

1997-98 SESSION
COMMITTEE HEARING
RECORDS

Committee Name:

Joint Committee for
Review of
Administrative Rules
(JCR-AR)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR_RCP_pt01a
- 97hrAC-EdR_RCP_pt01b
- 97hrAC-EdR_RCP_pt02

- Appointments ... Appt
-
- Clearinghouse Rules ... CRule
-
- Committee Hearings ... CH
-
- Committee Reports ... CR
-
- Executive Sessions ... ES
-
- Hearing Records ... HR
-
- Miscellaneous ... Misc
- 97hr_JCR-AR_Misc_pt32a_Test
- Record of Comm. Proceedings ... RCP
-

To the Co-Chairmans

23 August 95

We the people of Wisconsin do hereby request the Joint Committee for Review of Administrative Rules to suspend NR 10.01 Sec (2)(g) the crow hunting season, for the following reasons;

- 1) It fails to comply with Legislative intent as outlined in NR 1.11 (1)(2).
 - (1) It has failed to "consider scientific foundations to be the Primary foundation to sound wildlife programs."
 - (2) It has failed to "consider alternative solutions and obtain Broad public input during its decision making process."
- 2) It further fails to comply with State Statute 227.14 (4a) No Agency may promulgate a rule which conflicts with State Law.
- 3) This rule is contrary to State Law - NR 1.015 (1a),(1c),(1d), (2),(2b),(2d).
 - (1a) Protect and manage nongame species.
 - (1c) Conduct research and surveys.
 - (1d) Establish long-range resource management plans and priorities.
 - (2) Sustain Wisconsin wildlife populations for their biological, recreational, cultural and economic value.
 - (2b) Assure continued opportunities for a whole range of human interactions with nature that goes beyond Hunting.
 - (2d) The future of hunting depends upon the quality, the behavior and sense of responsibility of today's hunter.,
BECAUSE WILDLIFE BELONGS TO ALL CITIZENS.
- 4) Failed to do a fiscal estimate on this particular rule, as required by State Statute 227.14 (4a)
- 5) It Fails to clarify how this rule, requiring a license can be enforced when it is in conflict with NR-12.05 which does not require a license or even a permit for the shooting of the same bird, the crow.
- 6) The department has failed to provide a purpose for this rule making it ARBITRARY and CAPRICIOUS.
- 7) During the Legislative hearings on this rule, the chairman's of both committee's failed to allow their committee members to reject this rule. On the Senate side only a paper ballot was presented, on the Assembly side the chairman verbally indicated that he would not allow a motion for rejection, only offering them a choice of bag limits, thereby circumventing the democratic process..

We therefore ask that you suspend this rule until your committee can review this rule and its impact.

Questions that have yet to be answered by the D.N.R. on Rule CR 95-29. Do not approve this rule until you get all of the answers.

The Legislature has delegated certain responsibilities to the D.N.R. called Administrative Rules. To insure that the Department acts responsibly and in accordance with N.R.1.11 and N.R.1.015 the Legislature requires the Department to present the proposed Rule for review. This is a Rule that needs serious review by this committee.

1. What studies has the Wisconsin D.N.R. done to determine if a crow season is viable?
How many crows do we have?
How many will be harvested?
What is the recovery rate?
2. Has a fiscal report been done on just the crow season?
Will a new license be required?
Will the Dept make or lose money on this season?
Can the Dept afford to lose money on this rule?
3. If the current law allows for the shooting of crows without a license or permit how is the Dept planning to enforce this new rule that requires a license for the shooting of the same bird?
4. Because the Bird Banding Studies only indicate the trends of a species not the number of a species how does the Dept plan to use the B.B.S. to gauge the impact of this Rule?
5. Why is lead shot going to be allowed under this Rule?
Half of this season will be in Jan., Feb. and Mar. when food for the carnivores is scarce and dead crows become their food source. Will this Rule just add to what is already a known problem to the environment?
6. Exactly how many crow hunters are there that plan to utilize this new Rule? If this is only being introduced for what is a minority of the licensed hunters why was it introduced in the first place?
7. When do neighboring States suspend their crow season to meet Federal Regulations relating to peak nesting periods?
What studies has the Dept done to meet this Federal Regulation?

THESE QUESTIONS MUST BE ANSWERED BEFORE THIS RULE IS APPROVED

John Jensen
327 E. Cedar St.
Horicon, WI 53032

January 15, 1996

Ms. Cheryl Gain
Small Business Ombudsman
Department of Commerce
123 W. Washington Avenue
Madison, WI 53702

Dear Ms. Gain:

Thank you for writing to express the concerns of the commercial fishing industry about the rule of the Department of Natural Resources that closes the perch fishery on Lake Michigan to commercial fisherman.

We have reviewed your letter and will keep these comments on file in the case that the joint committee holds additional meetings on this rule. We have also forwarded your concerns to the Secretary of the Department of Natural Resources for his reply, which will also be added to our file on this issue.

Once again, we appreciate you bringing these concerns to our attention.

Sincerely,

RICHARD GROBSCHMIDT
Senate Co-Chair

GLENN GROTHMAN
Assembly Co-Chair

RG:GG:js



DEC 18 1996
123 West Washington Avenue
P. O. Box 7970
Madison, Wisconsin 53707
(608) 266-1018

Tommy G. Thompson, Governor
William J. McCoshen, Secretary

December 16, 1996

Senator Richard Grobschmidt
Co-Chair
Joint Committee for the Review of Administrative Rules
Room 404, 100 N. Hamilton
Madison, Wisconsin

Dear Senator Grobschmidt:

As Small Business Ombudsman, I am writing to call your attention to industry concerns about Permanent Order FM-40-96 (CR-96-114) which revises Chapter NR 35, Wis. Adm. Code. This newly adopted rule change closes the yellow perch fishery in Lake Michigan to Wisconsin's commercial fishermen.

Members of the Wisconsin Commercial Fisheries trade association have contacted me regarding several issues that they believe have not been adequately resolved in public hearings and legislative committee rule-review to date. I am requesting that the Joint Committee for the Review of Administrative Rules re-examine these issues, and consider suspending the new rule until it encompasses industry concerns.

Please understand that Wisconsin's commercial fishermen do not question the current need for reducing the perch harvest or the premise of managing the fishery to sustain its population. However, they do object to specific aspects of the new rule, which they view as unfair and unduly burdensome to Wisconsin small businesses. Two major concerns have been represented to me:

1. **The question of parity.** Although the new rule severely reduces the sport-fishing bag limit for yellow perch, it allows Wisconsin's recreational fishermen to continue perch fishing in Lake Michigan. Wisconsin's commercial perch fishing businesses are requesting comparable treatment under this rule. The commercial fishermen seek the same percentage reduction in their individual quotas as prescribed for the sport-fishing bag limit, or the same aggregate pounds of perch harvest as projected for the sport fishing constituency. These businesses have indicated that it is imperative for them to maintain a baseline presence in the perch fishery. Otherwise, they fear a clear precedent will be set for their long-term exclusion from the fishery.
2. **Regional isolation.** The Wisconsin Department of Natural Resources (DNR) is currently acting alone, rather than in concert with neighboring states, in closing the Lake Michigan perch fishery to commercial fishing. Illinois and Indiana commercial fishermen remain free to harvest perch. As a result, Wisconsin fishing businesses will suffer economic hardship. Some may go bankrupt or be forced to divest their perch licenses, while commercial fishermen in other states benefit. Without cooperation from the other states, the Lake Michigan perch fishery remains in jeopardy, the time period for recovery is extended, and the hardship for

Senator Richard Grobschmidt

Page 2

December 16, 1996

Wisconsin businesses is magnified. The DNR should be encouraged to engage Illinois and Indiana resource management agencies in a coordinated, regional perch management effort. Moreover, there should be a sunset clause in the new rule to re-examine the restrictions on Wisconsin businesses if the other Lake Michigan states do not cooperate by June 30, 1997.

Thank you for this opportunity to convey the concerns of Wisconsin's commercial fishing industry regarding the closure of the yellow perch fishery. I am requesting that your committee reconsider the formulation of this rule, assessing its financial repercussions and relative fairness to Wisconsin fishermen, both in comparison to recreational fishing and to competing businesses in other states. Are Wisconsin businesses unfairly bearing a disproportionate share of the burden for restoring the fishery? If the joint committee reaches this conclusion, there is valid reason for suspending and modifying CR-96-114.

Yours truly,

A handwritten signature in cursive script that reads "Cheryl Gain".

Cheryl Gain
Small Business Ombudsman
608-267-9384

COPY

STATE OF WISCONSIN

CIRCUIT COURT

PRICE COUNTY

STATE OF WISCONSIN,

Plaintiff,

**CRIMINAL COMPLAINT
AND SUMMONS**

-vs-

FABIAN F. SHULTA,
(M)(W) DOB 04-28-34
910 W. Bridge St.
Wausau, WI 54401,

Case No. 96-CM- 12

Defendant.

Kendall Frederick, being first duly sworn, on oath says on information and belief that on November 21, 1995, in Price County, Wisconsin, the defendant did possess a deer carcass which was not tagged as required by law, in that the defendant did possess a spike buck deer which the defendant was dragging behind an ATV on Price County land; that the defendant had shot the spike buck on 11-20-95, and the deer was not tagged as required by law. The acts of the defendant are contrary to § 29.40(2), Wis. Stats.

PENALTY: A fine of not less than \$1,000.00 nor more than \$2,000.00 or imprisonment for not more than six (6) months, or both. In addition, the Court shall revoke all approvals issued to the defendant under Chapter 29 and shall prohibit the issuance of any new approval under Chapter 29 to the defendant for three (3) years. [Wis. Stats. § 29.99(11)]

BASIS: This complainant requests that the defendant be dealt with according to law, and that the basis for the complainant's charge of such offense is: This complainant is a conservation warden for the Wisconsin Department of Natural Resources and obtained his information during the course of his duties. This complainant states that on 11-21-95 he was contacted by Lincoln County Conservation Warden Thomas Wenninger and was informed by Wenninger that Wenninger had stopped a subject in Price County and the subject possessed an untagged deer; that Frederick proceeded to Wenninger's location where Wenninger told him as follows: that while on patrol on 11-21-95 he and Special Warden Andrew Shaney decided to follow some fresh ATV tracks which went behind a cabled gate to an Oneida County Forest hiking trail; that they followed the tracks on foot for about an hour, going generally in a westerly direction and which took them into Price County; that they did not see anyone and decided to return along the same tracks; that after going back

NOV 23 1995
PRICE COUNTY
WISCONSIN

STATE OF WISCONSIN vs. FABIAN F. SHULTA

Criminal Complaint and Summons - Page 2

a short distance they heard an ATV behind them and turned around to see a person wearing blaze orange a short distance off the ATV tracks; that they couldn't see what the person was doing and began to walk back toward the person, who then returned to the ATV, started it and drove toward the wardens; that when the ATV rider got to the wardens, Wenninger checked the person's hunting license which identified the person as Fabian F. Shulta, the defendant; that the defendant was pulling a dead buck behind the ATV and the deer was tagged with the defendant's carcass tag #604696; that Shaney started walking toward the spot the wardens had seen the defendant off the trail; that the defendant became nervous and called after Shaney; that Shaney continued to the location and found a dead spike buck deer about 15 yards off the ATV trail at the spot where they had earlier seen the defendant in the woods; that the deer was not tagged; that there had been no deer at that spot a few minutes earlier when the wardens walked past the same location; that tracks in the snow showed that the defendant had also been dragging the untagged deer behind the ATV and had stopped and dragged the deer a short distance into the woods and then returned to the ATV before driving toward the wardens; that the defendant was placed under arrest for being in possession of an untagged deer.

This complainant states that on 11-22-95 he spoke to Fabian F. Shulta, the defendant, who told him as follows: that on 11-20-95 he had shot three bucks, two spike bucks and a seven-pointer; that he was hunting with Fred Stronk and John McCarten but they were quite a distance from him; that he put his tag on the seven-pointer and dragged it out to the road; that he asked Stronk to tag one of the spike bucks but Stronk said no; that when the defendant got back to the motel he called Ray Cheyka in Wausau and asked Cheyka to drive up and put Cheyka's deer tag on the seven-pointer that evening, which Cheyka did; that the defendant took the defendant's tag off the seven-pointer and took it back to the woods with him the next day (11-21-95) to put on one of the spike bucks; that while dragging out the two spike bucks he ran into two wardens and they caught him with the untagged deer; that the defendant had asked McCarten to tag one of the spike bucks but McCarten also said no; that the defendant was going to get either Stronk or McCarten to tag one of the spike bucks that day; that the defendant shot all three deer with his .308 rifle.

This complainant was informed by Warden Wenninger that the area where the defendant was found in possession of the untagged deer was in Price County, Wisconsin.

This complainant believes the information provided by Warden Wenninger to be accurate and reliable because he is a fellow conservation warden who obtained his information during the course of his duties.


STATE OF WISCONSIN vs. FABIAN F. SHULTA

Criminal Complaint and Summons - Page 3

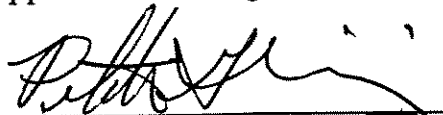
This complainant believes the statements of the defendant because they are against his penal interests.


Kendall Frederick

Subscribed and sworn to before me
this 1st day of Feb., 1996.


Patrick G. Schilling
Price County District Attorney
State Bar No. 01016989

Approved for filing:



Patrick G. Schilling
Price County District Attorney
State Bar No. 01016989

SUMMONS

THE STATE OF WISCONSIN TO SAID DEFENDANT:

The original of the above Complaint having been issued, accusing the defendant of committing the crime of possession of untagged deer, contrary to § 29.40(2), Wis. Stats. You are, therefore, summoned to appear before the Circuit Court of Price County at the Courthouse in the City of Phillips, Wisconsin, to answer said Complaint on **Tuesday, February 27, 1996, at 10:00 A.M.**, and in case of your failure to appear, a warrant for your arrest may be issued.

Date 2-1-96


Patrick G. Schilling
Price County District Attorney
State Bar No. 01016989



Wisconsin Agribusiness Council

Forestry/Rights-of-Way/Turf Committee

Terry Kurth, Chair
Griff Mason, Vice-Chair
Craig Ver Kuilen, Past-Chair

JUL 17 1996

2317 International Lane Suite 109 • Madison, WI 53704-3129 • (608) 249-2323 Fax (608) 249-2797

July 8, 1996

To: Joint Survey Committee for Review of Administrative Rules

From: Russ Weisensel *[Handwritten signature]*

Re: Revisions ATCP 29 relating to the State Registry
for Commercial Lawn-care Applications

Last February I copied members of your committee with our concerns about this rule which currently allows the registry to include all addresses on immediately adjoining blocks for advance notice of commercial landscape applications. This could exceed 400 addresses for a single application.

It was, and is, our opinion that the existing language allowed for harassment of commercial applicators, and indeed was a disservice to those who have a legitimate concern and who want to be notified so that they might protect themselves, toddlers and/or pets from unwanted pesticide exposure.

As you will see by the enclosed, DATCP is proposing a change in their regulations which will both provide advance notice to those on immediately adjacent properties, while removing the existing language which allowed for harassment by the anti-pesticide zealots.

Thank you for expressing an interest in this issue.

1 commercial applicators certified in the category of ornamental and turf pest control under s. ATCP 29.1,
2 regarding the number and nature of requests received under par. (a). A commercial application business m,
3 notify the department if the commercial application business receives what it considers to be excessive or
4 harassing requests for information under par. (a). The department may investigate allegations of excessive
5 or harassing requests under par. (a) in order to determine whether this subsection should be amended or
6 repealed.

7 ~~(c) Within 2 years after the effective date of this subsection, the department shall report to the board of~~
8 ~~agriculture, trade and consumer protection on the effectiveness and workability of this subsection. The~~
9 ~~department may recommend that this subsection be amended or repealed if the department finds that this~~
10 ~~subsection is not effective or workable.~~

11 (5) REGISTRY OF PERSONS REQUESTING ADVANCE NOTICE OF LANDSCAPE APPLICATIONS. (a) *General.*
12 If a person files a complete registration request with the department under par. (b) on or before ~~March~~
13 January 1 of any year, the department shall include that person in the annual registry prepared and distributed
14 to commercial application businesses under par. (c).

15 (b) *Registration request.* An initial or annual renewal registration request shall be postmarked or delivered to
16 the department on or before ~~March~~January 1. The registration request shall be submitted on a form provided
17 by the department and shall include all of the following:

- 18 1. The requester's complete name, street and mailing address, if different, and telephone number, if any.
- 19 2. The street address of those properties, on the requester's block or immediately adjacent land, or the
20 property where the requester resides if the requester is not the contracting party for the application, as in
21 landlord-tenant situations adjoining blocks, for which the requester is seeking advance notice of landscape
22 applications under par. (e).

23 Note: See examples of properties on immediately adjacent land in Appendix I.

24 Note: A registration request may be submitted to the DATCP Landscape Application Registry, Agricultural
25 Resource Management Division, P.O. Box 8911, Madison, Wisconsin 53708-8911. Forms are available by
26 September 1 of the year preceding the registry year.

- 27 3. Any additional information required by the department.

1 (c) *Annual registry of persons entitled to notice.* Based on complete registration requests postmarked or
2 received by the department on or before ~~March~~January 1 of each year, the division shall compile and
3 distribute an annual registry of persons entitled to advance notice of landscape applications. The annual
4 registry takes effect on ~~April~~March 1 and remains in effect until ~~April~~March 1 of the following year. The
5 annual registry shall include the name and address and telephone number, if any, of each requester, and the
6 address of those properties specified by the requester under par. (b) 2.

7 (d) *Annual registry distributed to commercial application businesses.* Prior to ~~April~~March 1 of each year, the
8 division shall distribute a free copy of the annual registry under par. (c) to every licensed commercial
9 application business that employs individual commercial applicators certified in the category of ornamental
10 and turf pest control under s. ATCP 29.16 (5). The division shall also provide a free copy of the annual
11 registry to each commercial application business that employs individual commercial applicators certified in
12 the category of ornamental and turf pest control under s. ATCP 29.16 (5) that becomes licensed after March
13 1 and to any other commercial applicator for hire certified in the category of ornamental and turf pest control
14 under ATCP 29.16 (5) who requests a copy.

15 (e) *Advance notice of landscape applications.* No commercial application business may make a landscape
16 application to any property unless the commercial application business has given at least 12 hours advance
17 notice to every person on the current registry under par. (c) who has requested advance notice of landscape
18 applications to that property, provided that the property is located on ~~the block where the requester resides,~~
19 ~~or on an immediately adjacent block~~ land where the requester resides, or is the property where the requester
20 resides if the requester is not the contracting party for the application, as in landlord-tenant situations.

21 (f) *Form of notice.* A commercial application business may give notice under par. (e) by telephone, or may
22 mail or deliver notice to the requester's address listed in the registry under par. (c). Notice mailed to the
23 requestor's address must be postmarked no less than two business days prior to a landscape application. The
24 notice shall state the name, business address, and telephone number of the commercial application business,
25 the address of the landscape to be treated, the scheduled date of application and the possible pesticides to
26 be applied.

27 (g) *Rescheduled applications.* If a commercial application business gives advance notice of a landscape

APPENDIX I

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Note: Residents can request notification of landscape applications to properties located on "immediately adjacent land". Immediately adjacent land is defined in this chapter as, "Land which is directly contiguous to land on which pesticides may be applied, or which is separated only by a road, railway, or utility right-of-way, or by a government-owned land corridor or waterway having a width of not more than 66 feet."

Figure 1

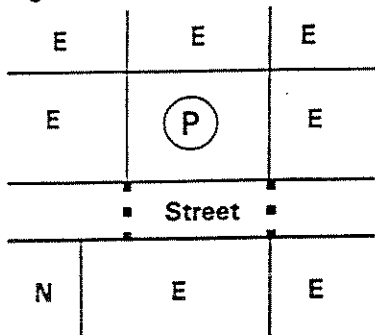


Figure 1: Properties with property lines sharing or touching the property of the landscape application. Also properties separated only by a road, railway, or utility right-of-way, or by a government-owned land corridor or waterway of not more than 66 feet, where the property line of the landscape application property would intersect a property on "immediately adjacent land", if the landscape application property line were extended straight across to meet the immediately adjacent land.

Figure 2

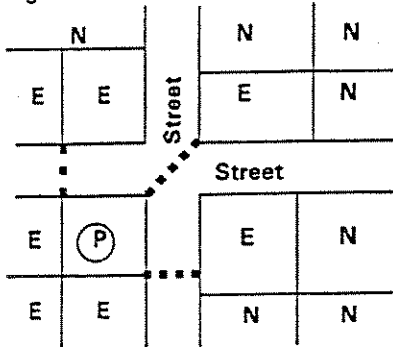


Figure 2 - Corner Property: Properties located diagonally from a landscape application property, across immediately adjacent land.

Figure 3

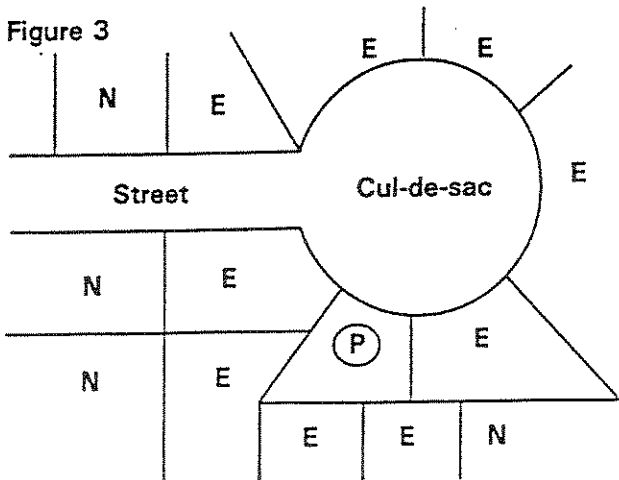


Figure 3 - Property on a Cul-de-sac: All properties in the circular section of a cul-de-sac when the landscape application property is also located within the cul-de-sac.

P = Person requesting prenotification of commercially applied landscape pesticide.

E = Eligible properties that persons (P) may list on the registry for prenotification of commercially applied landscape pesticides.

N = Property not eligible property to be listed on the registry.

- - - - = Extended Property Line



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

Alan T. Tracy, Secretary

2811 Agriculture Drive
Madison, Wisconsin 53704-6777

ATCP 29 LANDSCAPE RULE ADVISORY COMMITTEE MEETING

WDATCP, Prarie Oak State Office Building
Room 266, 2811 Agriculture Drive, Madison, WI
(608) 224-4500
Wednesday, July 17, 1996
9 AM - 3 PM

9:00 - 9:15	Introductions - Ned Zuelsdorff, WDATCP
9:15 - 9:30	Overview of Rulemaking Process and Timetable
9:30 - 10:00	Presentation of Proposed Changes
10:00 - 11:30	Discussion: Warning Sign Posting
11:30 - 12:00	Discussion: Notification Registry
12:00 - 12:45	Lunch (lunch provided for committee members)
12:45 - 1:45	Discussion: Notification Registry (continued)
1:45 - 2:45	Other discussion and suggested changes
2:45 - 3:00	Conclusion



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection

Alan T. Tracy, Secretary

2811 Agriculture Drive
Madison, Wisconsin 53704-6777

ATCP 29 LANDSCAPE RULE COMMITTEE

PO Box 8911
Madison, WI 53708-8911

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Madison, WI 53703
251-7021

Karen Etter Hale
Madison Audubon Society
222 S. Hamilton
Madison, WI 53703
255-2473

Lou Wierichs
GMAW - President
c/o Pro X Systems
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Appleton, WI 54912
414-739-5615

Rod Johnson
WI Golf Course Supt. Assoc.
c/o Sheyboygan C.C.
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Sheyboygan, WI 53081
414-458-6048

Mr. Clifford Englert
Parks Supervisor
Janesville Parks Department
17 N. Frnaklin St.
Janesville, WI 53545
608-755-3110
608-755-3025

Tim Tysver, VP
Badger State Cemetary Assoc.
c/o Highland Memory Gardens
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Madison, WI 53704
608-222-0856

Gregory Jach
Mgr. Vector & Nuisance Control
Div.
City of Milwaukee Health Dept.
841 N. Broadway
Rm 105
Milwaukee WI 53202
414-286-3535

Mr. Don Jensen
The Bruce Co.
4950 Memco Lane
Racine, WI 53404
414-639-9029

Ms. Joan Fedkenheuer
Landscape Registry Member
E 13590A Levee Rd
Baraboo, WI 53913
608-356-6717

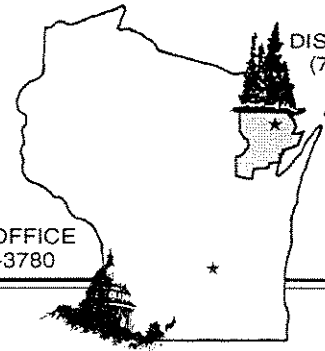
LORRAINE M.

SERATTI

STATE REPRESENTATIVE
36TH ASSEMBLY DISTRICT

P.O. Box 8953, State Capitol, Madison, WI 53708-8953
Toll-Free Legislative Hotline: 1 (800) 362-9472

JUL 17 1996



DISTRICT OFFICE
(715) 696-3513

MADISON OFFICE
(608) 266-3780

MEMORANDUM

TO: Members of the Senate and Assembly

FROM: LORRAINE M. SERATTI, State Representative, 36th District

DATE: July 17, 1996

Enclosed is a copy of a letter to the Department of Natural Resources concerning administrative rules relating to mining.

If you would like to sign this letter, it is important that you contact Jim in my office by noon on Friday, July 19, 1996.

Telephone number 608-266-3780.

*John
Saver*

Chair: Small Business and Economic Development Committee • **Vice Chair:** Mandates Committee

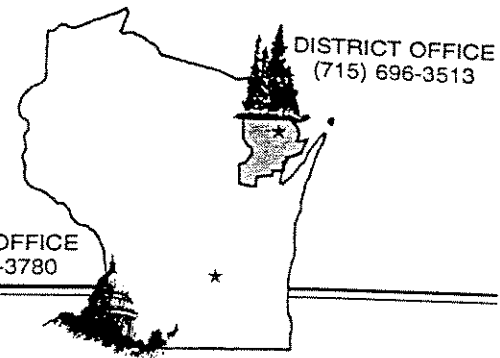
Member: Ways and Means Committee • Children and Families Committee • Rural Affairs Committee
Special Committee on State and Federal Relations • Legislative Council • Governor's Council on Forestry
Council of State Government's, Midwest and Canada Relations Committee

LORRAINE M.

SERATTI

STATE REPRESENTATIVE
36TH ASSEMBLY DISTRICT

P.O. Box 8953, State Capitol, Madison, WI 53708-8953
Toll-Free Legislative Hotline: 1 (800) 362-9472



July 10, 1996

Mr. George Meyer, Secretary
Department of Natural Resources
101 South Webster Street
Madison, WI 53702

Dear Secretary Meyer:

This letter is our petition for promulgation of rules by the Department of Natural Resources (DNR) under s. 227.12, Stats. The three sections of this letter contain the information required by s. 227.12 (2), Stats.

I. Substance or Nature of the Rule-Making Requested

a. Liability Insurance

We request the DNR to promulgate a rule requiring the operator of a metallic mineral mine, as a condition of receiving and maintaining a mining permit, to have in force liability insurance sufficient to cover the reasonably anticipated costs of all of the following:

- Remedial action required as the result of spills of hazardous substances at the mining site.
- Remedial action to mitigate any contaminants that may escape from the mine shaft into the surrounding environment after the mining operation ceases.
- Remedial action required as the result of failure of the tailings pond to contain the waste.
- Provision of a replacement water supply as required under s. 144.855 (4) (d), Stats.

These rules should require the operator to maintain the liability insurance in force after the mining operation has ceased and for an indefinite time thereafter, until the DNR determines that there is no longer a risk of environmental harm which could become a state responsibility if the operator fails to take the necessary action.

Chair: Small Business and Economic Development Committee • **Vice Chair:** Mandates Committee

Member: Ways and Means Committee • Children and Families Committee • Rural Affairs Committee
Special Committee on State and Federal Relations • Legislative Council • Governor's Council on Forestry
Council of State Government's, Midwest and Canada Relations Committee

If rules proposed by the DNR authorize the applicant to meet this requirement by satisfying self-insurance requirements [see s. 144.86 (2), Stats.], the rule should require the applicant to make an irrevocable commitment of assets payable to the benefit of the state in an amount sufficient to provide the necessary protection.

b. Compliance Boundary

We request the DNR to review the compliance boundary in the mining groundwater rules [s. NR 182.075 (1r), Wis. Adm. Code], to determine whether the maximum compliance boundary of 1,200 feet from the outer perimeter of the mining waste site or at the property boundary (whichever is less) continues to be appropriate in light of Wisconsin's subsequently enacted groundwater law. We also request the DNR to review the authorization in the current rule for the mine permit applicant to request a variance to obtain an even greater compliance boundary. Based on this review, we request the DNR to promulgate an appropriate standard.

2. Reason for the Request and the Petitioners' Interest in the Requested Rule

The part of this request related to *liability insurance* addresses several potential adverse consequences of mining that are not currently subject to financial assurance requirements imposed on the operator. Section 144.86, Stats., requires the operator to maintain in force a bond to cover the estimated cost to the state of fulfilling the reclamation plan, in relation to that portion of the site that will be disturbed by the end of the following year. This bond is not available to cover the kinds of costs described in our request for rules. If the DNR adopts the requested rules, it will help to reduce the potential liability of this state if any of these types of environmental harms occur, and the operator is unable to take appropriate action.

The part of this request related to the *compliance boundary* is based on the standards adopted in ch. NR 140, Wis. Adm. Code, pursuant to the groundwater law. These rules, adopted after the mining waste disposal rules were adopted, specify a maximum "design management zone" (comparable to the compliance boundary in the mining rules) for various types of facilities. For example, the design management zone for new solid waste disposal facilities is 150 feet. The largest design management zone is 300 feet for hazardous waste disposal facilities. We understand from discussing this issue with groundwater experts that any contaminant escaping from the mine tailings pond that can be detected above levels of public health concern at a distance of less than 300 feet from the disposal area will eventually reach that level at the 1,200 foot boundary. A lesser boundary would give an earlier warning of problems and a better opportunity to contain the escaping contaminants.

Our *interest in the rule* is as residents of the area to be affected by the mine proposed to be constructed in the towns of Lincoln and Nashville, Forest County, and, in the case of

Secretary George Meyer
July 10, 1996
Page 3

Representative Seratti, as the elected representative to the State Assembly from the 36th Assembly District.

3. Reference to the Agency's Authority to Promulgate the Requested Rule

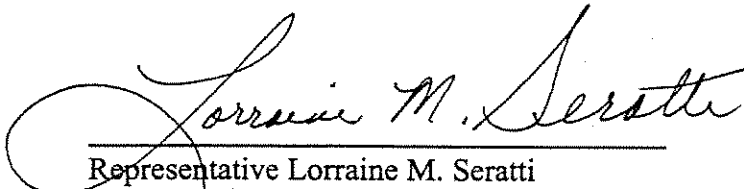
The DNR has authority, under s. 144.86 (2), Stats., to require the applicant for a mining permit to submit a certificate of insurance covering all mining operations of the applicant and providing personal injury and property damage protection.

The DNR has authority to promulgate specific mining groundwater rules under s. 144.83 (4) (L), Stats.

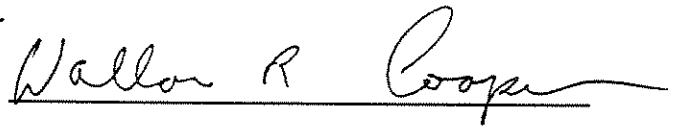
As part of our request, we explicitly intend that the requested rules will be applicable to the mine proposed to be constructed in the towns of Lincoln and Nashville, whether or not the mining permit has been issued at the time the rules are promulgated. We are not requesting that these rules be made applicable to the Flambeau Mine, although that is an issue which we expect the DNR to discuss in the process of promulgating these rules.

If you have questions about this request or would like to meet with us at any time, we would be happy to help in any way possible.

Sincerely,



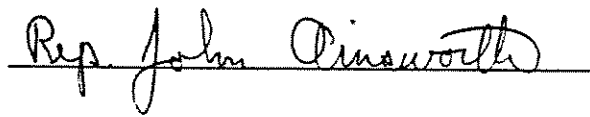
Representative Lorraine M. Seratti



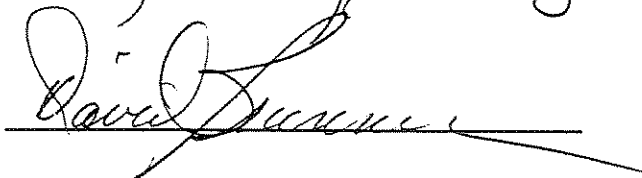
Wallon R. Cooper



Steven L. Schultz



Rep. John Pinaworth



David Sumner

LMS:rr



JAY REED

Eating crow means just that this Saturday

There is a new entry this year on Wisconsin's schedule of fall hunting seasons. It's brand new. Never been there before. Because it is new and because of the turmoil, the trauma, the statewide debate it fostered on the way to becoming law, it is important.

Beyond that, though, considering its overall impact, its significance to game management, the weight it carries in professional circles and the broad stick it will hold over public reviews of it, this new season will be about as important in the future as one more feather on a raven's wing.

We speak, of course, of Wisconsin's crow hunting season, which begins Saturday.

Crow hunting? You've got it, friend. You know, of course, that the grouse hunting season opens the same day in the northern and western zones of the state.

You know, of course, that the woodcock season also begins as does the hunt for squirrels, statewide, and rabbits in the north.

These are known quantities. The hunt for them was established a long time ago. And there is little to question about them. All are good to eat. All tend to challenge hunters in one way or another.

But crows?

You have to go back a couple of years, and your memory need not be that sharp, to when the fight for a crow hunting season got its start.

It was argued, over the years, before committees of the Legislature, the Board of Natural Resources, the Wisconsin Conservation Congress, the Department of Natural Resources and other organizations more numerous than can be counted or recalled here and now.

My moccasins would taste pretty good if you fried them with enough onions.

It wasn't that crows are so universally loved, although there are people and organizations in Wisconsin who believe them to rank right up there with robins and bluebirds and birds of peace.

What seemed to rankle people who opposed the hunt was the fact that some people would be out there killing birds not especially known for their table quality.

"Why kill them if you can't eat them?" it was asked time and time again. "What will you do with them? Do you shoot them just to watch them fall from the sky?"

Are we barbarians? Are we a people inclined to kill just for the fun of it?

Well, from the very beginning, an organization called the Wisconsin Crow Hunters Association was up front in the trenches fighting for the season. While others sounded off with agonized, emotional appeals, the Crow Hunters offered sound, professional, social advice.

They won some. And they lost some. But, in the end, they and the others who believed a crow hunting season should be in place and would cause no harm if it was, prevailed.

But, like dog hair on a car seat, old ideas are difficult to banish. Thus, you still hear whimpers and whines from time to time about the injustice of it all.

For my part, I endorsed the crow hunting season from the start. Still do. It's not that I intend to actively take part in it. In my lifetime, I have never killed a wild bird or animal that I couldn't eat or sell.

But among the things we learned during the great debate is that crow meat is edible. In fact, it is darn good, according to those who have tried it.

There are as many recipes out there for preparing crow as there are for ducks or grouse or pheasants. I have not personally tried any of them yet. But I will. They sound good.

I have said, in fact, that my moccasins would taste pretty good if you fried them with enough onions.

Well, no matter. The season is in place and it is doubtful if it will be enjoyed by any more than a relative handful of gunners.

There will be a hunt, I know, up in Sawyer County on the opening weekend. It will be sponsored by the Crow Hunters Association. It will be attended by some of the state's heaviest conservation hitters.

There will be a post-hunt banquet. The menu will feature roast breast of crow along with other dishes made from the meat of the bird.

It will be a celebration of the long hard battle, and the victory, that brings a crow hunting season to Wisconsin.

A number of toasts will be made that night. This is the one I'm waiting to hear:

"To the hunt!"

NATIONAL INTERLOCK SERVICE

National Interlock Service (WI) Ltd.
N1051 Tower View Drive, Unit C
Greenville, Wisconsin 54942

DEC 02 1996

Telephone: 414 757 0962
Facsimile: 414 757 0964
Toll Free: 800 584 1226

Dear Representative Richard A Grobschmidt;

I am writing to make you aware of a proposed change to Trans 117 of the Wisconsin Administrative Code. I thought that this may be of interest to you as you were a sponsor of the 1995 Assembly Bill 250 designed to enhance ignition interlock use.

In 1995 Act 269 was passed. Included in this Act was a provision to have the Wisconsin Department of Transportation ("WISDOT") approve and administer occupational licenses. Previously, occupational licenses were ordered by the court. Act 269 amended s.343.10(5)(a)3 to read:

"If the applicant has 2 or more prior convictions, suspensions or revocations, as counted under s.343.307 (1), the occupational license of the applicant may restrict the applicant's operation under the occupational license to vehicles that are equipped with a functioning ignition interlock device..." (emphasis added)

This is very similar to the prior law. Under the prior law, judges chose whether or not they were going to order an ignition interlock for these individuals based on various factors applied by the judge. Under the new law, individuals apply to WISDOT for an occupational license. The current draft of emergency rules for Trans 117 (and unless change is made, the permanent rules) indicates that WISDOT will not order ignition interlocks. This has been confirmed in our discussions with WISDOT. The only exception will be where the judge has ordered a vehicle to be installed with an interlock, as an option to immobilization or seizure, under s.346.65.

In reality, Act 269 creates a very real opportunity for enhancing Wisconsin's drinking-driving laws. Quoting from the Executive Summary of the report prepared by the Governor's Task Force on OAR and OWI (issued October 1995):

"Suggested Remedies: The OWI-related vehicle sanction law should be amended, with features of the revised law to include:

- IID (ignition interlock device) use is expanded, including as a condition for granting an Occupational License..."

If WISDOT were to take the position of requiring an ignition interlock for all occupational license applicants with 2 or more prior convictions, a meaningful portion of the prior recommendation will have been achieved. It is our understanding that WISDOT is reluctant to require ignition interlock in all cases due to the words "may restrict", rather than "shall restrict", in s.343(5)(a)3. (as quoted above).

Without a change in the proposed rules, we expect ignition interlock use to decrease dramatically, possibly to a point where it will not be commercially feasible for businesses such as ours to provide interlock service at all in Wisconsin.

Wisconsin has made great strides in dealing with drinking-driving issues. This is evidenced by the just announced grade of "B-" from MADD, a significant improvement over the "C" achieved in 1993. The current draft of rules for Trans 117 will be a step backwards, when in fact, an opportunity exists to enhance drinking-driving laws (and more importantly, public safety). It is apparent that the Legislature intended to make the issuance of occupational licenses uniform and efficient. I find it difficult to believe that the Wisconsin Legislature intended to diminish public safety and the progress made in fighting drunk driving. If you agree, kindly contact WISDOT and encourage the use of ignition interlock devices as frequently as possible when issuing occupational driving privileges.

Please do not hesitate to call for information or assistance. Thank you for your time and attention on this matter.

Sincerely,

NATIONAL INTERLOCK SERVICE (WI) LTD.

A handwritten signature in cursive script that reads "Michael R. Balgord".

Michael R. Balgord
President

P.S. National Interlock is committed to properly designed and well-run ignition interlock programs. Under separate cover we will send you information on our ignition interlock program. We currently provide interlock services in Colorado, Illinois, Indiana, Michigan, Oklahoma, Wisconsin and the Province of Alberta. We have several ideas for improving the interlock program in Wisconsin; however, the most pressing issue is ensuring that the proposed changes to Trans 117 accurately address ignition interlock goals. We hope to have an opportunity to work with you on enhancing Wisconsin's drinking-driving laws in the future.

NATIONAL INTERLOCK SERVICE

National Interlock Service (WI) Ltd.
N1051 Tower View Drive, Unit C
Greenville, Wisconsin 54942

Telephone: 414 757 0962
Facsimile: 414 757 0964
Toll Free: 800 584 1226

DEC 10 1996

December 12, 1996

Dear Representative Grobschmidt;

Recently, you received our letter regarding proposed changes to Trans 117 of the Wisconsin Administrative code. As you may recall, we raised concern over the Wisconsin Department of Transportation's decision to not order the use of ignition interlock devices when granting occupational licenses to repeat drinking-driving offenders.

As promised in the prior letter, we are now sending you some literature about our company and the ignition interlock program.

We look forward to working with you in enhancing Wisconsin's drinking-driving laws in the future. Thank you for your time and consideration.

Sincerely,

NATIONAL INTERLOCK SERVICE (WI) LTD

Michael R Balgord
Kal

Michael R Balgord
President

JAN 17 1997



State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

Tommy G. Thompson, Governor
George E. Meyer, Secretary

Box 7921
101 South Webster Street
Madison, Wisconsin 53707-7921
TELEPHONE 608-266-2621
FAX 608-267-3579
TDD 608-267-6897

December 23, 1996

IN REPLY REFER TO: M6418

Roger Cliff, Exec Dir Government Affairs
Wisconsin Farm Bureau Federation
1212 Deming Way
Madison WI 53705 0550

Joko

SUBJECT: Request to Change Groundwater Standard

Roger
Dear Mr. Cliff:

This is in response to your letter dated November 26, 1996. In your letter you requested two actions: 1) the Department review the ES (Enforcement Standard) and PAL (Preventive Action Limits) currently established in ch. NR 140, Wis. Adm. Code, for atrazine in groundwater; and 2) that the Department include this review within the ch. NR 140 rule package which will be considered for public hearings by the DNR board at their January 1997 meeting.

Since receiving your letter, I have been informed that on December 18th Mr. Russel R Weisensel met with representatives of the Departments of Health & Family Services, Natural Resources, Agriculture Trade and Consumer Protection, and the company NVORTIS (formally CIBA-GIEGY) to discuss issues relative to changing groundwater standards for atrazine. During that meeting many issues regarding Atrazine were discussed and it is clear that these issues are complex.

One of the critical components of changing a ch. NR 140 groundwater standard is knowing if EPA is proposing a change to the chemical's MCL (Maximum Contaminant Level). Currently the EPA Office of Water has not changed the MCL for Atrazine. However, EPA has set up a "Special Review" regarding all of the issues surrounding Triazine herbicides including atrazine.

I recommend that you encourage EPA to expedite their review. I have designated Michael Lemcke, Chief of the Groundwater Section, to be the lead on this issue and he will also be contacting EPA.

Given EPA's Special Review it would not be prudent to promote a standard change for Atrazine. However, I will be asking Mike to closely review all pertinent information regarding the Atrazine issue.

If you have any questions regarding the status of our review, please contact Mike at 608-266-2104.

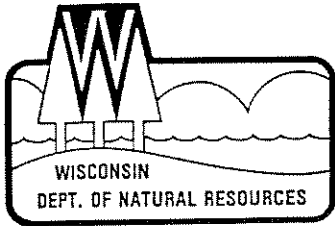
Sincerely,



George E. Meyer, Secretary
Department of Natural Resources

cc:

Alan Tracy - DATCP
Joseph LEEAN - DHFS
Henry A. Anderson III - DHFS
Linda Knobeloch - DHFS
Nicholas Neher - DATCP
Ned Zuelsdorff - DATCP
James Vanden Brook - DATCP
DNR & DATCP Board Members
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Representative Glenn Grothman - JCRAR
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David Flakne - NVORTIS



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December 23, 1996

IN REPLY REFER TO: M6418

Russel R Weisensel Dir Legislative Affairs
Wisconsin Agribusiness Council
2820 Walton Commons West Suite 132
Madison WI 53704 6797

SUBJECT: Request to Change Groundwater Standard

Russ

Dear Mr. Weisensel:

This is in response to your letter dated November 26, 1996. In your letter you requested two actions: 1) the Department review the ES (Enforcement Standard) and PAL (Preventive Action Limits) currently established in ch. NR 140, Wis. Adm. Code, for atrazine in groundwater, and 2) that the Department include this review within the ch. NR 140 rule package which will be considered for public hearings by the DNR board at their January 1997 meeting.

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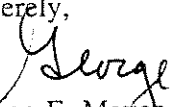
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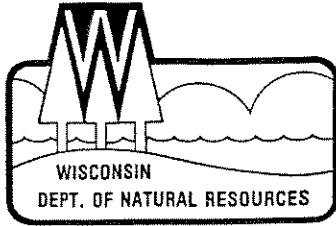
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If you have any questions regarding the status of our review, please contact Mike at 608-266-2104.

Sincerely,


George E. Meyer, Secretary
Department of Natural Resources

cc: Alan Tracy - DATCP
Joseph Leean - DHFS
Henry A. Anderson III - DHFS
Linda Knobeloch - DHFS
Nicholas Neher - DATCP
Ned Zuelsdorff - DATCP
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TDD 608-267-6897

December 23, 1996

IN REPLY REFER TO: M6418

Dean Zuleger, Executive Director
Wisconsin Potato & Vegetable Growers Association
700 5th Avenue
Antigo Wi 54409

SUBJECT: Request to Change Groundwater Standard

Dean

Dear Mr. Zuleger:

This is in response to your letter dated November 26, 1996. In your letter you requested two actions: 1) the Department review the ES (Enforcement Standard) and PAL (Preventive Action Limits) currently established in ch. NR 140, Wis. Adm. Code, for atrazine in groundwater; and 2) that the Department include this review within the ch. NR 140 rule package which will be considered for public hearings by the DNR board at their January 1997 meeting.

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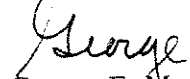
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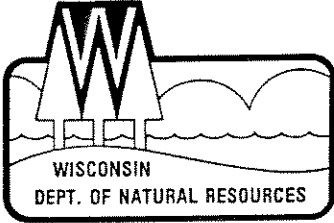
Sincerely,



George E. Meyer, Secretary
Department of Natural Resources

cc:

Alan Tracy - DATCP
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Linda Knobloch - DHFS
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December 23, 1996

IN REPLY REFER TO: M6418

Robert Karls, Executive Director
Wisconsin Corn Growers Association
Wisconsin Soybean Association
2976 Reiverton Pike
Madison WI 53711

SUBJECT: Request to Change Groundwater Standard

Bob

Dear Mr. Karls:

This is in response to your letter dated November 26, 1996. In your letter you requested two actions: 1) the Department review the ES (Enforcement Standard) and PAL (Preventive Action Limits) currently established in ch. NR 140, Wis. Adm. Code, for atrazine in groundwater; and 2) that the Department include this review within the ch. NR 140 rule package which will be considered for public hearings by the DNR board at their January 1997 meeting.

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Sincerely,



George E. Meyer, Secretary
Department of Natural Resources

cc:

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Linda Knobeloch - DHFS
Nicholas Neher - DATCP
Ned Zuelsdorff - DATCP
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Madison, Wisconsin 53707-7921
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TDD 608-267-6897

December 23, 1996

IN REPLY REFER TO: M6418

Keri Retallick, Executive Vice President
Wisconsin Pork Producers Association
PO Box 327
Lancaster WI 53813

SUBJECT: Request to Change Groundwater Standard

Keri

Dear Ms. Retallick:

This is in response to your letter dated November 26, 1996. In your letter you requested two actions: 1) the Department review the ES (Enforcement Standard) and PAL (Preventive Action Limits) currently established in ch. NR 140, Wis. Adm. Code, for atrazine in groundwater; and 2) that the Department include this review within the ch. NR 140 rule package which will be considered for public hearings by the DNR board at their January 1997 meeting.

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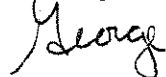
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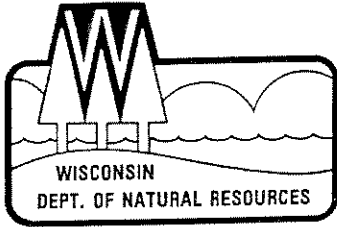
Sincerely,



George E. Meyer, Secretary
Department of Natural Resources

cc:

Alan Tracy - DATCP
Joseph Leean - DHFS
Henry A. Anderson III - DHFS
Linda Knobloch - DHFS
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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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December 23, 1996

IN REPLY REFER TO: M6418

Betsy Ahner, Executive Director
Wisconsin Fertilizer & Chemical Association
2317 International Lane Suite 119
Madison WI 53704 3129

SUBJECT: Request to Change Groundwater Standard

Betsy
Dear Ms. Ahner

This is in response to your letter dated November 26, 1996. In your letter you requested two actions: 1) the Department review the ES (Enforcement Standard) and PAL (Preventive Action Limits) currently established in ch. NR 140, Wis. Adm. Code, for atrazine in groundwater; and 2) that the Department include this review within the ch. NR 140 rule package which will be considered for public hearings by the DNR board at their January 1997 meeting.

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Given EPA's Special Review it would not be prudent to promote a standard change for Atrazine. However, I will be asking Mike to closely review all pertinent information regarding the Atrazine issue.

If you have any questions regarding the status of our review, please contact Mike at 608-266-2104.

Sincerely,



George E. Meyer, Secretary
Department of Natural Resources

cc:

Alan Tracy - DATCP
Joseph Leean - DHFS
Henry A. Anderson III - DHFS
Linda Knobeloch - DHFS
Nicholas Neher - DATCP
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State of Wisconsin \ DEPARTMENT OF NATURAL RESOURCES

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George E. Meyer, Secretary

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Madison, Wisconsin 53707-7921
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December 23, 1996

IN REPLY REFER TO: M6418

Roger Cliff, Exec Dir Government Affairs
Wisconsin Farm Bureau Federation
1212 Deming Way
Madison WI 53705 0550

SUBJECT: Request to Change Groundwater Standard

Roger
Dear Mr. Cliff:

This is in response to your letter dated November 26, 1996. In your letter you requested two actions: 1) the Department review the ES (Enforcement Standard) and PAL (Preventive Action Limits) currently established in ch. NR 140, Wis. Adm. Code, for atrazine in groundwater; and 2) that the Department include this review within the ch. NR 140 rule package which will be considered for public hearings by the DNR board at their January 1997 meeting.

Since receiving your letter, I have been informed that on December 18th Mr. Russel R Weisensel met with representatives of the Departments of Health & Family Services, Natural Resources, Agriculture Trade and Consumer Protection, and the company NVORTIS (formally CIBA-GIEGY) to discuss issues relative to changing groundwater standards for atrazine. During that meeting many issues regarding Atrazine were discussed and it is clear that these issues are complex.

One of the critical components of changing a ch. NR 140 groundwater standard is knowing if EPA is proposing a change to the chemical's MCL (Maximum Contaminant Level). Currently the EPA Office of Water has not changed the MCL for Atrazine. However, EPA has set up a "Special Review" regarding all of the issues surrounding Triazine herbicides including atrazine.

I recommend that you encourage EPA to expedite their review. I have designated Michael Lemcke, Chief of the Groundwater Section, to be the lead on this issue and he will also be contacting EPA.

Given EPA's Special Review it would not be prudent to promote a standard change for Atrazine. However, I will be asking Mike to closely review all pertinent information regarding the Atrazine issue.

If you have any questions regarding the status of our review, please contact Mike at 608-266-2104.

Sincerely,



George E. Meyer, Secretary
Department of Natural Resources

cc:

Alan Tracy - DATCP
Joseph Leean - DHFS
Henry A. Anderson III - DHFS
Linda Knobloch - DHFS
Nicholas Neher - DATCP
Ned Zuelsdorff - DATCP
James Vanden Brook - DATCP
DNR & DATCP Board Members
Susan L. Sylvester - AD/5
Senator Richard Grobschmidt - JCRAR
Representative Glenn Grothman - JCRAR
Charles Rock - NVORTIS
David Flakne - NVORTIS

2/2/15