall retain records under par. (a) for at least 2 years, and shall make them available to the department for inspection and copying upon request.

History: Cr. Register, May, 1998, No. 509, eff. 6−1−98; **CR 06−136: cr. (1) (am), (f) and (g), (4) (a), (5) (intro.) and (a) 3. and 4., (b) 1., 2. and (c), (6) (a) (intro.), (c), 3. and (7) (a) (intro.), r. and recr. (3), Register July 2007, No. 619, eff. 8−1−07.**

Subchapter VII — Aldicarb Pesticides

ATCP 30.24 Aldicarb use restrictions; reporting requirements. (1) DEFINITIONS. As used in this section:

(a) "Division" means the agricultural resource management division of the department.

(b) "Point of standards application" means a point of standards application as defined in s. ATCP 31.01 (13).

(c) "Prohibition area" means an area in which aldicarb use is prohibited under sub. (8).

(d) "Reliable groundwater test result" means an official groundwater test result as defined in s. ATCP 31.01 (8), or a groundwater test result which the department determines to be reliable under s. ATCP 31.02 (2). It includes every groundwater test result which was used as a basis for prohibiting aldicarb use under the provisions of this section, which became effective on or after April 1, 1983.

(2) GENERAL RESTRICTIONS ON ALDICARB USE. (a) *Amount and frequency of use.* No pesticide containing the active ingredient aldicarb may be applied at a rate exceeding 2 lbs. of aldicarb active ingredient per acre, or to the same application site more than once in any 2 successive years. Sites treated with aldicarb in 1987 may not be treated with aldicarb in 1988.

(b) *Use by certified applicators only.* Pesticides containing the active ingredient aldicarb are classified as restricted−use pesticides. As restricted−use pesticides, they may only be applied by the following persons:

1. An individual commercial applicator certified in the pest control category pertaining to the type of application being made.

2. A certified private applicator.

(c) *Timing of application.* No pesticide containing the active ingredient aldicarb may be applied on potatoes sooner than 28 days after the date of planting or later than 42 days after the date of planting. Potatoes from fields treated with aldicarb may not be harvested sooner than 50 days after the date of treatment.

(3) REPORT OF INTENDED APPLICATION. (a) No person may apply a pesticide containing the active ingredient aldicarb unless a report of intended application has been filed with the department at least 45 days before the pesticide is applied. Reports of intended application shall be made on forms provided by the department, and shall specify:

1. The name, address, and applicator certification number of the person making the application.

2. The name and address of the person contracting for the application, if any.

3. The crop on which the pesticide is to be applied, and the pests intended to be controlled by the application.

4. The specific location at which the pesticide is to be applied, including town, range, section and quarter−quarter section.

5. The approximate date on which the pesticide is to be applied.

6. The size of the area to be treated, and the amount of pesticide to be applied.

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7. The history of aldicarb applications, if any, to the intended application site for the previous 3 years, specifying the year of each prior application.

(c) No person may apply a pesticide containing the active ingredient aldicarb except at the location identified in the report of intended application.

(d) No person may falsify information submitted under this subsection.

(4) DEPARTMENT REVIEW OF PROPOSED APPLICATIONS; EVALUATION OF APPLICATION SITES. Whenever the department receives a report of intended application under sub. (3), the department shall evaluate the proposed application site for susceptibility to groundwater contamination by aldicarb residues. The evaluation shall be based on the relevant environmental characteristics of the proposed application site, including depth to groundwater and soil texture. Site characteristics used in the evaluation shall be determined on the basis of data published by the Wisconsin geological and natural history survey, the U.S. department of agriculture soil conservation service, or other reliable sources.

(5) ALDICARB APPLICATIONS TO CERTAIN SITES PROHIBITED. (a) The department shall, by summary special order, prohibit a proposed aldicarb application if either of the following applies:

1. The proposed application site is within a prohibition area created under sub. (8).

2. In the judgment of the department based on a site evaluation under sub. (4), the proposed application is likely to cause aldicarb residues to be present in groundwater at a concentration of 10 ppb or more at any point of standards application.

(b) A person prohibited from using aldicarb under par. (a) 1. may request an exemption from the prohibition. Except as provided in par. (d), the department may not grant an exemption unless the department finds all the following:

1. That the concentration of aldicarb at each point of standards application used in determining the need for the prohibition has been below the enforcement standard for at least 2 years in a stable or declining pattern.

2. That, to a reasonable certainty, by the greater weight of the credible evidence, application of pesticides containing aldicarb in the prohibition area will not result in noncompliance with the enforcement standard at any point of standards application used in determining the need for the prohibition. In making this determination, the department shall consider whether the prohibition was based in whole or in part on the use of pesticides containing aldicarb prior to April 1, 1983.

(c) The department may require a person requesting an exemption under par. (b) to submit proof that the exemption requirements under par. (b) are met. The division administrator or the administrator's designee shall issue the exemption, if any, in writing. Every exemption shall contain a specific statement of facts and conclusions which form the basis for the exemption. An exemption under par. (b) does not constitute an exemption from any other provision of this section.

(d) Notwithstanding par. (a), the department may authorize the controlled application of aldicarb to a limited portion of a prohibition area for research purposes approved by the department. The division administrator or the administrator's designee shall issue the authorization in writing, and shall describe the scope and basis of the authorization.

(6) ALDICARB APPLICATIONS PROHIBITED AT CERTAIN SITES EXCEPT IN CONJUNCTION WITH GROUNDWATER MONITORING. (a) If a proposed aldicarb application is not subject to prohibition under sub. (5), but the department determines under sub. (4) that the proposed application may cause aldicarb residues to be present in groundwater at a concentration of 2 ppb or more at any point of standards application, the department shall issue a summary special order prohibiting the proposed aldicarb application unless:

1. All of the conditions under par. (b) are met as required in the order; or

2. The owner of the proposed application site, and every other person filing a report of intended application for the site, agrees that future applications to the site may be prohibited based on groundwater test results obtained from a representative application site chosen by the department, if the groundwater test results at the representative application site show aldicarb residues in concentrations of 10 ppb or more. A representative application site is a site which, in the department's judgment, is similar in its relevant environmental characteristics to the proposed application site described in the report of intended application. Relevant environmental characteristics include the characteristics listed under sub. (4). In determining whether one application site may be considered representative of another, the department shall compare any prior existing concentrations of aldicarb residues which are known to be present in groundwater at the 2 sites.

(b) A summary special order under par. (a) 1. shall include all of the following conditions:

1. One or more monitoring wells shall be installed at the proposed application site according to a written plan which is approved in writing by the department prior to the aldicarb application. The plan shall specify:

a. The number and location of the monitoring wells. At least one monitoring well shall be installed for each quarter section of land on which aldicarb is to be applied.

b. The materials from which the monitoring wells will be constructed.

c. The depth of each monitoring well, and the type, length and diameter of the sample screen on each well.

d. The date by which each monitoring well is to be installed.

e. Whether or not each monitoring well will be considered a point of standards application.

2. Groundwater samples shall be collected from each monitoring well under par. (a) and tested for aldicarb residues according to a plan which is approved by the department prior to the aldicarb application. The plan shall specify:

a. The number of groundwater samples to be collected from each monitoring well, and the intended dates of collection.

b. The persons or agencies who will collect the groundwater samples.

c. The laboratory at which the groundwater samples are to be tested for aldicarb residues. Groundwater samples shall be promptly tested for aldicarb residues after the samples are collected. Test methods shall be approved by the department and have a limit of detection at or below one part per billion. Groundwater test results shall be promptly forwarded to the department.

3. The owner of each monitoring well site under par. (a) shall agree in writing, prior to the aldicarb application, that:

a. Groundwater test results obtained from the monitoring well may be used to prohibit future aldicarb applications to the application site, as appropriate pursuant to ch. 160, Stats., and department rules, if the groundwater test results indicate that aldicarb residues are present in groundwater at a concentration of 10 parts per billion or more.

b. The department may at reasonable times, and upon prior notice to the owner of the monitoring well site, inspect the monitoring well and collect groundwater samples from the monitoring well.

(c) This subsection does not apply to controlled applications of aldicarb for research purposes, if authorized by the department under sub. (5) (c).

(7) SUMMARY SPECIAL ORDERS; GENERAL. (a) *How and to whom issued.* A summary special order under sub. (5) or (6) shall be issued to each person identified in the corresponding report of intended application. A summary special order shall be signed by

the division administrator or the administrator's designee, and be served in person or by certified mail, return receipt requested.

(b) *Coverage; effective date and duration.* A summary special order under sub. (5) or (6) shall prohibit all proposed applications of aldicarb to the site or sites described in the order, except as specifically provided under sub. (6). A summary special order under sub. (5) or (6) becomes effective on the date of service.

Note: A "proposed application" means an application described in a report of intended application under sub. (3).

(c) *Timely response to notice of intended application.* A summary special order, if issued under sub. (5) or (6), shall be issued within 30 days after a report of intended application is filed with the department. This subsection does not prohibit the department from issuing a summary special order under sub. (5) at a later date, based on new information received more than 30 days after the date on which the report of intended application was received by the department.

(d) *Right of hearing.* Summary special orders are subject to a subsequent right of hearing before the department upon request, as provided in s. 94.71 (3) (c), Stats. Hearings shall be limited to the issue of whether the department has correctly interpreted and applied this section.

(e) *Violations prohibited.* No person may apply aldicarb in violation of a special order issued by the department under this section. No person may violate the terms and conditions of a monitoring agreement under sub. (6).

(8) PROHIBITION AREAS. (a) *General.* A proposed application site is subject to prohibition, for purposes of sub. (5), if the proposed application site is located wholly or in part within a prohibition area under this subsection.

(b) *Creation and scope of prohibition areas.* 1. A prohibition area is created to include every township quarter−quarter section lying wholly or in part within one mile of a point of standards application at which aldicarb residues have been detected in groundwater at a concentration of 10 ppb or more, based on a reliable groundwater test result received by the division at any time before or after April 1, 1988. If the reliable groundwater test result was received by the division before April 1, 1988, the prohibition area is created on April 1, 1988. If the reliable groundwater test result is received by the division after April 1, 1988, the prohibition area is created on the date when the groundwater test result is received by the division. The one mile radius from the point of standards application shall be calculated from the center point of the township quarter−quarter section in which the actual point of standards application is located.

2. If any prohibition area is contiguous with or overlaps 2 or more other prohibition areas, there is created a new prohibition area which includes each quarter−quarter section any part of which lies within a 2−mile radius of each point of standards application used in determining the need for the contiguous or overlapping prohibition areas.

(9) DISTRIBUTORS AND RETAIL DEALERS OF ALDICARB; RECORDKEEPING AND REPORTING REQUIREMENTS. Distributors and retail dealers shall keep records of aldicarb distributions and sales, specifying the amount of aldicarb product included in each sale or distribution, and the name and address of the purchaser or recipient. During each week in which aldicarb sales or distributions are made by a distributor or dealer, the distributor or dealer shall file a written report with the department, specifying the amount of aldicarb product sold or distributed during that week to each purchaser or recipient, and the name and address of each purchaser or recipient. Reports may be in the form of actual invoice copies or written sales or distribution summaries.

(10) NOTICE OF CONTAMINATION FINDINGS. (a) Whenever the department receives a reliable groundwater test result which indicates that aldicarb residues are present in groundwater at a concentration of one part per billion or more, the department shall give written notice of the groundwater test result to:

1. The Wisconsin department of natural resources and the Wisconsin department of health services.

2. The county health department or county nurse, and the county extension agent for the county in which the groundwater sample was drawn.

3. All persons who have filed reports of intended application for aldicarb applications to be made in township quarter−quarter sections located wholly or in part within one mile of the sample point.

(b) Notice under par. (a) shall specify the township and quarter−quarter section in which the groundwater sample was taken, if known, and the concentration of aldicarb residues found in the sample. Notice shall include such explanations and precautionary statements as may be considered appropriate by the department.

(11) GREENHOUSE AND RESEARCH APPLICATIONS; EXEMPTION. This section does not apply to greenhouse applications of aldicarb or to research applications made pursuant to an experimental use permit issued by the department.

(12) COMPLIANCE WITH PREVENTIVE ACTION LIMIT NOT NECESSARILY MAINTAINED; REQUIRED DISCLOSURE BY DEPARTMENT. Based on information available to the department, it appears that aldicarb applications to susceptible application sites will result in groundwater contamination exceeding the preventive action limit for aldicarb at points of standards application downgradient from the application sites. Aldicarb applications to many of these sites will be subject to prohibition under sub. (5). In addition, sub. (2) continues current management practice requirements, and sub. (6) creates groundwater monitoring requirements. These combined requirements are designed to limit aldicarb contamination and detect any contamination which may occur. However, these requirements may not be adequate to assure compliance with the preventive action limit for aldicarb in all cases. If the enforcement standard for aldicarb is unexpectedly exceeded at an individual site, future applications at that site will be subject to prohibition under ch. 160, Stats., ch. ATCP 31, and other applicable rules of the department.

Note: This notice is given pursuant to the requirements of s. 160.19 (2) (b), Stats. It is intended solely as a disclosure statement, and does not affect or alter any other provision of this section.

History: Emerg. cr. eff. 3−15−82; cr. Register, March, 1983, No. 327, eff. 4−1−83; emerg. r. eff. 3−3−86; r. and recr. Register, March, 1988, No. 387, eff. 4−1−88; am. (2) (b) 1. and 2. and (11), r. (3) (b), Register, April, 1990, No. 412, eff. 5−1−90; renum. from ATCP 29.17 and am. (12), Register, May, 1998, No. 509, eff. 6−1−98; correction in (1) (d), (5) (b) and (c) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519; r. and recr. (5) (b) and (c), cr. (5) (d), Register, March, 2000, No. 531, eff. 4−1−00; correction in (10) (a) 1. made under s. 13.93 (2m) (b) 6., Stats., Register April 2004 No. 580; **correction in (10) (a) 1. made under s. 13.92 (4) (b) 6., Stats.**

Subchapter VIII — Atrazine Pesticides

ATCP 30.30 Definitions. The definitions in s. 94.67, Stats., apply to this chapter, as do the following definitions:

(1) "Atrazine" or "atrazine active ingredient" means the pesticide chemical 2−chloro−4−ethylamino−6−isopropylamino−1,3,5 triazine.

(2) "Atrazine product" means any pesticide containing the active ingredient atrazine as identified on the EPA registered label, either alone or in combination with other pesticides.

(3) "Atrazine management area" means a designated area within the state of Wisconsin in which specific restrictions on atrazine use are created under s. ATCP 30.34.

(4) "Board" means the board of agriculture, trade and consumer protection.

(5) "Coarse soil" means a surface soil containing soil texture classes sand, loamy sand or sandy loam.

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http://docs.legis.wisconsin.gov/code/admin_code

(6) "Department" means the Wisconsin department of agriculture, trade and consumer protection.

(7) "Enforcement standard" has the meaning specified in s. 160.01 (2), Stats.

(8) "Field moisture capacity" means the amount of water that can be held by soil, in the root zone of the crop being grown, against the force of gravity.

(9) "Flood plain" means a nearly level alluvial plain bordering a river and subject to flooding unless protected artificially.

(10) "Groundwater" has the meaning specified in s. ATCP 31.01 (6).

(11) "Irrigation" has the meaning specified in s. ATCP 29.01 (28).

(12) "Lower Wisconsin river valley" means the river terraces and flood plain on either side of the Wisconsin river, downstream of the state highway 60 bridge at Prairie du Sac and upstream of the confluence of the Wisconsin and Mississippi rivers.

(13) "Mixer−loader" means a person who mixes pesticide in or transfers pesticide into nurse tanks or application equipment.

(14) "Official groundwater sample" has the meaning specified in s. ATCP 31.01 (7).

(15) "Official groundwater test result" has the meaning specified in s. ATCP 31.01 (8).

(16) "Preventive action limit" has the meaning specified in s. 160.01 (6), Stats.

(17) "Prohibition area" means an area in which atrazine product is prohibited under this subchapter.

(18) "Recharge zone" means the land area contributing recharge water to that portion of an aquifer supplying a well.

(19) "Rescue treatment" means an emergency application of atrazine with crop oil, made after crop emergence to control weeds which are reasonably likely to cause crop yield reduction, either because preplanting, preemergence or planned postemergence application of herbicides failed to control weeds or because weather conditions prevented use of planned mechanical operations for weed control.

(20) "River terrace" means an old alluvial plain, ordinarily flat or undulating, bordering a river.

(21) "Root zone" means the mass of soil extending downward to the depth of the roots of the crop being grown.

(22) "Soil texture class" means the soil texture designations sand, loamy sand, sandy loam, loam, silt, silt loam, sandy clay loam, clay loam, silty clay loam, sandy clay, silty clay and clay, as defined in *Soil Taxonomy, Agriculture Handbook No. 436, pages 469 to 472 (U.S. department of agriculture soil conservation service: 1975).*

Note: A copy of relevant portions of *Soil Taxonomy, Agriculture Handbook No. 436* may be inspected at the central offices of the Department of Agriculture, Trade and Consumer Protection, the Secretary of State and the Legislative Reference Bureau. This volume is also commonly available in USDA Soil Conservation Service offices throughout the state.

The USDA Soil Conservation Service has prepared soil surveys for most Wisconsin counties. Atrazine users may refer to these surveys to determine the surface soil texture in areas where they wish to apply atrazine. Atrazine users may also use reliable sampling and testing methods to determine soil texture.

(23) "Surface soil" means the soil ordinarily moved in tillage, or its equivalent in uncultivated soil, ranging in depth from 4 to 10 inches.

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; renum. (19) to (22) to be (20) to (23), cr. (19), Register, March, 1992, No. 435, eff. 4−1−92; am. (12), Register, March, 1993, No. 447, eff. 4−1−93; renum. from ATCP 30.01, Register, May, 1998, No. 509, eff. 6−1−98; correction in (3) made under s. 13.93 (2m) (b) 7., Stats, Register, May, 1998, No. 509; CR 01−028: am. (17), Register September 2001 No. 549 eff. 10−1−01.

ATCP 30.31 General restrictions and requirements for use of atrazine. (1) PROHIBITION ON NON−CROP USES. Atrazine product may only be used on agricultural crops. For purposes of this chapter, agricultural crops include forestry crops and tree plantations. No atrazine product may be used on non−crop application sites such as railroad, power line and road rights of way and industrial sites.

(2) TIMING OF APPLICATION. No atrazine product may be applied to any site before April 1 or after July 31 in any year.

(3) USE OF ATRAZINE WITH IRRIGATION. The following restrictions apply to the use of atrazine product with irrigation:

(a) Except as provided under s. ATCP 30.38 (2), no person may apply atrazine product through an irrigation system.

(b) No person may apply irrigation water to any site to which atrazine product has been applied on or after April 1, 1991 for a 2−year period following the application of atrazine product, unless the application of irrigation water is conducted in accordance with an irrigation management program that does not cause the field moisture capacity in the root zone of the soil being irrigated to be exceeded.

(4) USE AND MIXING–LOADING BY CERTIFIED APPLICATORS AND MIXER–LOADERS ONLY. (a) Atrazine product may only be applied by a certified private applicator or by a person who is certified as a commercial applicator in the appropriate pesticide use category under s. ATCP 29.16.

(b) Atrazine product may only be mixed or loaded by a certified private applicator or by a person who is certified as a commercial applicator or mixer−loader in the appropriate pesticide use category under s. ATCP 29.16.

Note: Sections ATCP 29.45 and 29.46 prohibit mixing or loading of atrazine or other pesticides within 100 feet of any well or surface water unless the mixing or loading occurs over a spill containment pad that is constructed in compliance with the rule's specifications. Sections ATCP 29.47 and 29.50 prohibit the disposal of atrazine or other pesticides, pesticide containers including empty containers, pesticide spray solutions and pesticide rinsates in a manner inconsistent with label directions.

(5) RECORDKEEPING. (a) Every person who applies atrazine product shall keep a record of every application of atrazine product. The record shall be completed on the day of application and include the following:

1. The name of the individual who applied the atrazine product.

2. The name and address of the person for whom the atrazine product was applied, if different from the person who applied the atrazine product.

3. The location of the site where the atrazine product was applied.

4. The date and time of the application.

5. The brand name of the atrazine product.

6. The name of the labeler of the atrazine product, or the federal environmental protection agency registration number (EPA Reg. No.) for the atrazine product.

7. The rate of application and size of the total area treated.

8. The location of the site, if other than the site of application, where the atrazine product was loaded into the application equipment or nurse tank.

9. A map of the field as required under s. ATCP 30.32 if the field is subdivided into smaller application sites and different amounts of atrazine product are applied to the different sites.

(b) Every record of an atrazine product application under par. (a) shall be retained for 3 years after the application date. The record shall, at the request of the department, be made available for inspection and copying by the department.

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; am. (3) (a), Register, March, 1994, No. 459, eff. 4−1−94; correction in (5) (a) 9. made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1994, No. 459; renum. from ATCP 30.05, Register, May, 1998, No. 509, eff. 6−1−98; correction in (3) (a) and (5) (b) 9. made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1998, No. 509; CR 03−076: am. (2) Register April 2004 No. 580, eff. 5−1−04.

ATCP 30.32 Maximum application rates. Except where further restricted under subchs. II and III, the amount of atrazine active ingredient applied to any application site during

any calendar year may not exceed the maximum amount specified for that site under this section.

(1) Except as provided under sub. (3), if at least one−fourth of the surface soil at the application site is a coarse soil, the maximum amount is 0.75 lb. per acre per calendar year.

(2) Except as provided under sub. (3), if less than one−fourth of the surface soil at the application site is a coarse soil, the maximum amount is 1.0 lbs. per acre per calendar year.

Note: The following table summarizes subs. (1) and (2). See ss. ATCP 30.34 to 30.39 for additional local restrictions.

Table 1
Atrazine Application Limits (Statewide)

Surface Soil Texture	Maximum annual amounts (lbs. of atrazine active ingredient per acre per year)	
	Atrazine applied previous year	Atrazine NOT applied previous year
Coarse	0.75	0.75
Medium/Fine	1.0	1.5

(3) If a rescue treatment is needed for a field of seed corn or sweet corn, the total amount of atrazine applied to that field in that calendar year may not exceed the following applicable amounts:

(a) 1. 5 lbs. per acre per calendar year if at least one− fourth of the surface soil is a coarse soil.

(b) 2. 0 lbs. per acre per calendar year if less than one− fourth of the surface soil is a coarse soil.

Note: The following table summarizes sub. (3). See ss. ATCP 30.34 to 30.39 for additional local restrictions.

Table 2
Rescue Treatments for Seed and Sweet Corn
(Not Field Corn)

Surface Soil Texture	Maximum annual amounts (lbs. of atrazine active ingredient per acre per year) including rescue treatment
Coarse	1.5
Medium/Fine	2.0

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; am. (intro.), (1) and (2), r. and recr. (3), r. (3) Table 1, Register, March, 1993, No. 447, eff. 4−1−93; renum. from ATCP 30.10, Register, May, 1998, No. 509, eff. 6−1−98.

ATCP 30.33 Annual report and recommendations. **(1)** ANNUAL REPORT. The department shall provide the board with an annual report which includes state groundwater test results under sub. (2) and the department's recommendations under sub. (3). If the department recommends that the use of atrazine be further restricted or prohibited, the department shall submit draft rules to implement its recommendations, according to sub. (4).

(2) GROUNDWATER TEST RESULTS. The annual report under sub. (1) shall indicate the results of statewide groundwater tests for atrazine and its metabolites. The report shall indicate all groundwater test results that equal or exceed the preventive action limit for atrazine, and all results that equal or exceed the enforcement standard for atrazine. The report shall also discuss the results of the department's investigations related to atrazine in groundwater, significant trends or developments related to atrazine in groundwater, and other information which the department considers relevant to the regulation of atrazine.

(3) RECOMMENDATIONS. Based on groundwater test results and other relevant information, the department shall annually evaluate its restrictions on the use of atrazine. As part of its annual report under sub. (1), the department shall recommend further restrictions on atrazine use which the department considers necessary, pursuant to ch. ATCP 31 and this chapter. This may include recommendations for any of the following:

(a) Statewide restrictions or prohibitions against the use of atrazine.

(b) Atrazine management areas under s. ATCP 30.34.

(c) Atrazine prohibition areas under ss. ATCP 30.35 to 30.39.

(4) RULES. If the department recommends further restrictions on the use of atrazine under sub. (3), the department shall submit proposed hearing draft rules to implement its recommendations. If the board declines to adopt final draft rules, or approves final draft rules that differ from the department's hearing draft rules, the department shall identify each rule modification to the legislature, as part of the department's report under s. 227.19 (2), Stats. Except in an emergency, the department shall transmit its final draft rules for legislative committee review under s. 227.19, Stats., by January 1 of each year.

History: Cr. Register, March, 1993, No. 447, eff. 4−1−93; renum. from ATCP 30.11, Register, May, 1998, No. 509, eff. 6−1−98; correction in (3) (b) and (c) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1998, No. 509.

ATCP 30.34 Creation of atrazine management areas. **(1)** AUTHORITY. In addition to any other restrictions under this chapter or ch. ATCP 31, the department may, by rule, restrict the use of atrazine product in atrazine management areas designated according to this section.

(2) CRITERIA. The department shall create an atrazine management area whenever it determines that supplementary atrazine use restrictions are appropriate in that area to prevent or minimize atrazine contamination of groundwater. The department may consider the following factors, among others, in determining whether to create atrazine management areas:

(a) The frequency of atrazine detections in reliable groundwater test samples taken from a geographically proximate area.

(b) The frequency of atrazine detections over the preventive action limit or over the enforcement standard in reliable groundwater samples taken from a geographically proximate area.

(c) The finding of an elevated mean or median concentration of atrazine in reliable groundwater samples taken from a geographically proximate area, as compared to statewide concentrations.

(d) Results of analysis of reliable groundwater samples from monitoring wells in areas with known atrazine use histories.

(e) The uniformity of hydrogeologic characteristics in a geographically proximate area.

(f) Research results indicating susceptibility of the groundwater to atrazine contamination in a geographically proximate area.

(g) Technical or economic factors which are specific to a geographically proximate area.

(4) DETERMINING BOUNDARIES. An atrazine management area may encompass land areas which, in the department's judgment, are susceptible to atrazine contamination of groundwater based on the factors identified under sub. (2). The boundaries of the atrazine management area shall be sufficient to minimize the concentration of atrazine in groundwater where technically and economically feasible or regain and maintain compliance with the preventive action limit, if technically or economically feasible, as provided in s. 160.23, Stats. Boundaries of atrazine management areas may include any of the following:

(a) Mapped boundaries between soil types or other hydrogeologic features.

(b) Groundwater or surface water divides such as watershed boundaries.

(c) Legal land description boundaries including political boundaries.

(d) Public roads.

(5) SCOPE OF RESTRICTIONS. The department may impose any of the following restrictions in an atrazine management area:

(a) Prohibitions against the use of atrazine product, subject to s. ATCP 31.08.

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http://docs.legis.wisconsin.gov/code/admin_code

(b) Limitations on the purpose for which atrazine product may be used, including limitation on the crops and target pests for which atrazine product may be used.

(c) Limitations on the rate at which atrazine product may be applied.

(d) Limitations on the time or frequency of atrazine product use.

(e) Limitations on the method of atrazine product use.

(f) Reporting or permit requirements applicable to the use of atrazine product.

(6) ATRAZINE MANAGEMENT PLAN. For each atrazine management area established under this subchapter, the department shall also establish an atrazine management plan. The atrazine management plan shall include all of the area in the atrazine management area, and any additional area determined by the department as necessary to achieve the purposes of the atrazine management area. The atrazine management plan shall contain:

(a) A delineation of the boundaries of the area subject to the plan.

(b) A groundwater monitoring program.

(c) An information and education program.

(d) A schedule for review of the effectiveness of the prohibitions and restrictions in the atrazine management area.

(e) Any other provisions deemed appropriate by the department.

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; am. (1), r. (3), Register, March, 1993, No. 447, eff. 4−1−93; renum. from ATCP 30.18, Register, May, 1998, No. 509, eff. 6−1−98.

ATCP 30.35 Creating prohibition areas. The department may prohibit use of atrazine products in any manner authorized under ss. 94.67 to 94.71, Stats., or under ch. 160, Stats., including the following:

(1) SITE–SPECIFIC PROHIBITIONS. The department may prohibit the use of atrazine products on a site−specific basis under ss. ATCP 31.07 and 31.08 (1) and (2).

(2) STATEWIDE OR REGIONAL PROHIBITIONS. The department may prohibit the use of atrazine products on a statewide or regional basis under s. ATCP 31.08 (3).

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; renum. from ATCP 30.25, Register, May, 1998, No. 509, eff. 6−1−98.

ATCP 30.36 Mixing and loading prohibited. No person may mix or load any atrazine product in a prohibition area identified under s. ATCP 30.37 unless the mixing and loading is conducted over a spill containment surface which complies with s. ATCP 29.45.

History: Cr. Register, March, 1992, No. 435, eff. 4−1−92; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1994, No. 459; renum. from ATCP 30.26, Register, May, 1998, No. 509, eff. 6−1−98; correction made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1998, No. 509; correction made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519.

ATCP 30.37 Prohibition areas. No person may apply any atrazine product in any of the following prohibition areas:

(1) The lower Wisconsin river valley except that atrazine may be applied to medium− and fine−textured soils in Township 9 North, Range 1 West, sections 27, 28, 29, 30, 31, 32, 33 and 34 and Township 9 North, Range 2 West, sections 25, 26, 27, 28, 32, 33, 34, 35 and 36 in compliance with ss. ATCP 30.31 and 30.32

(2) Any of the prohibition areas identified in Appendix A.

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; r. and recr. Register, March, 1992, No. 435, eff. 4−1−92; r. and recr. Register, March, 1993, No. 447, eff. 4−1−93; am. (1), Register, March, 1994, No. 459, eff. 4−1−94; renum. from ATCP 30.30, Register, May, 1998, No. 509, eff. 6−1−98; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1998, No. 509.

ATCP 30.375 Repealing prohibition areas. The department may repeal or reduce the size of a prohibition area under s. ATCP 30.37 if all the following conditions are met:

(1) Tests on at least 3 consecutive groundwater samples, drawn from each well site in the prohibition area at which the concentration of atrazine and its metabolites previously attained or exceeded the enforcement standard under s. NR 140.10, show that the concentration at that well site has fallen to and remains at not more than 50% of the enforcement standard. The 3 consecutive samples shall be collected at each well site at intervals of at least 6 months, with the first sample being collected at least 6 months after the effective date of the prohibition. A monitoring well approved by the department may be substituted for any well site which is no longer available for testing.

(2) Tests conducted at other well sites in the prohibition area during the same retesting period, if any, reveal no other concentrations of atrazine and its metabolites that exceed 50% of the enforcement standard under s. NR 140.10.

(3) The department determines, based on credible scientific evidence, that renewed use of atrazine products in the prohibition area is not likely to cause a renewed violation of the enforcement standard.

Note: The department may reinstate a repealed prohibition area if groundwater testing at a point of standards application shows an increasing trend of atrazine contamination, suggesting that contamination may again attain or exceed the enforcement standard.

History: Cr. Register, April, 1998, No. 508, eff. 5−1−98; renum. from ATCP 30.05, Register, May, 1998, No. 509, eff. 6−1−98; correction in (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1998, No. 509.

ATCP 30.38 Exemptions. (1) RESEARCH EXEMPTION. Notwithstanding any provision of this chapter, the department may issue a written permit authorizing the use of atrazine for bona fide research purposes. An applicant for a research permit shall apply to the department in writing. The application shall describe the proposed research, and the amounts and locations of proposed atrazine applications. The department may require an applicant to file other information which the department considers necessary for its review of the application.

(2) LAND SPREADING SOILS AND WATER. (a) Notwithstanding any provision of this chapter, the department may issue a written permit authorizing any person to land spread soils or water containing residues of atrazine or its metabolites in order to remedy soil or water contamination. Authorization, if any, shall be given in writing. The amount of atrazine and atrazine metabolites applied to a site by means of land spreading may not exceed the amount of atrazine active ingredient permitted under s. ATCP 30.32.

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; renum. to be (1), cr. (2), Register, March, 1993, No. 447, eff. 4−1−93; am. (2) (a) and (b), Register, March, 1994, No. 459, eff. 4−1−94; r. (2) (b), (c), renum. (2) (a) to be (2) and am., Register, March, 1995, No. 471, eff. 4−1−95; renum. from ATCP 30.35, Register, May, 1998, No. 509, eff. 6−1−98; correction in (2) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1998, No. 509.

ATCP 30.39 Review of provisions. Five years from April 1, 1991, the department shall provide a report to the board evaluating the provisions of this chapter and the need for modifications. The evaluation shall be based on groundwater and related data available to the department. Subject to the availability of funds, the evaluation shall include the results of 2 statistically designed surveys of atrazine in Wisconsin groundwater conducted 2 and 4 years after April 1, 1991. The department shall provide the board with an interim report on each groundwater survey when that survey is completed.

History: Cr. Register, March, 1991, No. 423, eff. 4−1−91; renum. from ATCP 30.40, Register, May, 1998, No. 509, eff. 6−1−98.