

Clearinghouse Rule 96-139

STATE OF WISCONSIN)
) ss. Clearinghouse rule
DEPARTMENT OF AGRICULTURE,) No. 96-139
TRADE & CONSUMER PROTECTION)

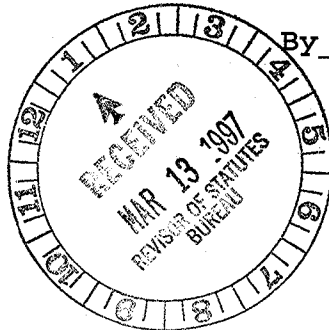
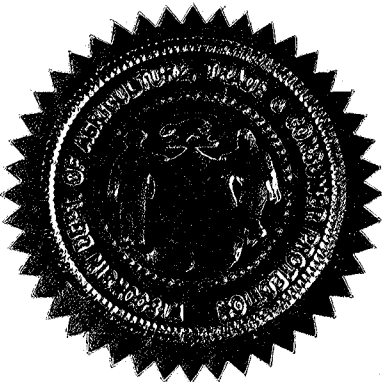
CERTIFICATION:

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 the control of potato late blight was signed and adopted by the Department on March 12, 1997.


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 12th day of March, 1997.

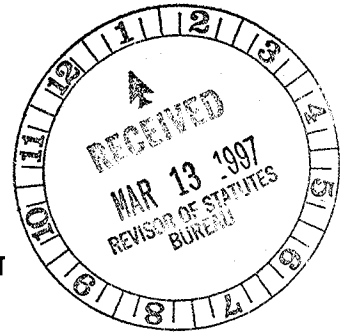
STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE
TRADE AND CONSUMER PROTECTION



By


Alan T. Tracy, Secretary

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



1 The state of Wisconsin department of agriculture, trade and
2 consumer protection adopts the following order to create ATPC
3 21.15 relating to potato late blight.

4

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

Statutory authority: ss. 93.07(1) and (12) and 94.01(1)
Stats.

Statutes interpreted: ss. 93.07(12) and 94.02(1) Stats.

This rule modifies ch. ATPC 21, Wis. Adm. Code. It requires potato growers to take steps to control "late blight," a serious plant disease which poses an imminent threat to Wisconsin's potato industry.

Background

In recent years, new forms of the highly virulent "Irish potato famine" fungus, *Phytophthora infestans*, have caused increasingly devastating losses to potato growers in the United States and Canada. The fungus causes a disease of potato plants which is commonly known as "late blight."

The National Association of State Departments of Agriculture reports that late blight epidemics in 1992, 1993 and 1994 were the worst in decades, and that some individual farm losses have amounted to hundreds of thousands of dollars in a single year. The University of Wisconsin estimates that Wisconsin growers lost up to \$10 million in 1994 and \$6 million in 1995 due to late blight.

The potato industry is one of Wisconsin's most important agricultural industries. In 1995, Wisconsin was the 3rd leading state in the nation in potato production. Cash receipts to Wisconsin potato growers totalled over \$150 million in 1995. Potatoes are an important food source for the people of Wisconsin and other states. Potato production also supports important processing and distribution industries in Wisconsin. The uncontrolled spread of late blight would have a devastating

impact on Wisconsin potato growers, and would seriously affect the public health, safety and welfare.

Late blight appears on potato plant leaves, stems and tubers. It causes foliar lesions which are followed by severe defoliation in wet weather. It can also reduce marketable yield by directly infecting and rotting potato tubers. Once late blight appears, it spreads rapidly and can cause total crop loss.

Late blight fungal spores can be spread by many things, including wind, rain, machinery, workers, wildlife and infected seed potatoes. The University of Wisconsin reports that spores can be transported over 25 miles by storms.

There are very few registered fungicides in the United States that are effective in controlling the new forms of late blight fungus. Because of the lack of registered fungicides, and the ease with which the late blight fungus spreads, potato growers must mitigate the spread of the disease by removing sources of the overwintering inoculum. Among other things, potato growers must properly dispose of potato cull piles and "volunteer" potato plants which germinate from waste potatoes.

A failure by individual potato growers to implement necessary cultural practices to mitigate the spread of late blight will have a potentially devastating impact on other growers, and on the Wisconsin potato industry as a whole.

In order to ensure that growers take adequate steps to mitigate the spread of late blight, it is necessary to adopt rules that spell out critical practices and establish sanctions for growers who fail to comply.

Rule Contents

Under this rule, a person who owns or controls land on which potato "cull piles" are located must dispose of those cull piles by May 20 of each year. ("Cull piles" are piles of waste potatoes and include seed cutting slivers and waste, storage remnants and sweepings.) The person must dispose of the "cull piles" by one of the following methods:

- By feeding the cull potatoes to livestock so that they are completely consumed by May 20 of each year.
- By spreading the cull potatoes on fields and incorporating the cull potatoes into the soil.
- By depositing the cull potatoes in a licensed landfill with the written permission of the landfill operator.
- By another method which the department approves in writing.

Under this rule, whenever volunteer potato plants appear on land where cull potatoes were spread, or on land where potato plants were intentionally grown in a prior year, the person who owns or controls that land must immediately remove or kill those volunteer potato plants. Pesticides used to kill volunteer potato plants must be labeled for the crop in which the volunteer potatoes emerge, or for the site at which they emerge.

Under this rule, the department may issue pest quarantine and abatement orders to prevent or control late blight infestations, or to remedy violations of this rule. If the department finds any field infested with late blight, the department may order the person owning or controlling that field to treat it, in a manner specified by the department, in order to control or eliminate the infestation. Treatment may include pesticide applications specified by the department.

Under this rule, the department may order the destruction of a potato crop infested with late blight if the department finds that alternative measures will not adequately prevent or mitigate the spread of late blight.

RULEMAKING ORDER

SECTION 1. ATCP 21.15 is created to read:

ATCP 21.15 POTATO LATE BLIGHT. (1) DEFINITIONS. In this section:

(a) "Cull pile" means a waste pile of harvested potatoes and includes seed cutting slivers and waste, storage remnants and sweepings.

(b) "Late blight" means the fungal disease Phytophthora infestans.

(c) "Volunteer potato plants" means potato plants that germinate in places where they were not intentionally planted during the current calendar year, or that germinate from cull potatoes spread on land.

(2) DISPOSING OF CULL PILES. A person who owns or controls

1 land on which potato cull piles are located shall dispose of
2 those cull piles by May 20 of each year by one of the following
3 methods:

4 (a) By feeding the cull potatoes to livestock so that they
5 are completely consumed by May 20.

6 (b) By spreading the cull potatoes on fields and
7 incorporating the cull potatoes into the soil.

8 (c) By depositing the cull potatoes in a licensed landfill
9 with the written permission of the landfill operator.

10 (d) By another method which the department approves in
11 writing.

12 (3) CONTROLLING VOLUNTEER POTATO PLANTS. Whenever
13 volunteer potato plants appear on land, the person who owns or
14 controls that land shall immediately remove or kill those
15 volunteer potato plants. Pesticides used to kill volunteer
16 potato plants shall be labeled for the crop in which the
17 volunteer plants emerge, or for the site at which they emerge.

18 (4) ENFORCEMENT. (a) The department may issue pest
19 quarantine and abatement orders under ss. 94.01 and 94.02,
20 Stats., and s. ATCP 21.03, to prevent or control late blight
21 infestations, or to remedy violations of this section.

22 (b) If the department finds any field infested with late
23 blight, the department may order the person owning or controlling
24 that field to treat it, in a manner specified by the department,
25 in order to control or eliminate the infestation. Treatment may
26 include pesticide applications specified by the department.

1 crop infested with late blight if the department finds that
2 alternative measures will not adequately prevent or mitigate the
3 spread of late blight.

4 (d) The department may seek to prosecute violations of this
5 section under s. 94.77, Stats.

6 NOTE: The university of Wisconsin-extension plant
7 pathology and horticulture departments have developed
8 integrated pest management procedures (IPM) that help
9 protect against late blight. Growers are urged to
10 follow these IPM procedures. IPM procedures and late
11 blight forecasting information are available from the
12 UW-extension county agricultural agent, or through a
13 UW-extension computer program called the potato disease
14 management plan under WISDOM.
15
16

17 **SECTION 2.** The rules contained in this order shall take
18 effect on the first day of the month following publication in the
19 Wisconsin administrative register, as provided under ss.
20 227.22(2) (intro.), Stats.
21

22 Dated this 11th day of March, 1997.

23 STATE OF WISCONSIN
24 DEPARTMENT OF AGRICULTURE, TRADE
25 AND CONSUMER PROTECTION
26

27
28
29 By 
30 Alan T. Tracy, Secretary