

# Clearinghouse Rule 97-113

STATE OF WISCONSIN )  
 ) ss.  
DEPARTMENT OF AGRICULTURE, )  
TRADE & CONSUMER PROTECTION )

Clearinghouse Rule  
No. 97-113

## CERTIFICATION:

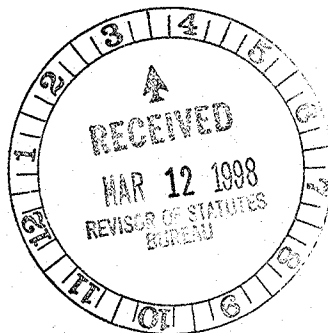
I, Ben Brancel, Secretary of the State of Wisconsin, Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to groundwater protection was signed and adopted by the department on March 12, 1998.

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, 1998.

STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Ben Brancel  
Ben Brancel, Secretary



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  
2 consumer protection proposes the following order to repeal  
3 portions of chapter ATCP 30 Appendix A, and to create ATCP 30.31  
4 and (note) and portions of chapter ATCP 30 Appendix A, relating  
5 to atrazine use 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, the department has adopted atrazine rules under ch. ATCP 30, Wis. Adm. Code. The current rules restrict the statewide rate at which atrazine pesticides may be applied. The current rules also prohibit the use of atrazine on approximately 1.2 million acres in areas where groundwater contamination attains or exceeds the enforcement standard established by the Department of Natural Resources under ch. NR 140, Wis. Adm. Code.

This rule amends the current ATCP 30 rules as follows:

- It prohibits atrazine use on approximately 13,000 additional acres based on new groundwater test data. The rule creates 2 new prohibition areas and enlarges 5 others.
- It establishes conditions which must be met before the department may repeal or reduce the size of an atrazine prohibition area.

## **New or Expanded Prohibition Areas**

Current rules prohibit the use of atrazine in 96 designated areas. These include large prohibition areas in the lower Wisconsin river valley, Dane County and Columbia County, and smaller prohibition areas throughout the state.

This rule repeals and recreates 5 current prohibition areas to expand those areas, and creates 2 new prohibition areas. The rule includes maps describing each of the new and expanded prohibition areas.

Within a 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 29.151(2) to (4), Wis. Adm. Code.

## **Standards for Repealing Prohibition Areas**

This rule spells out conditions which must be met before the department may repeal or reduce the size of an atrazine prohibition area. In future annual updates to the atrazine rule, the department may repeal or reduce the size of prohibition areas in which these conditions are met. This rule does not repeal or reduce the size of any atrazine prohibition area.

Under this rule, the department must find all of the following before it repeals or reduces the size of a prohibition area:

- Tests on at least 3 consecutive groundwater samples, drawn from each well site in the prohibition area at which the atrazine concentration previously attained or exceeded the groundwater enforcement standard, show that the atrazine concentration at that well site has fallen to and remains at not more than 50% of the enforcement standard. The 3 consecutive samples must be collected at each well site at intervals of at least 6 months, with the first sample being collected at least 6 months after the effective date of the prohibition. A monitoring well approved by the department may be substituted for any well site which is no longer available for testing.
- Tests (if any) conducted at other well sites in the prohibition area, during the same retesting period, reveal

no other atrazine concentrations that exceed 50% of the enforcement standard.

- The department determines, based on credible scientific evidence, that renewed use of atrazine in the prohibition area is not likely to cause a renewed violation of the enforcement standard.

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

3           **SECTION 2.** Prohibition area maps numbered 94-01-01, 94-11-  
4 01, 93-37-01, 93-54-01, and 96-63-01, contained in Appendix A to  
5 ch. ATCP 30, are repealed.

6           **SECTION 3.** The attached prohibition area maps, numbered  
7 98-01-01, 98-11-01, 98-11-02, 98-37-01, 98-54-01, 98-63-01 and  
8 98-69-01, are created in Appendix A to ch. ATCP 30.

9           **SECTION 4.** ATCP 30.31 and (note) are created to read:

10           **ATCP 30.31 REPEALING PROHIBITION AREAS.** The department may  
11 repeal or reduce the size of a prohibition area under s. ATCP  
12 30.30 if all the following conditions are met:

13           (1) Tests on at least 3 consecutive groundwater samples,  
14 drawn from each well site in the prohibition area at which the  
15 concentration of atrazine and its metabolites previously attained  
16 or exceeded the enforcement standard under s. NR 140.10, show  
17 that the concentration at that well site has fallen to and

1 remains at not more than 50% of the enforcement standard. The 3  
2 consecutive samples shall be collected at each well site at  
3 intervals of at least 6 months, with the first sample being  
4 collected at least 6 months after the effective date of the  
5 prohibition. A monitoring well approved by the department may be  
6 substituted for any well site which is no longer available for  
7 testing.

8 (2) Tests conducted at other well sites in the prohibition  
9 area during the same retesting period, if any, reveal no other  
10 concentrations of atrazine and its metabolites that exceed 50% of  
11 the enforcement standard under s. NR 140.10.

12 (3) The department determines, based on credible scientific  
13 evidence, that renewed use of atrazine products in the  
14 prohibition area is not likely to cause a renewed violation of  
15 the enforcement standard.

16 NOTE: The department may reinstate a repealed prohibition  
17 area if groundwater testing at a point of standards application  
18 shows an increasing trend of atrazine contamination, suggesting  
19 that contamination may again attain or exceed the enforcement  
20 standard.

21 **EFFECTIVE DATE.** The rules contained in this order shall  
22 take effect on the first day of the month following publication  
23 in the Wisconsin administrative register, as provided under s.  
24 227.22(2) (intro.), Stats.

Dated this 12 day of March, 1998.

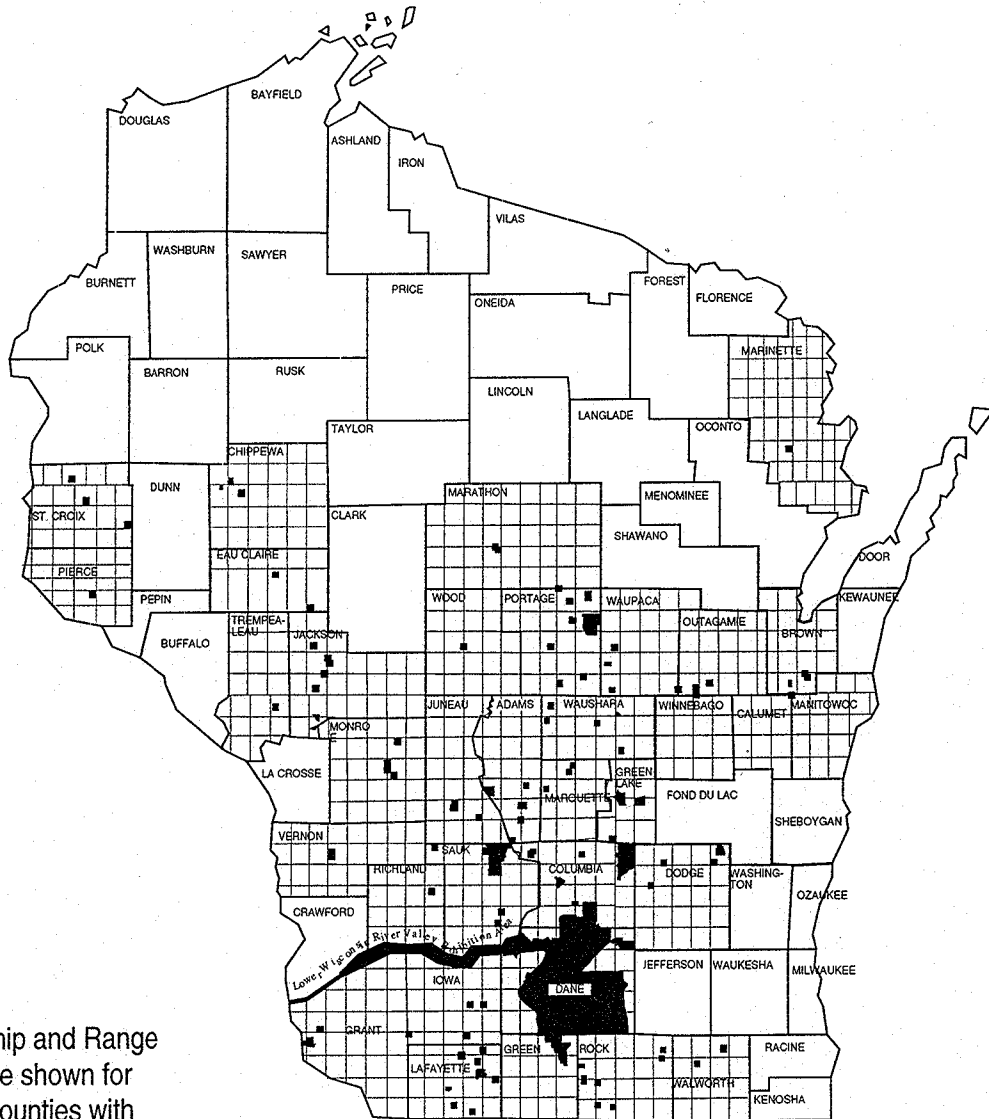
STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Ben Brancel  
Ben Brancel,  
Secretary

# Chapter ATCP 30

## Appendix A

### Atrazine Prohibition Areas



Township and Range lines are shown for those counties with prohibition areas.

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

1998 Rule

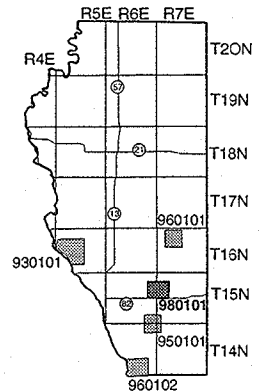


# Adams County

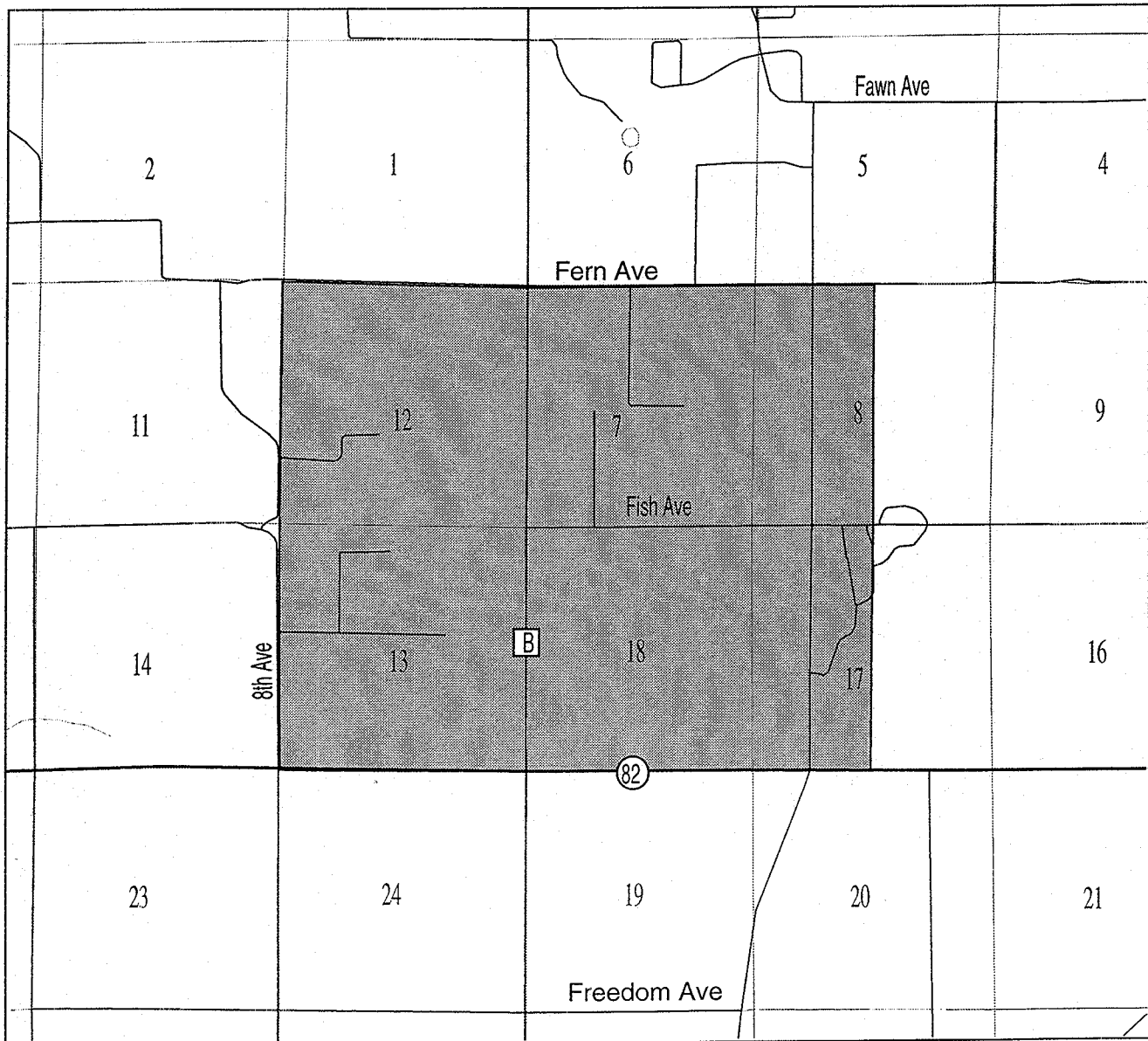
## Towns of Springville & Jackson

**T15N R6-7E PA 98-01-01\***

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



**\*Note:** This PA is an expansion of PA 94-01-01.



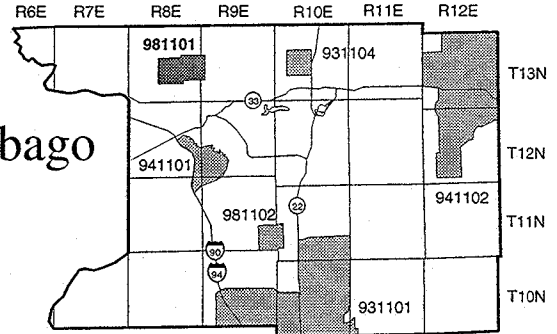




# Columbia County

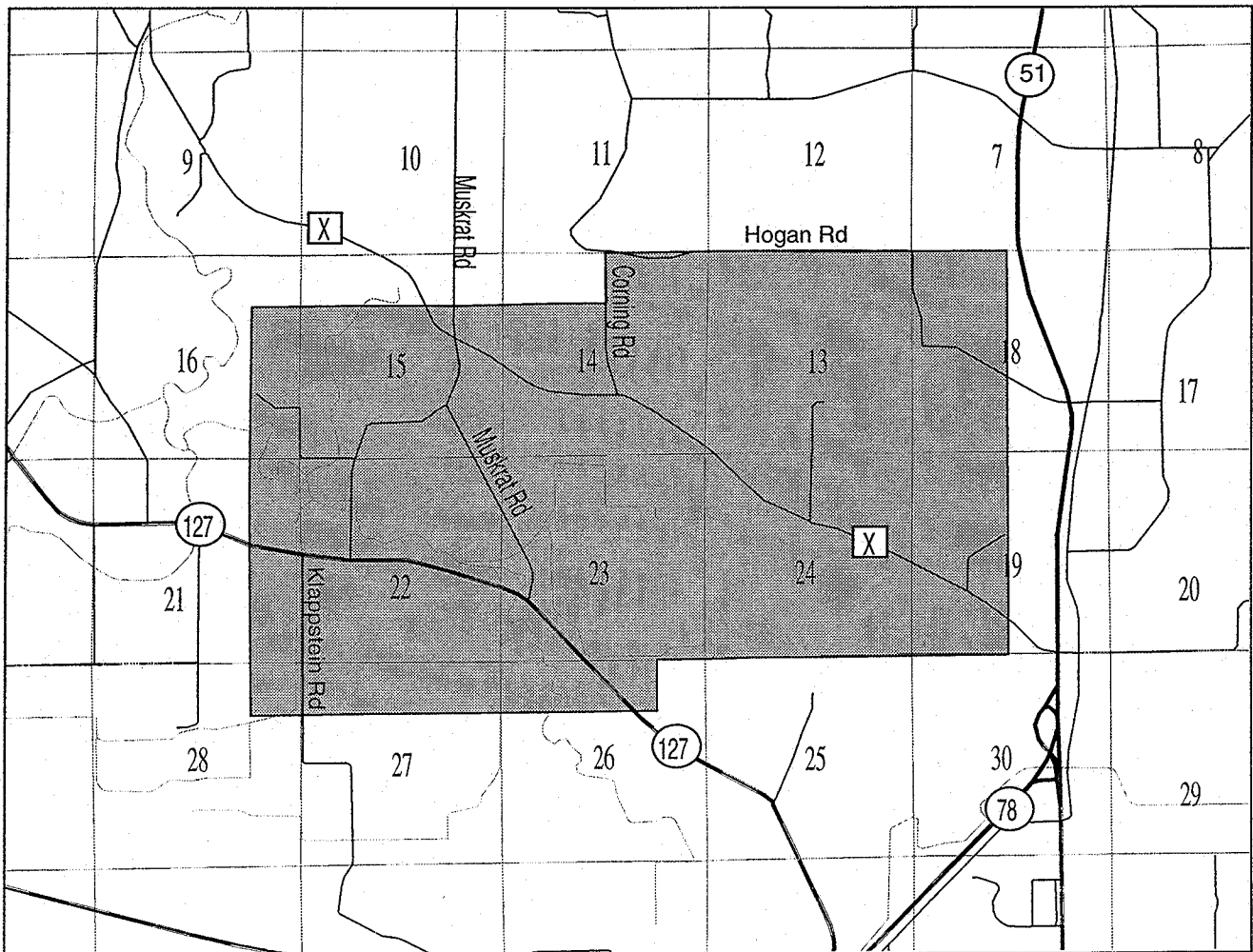
## Towns of Lewiston & Fort Winnebago

### T13N R8-9E PA 98-11-01\*



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

**\*Note:** This PA is an expansion of PA 94-11-03.

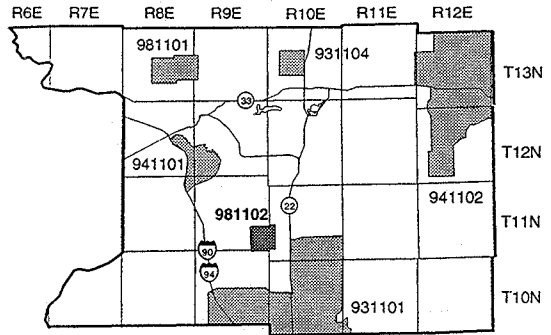


# Columbia County

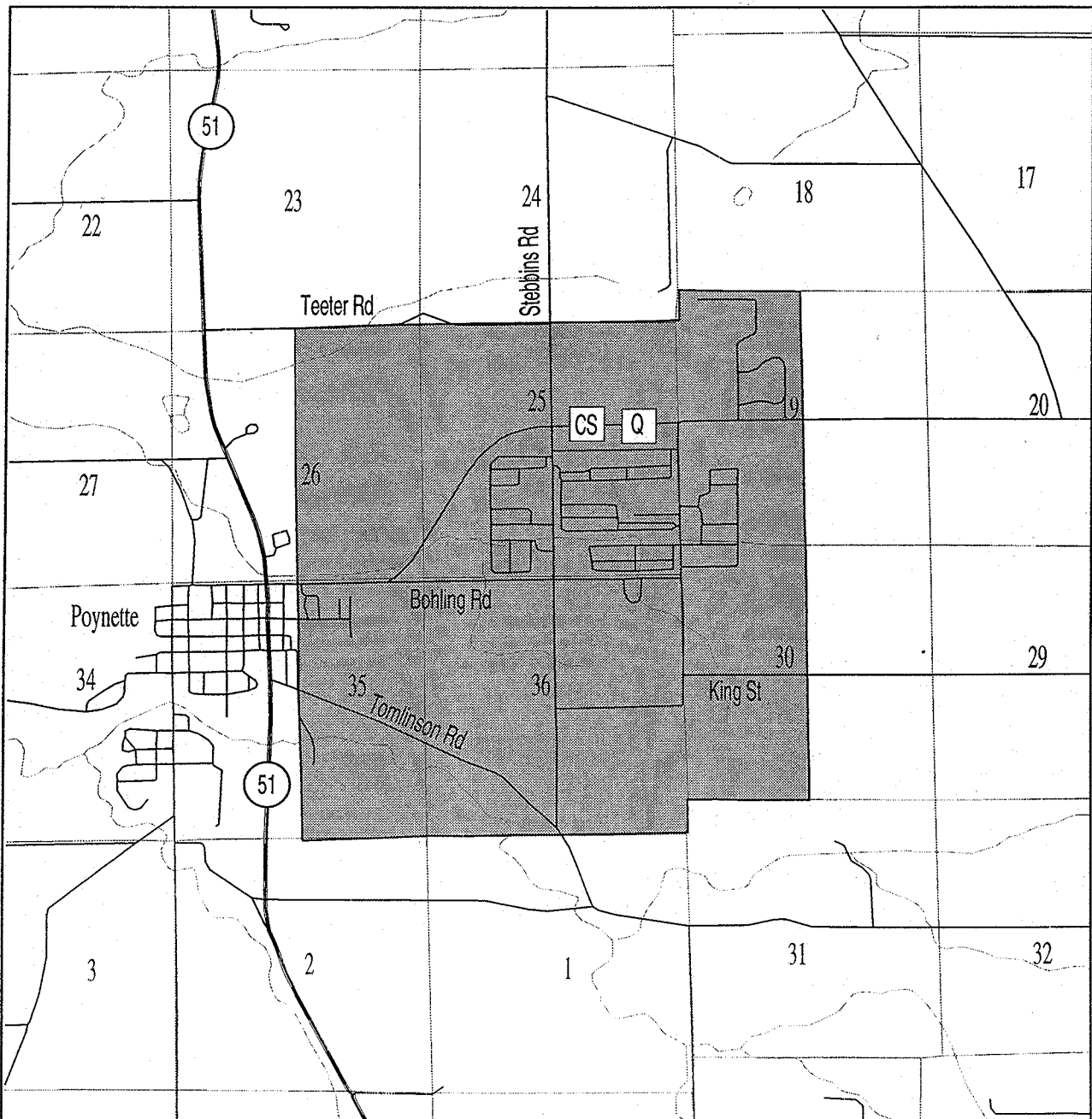
## Towns of Dekorra & Lowville



**T11N R9-10E PA 98-11-02**



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



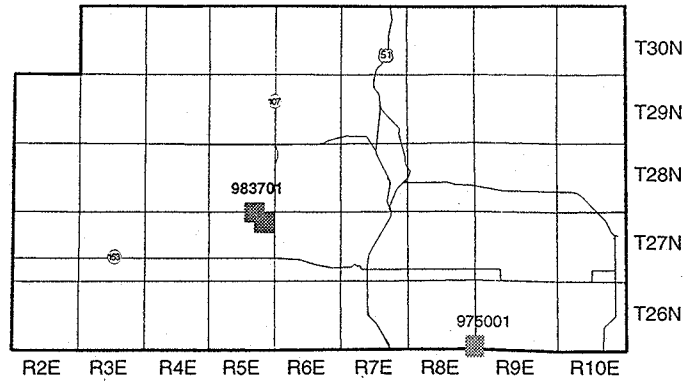
# Marathon County

Towns of Cassel & Emmet

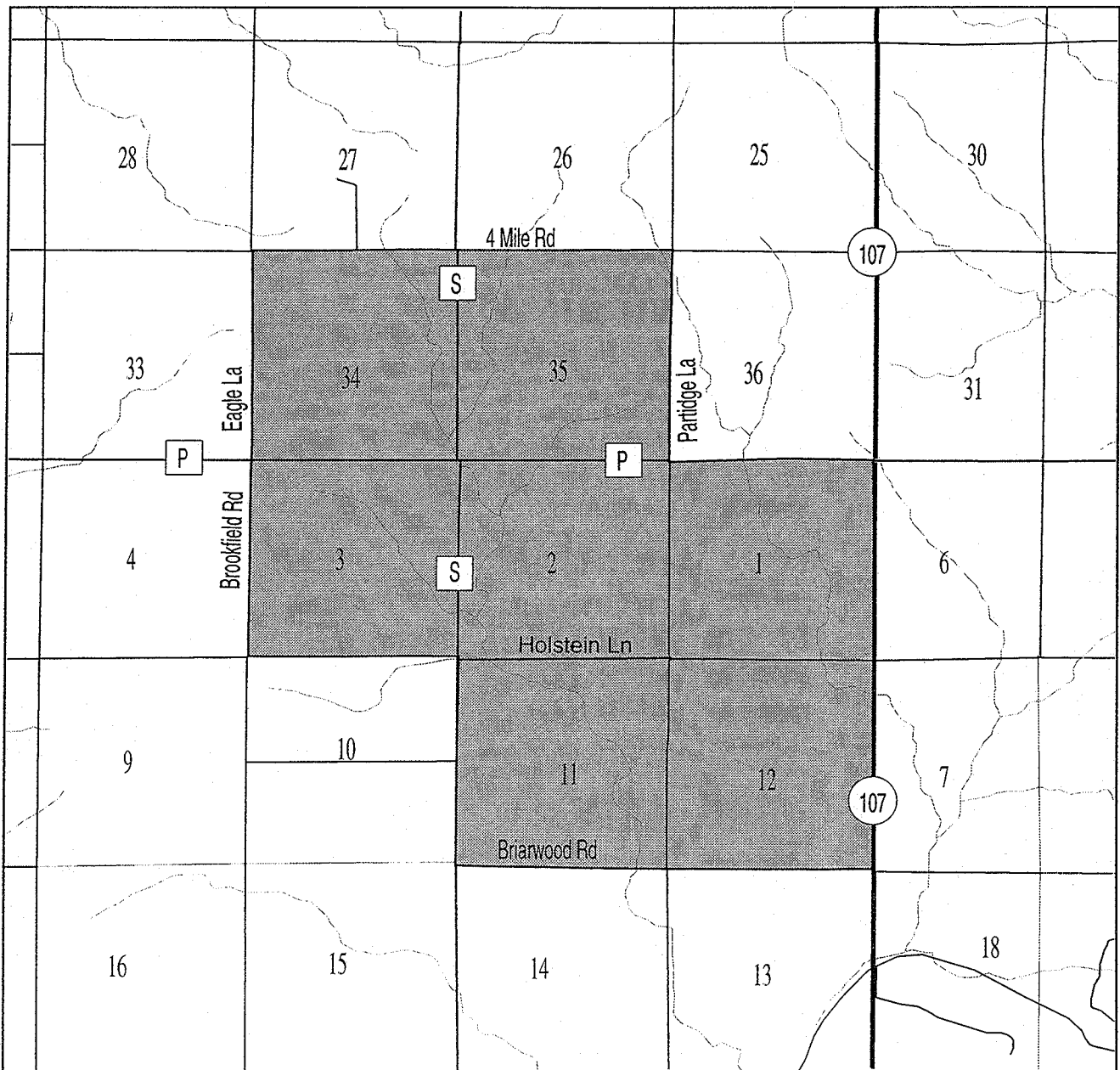
T27-28N R5E PA 98-37-01\*



All uses of atrazine are prohibited on lands within the shaded regions. There are two prohibition areas in Marathon County, one of which is shared with Portage County.



\*Note: This PA is an expansion of PA 93-37-01.



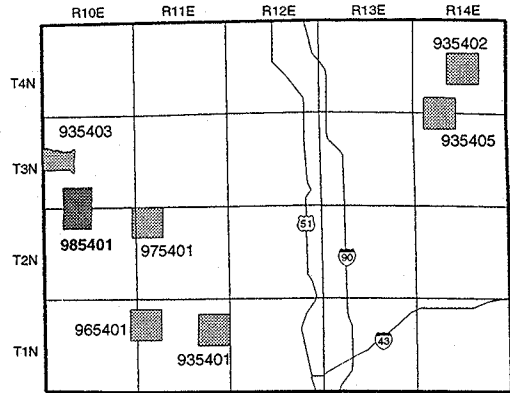


# Rock County

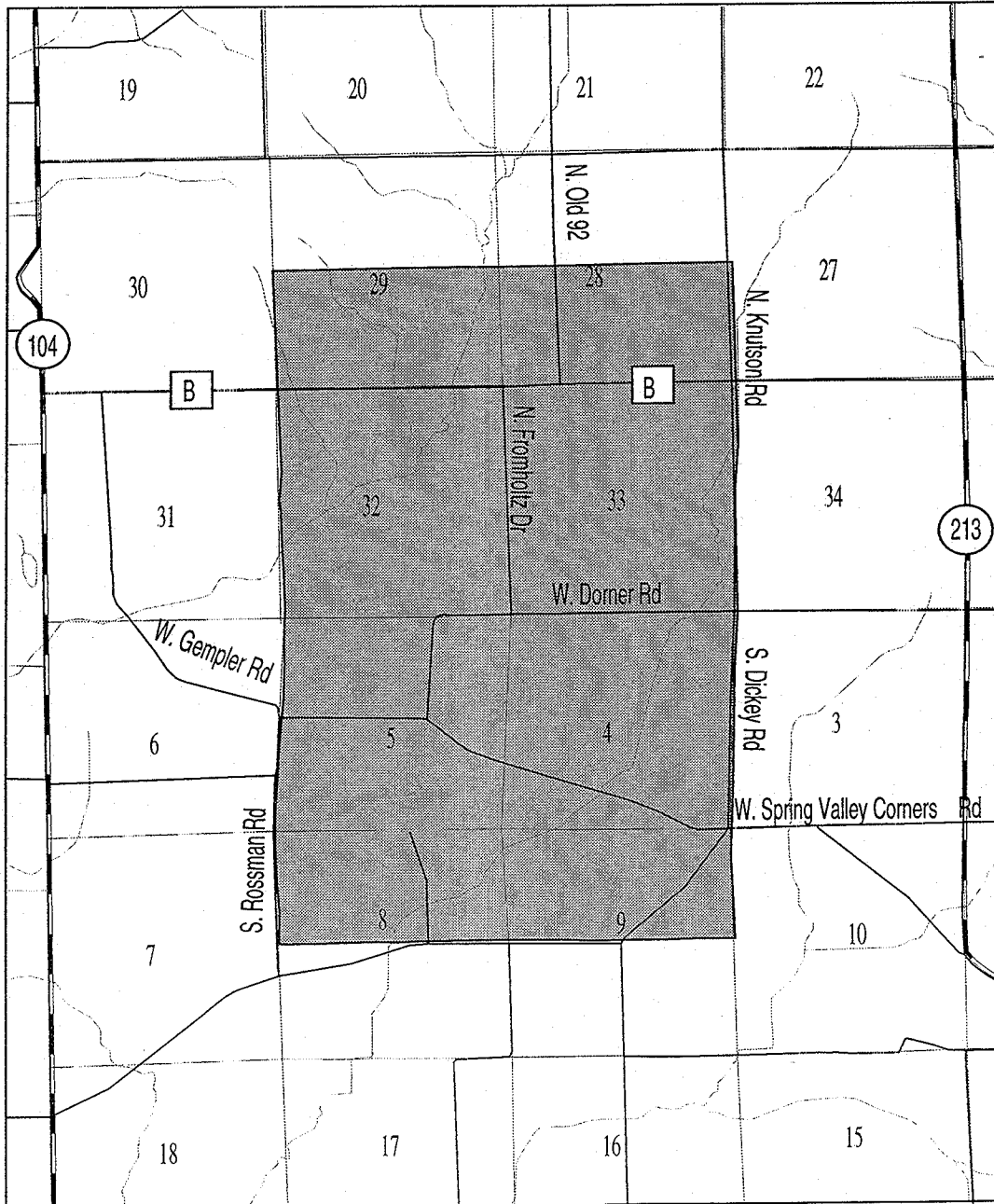
## Towns of Magnolia & Spring Valley

### T2-3N R10E PA 98-54-01\*

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



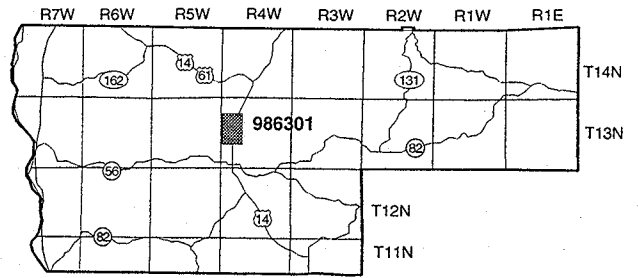
\*Note: This PA is an expansion of PA 93-54-04.



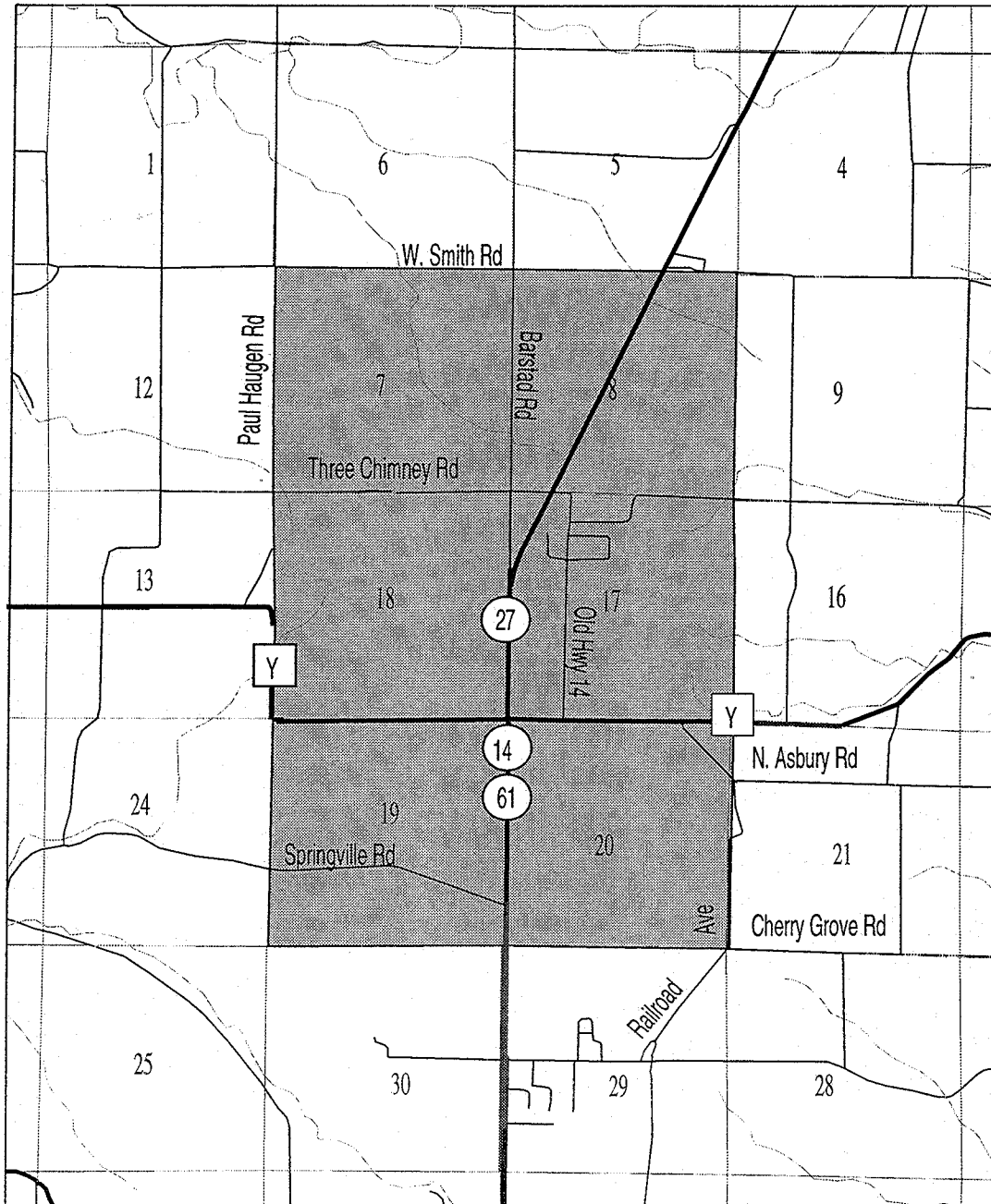


# Vernon County Town of Viroqua T13N R4W PA 98-63-01\*

All uses of atrazine are prohibited on lands within the shaded regions. There is one prohibition area in Vernon County.



\*Note: This PA is an expansion of PA 96-63-01.



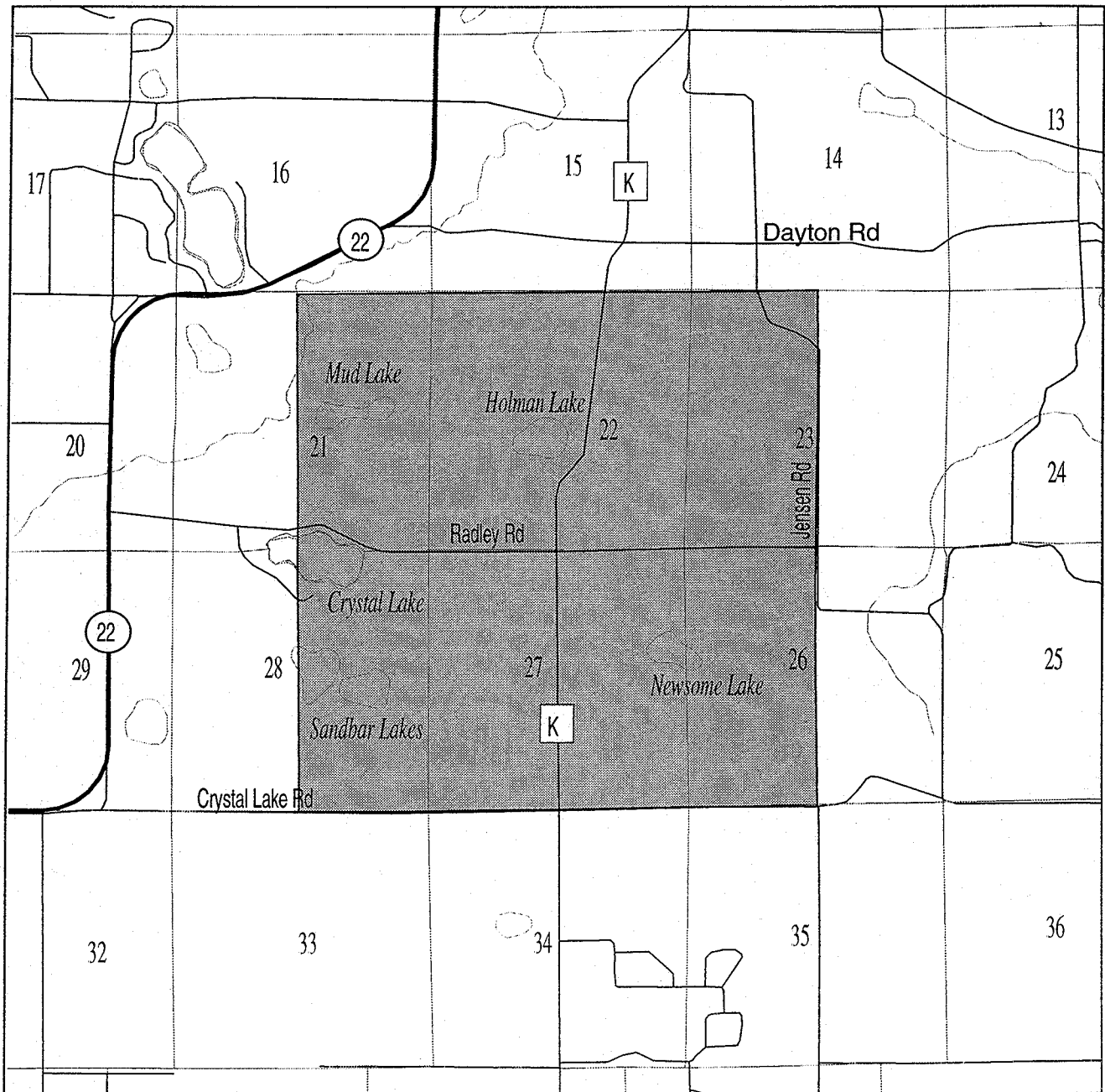
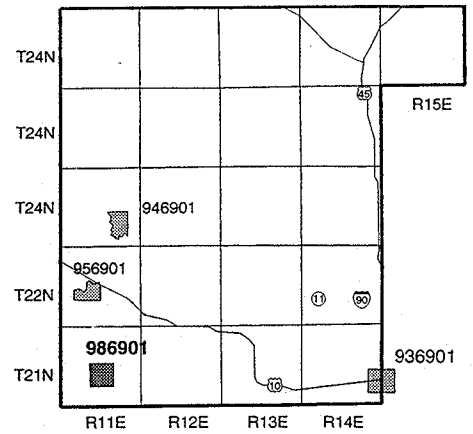


# Waupaca County

## Town of Dayton

### 21N R11E PA 98-69-01

All uses of atrazine are prohibited on lands within the shaded regions. There are four prohibition areas in Waupaca County, one of which is shared with Outagamie County. Refer to each map for specific locations.



STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE & CONSUMER PROTECTION

Chapter ATCP 30, Wis. Adm. Code  
Use of Atrazine

**Final Regulatory Flexibility Analysis**

**Businesses Affected:**

The amendments to the atrazine rule 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 areas contain approximately 13,000 acres. Assuming that 50% of this land is in corn and that 50% of these acres are treated with atrazine, then 3,250 acres of corn will be affected. This acreage would represent between 20 and 50 producers, depending on their corn acreage. 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.

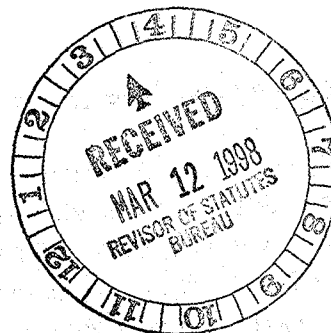
Professional Skills Required to Comply:

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.

Dated this 5th day of October, 1997.

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





FISCAL ESTIMATE

DOA-2048 (R 10/94)

- ORIGINAL       UPDATED  
 CORRECTED       SUPPLEMENTAL

LRB or Bill No. / Adm. Rule No.  
 Proposed Amendment  
 ATCP 30  
 Amendment No. (If Applicable)

Subject Creation of Additional Atrazine Prohibition Areas and Creation of Procedures to Repeal Prohibition Areas

Fiscal Effect State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation  <input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation		<input checked="" type="checkbox"/> Increase Costs - May be possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No  <input type="checkbox"/> Decrease Costs
Local: <input checked="" type="checkbox"/> No local government costs 1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory 4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Unit Affected: <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____ <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
Fund Source Affected <input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input checked="" type="checkbox"/> SEG <input type="checkbox"/> SEG-S		Affected Ch. 20 Appropriations s.20.115(7s)

Assumptions Used in Arriving at Fiscal Estimate

State Government

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 5 existing prohibition areas (PAs), creating 2 additional PAs, and establishing procedures to repeal prohibition areas in 1998.

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 (0.1 FTE, cost approximately \$4,000). 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 \$2,000 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 \$4,000.

Total Annual Costs to Create PAs: \$10,000

The following cost estimates are associated with procedures to repeal prohibition areas. These estimates are the same as reported in the fiscal estimate developed for the 1997 amendment to ATCP 31, which established a generic prohibition area repeal process based on the atrazine example. The purpose and costs associated with the groundwater sampling necessary to meet repeal requirements follow.

First, the department must reasonably conclude that atrazine concentrations throughout the prohibition area are below the enforcement standard (ES). To do this

well(s) upon which the pesticide prohibition area is based must be sampled a minimum of three times to qualify the prohibition area for repeal. When an existing atrazine prohibition area meets the criteria for repeal of the prohibition area, up to six wells within the prohibition area must also be tested for atrazine. Additionally, the well which initially tested above the enforcement standard within the prohibition area must be tested 2 and 5 years after repeal of the prohibition area.

Annual Well Sampling Costs in PAs:	# of wells	Collection (\$50/sample)	Analysis (\$250/sample)
Sample all wells that have exceeded a pesticide ES to determine whether they meet repeal criteria:	120	\$6,000	\$30,000
Sample up to 6 wells in prohibition areas where repeal criteria are met (4 new areas/year):	24	\$1,200	\$6,000
Sample wells that had exceeded the ES in repealed prohibition areas at 2 and 5 years (4 areas/year):	8	\$400	\$2,000
Subtotal:		\$7,600	\$38,000

Second, the department must determine whether renewed use of atrazine will maintain compliance with the enforcement standard. This will require groundwater monitoring at agricultural field sites in areas where the pesticide is being reintroduced. This will involve establishment of 21 sites with 3 monitoring wells per site. Installation of the monitoring wells is a one-time cost. These wells will have samples collected and analyzed quarterly.

One time Costs: Installation of 63 monitoring wells @ \$1,050 per well = \$66,150

Annual Costs to Monitor Renewed Use:	#of wells	# of samples	Collection (\$50/sample)	Analysis (\$250/sample)
Sample monitoring wells quarterly:	63	252	\$12,600	\$63,000
Subtotal:			\$12,600	\$63,000
Total Annual Costs to Repeal PAs:			\$20,200	\$101,000

Total Costs:

The groundwater sample collection and analysis required by this proposal will involve new costs for the department. The Department estimates additional staff costs of 0.1 FTE at \$4,000 for compliance and \$20,200 for groundwater sample collection for \$24,200 of increased cost of State Operations - Salaries and Fringes. The \$6,000 in compliance sampling and public information costs and \$101,000 for groundwater sampling total \$107,000 in increased State Operations - Other Costs. Total one-time costs are \$66,150 for installation of monitoring wells. With the exception of the (0.1) FTE required for compliance, the increased costs of this amendment can not be absorbed by the department.

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.

**FISCAL ESTIMATE WORKSHEET**

**1997 SESSION**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R.10/94)

ORIGINAL  UPDATED  
 CORRECTED  SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
ATCP 30

Amendment No.

Subject Creation of Additional Atrazine Prohibition Areas and Creation of Procedures to Repeal Prohibition Areas		
I. One-time Cost or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect): \$66,150		
II. Annualized Cost:		Annualized Fiscal Impact on State funds from:
A. State Costs by Category	Increased Costs	Decreased Costs
State Operations - Salaries and Fringes	\$ 24,200	\$ -
(FTE Position Changes)	(0.1 FTE)	(- FTE)
State Operations - Other Costs	107,000	-
Local Assistance		-
Aids to Individuals or Organizations		-
TOTAL State Costs by Category	\$ 131,200	\$ -
B. State Costs by Source of Funds	Increased Costs	Decreased Costs
GPR	\$	\$ -
FED		-
PRO/PRS		-
SEG/SEG-S	131,200	-
III. State Revenues - <small>Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)</small>	Increased Rev.	Decreased Rev.
GPR Taxes	\$	\$ -
GPR Earned		-
FED		-
PRO/PRS		-
SEG/SEG-S		-
TOTAL State Revenues	\$	\$ -

**NET ANNUALIZED FISCAL IMPACT**

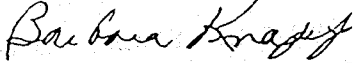
	STATE	LOCAL
NET CHANGE IN COSTS	\$ 131,200	\$ 0
NET CHANGE IN REVENUES	\$ 0	\$ 0

Agency Prepared by: (Name & Phone No.) DATCP Jim Vandcn Brook - (608) 224-4501	Authorized Signature/Telephone No. <i>Barbara Knapp</i> Barbara Knapp (608) 224-4746	Date 4/25/97
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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.

Long - Range Fiscal Implications

Agency/prepared by: (Name & Phone No.)	Authorized Signature/Telephone No.	Date
DATCP Jim Vanden Brook - 224 - 4501 (608)	 Barbara Knapp (608) 224-4746	6/25/97