

**ADMINISTRATIVE RULES
FISCAL ESTIMATE
AND ECONOMIC IMPACT ANALYSIS**

Type of Estimate and Analysis

Original Updated Corrected

Administrative Rule Chapter, Title and Number

Ch. ATCP 29, Pesticide Use and Control

Subject

Pesticide Use and Control

Fund Sources Affected

Chapter 20 , Stats. Appropriations Affected

GPR FED PRO PRS SEG SEG-S

20.115(7)(r)

Fiscal Effect of Implementing the Rule

No Fiscal Effect
 Indeterminate

Increase Existing Revenues
 Decrease Existing Revenues

Increase Costs
 Could Absorb Within Agency's Budget
 Decrease Costs

The Rule Will Impact the Following (Check All That Apply)

State's Economy

Specific Businesses/Sectors

Local Government Units

Public Utility Rate Payers

Would Implementation and Compliance Costs Be Greater Than \$20 million?

Yes No

Policy Problem Addressed by the Rule

ATCP 29, Wisconsin's pesticide use and control rule, has not been updated since 1998. The existing rule contains obsolete regulations, requires outdated business practices and has inconsistencies with other state and federal regulations and statutes. This rule revision is needed to modernize the rule for industry and consumers, remove outdated provisions and harmonize it with other regulations.

This rule modifies the existing ch. ATCP 29, Wis. Adm. Code in several ways. The rule:

- Updates current rules related to structural pesticide applications, including rules related to perimeter barrier applications and application notices.
- Harmonizes current rules with existing rules related to fertilizer and pesticide bulk storage.
- Updates current rules related to chemigation systems.
- Repeals a current permit requirement for veterinary clinics that use, repackage or prescribe pesticides for the treatment of animals.
- Allows regulated persons to give certain notices, and submit certain permit applications, by electronic mail.
- Creates labeling requirements for pesticide bait stations.
- Modifies an existing pesticide applicator certification category to include pesticide applications to natural areas.

- Removes obsolete pesticide license fee provisions.
- Makes a number of other minor drafting changes designed to update, clarify and correct current rules.

Summary of Rule's Economic and Fiscal Impact on Specific Businesses, Business Sectors, Public Utility Rate Payers, Local Governmental Units and the State's Economy as a Whole (Include Implementation and Compliance Costs Expected to be Incurred)

This rule updates current rules related to pesticide use and control. This rule modifies and clarifies existing rule language to facilitate understanding, compliance, efficiency, and consistency with other state and federal regulations. There will not be any significant expenses imposed upon the regulated community as a result of these changes.

Local Governments

This rule will not impact local governments. Local governments will not have any implementation or compliance costs.

Pesticide Application Businesses

This rule will impact pesticide application businesses. Most changes to the rule are advantageous to businesses, including small businesses. These changes are discussed under the "Benefits" section of this analysis.

This rule requires durable, weather-resistant exterior labeling of bait stations. This regulation is needed to ensure veterinarians, medical personal, and the department's environmental enforcement specialists have timely access to information about the pesticide products used in the bait stations, which helps ensure a prompt response and the ability to minimize harm to humans and non-target animals that may accidentally ingest bait. Many structural pest control companies already label their bait stations. Businesses that are not already labeling their bait stations may incur some minimal costs to comply with this regulation. However, businesses will have a number of cost-effective ways to meet this requirement, such as using low-cost weather-resistant stickers.

Utility Rate Payers

The rule will have no impact on utility rate payers.

General Public

This rule establishes regulations on nonagricultural (residential) chemigation systems and urban pesticide misting systems. New regulations on these systems are needed to protect the environment and public health. No pesticide application businesses in Wisconsin currently are known to be selling or installing nonagricultural chemigation systems and very few install urban pesticide misting systems, primarily due to the high potential for human environmental harm and the inability to comply with existing pesticide laws. The proposed regulations are supported by the industry advisory committee. Any costs to comply will be included in the costs of these systems and borne by customers wishing to install them.

Benefits of Implementing the Rule and Alternative(s) to Implementing the Rule

Benefits

This rule will benefit pesticide applicators, pesticide application businesses and the general public.

Pesticide Applicators

Pesticide applicators may benefit from this rule with the expansion of the turf and landscape certification

category to include natural areas. This addition provides clarity to applicators and will offer additional business and potential employment opportunities to those who receive certification in this category.

Pesticide Application Businesses

Pesticide application businesses will benefit from this rule as a result of clarifying existing regulations, improving regulatory consistency, and modifying administrative requirements. This rule will ensure consistency with other rules, such as pesticide bulk storage rules under ch. ATCP 33, Wis. Adm. Code. Regulatory consistency is a positive development for businesses. The rule also will clarify perimeter barrier applications and associated posting requirements. The rule also includes paperwork reduction provisions for businesses that include the ability for businesses to conduct business with customers electronically, if agreed to by the customer, and eliminate some duplicative record requirements. The opportunity to provide electronic notifications to customers who wish to receive information this way will save businesses postage and supply costs. Business also may benefit from the expansion of the turf and landscape certification category to include natural areas. Restoration of natural areas through chemical removal of invasive species is a growing business area and businesses with employees who hold this certification will have a marketing advantage and potential new customers. The rule includes numerous other minor modifications and language clarifications that will benefit businesses.

General Public

The general public will benefit from this rule as a result of the consumer, human health and environmental protections offered through proper use of pesticide products and new regulations on urban pesticide misting systems, residential chemigation systems, and bait station labeling. Consumers will also benefit from the administrative efficiency provisions of the rule.

Alternatives

This rule is designed to clarify and modernize existing rules and ensure regulatory consistency between this rule and ch. ATCP 33, Wis. Adm. Code. If DATCP does not adopt this rule, there will continue to be inconsistencies between regulations. In addition, changes being proposed to clarify existing regulations and provide options for administrative efficiencies for businesses will not be enacted and outdated rule language will remain. Finally, provisions being established to protect human health and the environment, such as new regulations on nonagricultural chemigation systems, urban pesticide misting systems and exterior bait stations, will not be enacted, which could lead to unsafe levels of human and non-target wildlife pesticide exposure.

Long Range Implications of Implementing the Rule

Long-term, implementing the rule will benefit business, the general public, and the environment. The rule modifications will provide additional options for businesses to meet existing regulations more efficiently and additional marketing opportunities that could lead to new business. In addition, the rule modifications create consistency between this rule and other existing rules. The rule will also benefit the public and the environment by ensuring reasonable regulations related to new pesticide application methods are in effect to protect people, companion animals, wildlife and the environment.

Compare With Approaches Being Used by Federal Government

The United States Environmental Protection Agency (EPA) regulates pesticides at the federal level under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and through the use of pesticide product labels. The EPA has delegated authority to Wisconsin to enforce federal pesticide regulations and to assure proper use and handling of pesticides in this state. EPA recently established new regulations for 10 rodenticides to reduce exposure risks to children and non-target wildlife, which prompted Wisconsin's proposed bait-station labeling requirement.

Surrounding states, including Michigan, Minnesota, Illinois and Iowa are also delegated authority by EPA to enforce federal pesticide regulations. Each state also has state-specific pesticide regulations, similar to Wisconsin's. The state-specific regulations must be at least as stringent as EPA's, but may be more or less stringent than Wisconsin's, depending on the topic.

Chemigation: Nearly all states have chemigation laws, including Illinois, Michigan and Minnesota. EPA has minimum standards in place for states that do not have their own regulations, such as Iowa. Minnesota's chemigation regulations are more stringent than Wisconsin's and require applicators obtain a chemigation permit annually before chemigating. This rule updates Wisconsin's chemigation laws to reflect emerging industry practices.

Urban pesticide misting systems are an emerging application method. Surrounding states have existing regulations that govern the use of these systems--including label, drift, and pesticide applicator certification requirements—although they do not apply only to this specific type of application. Wisconsin's proposed requirements to monitor windspeed and prevent time-delayed applications complement label requirements and will help ensure applicators avoid serious pesticide use violations and help protect human and companion animal health.

Natural Areas Certification

No surrounding states have a separate certification category for natural areas applications. Surrounding states include these applicators in the turf and landscape category, which is what is proposed in this rule. Surrounding states also include these applicators in the field and vegetable crop category, when the natural areas are in a grassland-type setting.

Bait Station Labeling

Many states are considering modifying their bait station requirements in response to EPA's new rodenticide regulations. Iowa does not require bait station labeling, but does require notification to the Department of Agriculture prior to use of certain hazardous rodenticides, which is more stringent than what this rule proposes. Minnesota, Illinois and Michigan do not require exterior labeling of bait stations at this time. Other states, including California, New York and Tennessee, require exterior labeling of rodenticide bait stations similar to what Wisconsin is proposing.

Electronic Information

Surrounding states allow electronic transmittal of information between commercial application businesses and customers, as Wisconsin is proposing.

Comments Received in Response to Web Posting and DATCP Response

No comments were received in response either to the posting on the DATCP external website or the statewide administrative rules website.