

CR 90-183

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STATE OF WISCONSIN)
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) SS
DEPARTMENT OF AGRICULTURE,)
)
TRADE AND CONSUMER PROTECTION)

FEB 22 1991
9:45 am
Revisor of Statutes
Bureau

I, Nicholas J. Neher, Administrator of the Division of Agricultural Resource Management, Wisconsin Department of Agriculture, Trade and Consumer Protection and custodian of the official records, certify that the annexed rules, relating to the use of the pesticide atrazine, were duly approved and adopted by this department on February 22, 1991.

I further certify that this copy has been compared by me with the original on file in this department and that it is a true copy of the original, and of the whole of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Agriculture, Trade and Consumer Protection at 801 W. Badger Road in the city of Madison, this 22nd day of February, 1991.



Nicholas J. Neher

Nicholas J. Neher, Administrator
Agricultural Resource Management
Division
Wisconsin Department of Agriculture,
Trade and Consumer Protection

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AN ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING RULES

The Wisconsin department of agriculture, trade and consumer protection adopts the following order to create Ag 30, relating to the use of atrazine.

Analysis Prepared by the Department of
Agriculture, Trade and Consumer Protection

Statutory authority: ss. 93.07 (1), 94.69, 160.19 (2), and 160.21 (1), Stats.

Statutes interpreted: ss. 94.69, 160.19 (2) and 160.21 (1), Stats.

Introduction

This rule restricts the use of atrazine herbicides in order to protect Wisconsin groundwater. Atrazine, long the most widely used agricultural herbicide in the state, has been detected in groundwater at various locations throughout the state. (The frequency of contamination varies between localities.) Based on a random statistical survey, the department estimates that 9 to 15% of wells on Wisconsin dairy farms are contaminated with atrazine. Similar results were obtained from a non-random survey of rural farm and non-farm wells, also conducted by the department.

For the most part, groundwater contamination is at low levels. However, an estimated 5 to 9% of dairy farm wells contain atrazine at levels exceeding the preventive action limit (0.35 parts per billion) established by the department of natural resources. A much smaller number of wells contain atrazine at levels exceeding the enforcement standard (3.5 ppb) established by DNR. To date, nearly all of the detections over the enforcement standard are confined to sandy areas in the lower Wisconsin river valley.

Groundwater Law

Under the Wisconsin groundwater law, ch. 160, Stats., the department is required to take regulatory action to limit pesticide contamination of groundwater. If contamination exceeds

the enforcement standard at any location, the department must ordinarily prohibit applications in that location. If the enforcement standard is not exceeded, the department may not ordinarily prohibit a pesticide use unless the department finds that lesser actions will be ineffective in controlling groundwater contamination. However, the department must take other regulatory steps which are designed, to the extent technically and economically feasible, to minimize pesticide contamination of groundwater and maintain compliance with the preventive action limit (PAL). The rule is designed to carry out the department's obligations under the groundwater law.

Statewide Restrictions

The rule limits the amount of atrazine that may be applied, at any location in the state, to a maximum of 1 to 2 lbs. per acre per year, depending on soil type and frequency of atrazine use. (This compares to a maximum of 3 lbs. per acre under the new federally approved atrazine label for 1991, and 4 lbs. per acre allowed under the federal label in prior years.) Persons applying atrazine every year may apply no more than 1.5 lbs. per acre per year (1.0 lb. on coarse soils).

The rule prohibits the use of atrazine except on agricultural crops. (Atrazine use is no longer permitted on railroad, power line and road rights of way.) Under the rule, atrazine may not be applied to croplands before April 15 or after July 31 of any year. Atrazine may not be applied through an irrigation system, and sites treated with atrazine may not be irrigated for 2 years except under an irrigation management program which ensures that the field moisture capacity in the root zone of the irrigated soil is not exceeded.

Under the rule, no person may mix, load or apply atrazine unless that person is trained and certified as a certified commercial or private applicator. Every person making an atrazine application must keep a record of that application for 3 years. The record must identify, among other things, the application site, the date and time of application, and the rate at which the atrazine was applied.

Atrazine Management Areas; General

The rule directs the department to create "atrazine management areas" whenever it determines that supplementary atrazine use restrictions are needed to prevent or minimize groundwater contamination. Within these areas, the department may impose additional restrictions beyond those which apply on a statewide basis. The rule creates one initial atrazine management area in the lower Wisconsin river valley, and provides for the creation of others in the future.

Atrazine management areas are not limited to localized application sites or recharge zones, but may encompass larger regional areas. The rule spells out factors which may be

considered in the creation of atrazine management areas, including groundwater sample results, hydrogeologic characteristics and pertinent research findings. Boundaries of atrazine management areas may be defined by mapped hydrogeologic characteristics, watershed boundaries, legal land description boundaries including political boundaries, or public roads.

Within an atrazine management area, the department may impose supplementary restrictions on atrazine use. These may include prohibitions on use; limits on the rate, time, frequency, method or purpose of use; or specific reporting or permit requirements. Within the lower Wisconsin River atrazine management area, atrazine applications to sand or loamy sand may not exceed 0.75 lbs. of atrazine active ingredient per acre, and irrigation of these treated sites is flatly prohibited for 2 years after application.

Atrazine Management Areas; Annual Report and Rules

This rule directs the department to prepare an annual report and recommendations for new or modified atrazine management areas, based on an annual evaluation of atrazine detections in groundwater not related to pesticide misuse. For this purpose, the department must annually review all of the following: any detection at or above the enforcement standard; detections in any township in which 6 or more groundwater samples have been analyzed and at least 1/3 of the samples contain atrazine at or above the preventive action limit; and detections from any 2 wells less than 3 miles apart if the detections are at or above the preventive action limit.

The annual report must describe these atrazine detections and related hydrogeologic conditions. In response to these detections, the annual report must also recommend new or modified atrazine management areas, if necessary, based on criteria set forth in this rule. The first annual report must be submitted to the board of agriculture, trade and consumer protection (DATCP Board) by April 15, 1991.

New or modified atrazine management areas, if needed, will be established annually by rule, subject to approval by the DATCP Board. If, in the final draft rules, the DATCP Board modifies or rejects the department's recommendation with respect to any atrazine management area, the department must identify each rejection or modification in its rulemaking report to the legislature under s. 227.19(2), Stats.

Annual rules creating or modifying atrazine management areas must be submitted to the appropriate standing committees of the Legislature for their review by January 1 of each year, and must be accompanied by the department's final rulemaking report under s. 227.19(2), Stats.

Atrazine Management Plans

Under this rule, whenever the department establishes an atrazine management area by rule, it must also establish an atrazine management plan for that area. The atrazine management plan must include a groundwater monitoring program, an information and education program, and a schedule for reviewing the effectiveness of the atrazine restrictions in the atrazine management area.

Atrazine Prohibition Areas

The rule provides for site-specific or regional prohibitions against the use of atrazine, where appropriate under the groundwater law. The rule also creates specific prohibition areas in the lower Wisconsin river valley at locations where atrazine has been found at levels exceeding the groundwater enforcement standard.

Groundwater Surveys; Rule Review

The rule directs the department to perform statistically designed surveys of groundwater quality at 2 year intervals in order to determine atrazine contamination levels and trends. It also directs the department to review the effectiveness of the rule in 5 years, and recommend any necessary modifications to the DATCP Board.

SECTION 1. Ag 30 is created to read:

CHAPTER Ag 30
USE OF ATRAZINE

SUBCHAPTER I
DEFINITIONS; GENERAL RESTRICTIONS

Ag 30.01 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. Ag 30.18.

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

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

5 (6) "Department" means the Wisconsin department of agricul-
6 ture, trade and consumer protection.

7 (7) "Enforcement standard" has the meaning specified in s.
8 160.01 (2), Stats.

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

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

15 (10) "Groundwater" has the meaning specified in s. Ag
16 161.01 (6).

17 (11) "Irrigation" has the meaning specified in s. Ag 29.01
18 (28).

19 (12) "Lower Wisconsin river valley" means the river
20 terraces and flood plain on either side of the Wisconsin river,
21 down stream of the state highway 60 bridge at Prairie du Sac and
22 upstream of the state highway 61 bridge at Boscobel.

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

25 (14) "Official groundwater sample" has the meaning
26 specified in s. Ag 161.01 (7).

27 (15) "Official groundwater test result" has the meaning

1 specified in s. Ag 161.01 (8).

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

4 (17) "Prohibition area" means an area in which application
5 of any atrazine product is prohibited under subch. III.

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

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

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

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

18 **NOTE:** A copy of relevant portions of Soil Taxonomy,
19 Agriculture Handbook No. 436 may be inspected at the
20 central offices of the Department of Agriculture, Trade
21 and Consumer Protection, the Secretary of State and the
22 Revisor of Statutes. This volume is also commonly
23 available in USDA Soil Conservation Service offices
24 throughout the state.

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

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

1 Ag 30.05 GENERAL RESTRICTIONS AND REQUIREMENTS FOR USE OF

2 ATRAZINE. (1) PROHIBITION ON NON-CROP USES. Atrazine product
3 may only be used on agricultural crops. For purposes of this
4 chapter, agricultural crops include forestry crops and tree
5 plantations. No atrazine product may be used on non-crop
6 application sites such as railroad, power line and road rights of
7 way and industrial sites.

8 (2) TIMING OF APPLICATION. No atrazine product may be
9 applied to any site before April 15 or after July 31 in any year.

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

13 (a) No person may apply atrazine product through an
14 irrigation system.

15 (b) No person may apply irrigation water to any site to
16 which atrazine product has been applied on or after the effective
17 date of this chapter for a 2-year period following the applica-
18 tion of atrazine product, unless the application of irrigation
19 water is conducted in accordance with an irrigation management
20 program that does not cause the field moisture capacity in the
21 root zone of the soil being irrigated to be exceeded.

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

27 (b) Atrazine product may only be mixed or loaded by a

1 certified private applicator or by a person who is certified as a
2 commercial applicator or mixer-loader in the appropriate
3 pesticide use category under s. Ag 29.16.

4 **NOTE:** Section Ag 29.151 prohibits mixing or loading of
5 atrazine or other pesticides within 100 feet of
6 any well or surface water unless the mixing or
7 loading occurs over a spill containment pad that
8 is constructed in compliance with the rule's
9 specifications. Sections Ag 29.15 (1) and (5)
10 prohibit the disposal of atrazine or other
11 pesticides, pesticide containers including empty
12 containers, pesticide spray solutions and
13 pesticide rinsates in a manner inconsistent with
14 label directions.

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

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

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

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

26 4. The date and time of the application.

27 5. The brand name of the atrazine product.

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

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

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

4 9. A map of the field as required under s. 30.10(4) if the
5 field is subdivided into smaller application sites and different
6 amounts of atrazine product are applied to the different sites.

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

11 Ag 30.10 MAXIMUM APPLICATION RATES. Except where further
12 restricted under subchs. II and III, the amount of atrazine
13 active ingredient applied to any application site may not exceed
14 the maximum annual rate specified for that application site under
15 this section.

16 (1) Except as provided under sub. (3), if at least one-
17 fourth of the surface soil at the application site is a coarse
18 soil, the maximum application rate is 1.0 lb. per acre per
19 calendar year.

20 (2) Except as provided under sub. (3), if less than one-
21 fourth of the surface soil at the application site is a coarse
22 soil, the maximum application rate is 1.5 lbs. per acre per
23 calendar year.

24 (3) An additional 0.5 lb. of atrazine active ingredient may
25 be added to the maximum annual rate under sub. (1) or (2) if no
26 atrazine product was applied to the application site during the
27 previous calendar year.

1 TABLE 1. Maximum Atrazine Application Rates (Statewide)

		Maximum allowable application rate (lbs. of atrazine active ingredient per acre per year)	
		Atrazine product not used last year	Atrazine product used last year
2 Surface	Coarse	1.5 lbs.	1.0 lbs.
3 Soil	Medium/fine	2.0 lbs.	1.5 lbs.
4 Texture			

5 Note: Some application sites may be subject to further restrictions under Subch. II or III.

6 (4) An application site may be less than an entire field.

7 If a field is subdivided into smaller application sites and
8 different amounts of atrazine active ingredient are applied to
9 the different sites because of differences in surface soil
10 texture, the applicator shall retain a map for 3 years showing
11 the boundaries of the application sites and the application rate
12 used at each site. The applicator shall, at the request of the
13 department, make this map available for inspection and copying by
14 the department.

15 SUBCHAPTER II

16 ATRAZINE MANAGEMENT AREAS

17 Ag 30.18 CREATION OF ATRAZINE MANAGEMENT AREAS. (1)

18 AUTHORITY; ANNUAL TIMETABLE. In addition to any other
19 restriction under this chapter or ch. Ag 161, the department may,
20 by rule, restrict the use of atrazine product in designated
21 atrazine management areas. Except in an emergency, rules
22 creating or modifying atrazine management areas shall, by
23 January 1 of each year be submitted to the appropriate standing

1 committees of the legislature for review. The department shall
2 present its initial recommendations regarding atrazine management
3 areas to the board by April 15, 1991.

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

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

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

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

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

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

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

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

3 (3) ATRAZINE DETECTION; REQUIRED REPORT. (a) The department
4 shall prepare a report and recommendation to the board if any of
5 the following occur, and the department cannot determine that the
6 contamination is from a source other than normal application to
7 agricultural crops:

8 1. Any reliable groundwater test sample is at or above the
9 enforcement standard for atrazine.

10 2. More than 1/3 of the reliable groundwater test samples,
11 based on a minimum of 6 test samples, in a township are at or
12 above the preventive action limit.

13 3. Any 2 reliable groundwater test samples taken less than 3
14 miles apart are at or above the preventive action limit.

15 (b) The report prepared by the department under this
16 subsection shall contain all of the following:

17 1. The department's findings on the source of contamination,
18 hydrogeology, groundwater susceptibility and other relevant
19 subjects.

20 2. If the report is prepared in response to a detection of
21 atrazine at or above the enforcement standard, a recommendation
22 for an atrazine management area, including either or both of the
23 following:

24 a. A recommendation for a prohibition against the use of
25 atrazine product, subject to s. Ag. 161.08, and a delineation of
26 the boundaries of the area subject to the prohibition, as
27 provided under sub. (4).

1 b. A recommendation for restrictions other than a
2 prohibition, a delineation of the boundaries of the area subject
3 to the restrictions, as provided under sub. (4) and findings
4 indicating why a prohibition is not necessary to achieve
5 compliance with the enforcement standard.

6 3. If the report is prepared in response to detections of
7 atrazine below the enforcement standard, any of the following:

8 a. A recommendation for an atrazine management area
9 imposing a prohibition against the use of atrazine product,
10 subject to s. Ag. 161.08, if no other remedial action would
11 prevent the violation of the enforcement standard at a point of
12 standards application, subject to s. 160.21 (4), stats., and a
13 delineation of boundaries of the area subject to the prohibition,
14 as provided under sub. (4).

15 b. A recommendation for an atrazine management area
16 imposing restrictions on the use of atrazine and a delineation of
17 the boundaries of the area subject to the restrictions, as
18 provided under sub. (4).

19 c. A recommendation for no action and findings indicating
20 why no action is necessary to comply with ch. 160, stats.

21 (c) The department shall submit the report required under
22 this subsection to the board either as part of the department's
23 recommendation for rules under sub. (1) or, in an emergency, as
24 soon as the report is completed.

25 (d) Upon receiving the department's report under this
26 subsection, the board shall consider the report and do any one of
27 the following:

1 1. Approve the department's report and recommendations.

2 2. Modify or reject the department's report and
3 recommendations. If, in the final draft rules, the board
4 modifies or rejects the department's recommendation with respect
5 to any atrazine management area, each rejection or modification
6 shall be identified in the department's report to the legislature
7 under s. 227.19 (2), stats.

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

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

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

22 (c) Legal land description boundaries including political
23 boundaries.

24 (d) Public roads.

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

27 (a) Prohibitions against the use of atrazine product,

1 subject to s. Ag 161.08.

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

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

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

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

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

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

19 1. A delineation of the boundaries of the area subject to
20 the plan.

21 2. A groundwater monitoring program.

22 3. An information and education program.

23 4. A schedule for review of the effectiveness of the
24 prohibitions and restrictions in the atrazine management
25 area.

26 5. Any other provisions deemed appropriate by the
27 department.

1 the following:

2 (1) SITE-SPECIFIC PROHIBITIONS. The department may
3 prohibit the use of atrazine products on a site-specific basis
4 under ss. Ag 161.07 and 161.08 (1) and (2).

5 (2) STATEWIDE OR REGIONAL PROHIBITIONS. The department may
6 prohibit the use of atrazine products on a statewide or regional
7 basis under s. Ag 161.08 (3).

8 Ag 30.30 PROHIBITION AREAS; LOWER WISCONSIN RIVER VALLEY.

9 No person may apply any atrazine product in any of the following
10 areas, which are recharge zones for wells in the lower Wisconsin
11 river valley in which atrazine has been found at concentrations
12 exceeding the enforcement standard under s. NR 140.10:

13 (1) (a) Contaminated well site: Township 8N-Range 4E,
14 Section 16, SW quarter-quarter section of SE quarter.

15 (b) Well site recharge zone:

16 Township 8N-Range 4E

17 Section 15

18 NW quarter-quarter section of SW quarter

19 SW quarter-quarter section of SW quarter

20 Section 16

21 NW quarter-quarter section of SE quarter

22 NE quarter-quarter section of SE quarter

23 SW quarter-quarter section of SE quarter

24 SE quarter-quarter section of SE quarter

25 Section 21

26 NW quarter-quarter section of NE quarter

27 NE quarter-quarter section of NE quarter

28 Section 22

29 NW quarter-quarter section of NW quarter.

30 (2) (a) Contaminated well site: Township 8N-Range 2E,
31 Section 1, SW quarter-quarter section of SW quarter.

32 (b) Well site recharge zone:

1 Township 8N-Range 2E
 2 Section 1
 3 SW quarter-quarter section of NW quarter
 4 SE quarter-quarter section of NW quarter
 5 SW quarter-quarter section of NE quarter
 6 NW quarter-quarter section of SW quarter
 7 NE quarter-quarter section of SW quarter
 8 SW quarter-quarter section of SW quarter
 9 SE quarter-quarter section of SW quarter
 10 NW quarter-quarter section of SE quarter
 11 SW quarter-quarter section of SE quarter.

12 (3) (a) Contaminated well site: Township 8N-Range 2E,
 13 Section 1, SE quarter-quarter section of NE quarter.

14 (b) Well site recharge zone:

15 Township 8N-Range 2E
 16 Section 1
 17 NE quarter-quarter section of NE quarter
 18 SE quarter-quarter section of NE quarter

19 Township 8N-Range 3E
 20 Section 6
 21 NW quarter-quarter section of NW quarter
 22 NE quarter-quarter section of NW quarter
 23 SW quarter-quarter section of NW quarter
 24 SE quarter-quarter section of NW quarter

25 Township 9N-Range 2E
 26 Section 36
 27 SE quarter-quarter section of SE quarter

28 Township 9N-Range 3E
 29 Section 31
 30 SW quarter-quarter section of SW quarter
 31 SE quarter-quarter section of SW quarter.

32 (4) (a) Contaminated well site: Township 8N-Range 2E,
 33 Section 1, NE quarter-quarter section of SE quarter.

34 (b) Well site recharge zone:

35 Township 8N-Range 2E
 36 Section 1
 37 NE quarter-quarter section of NE quarter
 38 SE quarter-quarter section of NE quarter
 39 NE quarter-quarter section of SE quarter

40 Township 8N-Range 3E
 41 Section 6

1 NW quarter-quarter section of NW quarter
 2 NE quarter-quarter section of NW quarter
 3 SW quarter-quarter section of NW quarter
 4 SE quarter-quarter section of NW quarter
 5 NW quarter-quarter section of SW quarter
 6 NE quarter-quarter section of SW quarter.

7 (5) (a) Contaminated well site: Township 8N-Range 2E,
 8 Section 1, SE quarter-quarter section of SE quarter.

9 (b) Well site recharge zone:

10 Township 8N-Range 2E

11 Section 1

12 SE quarter-quarter section of NE quarter
 13 NE quarter-quarter section of SE quarter
 14 SE quarter-quarter section of SE quarter

15 Township 8N-Range 3E

16 Section 6

17 SW quarter-quarter section of NW quarter
 18 SE quarter-quarter section of NW quarter
 19 NW quarter-quarter section of SW quarter
 20 NE quarter-quarter section of SW quarter
 21 SW quarter-quarter section of SW quarter
 22 SE quarter-quarter section of SW quarter.

23 (6) (a) Contaminated well site: Township 8N-Range 4E,
 24 Section 1, NE quarter-quarter section of NW quarter.

25 (b) Well site recharge zone:

26 Township 8N-Range 4E

27 Section 1

28 NE quarter-quarter section of NW quarter
 29 NW quarter-quarter section of NE quarter
 30 NE quarter-quarter section of NE quarter

31 Section 36

32 SE quarter-quarter section of SW quarter
 33 NW quarter-quarter section of SE quarter
 34 NE quarter-quarter section of SE quarter
 35 SW quarter-quarter section of SE quarter
 36 SE quarter-quarter section of SE quarter.

37 Ag 30.35 RESEARCH EXEMPTION. Notwithstanding any provision
 38 of this chapter, the department may issue a written permit
 39 authorizing the use of atrazine for bona fide research purposes.
 40 An applicant for a research permit shall apply to the department

1 in writing. The application shall describe the proposed
2 research, and the amounts and locations of proposed atrazine
3 applications. The department may require an applicant to file
4 other information which the department considers necessary for
5 its review of the application.

6 Ag 30.40 REVIEW OF PROVISIONS. Five years from the
7 effective date of this chapter, the department shall provide a
8 report to the Board of Agriculture, Trade and Consumer Protection
9 evaluating the provisions of this chapter and the need for
10 modifications. The evaluation shall be based on groundwater and
11 related data available to the department. Subject to the
12 availability of funds, the evaluation shall include the results
13 of two statistically designed surveys of atrazine in Wisconsin
14 groundwater conducted 2 and 4 years after the effective date of
15 this chapter. The department shall provide the Board with an
16 interim report on each groundwater survey when that survey is
17 completed.

1 SECTION 2. EFFECTIVE DATE. The rules contained in this
2 order shall take effect on the first day of the month following
3 publication in the Wisconsin administrative register.

4 Dated this 22nd day of February, 1991.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Nicholas J. Neher
Nicholas J. Neher, Administrator
Agricultural Resource Management
Division

1991 Session

LRB or Bill No./Adm. Rule No.
Ag 30, Wis. Admin Rule
Amendment No. if Applicable

FISCAL ESTIMATE

DOA-2048 (R11/90)

ORIGINAL UPDATED
 CORRECTED SUPPLEMENTAL

Subject

Chapter Ag 30, Wis. Admin. Code - Use of Atrazine

Fiscal Effect

State: No State Fiscal Effect

Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation.

Increase Costs - May be possible to Absorb Within Agency's Budget Yes No

Increase Existing Appropriation Increase Existing Revenues
 Decrease Existing Appropriation Decrease Existing Revenues
 Create New Appropriation Decrease Costs

Local: No local government costs

1. Increase Costs

Permissive Mandatory

3. Increase Revenues

Permissive Mandatory

5. Types of Local Governmental Units Affected:

Towns Villages Cities

2. Decrease Costs

Permissive Mandatory

4. Decrease Revenues

Permissive Mandatory

Counties Others _____

School Districts VTAE Districts

Fund Sources Affected

GPR FED PRO PRS SEG SEG-S

Affected Ch. 20 Appropriations

20.115(7)(i)

Assumptions Used in Arriving at Fiscal Estimate

See Attachment

Long-Range Fiscal Implications

Costs for 1993 and 1995 Groundwater Surveys of \$151,300 each including \$41,300 for project staff and \$110,00 for sample analysis, plus a one-time equipment cost of \$4,800. Total cost for these surveys is \$307,400.

Agency/Prepared by: (Name & Phone No.)

DATCP/ Nicholas J. Neher/

Authorized Signature/Telephone No.

Barbara Knapp

Date

2/21/91

608/266-2295

Barbara H. Knapp 608/266-7114

FISCAL ESTIMATE WORKSHEET

1991 Session

Detailed Estimate of Annual Fiscal Effect ORIGINAL UPDATED CORRECTED SUPPLEMENTAL

LRB or Bill No./Adm. Rule No. Amendment No.
Ag 30, Wis Admin Code

Subject

Chapter Ag 30, Wis. Admin. Code - Use of Atrazine

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

Monitoring well installation (Project expansion) (\$50,000), staff equipment (\$29,300)

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
A. State Costs by Category			
State Operations - Salaries and Fringes		\$ 127,300	\$ -
(FTB Position Changes)		(4 FTE)	(- FTE)
State Operations - Other Costs		90,600	-
Local Assistance			-
Aids to Individuals or Organizations			-
TOTAL State Costs by Category		\$ 217,900	\$ - - -
B. State Costs by Source of Funds			
GPR		\$	\$ -
FED			-
PRO/PRS		217,900	-
SEG/SEG-S			-
III. State Revenues-			
Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)		Increased Rev.	Decreased Rev.
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
TOTAL State Revenues		\$	\$ -

NET ANNUALIZED FISCAL IMPACT

STATE

LOCAL

NET CHANGE IN COSTS \$ 217,900 \$

NET CHANGE IN REVENUES \$ \$

Agency/Prepared by: (Name & Phone No.)
DATCP/ Nicholas J. Neher / 608/266-2295

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Barabara H. Knapp 608/266-7114

Date
2/21/91

State Government

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). Administering and enforcing of the proposal would involve significant costs for the department.

The atrazine use season begins in late April. Therefore, an effective date of approximately April 1 is needed to allow maximum impact of these provisions aimed at protection of groundwater. The department has prepared a 1991-93 biennial budget request related to the costs associated with an earlier draft version of this rule. The cost estimate for the final rule is higher than the estimate in the budget request. The department will temporarily reallocate staff resources during the period from April 1 to June 30, 1991 to allow initial implementation of this rule.

Administration by ARM Division staff will be required for several portions of the rule. Staff time will be needed to review official groundwater test results for samples collected by the Wisconsin Department of Natural Resources, Health and Social Services, and the department to assess the need for possible creation of Atrazine Management Areas (AMAs) under Subchapter II of the proposed rule. AMAs may be created in specific geographic areas or settings that have unique atrazine problems in groundwater and require corrective action beyond what is contained in Subchapter I. The department is required by the rule to make recommendations on the need for AMAs whenever certain criteria are met. The following estimate is based on an annual review of all atrazine detections, preparing reports on detections and creating two additional AMAs per year. To create and implement these AMAs, considerable department resources will be required.

Identifying the need for an AMA, creating and implementing an AMA will involve several steps, each requiring department resources: 1) mapping and analyzing the patterns of atrazine contamination in groundwater in order to propose an AMA, 2) conducting field investigations, reviewing existing resource information and consulting with experts on a potential AMA to further define its characteristics and boundaries, 3) collecting and analyzing an average of 70 additional groundwater samples from each potential AMA to further define the nature and scope of the contamination, 4) installing and sampling monitoring wells in the potential AMA if existing wells are not capable of providing adequate information, 5) developing appropriate use restrictions for the AMA that are adapted to its unique environmental and land use characteristics, 6) preparing the report and recommendations for creating new AMAs that must be submitted to the legislature and to the DATCP board, and 7) performing all necessary steps in the administrative rule making process to implement the use restrictions for the AMA and maintaining compliance with the use restrictions in the AMA.

Based on these tasks involved in developing Atrazine Management Areas, it is estimated that the department would need two additional FTE Program Specialists, 0.5 FTE Field Inspector, additional analytical services at a cost of \$10,500 per year, and \$20,000 per year for monitoring well installation.

Under the rule, the Department will conduct groundwater sampling surveys at two (1993) and four (1995) years after the adoption of the rule to determine if the provisions of the rule are providing adequate groundwater protection. These will be major groundwater sampling initiatives comparable to the Grade A Dairy Farm Well Water Quality Survey and Rural Well Water Quality Survey that the department has already conducted. Coordination and completion of these sampling programs will require a one year project Program Specialist for each survey. In addition, an estimated \$110,000 in analytical services will be required for each sampling program.

Specialist and field investigator staff time will also be needed under Subchapter III of the proposed rule to create prohibition areas around certain well sites that are contaminated above the enforcement standard. At each contaminated well site, ARM Division staff will need to: 1) determine the recharge zone, 2) conduct an on site investigation, 3) develop a management plan, and 4) develop and implement appropriate compliance actions.

Enforcement activities will involve ARM Division field staff and will be conducted along with current compliance inspections. These enforcement efforts, however, will need to be substantially increased over current levels to ensure compliance with the rule. Compliance activities will be especially important in the first few years as growers, commercial applicators, dealers, and agricultural consultants will need to be educated on the new regulations. An additional Field Inspector position is needed to conduct approximately 50 dealer inspections and 200 user follow-ups to be conducted annually.

A 0.5 FTE Program Assistant is needed to provide general program support for both the project and permanent program specialists.

Additional groundwater monitoring of pesticides is proposed to provide further information on statewide susceptibility to atrazine contamination in groundwater and determine contamination patterns. One time costs for installation of monitoring wells is estimated at \$50,000. Annual sample analysis costs are estimated at \$30,000.

The effects on other state agencies are expected to be less significant. The Department of Natural Resources (DNR) has been and will likely continue collecting and analyzing groundwater samples on a limited basis. DNR may cooperate with DATCP in conducting additional groundwater sampling in areas under consideration for creation of atrazine management areas. If this cooperation occurs, the annual increase of \$10,500 in analytical costs may be shared between the two agencies.

On Local Units of Government

The rule does not mandate that local government resources be expended on sample collection, rule administration or enforcement. The rule is therefore not expected to have any fiscal impact on local units of government. County agricultural agents will likely receive requests for information on provisions of the rule and on weed control strategies with reduced reliance on atrazine. This responsibility will probably be incorporated into current extension programs with no net fiscal impact.

Costs are summarized below:

Staff costs:

<u>Position</u>	<u>Annual</u>		<u>One-Time</u>	
	<u>Salary/Frng</u>	<u>Support</u>	<u>Office Furnishing</u>	<u>Computer</u>
2 Prog Spec	71,600	11,000	2,400	7,200
Prog Ass't (0.5 FTE)	13,100	2,600	1,500	3,600
1.5 Inspector	<u>42,600</u>	<u>16,500</u>	<u>9,600^{1/}</u>	<u>5,000</u>
Subtotals	\$127,300	\$30,100	\$13,500	\$15,800

^{1/}Safety and inspection equipment

Other state costs (annual):

New Atrazine Management Areas

Monitoring well installation	\$20,000
Groundwater sample analysis	\$10,500

Expanded Groundwater Monitoring Project

Groundwater sample analysis	<u>\$30,000</u>
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Subtotal \$60,500

One-time costs:

Two Statewide Groundwater Monitoring Surveys^{2/}

Project Program Specialist	
Salary/Fringe - 2yrs X 35,800	\$71,600
Staff Support - 2yrs X 5,500	\$11,000
Office Furnishing	\$1,200
Computer	\$3,600
Groundwater sample analysis	\$220,000

Expanded Groundwater Monitoring Project

Monitoring well installation	\$50,000
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Staff Equipment (see staff cost summary)

Office furnishings	\$13,500
Computers	<u>\$15,800</u>

Subtotal \$386,700

^{2/} Long range (1993 and 1995) fiscal impact