

Clearinghouse Rule 99-005

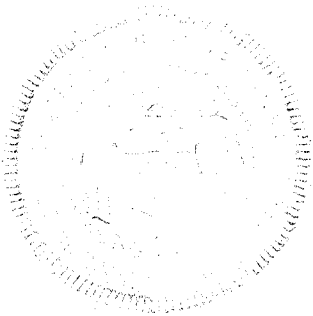
STATE OF WISCONSIN)
) ss. Clearinghouse Rule
DEPARTMENT OF AGRICULTURE,) No. 99-005
TRADE & CONSUMER PROTECTION) Docket No. 98-R-11

CERTIFICATION:

I, Ben Brancel, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to agricultural chemical cleanup surcharge fees was signed and adopted by the department on April 5, 2000.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

Signed and sealed this 5th day of April, 2000.



STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary



6/1/00

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

1 The state of Wisconsin department of agriculture, trade and consumer protection hereby
2 adopts the following order to amend ATCP 29.11(3)(intro.), 29.15(4)(b), 29.20(6)(b) and
3 29.25(5)(a)2., and to create ATCP 40.015 and 40.06(3); relating to agricultural chemical
4 cleanup surcharge fees.

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

Statutory authority: ss. 93.07(1) and 94.73(15), Stats.

Statutes interpreted: ss. 94.64, 94.681, 94.685, 94.703, 94.704 and 94.73, Stats.

This rule extends, for 2 more years, a moratorium on agricultural chemical license fee surcharges used to fund the department's agricultural chemical cleanup program. The cleanup fund is currently running a substantial surplus. The moratorium applies to license fee surcharges paid by pesticide manufacturers, pesticide dealers and pesticide commercial applicators. It also applies to license and tonnage fee surcharges paid by fertilizer manufacturers.

Under s. 94.73(15), Stats., the department must adjust license fee surcharges to maintain a cleanup fund balance (at the end of each fiscal year) of at least \$2,000,000 but not more than \$5,000,000. The cleanup fund balance currently exceeds the \$5,000,000 maximum target level. In order to remedy the current surplus, the Legislature suspended surcharge collections for 2 years.

The department projects that the cleanup fund balance will remain above the \$5,000,000 maximum target level even after the legislatively-imposed surcharge moratorium expires. Based on projections of a continuing surplus, this rule extends the surcharge moratorium for an additional 2 years. When the moratorium expires, surcharges will again take effect at previously established levels. Moratorium expiration dates vary, depending on current fee collection effective dates and annual licensing cycles.



This rule incorporates, without change, current fertilizer license and tonnage fees established by statute, except that this rule extends for 2 years the current statutory moratoriums on fertilizer license and tonnage fee surcharges used to fund the agricultural chemical cleanup fund.

1 **SECTION 1.** ATCP 29.11(3)(intro.) is amended to read:

2 ATCP 29.11(3)(intro.) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE.

3 Beginning with the license year that begins on January 1, ~~2001~~ 2003, an applicant for a
4 license under s. ATCP 29.10 shall pay an agricultural chemical cleanup surcharge for
5 each nonhousehold pesticide product that the applicant sells or distributes. Except as
6 provided in sub. (6) or (7), the amount of the surcharge is as follows:

7 **SECTION 2.** ATCP 29.15(4)(b) is amended to read:

8 ATCP 29.15(4)(b) Beginning with the license year that begins on January 1, ~~2000~~
9 2003, an agricultural chemical cleanup surcharge of \$40.

10 **SECTION 3.** ATCP 29.20(6)(b) is amended to read:

11 ATCP 29.20(6)(b) Beginning with the license year that begins on January 1, ~~2000~~
12 2003, an agricultural chemical cleanup surcharge of \$55.

13 **SECTION 4.** ATCP 29.25(5)(a)1. and 2. are amended to read:

14 ATCP 29.25(5)(a)1. A license fee of \$40, except that the license fee is \$30 for
15 each of the license years beginning January 1, ~~1998-1999~~ and January 1, ~~1999~~ 2000.

16 2. Beginning with the license year that begins on January 1, ~~2000~~ 2003, an
17 agricultural chemical cleanup surcharge of \$20.

18 **SECTION 5.** ATCP 40.015 is created to read:

19 **ATCP 40.015 License fees and surcharges.** (1) A person applying for a license
20 to manufacture or distribute fertilizer shall pay the following annual license fees:

1 (a) \$30 for each business location and each mobile unit that the applicant uses to
2 manufacture fertilizer in this state.

3 (b) \$30 for an applicant that distributes but does not manufacture fertilizer in this
4 state.

5 (2) Beginning with the license year that begins on August 15, 2002, a person
6 applying for a license to manufacture or distribute fertilizer shall pay the following
7 agricultural chemical cleanup surcharges:

8 (a) \$20 for each business location and each mobile unit that the applicant uses to
9 manufacture fertilizer in this state, other than a business location or mobile unit that is
10 also licensed under s. 94.685 or 94.703, Wis. Stats.

11 (b) \$20 for an applicant that distributes but does not manufacture fertilizer in this
12 state.

13 **SECTION 6.** ATCP 40.06(3) is created to read:

14 ATCP 40.06(3)(a) All persons licensed to manufacture or distribute fertilizer
15 shall submit a tonnage report on a form provided by the department. Except as provided
16 in par. (b), a person who is required to be licensed to manufacture or distribute fertilizer
17 and who sells or distributes fertilizer in this state shall pay to the department the
18 following fees and surcharges on all fertilizer that the person sells or distributes in this
19 state:

20 1. A basic fee of 25 cents per ton for fertilizer sold or distributed on or before
21 June 30, 1999 and 32 cents per ton for fertilizer sold or distributed after June 30, 1999,
22 with a minimum fee of \$25 if any fertilizer was sold or distributed.

1 2. A research fee of 10 cents per ton, with a minimum fee of \$1 if any fertilizer
2 was sold.

3 3. An additional research fee of 10 cents per ton, with a minimum fee of \$1 if any
4 fertilizer was sold.

5 4. A groundwater fee of 10 cents per ton, with a minimum fee of \$1 if any
6 fertilizer was sold.

7 5. An agricultural chemical cleanup surcharge of 38 cents per ton on all fertilizer
8 that the person sells or distributes after June 30, 2001.

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

10 1. Fertilizer sold or distributed to a manufacturer for use in the further
11 manufacture or processing of fertilizer.

12 2. Fertilizer sold or distributed to a person licensed to manufacture or distribute
13 fertilizer, for resale by that person.

14 **EFFECTIVE DATE:** The rules contained in this order shall take effect on the
15 first day of the month following publication in the Wisconsin administrative register, as
16 provided under s. 227.22(2)(intro.), Stats.

Dated this 5th day of Apr, 2000.

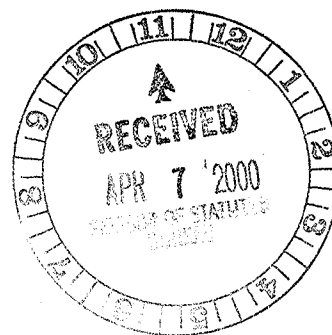
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary



State of Wisconsin
Tommy G. Thompson, Governor

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary



DATE: April 5, 2000
TO: Gary Poulson – Revisor of Statutes Office
131 West Wilson Street, Suite 800
FROM: Ben Brancel, Secretary *Ben Brancel*

SUBJECT: Clearing House Rule No. 99-005, Chapters ATCP 29 and 40, Relating to Agricultural Chemical Cleanup Surcharge Fees

The Department of Agriculture, Trade and Consumer Protection hereby submits the following information for filing with the above rule.

Final Regulatory Flexibility Analysis

The proposed changes to ATCP 29 and ATCP 40, Wis. Adm. Code will have minor but positive effects on small businesses that sell or use fertilizers or pesticides in Wisconsin.]

Businesses Affected:

Currently all manufacturers and labelers of pesticides used in agricultural crop production must register those pesticides and pay certain fees for those pesticides, with the fees based on the value of Wisconsin sales. Likewise, manufacturers and labelers of fertilizers must be licensed and pay fees for each ton of fertilizer distributed in this state. Agricultural coops and farm centers that blend fertilizer or sell or apply pesticides must be licensed to do these activities. A portion of these fees are used to clean up sites that have been contaminated by spills of pesticides and fertilizers. Most of these fees are passed to farmers through distributor imposed surcharges on the products.

Starting with state fiscal year 1998/1999, and continuing for two years, the product and license fees have been reduced because the balance of funds currently available exceeds the anticipated costs of cleaning up contaminated sites. The fees are set to resume during state fiscal year 2000/2001. This proposed rule will delay resumption of these surcharge fees for agricultural chemical cleanups for two additional years.

Most manufacturers of pesticides and many manufacturers of fertilizers, as well as many agricultural coops and farm centers are not small businesses. Some smaller coops and farm centers are small businesses. Since most of these fees are passed on to farmers, the greatest savings should be at the farm level, most of which are small businesses.

Anticipated Impacts:

The department estimates cost savings of \$2,800,000 per year for two years. Based on 30,000 farms, the department anticipates average per farm savings of about \$200 over the two years during which this rule extends the fee reduction, with the savings directly proportional to purchased fertilizer and pesticide inputs.

There are no anticipated changes in recordkeeping, reporting or other practices as a result of this rule.

Comments from Legislative Committees

On August 10, 1999, this department transmitted the above rule for legislative committee review. The rule was assigned to the Assembly Committee on Agriculture and the Senate Committee on Agriculture, Environmental Resources and Campaign Finance Reform. The review period for the Assembly Committee on Agriculture ended without comment on September 19, 1999. The Senate Committee requested an extended review period pending final action on the biennial budget. The extended review ended without comment on January 11, 2000.