

Clearinghouse Rule 95-017

STATE OF WISCONSIN) Clearinghouse Rule
) ss. No. 95-017
DEPARTMENT OF AGRICULTURE,)
TRADE AND CONSUMER PROTECTION)

CERTIFICATION:

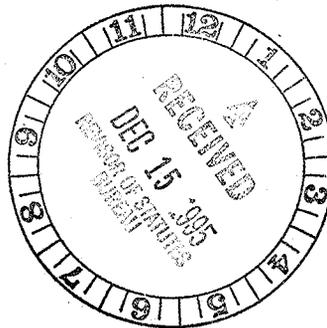
I, Alan T. Tracy, Secretary of the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to pesticide worker protection and pesticide application site posting was signed and adopted by the department on December 14th, 1995.

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

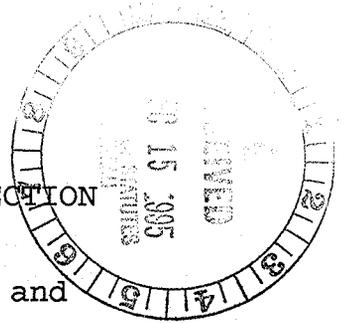
Signed and sealed this 14th day of December, 1995.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE
AND CONSUMER PROTECTION

By Alan T. Tracy
Alan T. Tracy, Secretary



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
2 consumer protection hereby adopts the following order to repeal
3 ATCP 29.154(3)(e)(note); to amend ATCP 29.15(10)(b)3 and 6,
4 29.152(14)(a) and (b), 29.154(3)(title) and (a) to (d) and (f),
5 and 29.154(7)(a) and (note); to repeal and recreate ATCP 29.15(7)
6 and 29.154(3)(e); and to create ATCP 29.01(2j), (2k), (2m), (2n),
7 (2p), (16m), (20m), (24m) and (48m), 29.15(10)(b)7, 29.154(6)(d)
8 and 29.155; related to pesticide worker protection and pesticide
9 application site posting.

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

Statutory Authority: ss. 93.07(1), 94.69

Statutes Interpreted: ss. 94.67 through 94.71 Stats.

The Wisconsin Department of Agriculture, Trade and Consumer Protection ("DATCP") is responsible for enforcing state and federal pesticide laws in this state. DATCP enforces pesticide laws in cooperation with the federal Environmental Protection Agency ("EPA").

EPA has adopted new worker protection standards to protect agricultural workers and pesticide handlers who may be exposed to agricultural pesticides. This rule incorporates, by reference, the new federal worker protection standards. This rule also modifies current state pesticide rules under ch. ATCP 29, Wis. Adm. Code (Pesticide Use and Control), to make them more consistent with the new federal standards.

DATCP will make available, free of charge, summaries of the new federal worker protection standards. DATCP will also make available, at cost, an in-depth manual explaining how to comply with the worker protection standards.

FEDERAL WORKER PROTECTION STANDARDS

Under 40 CFR 156, EPA now requires pesticide manufacturers and labelers to include worker protection standards on labels of agricultural pesticides. It is a violation of state and federal law to apply a pesticide in a manner that is inconsistent with the pesticide label.

Worker protection standards are spelled out in 40 CFR 170. Some worker protection requirements will be stated in full on the pesticide label. However, other standards contained in 40 CFR 170 will merely be referenced on the pesticide label. The federal standards may be summarized as follows:

Coverage

With certain exceptions, an employer must comply with the new federal worker protection standards if his or her employees do either of the following:

- Work in the production of agricultural plants that are produced with the use of pesticides. This includes production on farms, in forests, or in nurseries or greenhouses.
- "Handle" any pesticides used in the production of agricultural plants. "Handling" includes any of the following:
 - Mixing, loading, transferring or applying pesticides.
 - Disposing of pesticides.
 - Handling opened pesticide containers.
 - "Flagging" pesticide applications.
 - Cleaning, adjusting, handling or repairing contaminated application equipment.
 - Assisting with pesticide applications where the potential for pesticide exposure may exist.
 - Entering enclosed areas after airborne pesticides are used, and before air quality standards are met.
 - Entering areas treated with soil fumigants to adjust or remove tarps.
 - Performing tasks as a crop adviser during a pesticide application or within the restricted entry interval following an application.

General Duties of Employers

With certain exceptions, an employer covered by the new federal worker protection standards must do all of the following:

- Post pesticide safety information at a central location accessible to workers and handlers. Posting must include:

- An EPA pesticide safety poster.
 - The name, address and telephone number of the nearest emergency medical facility.
 - Information related to applications of agricultural pesticides at the employer's establishment, including the pesticide applied, and the time and location of the application.
- Assure that workers and handlers receive approved pesticide safety training before they begin work and at least once every 5 years. Training must be provided by approved trainers. Training must be provided either orally from written materials or audio-visually and must be understandable by workers and handlers.
 - Establish a decontamination site at every pesticide mixing site, at every site where workers or handlers remove personal protective equipment, and within 1/4 mile of all agricultural workers. Decontamination sites must be equipped with an ample supply of water, soap, and single-use towels. A clean change of clothing must also be provided at handler sites. Eye flushing water must be immediately accessible to all handlers, and for early-entry workers when required on the label.
 - When a worker or handler is poisoned or injured by a pesticide, provide prompt transportation to an emergency medical facility. The employer must provide the victim and emergency medical personnel with pesticide label information, as well as available information about the pesticide exposure.

Before making a pesticide application at a place where agricultural workers are employed, a commercial applicator for hire must notify the workers' employer of the intended application so that the employer can take appropriate action to notify and protect the workers. Notice must identify the area to be treated, the intended date and time of application, the pesticide to be applied, the restricted entry interval following application, applicable requirements for oral warnings and treated area posting, and other worker protection requirements identified on the pesticide label. If the application is rescheduled, the applicator must notify the agricultural employer before making the application.

Before a commercial applicator for hire makes a pesticide application for a farm operator, the farm operator must notify the applicator of other pesticide applications that may affect the applicator's employees while they are on the premises.

Agricultural Employers; Additional Duties

With certain exceptions, agricultural employers must do all of the following:

- Restrict worker access to pesticide application sites until restricted entry intervals have expired. (A restricted entry interval must now be specified on the label of every agricultural pesticide.) Properly trained and equipped handlers may enter an application site in order to make a pesticide application and perform application-related tasks. Nursery workers must be kept a minimum distance away from treated nursery areas, depending on the pesticide used. Depending on the pesticide used, greenhouse workers must also be kept away from treated areas or out of treated greenhouses until post-application standards of air quality or ventilation are met.
- Prior to each pesticide application, orally warn workers who may come within 1/4 mile of the application site or post legible 14" X 16" warning signs at entrances to the application site. Labels on more hazardous pesticides require "dual notice" to workers, including both oral warnings and posting. Oral warnings must identify treated areas and restricted entry intervals. Signs must comply with specific worker protection standards. All greenhouse applications must be posted.

Persons Employing Pesticide Handlers; Additional Duties

With certain exceptions, persons who employ pesticide handlers must do all of the following:

- Make sure that no pesticide is applied so as to contact, either directly or through drift, any person other than a trained and protected handler.
- Make sure that persons handling pesticides labeled with a skull and crossbones are monitored visually or by voice contact at least once every 2 hours.
- Make sure that any handler entering a fumigated greenhouse to monitor air quality or initiate ventilation is in continuous visual or voice contact with another handler.
- Make sure that each handler has read or has been informed of the information on the label of each pesticide handled.
- Make sure that product labeling is accessible to handlers while they are engaged in handling activities.

- Make sure that each handler is instructed in the safe operation of handling equipment.
- Make sure that all handling equipment is inspected and in good operating condition prior to each use.
- Do all of the following when a pesticide label requires personal protective equipment for handlers:
 - Provide the equipment to each handler.
 - Make sure that the equipment is inspected and repaired prior to each use.
 - Properly clean and maintain the equipment. The handler employer must make sure that respirator filters, cartridges and canisters are replaced as often as necessary.
 - Make sure that each handler wears the equipment and uses it correctly.
 - Provide each handler with a clean place to put on and take off equipment.
 - Take action, if necessary, to prevent heat-related illness which may occur while equipment is being worn.
 - Provide soap, towels and water to each handler removing equipment at the end of a handling activity.
 - Prohibit handlers from wearing home or taking home equipment worn for handling activities.
 - Properly dispose of equipment that cannot be properly cleaned or maintained.
 - Inform persons who clean or launder equipment that the equipment may be contaminated with harmful pesticides, and instruct them on how to avoid contamination and clean equipment correctly.

STATE RULE AMENDMENTS

This rule incorporates, by reference, the new federal worker protection standards. This rule also modifies current state pesticide rules under ch. ATCP 29, Wis. Adm. Code (Pesticide Use and Control), to make them more consistent with the new federal standards. This rule includes provisions aimed at protecting the general public, as well as agricultural workers.

Posting Treated Areas; General

Under current state rules, a pesticide application site must be posted with warning signs whenever the pesticide label provides for a restricted entry interval following an application. Until recently, restricted entry intervals were required for only a limited number of pesticides. However, under the new federal worker protection standards, every agricultural pesticide must now be labeled with a restricted entry interval. As a result of

this federal rule change, current state rules have the unintended effect of requiring warning signs for every agricultural pesticide application.

This rule changes current posting requirements for agricultural pesticide applications, so that posting requirements are more consistent with federal worker protection standards (see below). This rule also modifies current standards related to the size and format of warning signs. This rule does not change current supplementary posting requirements for chemigation applications.

Agricultural Pesticide Applications; Posting Requirements

Under the new federal worker protection standards, every agricultural pesticide must be labeled with a restricted entry interval. An employer may not allow workers to enter a treated area until the restricted entry interval has expired. In order to prevent workers from entering a treated area, an employer must orally warn the workers or post warning signs at entrances to the treated area. Labels on more hazardous pesticides may require "dual notice" to workers, including both posting and oral warnings.

This rule changes current state posting requirements to make them more consistent with federal worker protection standards. In order to protect the general public, this rule requires posting in some cases where posting is not required under the federal worker protection standards. Under this rule, an agricultural pesticide application must be posted whenever any of the following applies:

- Posting is required under the federal worker protection standards. This posting requirement applies only to agricultural employers, not other farmers. The agricultural employer -- not the commercial applicator hired to make a pesticide application -- is responsible for posting warning signs.
- The pesticide is a "dual notice" pesticide and the application site is located within 100 feet of a public road or within 300 feet of a residence, migrant labor camp, school, day care facility, health care facility, commercial or industrial facility, public recreation area or other non-agricultural area where persons are likely to be present during the restricted entry interval. This posting requirement applies to all farmers (not just agricultural employers), because it is intended to protect the general public as well as agricultural workers. If a farmer hires a commercial applicator to make the application, the commercial applicator is jointly responsible for posting warning signs.

- The pesticide label requires that the treated area be posted. This posting requirement applies to all farmers, not just agricultural employers. If a farmer hires a commercial applicator to make the application, the commercial applicator is jointly responsible for posting warning signs.

Whenever posting is required under this rule, warning signs must be posted at normal points of access to the treated area. Signs must also be posted at 1/4 mile intervals along those borders of the treated area that lie within 100 feet of a public road or within 300 feet of a residence or nonagricultural area where persons are likely to be present during the restricted entry interval.

Nonagricultural Pesticide Applications; Posting Requirements

This rule does not change current posting requirements for nonagricultural pesticide applications. Current rules include specific posting requirements for commercial applications to lawns and residential structures. Under current rules, other nonagricultural applications must be posted only if one of the following applies:

- The pesticide label requires posting.
- The pesticide label specifies a restricted entry interval. (Currently, only a limited number of nonagricultural pesticides are labeled with restricted entry intervals.)

Warning Signs

A warning sign required under federal worker protection standards must comply with all of the following requirements:

- Its dimensions must be at least 14" by 16." If treated areas, such as individual plants or greenhouse benches, are too small to be posted with 14" by 16" signs, those areas may be posted with smaller signs whose dimensions are at least 4" by 5." The content and format of the smaller signs must correspond to the content and format of the 14" by 16" signs.
- It must contain warnings in English and in Spanish. A second language other than Spanish may be used if it is more likely to be understood by the affected workers.
- It must comply with the format shown in Appendix E to this rule unless otherwise approved for use by EPA.

- It must be posted no more than 24 hours before the pesticide application occurs, and must remain posted until the restricted entry interval expires.
- It must be covered or removed before workers are allowed to enter the treated area, and no later than 3 days after the restricted entry interval has expired.

If a warning sign is required under this rule, but not under federal worker protection standards, the warning sign may be a federal worker protection sign (see requirements above) or an alternative sign specified under this rule. The alternative sign must meet all of the following requirements:

- Its dimensions must be at least 8 1/2" by 11." If treated areas, such as individual plants or greenhouse benches, are too small to be posted with 8 1/2" by 11" signs, those areas may be posted with smaller signs whose dimensions are at least 4" by 5." The content and format of the smaller signs must correspond to the content and format of the 8 1/2" by 11" signs.
- It must comply with the format shown in Appendix F to this rule. The alternative sign need only be printed in English, and need not be printed in Spanish or any other language.
- It must be posted before the pesticide application occurs, and must remain posted until the restricted entry interval expires. The sign may remain posted indefinitely, and need not be removed.

Commercial Applicators for Hire; Application Information

Under current rules, a commercial applicator for hire who performs a pesticide application for any person must notify that person of the application date and time, and must provide that person with the common chemical or brand name of the pesticide applied. Under current rules, the commercial applicator may give this notice before or immediately after the application is made.

Under this rule, if the pesticide label specifies a restricted entry interval, the commercial applicator for hire must correctly notify the contracting person of the application date and time before making the application. The applicator must also provide the contracting person with the common chemical name, brand name and EPA registration number of the pesticide applied.

Agricultural Emergencies; Early Entry to Treated Areas

Under the federal worker protection standards, an agricultural employer may not allow workers to enter a treated area until the restricted entry interval has expired. However, the federal

rules create an exception for "agricultural emergencies" declared by federal, state or tribal governments. In response to a declared "agricultural emergency," properly trained and equipped workers may enter the treated area in order to mitigate the effects of the emergency.

This rule declares that an "agricultural emergency" exists whenever there is a sudden onset of conditions, such as flood, fire, frost, hail, high winds or loss of power, which will result in a substantial economic loss that can only be prevented or mitigated by the early entry of agricultural workers into an area treated with an agricultural pesticide. A "substantial economic loss" means a loss in profitability which is greater than that which could occur as a result of normal annual fluctuations in crop yield or quality. Conditions which an agricultural employer could have anticipated and controlled, or which are precipitated by an agricultural employer's mismanagement or negligence, do not constitute an "agricultural emergency."

This rule serves as a generic "declaration of emergency." If the emergency conditions specified in this rule are met, no further state agency declaration is needed in order for an agricultural employer to allow early entry of workers into a treated area. However, even in an "agricultural emergency," the early entry must comply with federal worker protection standards which are incorporated by reference in this rule. According to the federal standards, an early entry must satisfy all of the following conditions:

- At least 4 hours must have elapsed since the pesticide application was completed.
- The agricultural employer must determine that no pesticide inhalation exposure level specified on the pesticide label is exceeded at the time of the early entry, and that no applicable ventilation standard is violated.
- Each agricultural worker who enters the treated area must be trained in pesticide safety.
- Each agricultural worker who enters the treated area must read the pesticide label or be informed, in a manner that the worker can understand, of label provisions related to human hazard or precautions, first aid, symptoms of poisoning, and personal protective equipment required for early entry into a treated area.
- Each agricultural worker who enters the treated area must be equipped with and must use all personal protective equipment required on the pesticide label for early-entry workers. Equipment must be clean and properly maintained. Workers must be instructed on how to put on, use and take off the

equipment, and must be instructed to wash thoroughly after taking off the equipment.

- Each agricultural worker who is required to wear personal protective equipment must be instructed in the prevention, recognition and first aid treatment of heat related illness.
- Each agricultural worker who enters the treated area must have ready access to a decontamination site.

Under this rule, if agricultural workers enter a treated area in response to an "agricultural emergency," the agricultural employer must report the early entry to DATCP. The employer must report in writing within 72 hours after the early entry occurs. The report must include all of the following:

- The name, mailing address and telephone number of the agricultural employer.
- The date and location of the early entry.
- A description of the agricultural emergency which necessitated the early entry.
- The brand name, EPA registration number and restricted entry interval for each pesticide applied to the treated area.
- The number of agricultural workers involved in the early entry.

The department may require the agricultural employer to file additional information with the department related to an early entry.

Training Agricultural Workers and Pesticide Handlers

The new federal worker protection standards require pesticide safety training for agricultural workers and pesticide handlers. Training must comply with minimum standards, and must be provided by an approved trainer. This rule establishes minimum qualifications for approved trainers. It also requires agricultural employers, handler employers and trainers to keep certain training records.

Under this rule, a person who trains handlers must be at least one of the following:

- Currently certified as a pesticide applicator by DATCP.
- Currently certified as a pesticide applicator in another state, pursuant to an applicator certification program approved by EPA.

- Employed by the university of Wisconsin-extension to train pesticide applicators.
- A graduate of a worker protection train-the-handler program approved by DATCP or EPA.

Under this rule, a person who trains agricultural workers must be at least one of the following:

- Currently certified as a pesticide applicator by DATCP.
- Currently certified as a pesticide applicator in another state, pursuant to an applicator certification program approved by EPA.
- Employed by the university of Wisconsin-extension to train pesticide applicators.
- A graduate of a worker protection train-the-handler or train-the-worker program approved by DATCP or EPA.
- Currently trained as a pesticide handler according to federal worker protection standards.

Under this rule, agricultural employers and handler employers must keep current training records for each agricultural worker or handler whom they employ. Records must be retained for at least one year following termination of employment. Records must include all of the following:

- The name and permanent home address of the agricultural worker or handler.
- The date or dates on which the agricultural worker or handler received training required under this rule.
- A signed statement by the agricultural worker or handler confirming that the worker or handler received the training required under this rule on the dates indicated.

Under this rule, persons training agricultural workers or handlers must keep training records for all of the agricultural workers or handlers whom they train. Records must include names and addresses, training dates, and signed statements from trainees. Trainers must keep the records for at least 5 years following the date on which they give the training.

1 SECTION 1. ATCP 29.01(2j), (2k), (2m), (2n), (2p), (16m),
2 (20m), (24m) and (48m) are created to read:

3 (2j) "Agricultural employer" means a person who hires or
4 contracts for the services of agricultural workers, or who
5 operates an agricultural establishment that uses agricultural
6 workers.

7 (2k) "Agricultural establishment" means any farm, forest,
8 nursery or greenhouse where agricultural plants are produced.

9 (2m) "Agricultural pesticide" means any pesticide used or
10 labeled for use in the production of agricultural plants at an
11 agricultural establishment.

12 (2n) "Agricultural plant" means any plant grown or
13 maintained for commercial or research purposes.

14 (2p) "Agricultural worker" means a person who performs
15 activities related to the production of agricultural plants at an
16 agricultural establishment.

17 (16m) "Crop advisor" means any person who assesses pest
18 numbers or damage, pesticide distribution, or the status or
19 requirements of agricultural plants.

20 (20m) "Dual notice pesticide" means an agricultural
21 pesticide whose label requires agricultural employers to do both
22 of the following:

23 (a) Post application sites with worker protection warning
24 signs.

25 (b) Give workers oral notice of applications.

26 (24m) "Handler" means any person who engages in any of the

1 following activities:

2 (a) Mixing, loading, transferring or applying agricultural
3 pesticides.

4 (b) Disposing of agricultural pesticides.

5 (c) Handling opened containers of agricultural pesticides,
6 other than empty containers that have been triple-rinsed or
7 cleaned according to the pesticide product label.

8 (d) Acting as a flagger to mark the pesticide application
9 pathway during an agricultural pesticide application.

10 (e) Cleaning, adjusting, handling or repairing those parts
11 of pesticide mixing, loading or application equipment that may
12 contain agricultural pesticide residues.

13 (f) Assisting with the application of agricultural
14 pesticides in any manner which could expose that person to
15 pesticides.

16 (g) Entering a greenhouse or other enclosed area during or
17 after an agricultural pesticide application, and before the
18 inhalation exposure level specified on the pesticide label and
19 the ventilation criteria specified by CFR 170.110(c)(3) or the
20 pesticide label have been met, in order to operate ventilation
21 equipment, adjust or remove covers used in fumigation, or monitor
22 air quality.

23 (h) Entering an outdoor area treated with a soil fumigant
24 in order to adjust or remove soil coverings such as tarpaulins.

25 (i) Performing tasks as a crop advisor at an agricultural
26 pesticide application site during or after a pesticide

1 application, and before any of the following have occurred:

2 1. The inhalation exposure level specified on the pesticide
3 label is met.

4 2. The ventilation criteria specified by CFR 170.110(c) (3)
5 or the pesticide label are met.

6 3. The restricted entry interval specified on the pesticide
7 label has expired.

8 (48m) "Restricted entry interval" means the time after the
9 end of a pesticide application during which entry into the
10 treated area is restricted.

11 SECTION 2. ATCP 29.15(7) is repealed and recreated to read:

12 ATCP 29.15(7) POSTING TREATED AREAS. (a) Posting
13 required. Except as provided under par. (i) or the pesticide
14 label, warning signs shall be posted at a pesticide application
15 site whenever any of the following applies:

16 1. An agricultural employer is required to post the
17 application site under a federal worker protection standard
18 contained in 40 CFR 170. The agricultural employer who operates
19 the site to which the pesticide is applied is responsible for
20 posting that application site under this subdivision.

21 2. The pesticide is a dual notice pesticide, and the
22 application site is located within 100 feet of a public road or
23 within 300 feet of a residence, migrant labor camp, school, day
24 care facility, health care facility, commercial or industrial
25 facility, public recreation area or other nonagricultural area
26 where persons are likely to be present during the restricted
27

1 entry interval specified on the pesticide label. The posting
2 requirement under this subdivision applies to any person who
3 applies or orders the application of a dual notice pesticide at a
4 site described under this subdivision, regardless of whether that
5 person is an agricultural employer.

6 NOTE: Subdivision 2 applies to all persons applying "dual
7 notice" agricultural pesticides -- not just
8 agricultural employers. Posting under subd. 2 is
9 designed to protect the general public as well as
10 agricultural workers.
11

12 3. The application site is treated with a pesticide, other
13 than an agricultural pesticide, whose label prescribes a time
14 interval for safe re-entry following that non-agricultural
15 application.

16 4. The pesticide label requires that the treated area be
17 posted.

18 NOTE: See also the specialized posting requirements under
19 s. ATCP 29.152(14) related to chemigation applications,
20 ATCP 29.153 related to residential structures and ATCP
21 29.154 related to landscape applications.
22

23 (b) Federal worker protection warning signs. 1. Federal
24 worker protection warning signs required under par. (a)1 shall
25 comply with this paragraph. Federal worker protection warning
26 signs complying with this paragraph may also be used to satisfy
27 any of the posting requirements under par. (a)2 to 4.

28 2. Except as provided under par. (h), or as permitted in
29 this state by the federal environmental protection agency, a
30 federal worker protection warning sign shall have dimensions of
31 at least 14" by 16."

32 3. Except as permitted in this state by the federal

1 environmental protection agency, a federal worker protection
2 warning sign shall portray the information shown in Appendix E in
3 the same format shown in Appendix E, and shall contain no
4 supplementary information beyond that shown in Appendix E.

5 4. A federal worker protection warning sign shall be
6 constructed to resist deterioration and remain legible throughout
7 the required posting period.

8 (c) Other warning signs. Every warning sign under par.
9 (a), other than a federal worker protection warning sign or a
10 warning sign used to post a landscape application under s. ATCP
11 29.154, shall comply with all of the following requirements:

12 1. Except as provided under par. (h), it shall have
13 dimensions of at least 8 1/2" by 11."

14 2. It shall portray the information in Appendix F in the
15 manner shown in Appendix F. The sign may contain supplementary
16 information, beyond that shown in Appendix F, if the information
17 is consistent with and does not detract from that shown in
18 Appendix F.

19 3. It shall be constructed to resist deterioration and
20 remain legible throughout the required posting period.

21 (d) Warning signs; when posted. Warning signs required
22 under par. (a) may be posted at any time before the pesticide
23 application is made, except that federal worker protection
24 warning signs shall be posted not more than 24 hours before the
25 pesticide application is scheduled to be made.

26 (e) Warning signs; when removed. Warning signs required

1 under par. (a) shall remain posted for the duration of any
2 restricted entry interval specified on the pesticide label.
3 Warning signs may remain posted indefinitely, except that federal
4 worker protection warning signs shall be removed or covered not
5 more than 3 days after the restricted entry interval expires
6 unless they are required for another pesticide application.

7 (f) Warning signs; where posted. Warning signs required
8 under par. (a) shall be posted at the following locations:

9 1. At normal points of access to the treated area.

10 2. At 1/4 mile intervals along those borders of the treated
11 area that lie within 100 feet of a public road or within 300 feet
12 of a residence, migrant labor camp, school, day care facility,
13 health care facility, commercial or industrial facility, public
14 recreation area or other area where persons are likely to be
15 present during the restricted entry interval. Treated areas
16 bordering a public road or other area identified under this
17 subdivision for less than 1/2 mile shall be posted with at least
18 one sign.

19 (g) Persons responsible for posting. Except as provided
20 under par. (a)1, the following persons are individually and
21 jointly responsible for posting a pesticide application under
22 par. (a):

23 1. The person who operates the premises at which the
24 pesticide is applied.

25 2. The pesticide applicator.

26 3. The pesticide applicator's employer, if any.

1 NOTE: The persons identified under par. (g) may contract
2 between themselves to post an application site, but any
3 or all of them may be held liable if an application
4 site is not properly posted under pars. (a)2 to 4.
5

6 (h) Posting small treated areas. If a small treated area,
7 such as a potted plant or greenhouse bench top, is not large
8 enough to accommodate warning signs under par. (b) or (c), the
9 treated area may be posted with smaller warning signs whose
10 dimensions are not less than 4" by 5." Small treated areas shall
11 be clearly posted on each side at intervals no greater than 25
12 feet. An individual treated plant may be posted with a single
13 sign. The content and format of the smaller signs shall
14 correspond to the content and format of the standard signs under
15 par. (b) or (c).

16 (i) Exemptions. Paragraph (a) does not apply to pesticide
17 applications made to waters of the state for the management or
18 control of aquatic plants or organisms if the applications comply
19 with ch. NR 107.

20 **SECTION 3.** ATCP 29.15(10) (b)3 and 6 are amended to read:

21 ATCP 29.15(10) (b)3 The common chemical ~~or~~ name, the brand
22 name, and the EPA registration number of the pesticide applied.

23 (b)6 The date and approximate time of application. If the
24 pesticide label specifies a restricted entry interval, the
25 applicator shall correctly notify the contracting person of the
26 scheduled application date and time before making the
27 application.

28 **SECTION 4.** ATCP 29.15(10) (b)7 is created to read:

29 ATCP 29.15(10) (b)7 The location and a description of the

1 area treated.

2 SECTION 5. ATCP 29.152(14) (a) and (b) are amended to read:

3 ATCP 29.152(14) (a) General posting requirement. Sites
4 treated with a pesticide by means of chemigation shall be posted
5 with warning placards signs. ~~Warning placards shall be white and~~
6 ~~bear the words, "KEEP OUT" below which is an octagonal stop sign~~
7 ~~symbol at least 8 inches in diameter containing the words,~~
8 ~~"PESTICIDES BEING APPLIED IN IRRIGATION WATER". All words shall~~
9 ~~consist of letters at least 2 1/2 inches in height. The words~~
10 ~~and symbol shall be conspicuous and legible. Each warning sign~~
11 shall portray the information in Appendix G in the manner shown
12 in Appendix G. A warning sign may contain supplementary
13 information, beyond that shown in Appendix G, if the information
14 is consistent with and does not detract from that shown in
15 Appendix G. Placards Warning signs shall be posted in compliance
16 with par. (b) before chemigation begins. ~~Placards~~ Warning signs
17 shall not be removed until chemigation is completed and treated
18 surfaces have dried. ~~If chemigation involves a pesticide with a~~
19 ~~prescribed re entry interval, the treated area must~~ A chemigation
20 application shall also be posted in compliance with applicable
21 requirements under s. ATCP 29.15(7). ~~Warning placards~~ signs
22 under this paragraph may remain posted indefinitely as long as
23 they are composed of materials that are not subject to
24 deterioration and remain legible for the duration of the posting
25 interval.

26 (b) Posting locations; exception. The posting requirement

1 under par. (a) applies to sites treated with pesticides by means
2 of chemigation only to the extent that the target area to be
3 treated with the pesticide borders within 100 feet of a public
4 road or ~~other public right of way, or within 300 feet of~~
5 ~~sensitive areas such as residential areas, labor camps, day care~~
6 ~~centers, hospitals, medical clinics, nursing homes, school yards,~~
7 ~~playgrounds, parks, or similar public areas or facilities within~~
8 300 feet of a residence, migrant labor camp, school, day care
9 facility, health care facility, commercial or industrial
10 facility, public recreation area or other area where persons are
11 likely to be present during the operation of the chemigation
12 system.

13 SECTION 6. ATCP 29.154(3)(title) and (a) to (d) are amended
14 to read:

15 ATCP 29.154(3)(title) POSTING WARNING SIGNS.

16 (a) Requirement. Whenever a commercial applicator makes a
17 landscape application, other than a landscape application to a
18 golf course under sub. (7), the commercial applicator shall post
19 placards warning signs in compliance with this subsection. ~~If~~
20 ~~the pesticide label prescribes a time interval for safe re-entry~~
21 ~~following application, the applicator shall also post warning~~
22 ~~placards in compliance with s. ATCP 29.15 (7).~~

23 (b) When posted. The commercial applicator shall post
24 ~~placards at the time of the landscape application~~ warning signs
25 before the pesticide application begins. No person may remove a
26 placard warning sign until sunset of the day following the

1 application, or until sunset of the day the safe re-entry
2 interval on the pesticide label has expired, whichever is later.
3 The commercial applicator is not required to remove the ~~placards~~
4 warning signs.

5 (c) (title) Size of warning signs. The dimensions of each
6 ~~placard~~ warning sign shall be at least 4 inches by 5 inches.

7 (d) (title) Warning sign construction. Each ~~placard~~
8 warning sign shall be attached to a stable supporting device.
9 ~~Placards~~ Warning signs shall be made of rigid material. The
10 material shall be durable enough so that a ~~placard~~ warning sign
11 can be easily read for at least 72 hours after posting,
12 notwithstanding reasonably foreseeable adverse weather
13 conditions.

14 **SECTION 7.** ATCP 29.154(3)(e) is repealed and recreated to
15 read:

16 ATCP 29.154(3)(e) Warning sign contents; general. Warning
17 signs shall be professionally printed with red lettering on a
18 white background, according to the format shown in Appendix B.
19 Each warning sign shall contain the universal symbol depicting an
20 adult, child and pet in a circle, with a diagonal line across the
21 circle. Each warning sign shall bear the statements "**PESTICIDE**
22 **APPLICATION**" and "**PLEASE KEEP OFF**" in not less than 36-point
23 type. Each warning sign shall also bear all of the following
24 statements in not less than 9-point type:

25 1. The statement "**DO NOT REMOVE UNTIL SUNSET THE DAY**
26 **FOLLOWING APPLICATION**", except that if the pesticide label
27 specifies a restricted entry interval, the warning sign shall
28 bear the alternative statement "**DO NOT REMOVE UNTIL SUNSET ON**

1 [specify date that the restricted entry interval expires]."

2 2. The statement "FOR ADDITIONAL INFORMATION ON THIS
3 APPLICATION OR ANY FUTURE APPLICATIONS CALL [name and telephone
4 number of the commercial applicator's business] OR THE DEPARTMENT
5 OF AGRICULTURE, TRADE AND CONSUMER PROTECTION AT 608-224-LAWN".

6 SECTION 8. ATCP 29.154(3)(e)(note) is repealed.

7 SECTION 9. ATCP 29.154(3)(f) is amended to read:

8 ATCP 29.154(3)(f)(title) Warning sign locations. 1.

9 ~~Plaearde~~ warning signs shall be posted at regular intervals along
10 the boundaries of the treated landscape. If the boundaries of
11 the treated landscape do not correspond to readily identifiable
12 physical or property boundaries, ~~plaearde~~ warning signs shall be
13 posted so that the ~~plaearde~~ warning signs define the boundaries
14 of the treated landscape.

15 2. ~~Plaearde~~ Warning signs shall be posted so that they are
16 clearly visible from the boundaries of the treated landscape. If
17 a driveway, sidewalk or other established vehicle or pedestrian
18 thoroughfare intersects the boundary of the treated landscape, a
19 ~~plaearde~~ warning sign shall be posted so that it is clearly
20 visible from that point of intersection.

21 3. Except as provided under subd. 4 or 5, at least one
22 ~~plaearde~~ warning sign shall be posted for every 300 feet of
23 treated landscape boundary.

24 4. If the area of the treated landscape exceeds 2,000 sq.
25 ft., but the perimeter of the treated landscape is less than
26 1,200 feet, at least 4 ~~plaearde~~ warning signs shall be posted at
27 regular intervals along the boundary of the treated landscape.

28 5. If the area of the treated landscape is less than 2,000

1 sq. ft., only one ~~placard~~ warning sign is required for that
2 treated landscape. The ~~placard~~ warning sign shall be posted so
3 that it is clearly visible from the most likely point of entry to
4 the treated landscape.

5 SECTION 10. __ATCP 29.154(6)(d) is created to read:

6 ATCP 29.154(6)(d) Additional posting for pesticide with
7 restricted entry interval. If the pesticide label prescribes a
8 restricted entry interval, the treated area shall be posted with
9 warning signs according to sub. (3).

10 SECTION 11. ATCP 29.154(7)(a) and (note) are amended to
11 read:

12 ATCP 29.154(7)(a)(title) Warning signs. ~~Placards~~ Warning
13 signs shall be professionally printed on a minimum of 70 weight
14 paper or other rigid material durable enough so that a ~~placard~~
15 warning sign can be easily read for at least 72 hours after
16 posting, notwithstanding reasonably foreseeable adverse weather
17 conditions. The dimensions of each ~~placard~~ warning sign shall be
18 at least 4 inches by 5 inches. ~~Placards~~ Warning signs shall be
19 printed with red lettering on a white background, with the
20 contents show in Appendix C. Each ~~placard~~ warning sign shall
21 contain the universal symbol depicting an adult, child and pet in
22 a circle, with a diagonal line across the circle. Each ~~placard~~
23 warning sign shall bear the words, in not less than 20-point
24 type, "PESTICIDE APPLICATION," and "PLEASE KEEP OFF."

25 NOTE: See Appendix C for an example of a ~~placard~~ warning
26 sign.

27 SECTION 12. ATCP 29.155 is created to read:

28 ATCP 29.155 WORKER PROTECTION; AGRICULTURAL PESTICIDES.

1 (1) GENERAL. Agricultural employers, persons who employ
2 handlers, and commercial applicators for hire shall comply with
3 applicable worker protection standards under 40 CFR 170.

4 NOTE: See also s. ATCP 29.15(7) related to posting
5 treated areas.
6

7 (2) AGRICULTURAL EMERGENCIES; EARLY ENTRY BY WORKERS. (a)

8 In this subsection:

9 1. "Agricultural emergency" means a sudden onset of
10 conditions, such as flood, fire, frost, hail, high winds or loss
11 of power, which will result in a substantial economic loss that
12 can only be prevented or mitigated by the early entry of
13 agricultural workers into an area treated with an agricultural
14 pesticide. "Agricultural emergency" does not include conditions
15 which an agricultural employer could have anticipated and
16 controlled, or which are precipitated by an agricultural
17 employer's mismanagement or negligence.

18 2. "Early entry" means the entry of agricultural workers
19 into an area treated with an agricultural pesticide before the
20 restricted entry interval has expired, for the purpose of
21 performing hand labor.

22 3. "Hand labor" means any agricultural activity, performed
23 by hand or with hand tools, that causes a worker to have
24 substantial contact with surfaces such as plants, plant parts, or
25 soil that may contain pesticide residues. "Hand labor" includes
26 activities such as, harvesting, detasseling, thinning, weeding,
27 topping, planting, removing suckers, pruning, debudding, roguing,
28 and packing produce into containers in the field. "Hand labor"
29 does not include operating, moving or repairing irrigation,

1 watering or frost protection equipment, acting as a crop advisor,
2 or performing similar activities which do not entail substantial
3 contact with surfaces that may contain pesticide residues.

4 4. "Substantial economic loss" means a loss in
5 profitability which is greater than that which could occur as a
6 result of normal annual fluctuations in crop yield or quality.

7 (b) An agricultural employer may have agricultural workers
8 enter an area treated with an agricultural pesticide before the
9 restricted entry interval has expired if all of the following
10 apply:

11 1. The early entry is necessary to prevent or mitigate the
12 effects of an agricultural emergency.

13 2. The early entry complies with applicable worker
14 protection standards under 40 CFR 170.112.

15 3. The agricultural workers entering the treated area have
16 been trained in compliance with 40 CFR 170.130.

17 4. The agricultural employer reports the early entry to the
18 department within 72 hours after the early entry occurs.

19 (c) A report under par. (b)4 shall be made in writing and
20 shall include all of the following:

21 1. The name, mailing address and telephone number of the
22 agricultural employer.

23 2. The date and location of the early entry.

24 3. A description of the agricultural emergency which
25 necessitated the early entry.

26 4. The brand name, EPA registration number and restricted
27 entry interval for each pesticide applied to the treated area.

28 5. The number of agricultural workers involved in the early

1 entry.

2 (d) The department may require an agricultural employer to
3 file additional information with the department related to an
4 early entry.

5 NOTE: Subsection (2) is intended to serve as a "declaration
6 of emergency" for purposes of 40 CFR 170.112(d)(2)(i).
7 If all of the conditions under sub. (2) are met, no
8 further "declaration" by the department is needed in
9 order to permit the early entry of agricultural workers
10 into a treated area.

11
12 (3) TRAINING HANDLERS. (a) An employer of a handler shall
13 ensure that the handler is trained as required by 40 CFR 170.230
14 before the handler engages in any handler activity.

15 (b) A person who trains handlers under par. (a) shall be at
16 least one of the following:

17 1. Currently certified as a pesticide applicator by the
18 department.

19 2. Currently certified as a pesticide applicator in another
20 state, pursuant to an applicator certification program approved
21 by the federal environmental protection agency.

22 3. Employed by the university of Wisconsin-extension to
23 train pesticide applicators.

24 4. A graduate of a worker protection train-the-handler
25 program approved by the department or the federal environmental
26 protection agency.

27 (4) TRAINING AGRICULTURAL WORKERS. (a) An agricultural
28 employer may not require or permit any agricultural worker to
29 enter any area that has been subject to a restricted entry
30 interval during the previous 30 days, unless that agricultural
31 worker has been trained as required by 40 CFR 170.130.

1 (b) A person who trains agricultural workers under par. (a)
2 shall be at least one of the following:

3 1. Currently certified as a pesticide applicator by the
4 department.

5 2. Currently certified as a pesticide applicator in another
6 state, pursuant to an applicator certification program approved
7 by the federal environmental protection agency.

8 3. Employed by the university of Wisconsin-extension to
9 train pesticide applicators.

10 4. A graduate of a worker protection train-the-handler or
11 train-the-worker program approved by the department or the
12 federal environmental protection agency.

13 5. Currently trained as a pesticide handler under 40 CFR
14 170.230.

15 (5) TRAINING RECORDS. (a) Agricultural employers and
16 persons who employ handlers shall keep current pesticide training
17 records for each agricultural worker or handler whom they
18 currently employ. These records shall be retained for at least
19 one year after employment is terminated and shall include all of
20 the following:

21 1. The name and permanent home address of the agricultural
22 worker or handler.

23 2. The date or dates on which the agricultural worker or
24 handler received training required under sub. (3)(a) or (4)(a).

25 3. A signed statement by the agricultural worker or handler
26 confirming that the worker or handler received the training
27 required under sub. (3)(a) or (4)(a) on the dates indicated.

28 (b) Persons training agricultural workers or handlers under

1 sub. (3)(a) or (4)(a) shall keep training records for all of the
2 agricultural workers or handlers whom they train. Records shall
3 include all of the information required under par. (a). Trainers
4 shall keep the records for at least 5 years following the date on
5 which they give the training.

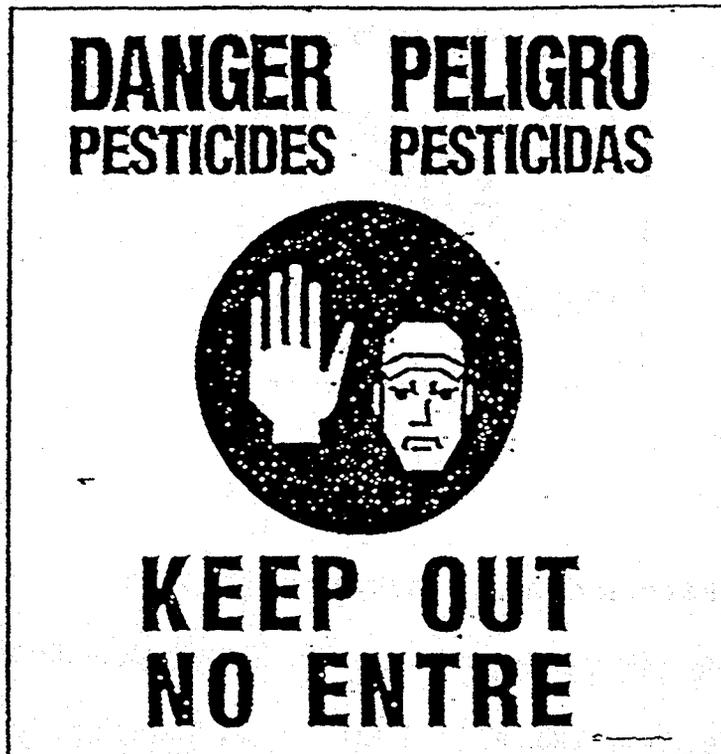
6 SECTION 13. The rules contained in this order shall take
7 effect on the first day of the month following publication in the
8 Wisconsin administrative register, as provided under s.
9 227.22(2)(intro.), Stats.

10
11 Dated this 14th day of Dec, 19 95.

12 STATE OF WISCONSIN
13 DEPARTMENT OF AGRICULTURE,
14 TRADE AND CONSUMER PROTECTION

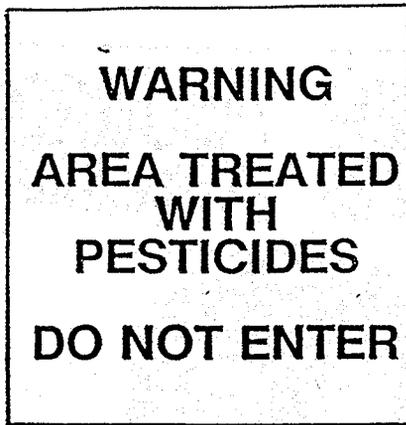
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18 By 
19 Alan T. Tracy, Secretary
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ATCP 29, APPENDIX E



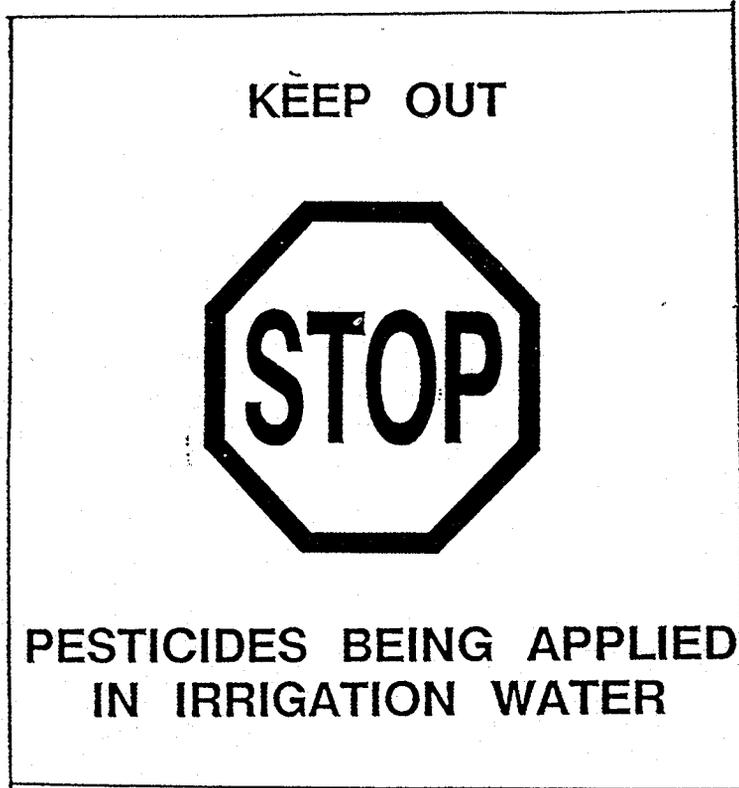
- All letters shall have a minimum height of 1 inch.
- Red circle placed near center of sign containing; upraised hand on left / stern face on right, length of hand, twice the size of smallest letter, length of face, slightly smaller than hand.
- Background color shall contrast with red.
- Letter printing shall contrast with the background color.
- Printing within the circle shall contrast with red.

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- All letters shall have a minimum height of 1 inch.
- Letter printing shall contrast with the background color.
- The words "DO NOT ENTER" may be replaced with "NO TRESPASSING" or "KEEP OUT".
- Additional words may be added to the sign as long as they do not detract from or contradict with the required words.

ATCP 29, APPENDIX G



- All letters shall have a minimum height of 2 1/2 inches.
- Letter printing shall contrast with the background color.
- The octagonal stop sign symbol shall be at least 8 inches in diameter.
- Additional words may be added to the sign as long as they do not detract from or contradict with the required words.