

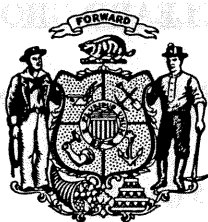
SEP 05 2000

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FORM 2

WISCONSIN LEGISLATIVE COUNCIL STAFF

**RULES CLEARINGHOUSE**

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**CLEARINGHOUSE REPORT TO AGENCY**

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[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

**CLEARINGHOUSE RULE 00-119**

AN ORDER to repeal portions of ATCP 30 Appendix A; and to create portions of ATCP 30 Appendix A, relating to pesticide product restrictions.

Submitted by **DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

08-14-00 RECEIVED BY LEGISLATIVE COUNCIL.

08-22-00 REPORT SENT TO AGENCY.

RS:DLL:jal

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached YES  NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached YES  NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached YES  NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached YES  NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached YES  NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached YES  NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

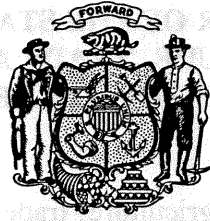
Comment Attached YES  NO

# WISCONSIN LEGISLATIVE COUNCIL STAFF

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## CLEARINGHOUSE RULE 00-119

### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

#### 4. Adequacy of References to Related Statutes, Rules and Forms

In the statement of statutory authority, the citation to s. 94.69 (9), Stats., appears to be incorrect.

Proposed Hearing Draft  
8/3/00

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

- 1 The state of Wisconsin department of agriculture, trade and consumer protection proposes the
- 2 following order to repeal portions of ATCP 30 Appendix A; and to create portions of ATCP
- 3 30 Appendix A; relating to pesticide product restrictions.

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

Statutory authority: ss. 93.07(1), 94.69(9), 160.19(2), and  
160.21(1), Stats.

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

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards. Based on new groundwater test data, this rule expands a current atrazine prohibition area.

**Atrazine Prohibition Areas**

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 103 designated areas, including major prohibition areas in the lower Wisconsin River valley and much of Dane and Columbia counties.

This rule enlarges one current prohibition area. This will increase the statewide acreage of atrazine prohibition areas by about 1,000 acres. This rule includes a map describing the expanded prohibition area.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface which complies with ss. ATCP 29.45, Wis. Adm. Code.

1           **SECTION 1.** The cover page of ATCP 30 Appendix A is repealed and recreated in  
2 the form attached.

3           **SECTION 2.** Prohibition area map numbered 93-11-01, contained in ATCP 30  
4 Appendix A, is repealed.

5           **SECTION 3.** The attached prohibition area map, numbered  
6 01-11-01 is created in ATCP 30 Appendix A.

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

10

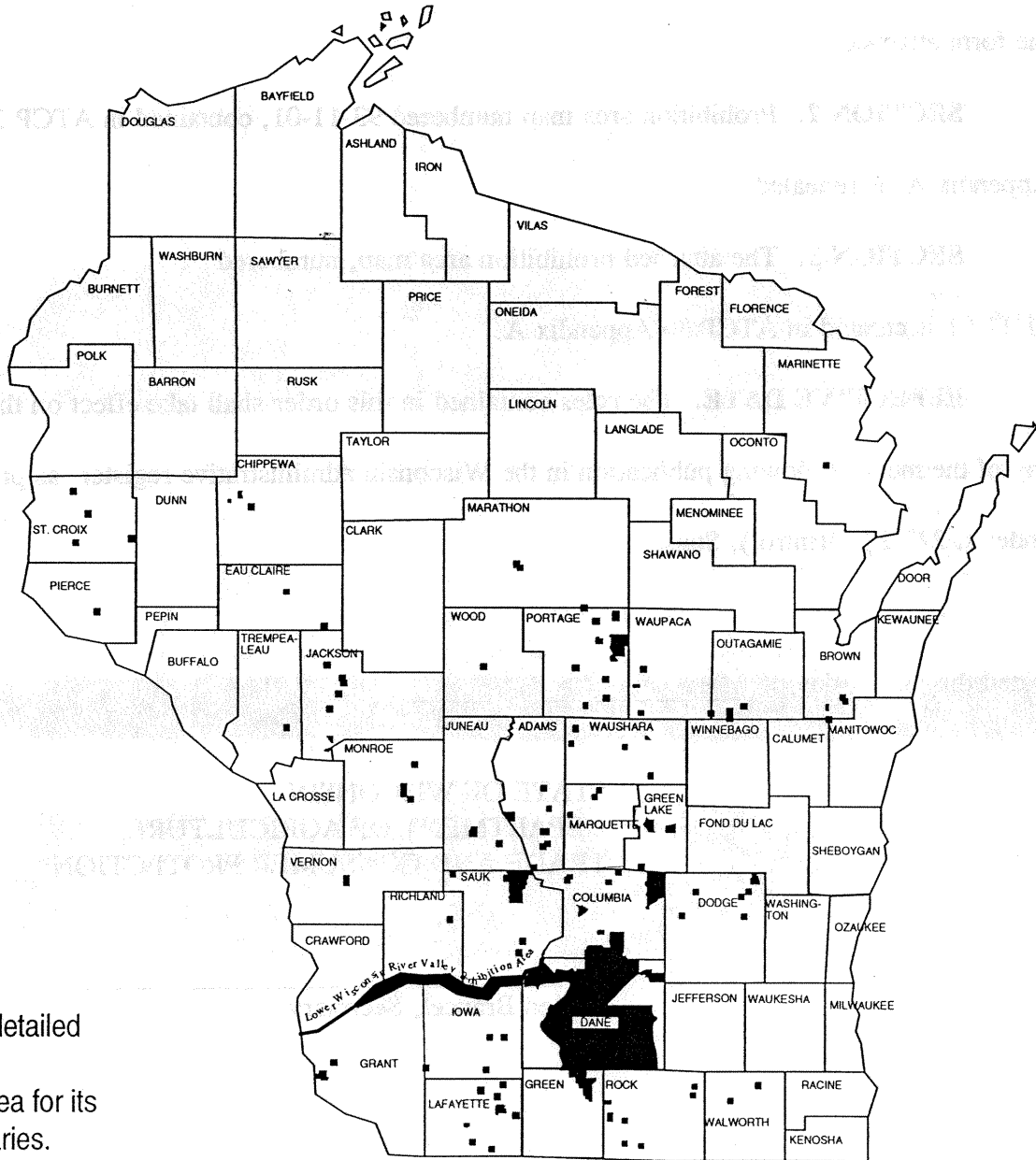
Dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By \_\_\_\_\_  
Ben Brancel, Secretary

# Chapter ATCP 30

## Atrazine Prohibition Areas

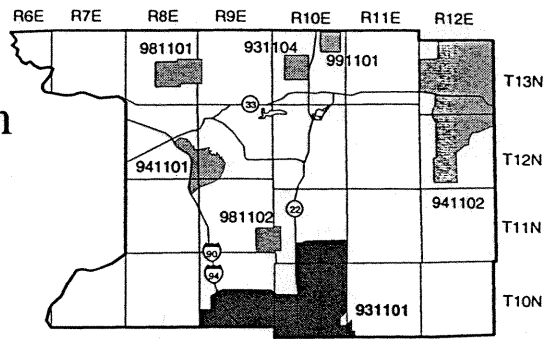


Refer to the detailed map of each prohibition area for its exact boundaries.

# Columbia County

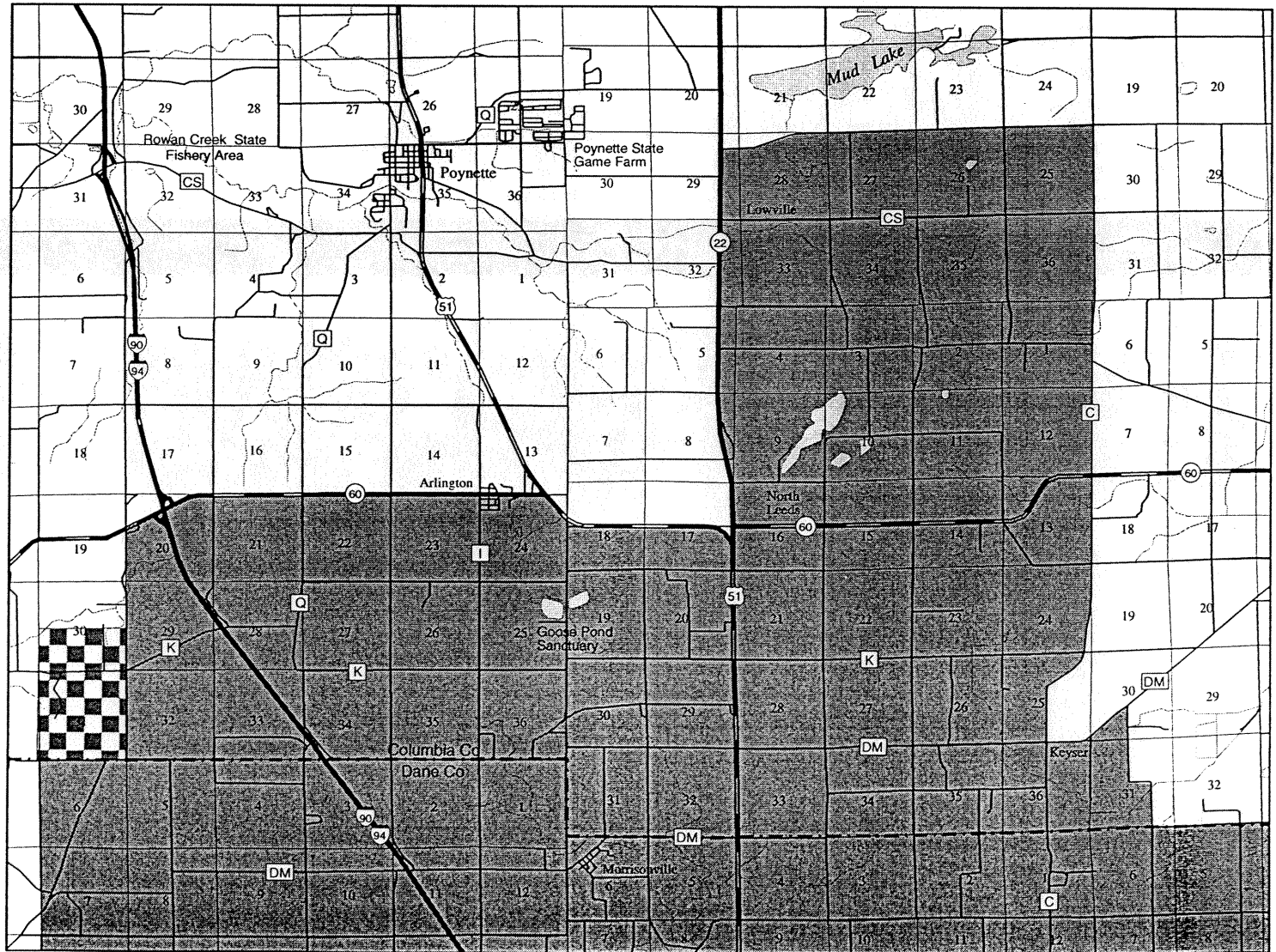
## Towns of Arlington, Leeds, Hampden and Lowville

T10N R9-11E  
T11N R10E PA 01-11-01\*



All uses of atrazine are prohibited on lands within the shaded regions. There are seven prohibition areas in Columbia County. Refer to each map for specific locations.

**\*Note:** This PA is an expansion of PA 93-11-01.



STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

NOTICE OF HEARING

RULES RELATED USE OF ATRAZINE PESTICIDES

The state of Wisconsin Department of Agriculture, Trade and Consumer Protection announces that it will hold a public hearing on a proposed amendment to chapter ATCP 30, Wis. Adm. Code, relating to the use of atrazine pesticides. The hearing will be held at the time and place shown below. The public is invited to attend the hearing and comment on the proposed rule. The department also invites comments on the draft environmental impact statement accompanying the rule. Following the public hearing, the hearing record will remain open until **September 21, 2000** for additional written comments.

A copy of this rule may be obtained, free of charge, from the Wisconsin Department of Agriculture, Trade and Consumer Protection, Agricultural Resource Management Division, 2811 Agriculture Drive, Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4502. Copies will also be available at the public hearing.

An interpreter for the hearing impaired will be available on request for the hearing. Please make reservations for a hearing interpreter by **August 25, 2000** either by writing to Bruce Rheineck, 2811 Agriculture Drive, P.O. Box 8911, Madison, WI 53708, (608/224-4502) or by contacting the message relay system (TTY) at **608/224-5058**. Handicap access is available at the hearing.

**One hearing is scheduled:**

Wednesday September 13, 2000

Lodi City Hall

113 South Main St.

Lodi, WI

(608) 592-3247

afternoon session: 3:00 - 5:00 p.m.

evening session: 6:30 - 8:00 p.m.

Written comments will be accepted until **September 21, 2000**.



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

Statutory authority: ss. 93.07(1), 94.69(9), 160.19(2), and 160.21(1), Stats.

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

In order to protect Wisconsin groundwater, current rules under ch. ATCP 30, Wis. Adm. Code, restrict the statewide rate at which atrazine pesticides may be applied. Current rules also prohibit the use of atrazine in areas where groundwater contamination levels attain or exceed state enforcement standards.

Based on new groundwater test data, this rule expands an area in which atrazine use is prohibited.

Atrazine Prohibition Areas

Current rules prohibit the use of atrazine where atrazine contamination of groundwater equals or exceeds the current groundwater enforcement standard under ch. NR 140, Wis. Adm. Code. Current rules prohibit atrazine use in 103 designated areas, including major prohibition areas in the lower Wisconsin river valley and much of Dane and Columbia counties.

This rule enlarges one current prohibition area. This will increase the statewide acreage of atrazine prohibition areas by about 1,000 acres. This rule includes a map describing the expanded prohibition area.

Within every prohibition area, atrazine applications are prohibited. Atrazine mixing and loading operations are also prohibited unless conducted over a spill containment surface complying with ss. ATCP 29.151(2) to (4), Wis. Adm. Code.

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## FISCAL ESTIMATE

The rule will be administered by the Agricultural Resource Management (ARM) Division of the Department of Agriculture, Trade and Consumer Protection (DATCP). The following estimate is based on enlarging 1 existing prohibition area (PA).

Administration and enforcement of the proposal will involve new costs for the department. Specialist and field investigator staff time will be needed for inspections and enforcement in the new PAs (0.05 FTE, cost approximately \$2,000). Enforcement activities will be conducted in conjunction with current compliance inspections but at increased levels to ensure compliance with the additional prohibition areas. Compliance activities will be especially important in the first few years as growers, commercial applicators, dealers, and agricultural consultants in the PAs require education to comply with the new regulations.

Soil sampling conducted in the additional PAs to determine compliance with the rules will require an estimated \$500 in analytical services. In addition, a public information effort will be needed to achieve a high degree of voluntary compliance with the rule. Direct costs to produce and distribute the informational materials will be \$500.

### **Total Annual Costs: \$3,000**

The Department anticipates no additional costs for other state agencies. Water sampling programs within the Department of Natural Resources and local health agencies may receive short term increased interest by individuals requesting samples.

### 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.

The Department anticipates no additional costs for other state agencies. Water sampling programs within the Department of Natural Resources and local health agencies may receive short term increased interest by individuals requesting samples.

The complete fiscal estimate is available upon request.

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## INITIAL REGULATORY FLEXIBILITY ANALYSIS

### Businesses Affected:

The amendments to ATCP 30 Appendix A will affect small businesses in Wisconsin. The greatest small business impact of the rule will be on users of atrazine -- farmers who grow corn. The proposed prohibition area contains approximately 1,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 250 acres of corn will be affected. About three producers would be affected, depending on their corn acreage and their reliance on atrazine products. These producers are small businesses, as defined by s. 227.114 (1)(a), Stats. Secondary effects may be felt by distributors and applicators of atrazine pesticides, crop consultants and equipment dealers. Since the secondary effects relate to identifying and assisting farmers in implementing alternative weed control methods, these effects will most likely result in additional or replacement business and the impacts are not further discussed in this document.

Specific economic impacts of alternative pest control techniques are discussed in the environmental impact statement for this rule.

### Reporting, Recordkeeping and Other Procedures Required for Compliance:

The maximum application rate for atrazine use in Wisconsin is based on soil texture. This may necessitate referring to a soil survey map or obtaining a soil test. While this activity is routine, documentation would need to be maintained to justify the selected application rate. A map delineating application areas must be prepared if the field is subdivided and variable application rates are used. This procedure is already required under the current atrazine rule.

All users of atrazine, including farmers, will need to maintain specific records for each application. This procedure is already required under the current atrazine rule.

Atrazine cannot be used in certain areas of the State where groundwater contamination exceeds the atrazine enforcement standard in s. NR 140.10 Wis. Adm. Code.

### Professional Skills Required to Comply:

The rule affects how much atrazine can be applied and on which fields. Because overall use of atrazine will be reduced in the State, alternative weed control techniques may be needed in some situations. These techniques may include different crop rotations, reduced atrazine rates, either alone or in combination with other herbicides, or combinations of herbicides and mechanical weed control measures.

While alternative weed control techniques are available, adoption of these techniques on individual farms will in some cases require assistance. In the past this type of assistance has been provided by University Extension personnel and farm chemical dealers. In recent years many farmers have been using crop consultants to scout fields, identify specific pest problems and recommend control measures. The department anticipates these three information sources will continue to be used as the primary source of information, both on whether atrazine can be used and which alternatives are likely to work for each situation.

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Notice to Department of Development

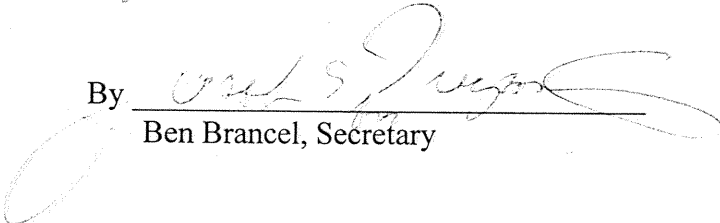
The department has given notice of this proposed rule to the Wisconsin department of development, as required by s. 227.114(5), stats.

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DRAFT ENVIRONMENTAL IMPACT STATEMENT

The Department has prepared a draft environmental impact statement (EIS) for proposed 2001 amendment to rules on the use of pesticides containing atrazine. Copies are available from the Department on request and will be available at the public hearings. Comments on the EIS should be directed to the Agricultural Resource Management Division, Wisconsin Department of Agriculture, Trade and Consumer Protection, P.O. Box 8911, Madison, WI, 53708 in care of Jeff Postle. Phone 608/224-4503. Written comments on the EIS will be accepted until September 21, 2000.

Dated this 4 day of August, 2000.

By   
Ben Brancel, Secretary