

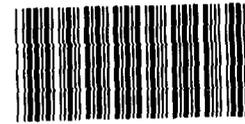
GAO

Report to the Chairman, Subcommittee
on Toxic Substances, Environmental
Oversight, Research and Development,
Committee on Environment and Public
Works, U.S. Senate

September 1991

LAWN CARE PESTICIDES

EPA Needs to Assess State Notification Programs



144946

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Resources, Community, and
Economic Development Division

B-244931

September 25, 1991

The Honorable Harry M. Reid
Chairman, Subcommittee on Toxic
Substances, Environmental Oversight,
Research and Development
Committee on Environment and Public Works
United States Senate

Dear Mr. Chairman:

In your letter of April 5, 1990, you expressed concern about the potential risks that pesticides applied by the lawn care industry pose to the public. You asked us to determine what notice the public receives when pesticides are applied by commercial applicators and to monitor the Environmental Protection Agency's (EPA) progress in reregistering the widely used lawn care pesticides, especially the progress in determining what long-term public health and environmental effects these pesticides pose. On May 9, 1991, we testified on our initial findings on both matters.¹

This report contains information on the kind of notice the public receives when pesticides are applied by commercial applicators. As agreed with your office, we will provide you with a separate report addressing the reregistration issue in more detail at a later date.

Results in Brief

Although there are no federal requirements, we found that about half the states require lawn care companies to provide some form of notification when applying pesticides to residential lawns. The primary notification methods are direct notification to customers, direct notification to neighbors upon request, and the posting of warning signs on treated lawns. In addition, several states maintain registries of certain individuals who may be adversely affected by pesticide use and wish to be notified when commercial firms apply pesticides near their homes.

Limited information is available on the effectiveness of the state notification programs. The features of these programs that are working best are unknown. We therefore believe that EPA should conduct an assessment of state notification programs. In addition, EPA could provide this

¹GAO/T-RCED-91-50, May 9, 1991.

information to all states—thus helping those states interested in modifying existing programs or those states about to begin notification programs.

Background

Pesticides used for lawn care are generally chemical substances designed to kill or control unwanted species of plants, insects, and animals. Most people come into contact with pesticides when they are used in such places as parks, lawns, and golf courses. Because lawn care pesticides are designed to destroy or control living organisms, human exposure to them can present a health risk. In addition, lawn care pesticides can contaminate drinking water.

According to EPA estimates, sales of lawn care pesticides in the United States have increased to over \$700 million annually; each year, about 67 million pounds of active ingredients are applied to private lawns across the country. EPA estimates that approximately 5,000 lawn care firms apply pesticides on residential lawns, do a \$1.5 billion annual business, and serve nearly 12 percent of all households that have private lawns.

EPA regulates pesticide use under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). FIFRA authorizes EPA to require data needed to evaluate the environmental and human health effects of pesticides. A pesticide product used according to the directions on its label must perform its intended function without causing “any unreasonable risk to man or the environment.”

Under FIFRA, a state may regulate the use of pesticides within its boundaries as long as it does not permit any sale or use prohibited by FIFRA. Neither FIFRA nor EPA regulations require commercial firms to provide any type of public notification when treating residential lawns. However, a number of states have enacted legislation or promulgated regulations requiring commercial firms to provide notification when lawn care pesticides are used.

In April 1991, proposed federal legislation (S.849) was introduced that would provide for notification nationwide. This bill would require commercial applicators of lawn care chemicals to notify customers and others (including neighbors and parents of school children) of planned pesticide applications. Notification would occur either through direct written communication or posting and would be required at least 72 hours in advance of a product’s application. Those receiving written communication would be provided with the known or potential health

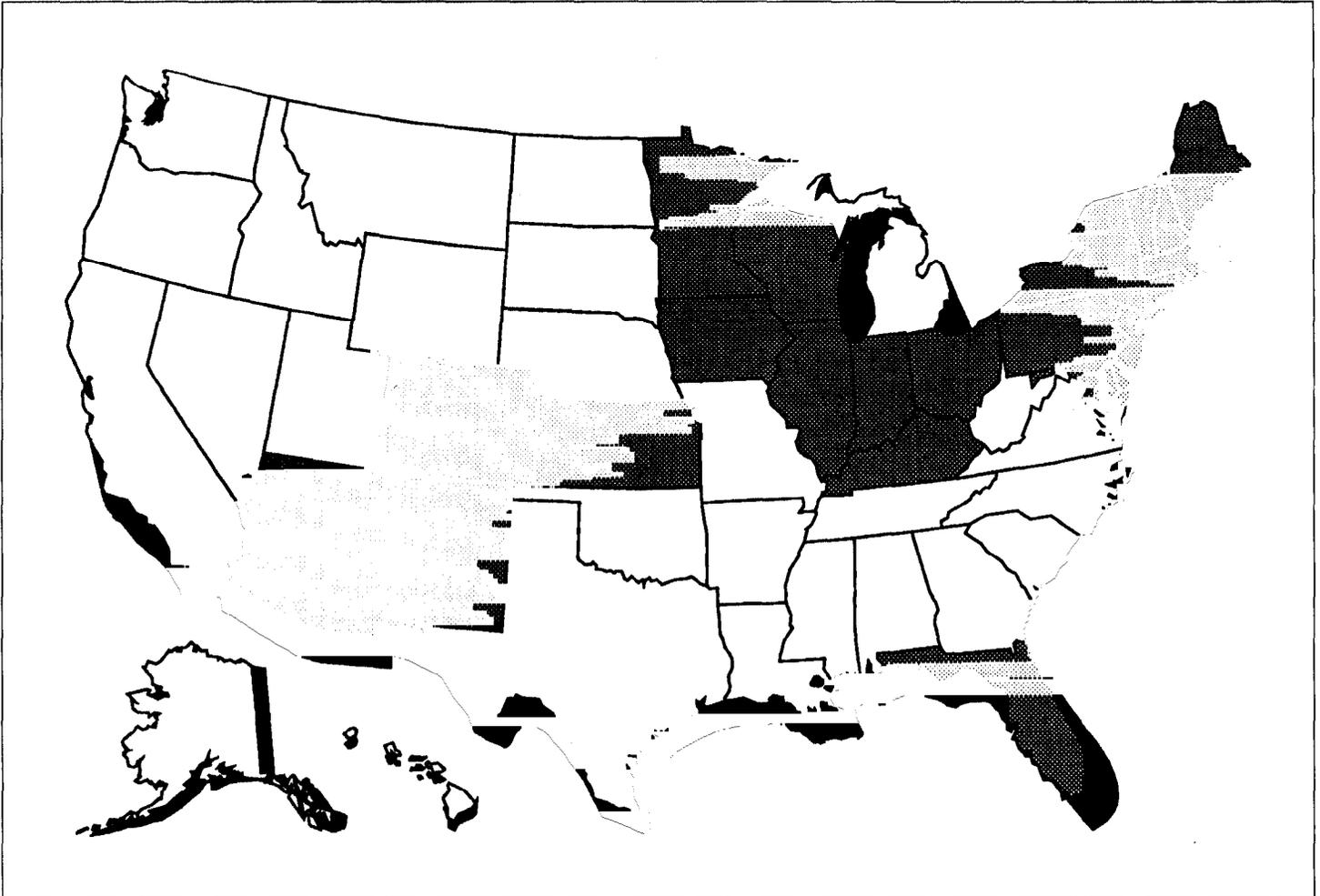
and environmental effects of the product before a pesticide is to be applied so they could take precautions to protect themselves. The bill, if enacted, would amend the Emergency Planning and Community Right-to-Know Act.

State Notification Programs Vary Widely

We found that state notification requirements vary to a considerable degree in terms of who should be provided with information, when the information should be provided, what information should be provided, and whether the information must be requested. Twenty-three states require commercial applicators to provide notification when applying lawn care pesticides on residential sites.² Most notification requirements have been instituted within the past 5 years. Six additional states, as of April 1991, were considering requiring notification. The states that require notification either automatically or upon request appear in figure 1.

²Four additional states have notification requirements that apply only to restricted use/highly toxic pesticides or in limited circumstances. Two more states have limited voluntary notification programs.

Figure 1: States That Require Notification



Note: States requiring notification are shaded.

Notification requirements fall into three broad categories: (1) the direct notification of the customer and/or neighbors,³ (2) notification through the posting of treated lawns with a warning sign, and (3) the notification of individuals who qualify for placement on state-maintained registries. Further information on the kinds of notification these 23 states require appears in appendix I.

³While the definition of neighbor varies from state to state, it generally includes those individuals residing on property that is adjacent to, abutting, adjoining, or contiguous to the lawn receiving treatment.

Direct Notification of the Customer and/or Neighbors

Twenty-one of the 23 states require commercial applicators to notify customers, although sometimes the customer must request the notification, either prior to the treatment or at the time of treatment.⁴ Less than half provide for neighbor notification. Also, neighbors must always request notification, while customers frequently do not have to, which places a greater burden on neighbors.

When homeowners purchase pesticides, they automatically receive precautionary and warning information from the pesticide label. Most of the above-mentioned 21 states specify that applicable pesticide precautionary information be provided to the customer by commercial lawn care companies. This information identifies certain activities to avoid in treated areas, other necessary precautions, and handling instructions. However, precautionary information is provided automatically prior to an application in only six states. In the remaining states, this information must be provided either at the time of application or upon request. For example, Illinois requires this information to be automatically provided at the time of application. Delaware requires this information to be provided upon request.

Neighbors must request notification in all states that provide for advance neighbor notification. This notification is usually provided by the commercial applicator. We are aware of only one state, Ohio, that provides a way for neighbors to know that they can request advance notification. However, they would only be aware of this after an initial application to a neighboring yard. States providing for advance notification frequently do not require that health and environmental warning precautions be provided to neighbors. They most often require that the date of treatment be provided. For example, Rhode Island requires applicators to notify neighbors 48 hours in advance of an application, if requested. Pennsylvania requires that applicators notify neighbors of an application at least 12 hours prior to the time of application, if requested.

Some States Require Treated Lawns to Be Posted With a Sign

Sixteen of the 23 states require the posting of a sign when the lawn is treated. The purpose of the sign is to notify the customer, the customer's neighbors, and the general public that a pesticide has been applied. The signs often contain warning statements such as "pesticide application,"

⁴The other two states—Maine and Pennsylvania—require neighbor notification instead, and it is only upon request.

“this area chemically treated,” or “stay off,” and the name and telephone number of the company that applied the pesticide. The signs frequently contain directions to the customers explaining how long to leave the sign posted. Most states with posting requirements require the signs to remain in place for 24 hours after the treatment occurs. A U.S. map showing the 16 states that require sign posting appears in appendix II.

Some States Maintain a Registry

Seven states maintain registries of individuals who desire notification when commercial firms apply pesticides within prescribed distances of their homes. Four of these states—Connecticut, Colorado, Florida, and Maryland—require firms to notify individuals on registries. Three additional states—Louisiana, Pennsylvania, and West Virginia—maintain registries, but notification by commercial pesticide applicators is voluntary. Connecticut allows anyone to be placed on its registry upon request; the other six states require a physician’s certification. A U.S. map showing the seven states that maintain registries appears in appendix III.

Effectiveness of State Notification Requirements Is Unknown

None of the 23 states had formally assessed the effectiveness of the notification requirements. The objectives of the notification requirements varied somewhat but generally were to provide information to the public so the public could take whatever precautions deemed appropriate. Thirteen officials who were willing to give us their opinions on notification effectiveness told us that their programs were either very effective or generally effective. Only two of them told us they had some data that could be used to support their opinion. For example, a Massachusetts official told us that her office was receiving fewer complaints regarding lawn care pesticides and fewer requests for information about pesticides. One official willing to express an opinion on effectiveness stated that the program was generally ineffective. Nine state officials said it was either too early to comment on effectiveness or that they did not have an opinion.

EPA officials told us they were aware of state notification programs but did not have sufficient information to reach any firm conclusion regarding whether such programs are effective. EPA officials agree that such information would be useful. Although their plans are currently on hold due to other priorities, they plan to collect information on how state programs operate and opinions on effectiveness by the end of the year. State regulatory officials, individuals on state registries, and representatives of commercial lawn care companies will be contacted

during the study. After collecting data, they will then determine whether to assess effectiveness and, if so, how best to structure an effectiveness study.

Lawn Care Industry Supports Notification

The Professional Lawn Care Association of America, a trade organization representing the industry, supports (1) providing prior notification of pesticide applications to customers and adjacent property owners, if requested; (2) providing information to customers at the time of treatment, if requested; and (3) posting warning signs at the time of pesticide application.

Five of the larger lawn care firms told us they support the industry position. Several have internal policies that provide for such notification even if it is not required by a state. One firm has gone so far as to prepare draft legislation containing provisions on prenotification and posting and distribute it to state governments for their consideration.

Conclusions

State notification programs for lawn care pesticides exist in 23 states. These programs, which, for the most part, have been in effect less than 5 years, vary in their operations and have not been assessed for their effectiveness. This raises a question of whether the customers of commercial lawn care firms and others are receiving adequate precautionary and warning information. Customers would receive this information from the pesticide label if they were to purchase and apply the product themselves. In most states, commercial lawn care companies are not required to automatically provide this information to customers prior to the use of the pesticide. No states require such information to be automatically provided to neighbors. Federal legislation, S.849, introduced in April 1991, would make advance notification mandatory nationwide.

In view of these circumstances, we believe it would be useful for EPA to determine the best provisions of the various state programs in notifying the public that they are subject to exposure when lawn care pesticides are applied. Since complete knowledge is not available on how state programs are working or whether stronger federal involvement is needed, we believe that it is important that EPA not only gather information on state programs but also analyze the data to the extent practical and share the results with all states.

Recommendations

GAO recommends that the Administrator, EPA, after collecting data on state notification programs, analyze the data to the extent practical to determine the most effective programs and provide the results to all states.

Scope and Methodology

To determine which states require commercial applicators to notify customers and others when applying lawn care pesticides on residential sites, we contacted regulatory officials in all 50 states and the District of Columbia. If programs existed, we asked officials to describe them, comment on their effectiveness, and provide applicable statutes and regulations. We did not determine to what extent local governments have notification ordinances. We contacted representatives of the professional lawn care industry to obtain industry views concerning notification. Our work was conducted between October 1990 and May 1991 in accordance with generally accepted government auditing standards.

We discussed the material contained in this report with EPA officials, who agreed with our presentation of the facts. We incorporated EPA's comments where appropriate. However, as agreed with your office, we did not obtain official agency comments. As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from the date of this letter. At that time, we will send copies to the Administrator, EPA, and to other interested parties. We will make copies available to others upon request.

This report was prepared under the direction of Richard L. Hembra, Director, Environmental Protection Issues, (202) 275-6111. Major contributors to this report are listed in appendix IV.

Sincerely yours,



J. Dexter Peach
Assistant Comptroller General

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Figure 1: States That Require Notification

Abbreviations

EPA	Environmental Protection Agency
FIFRA	Federal Insecticide, Fungicide, and Rodenticide Act
GAO	General Accounting Office

States Requiring Commercial Firms to Provide Notification When Applying Pesticides to Residential Lawns

State	Direct notification					Posting	Registry
	Advance		When applied				
	Customer	Neighbor	Customer	Neighbor			
Ariz.			X				
Colo.			X		X		X
Conn.	X	X ^a			X		X ^b
Del.	X ^a	X ^a	X ^a	X ^a			
Fla.	X ^a		X ^a		X		X
Ill.		X ^a	X	X ^a	X		
Ind.			X		X		
Iowa	X ^a	X ^a	X ^a	X ^a	X		
Kans.			X				
Ky.	X	X ^a	X	X ^a	X		
Maine		X ^a			X		
Md.	X ^a		X		X		X
Mass.	X ^a		X		X		
Minn.			X				
N.H.	X						
N.J.	X	X ^a			X		
N. Mex.			X ^a				
N.Y.	X				X		
Ohio		X ^a	X	X ^a	X		
Pa.		X ^a					X ^c
R.I.	X	X ^a	X	X ^a	X		
Vt.	X ^a	X ^a	X	X ^a	X		
Wis.	X ^a		X		X ^d		

Note: Montana and South Carolina require notification for restricted-use pesticides. Hawaii requires posting in some cases when highly toxic pesticides are used. North Dakota requires posting if required by label or if reentry period is 48 hours or more.

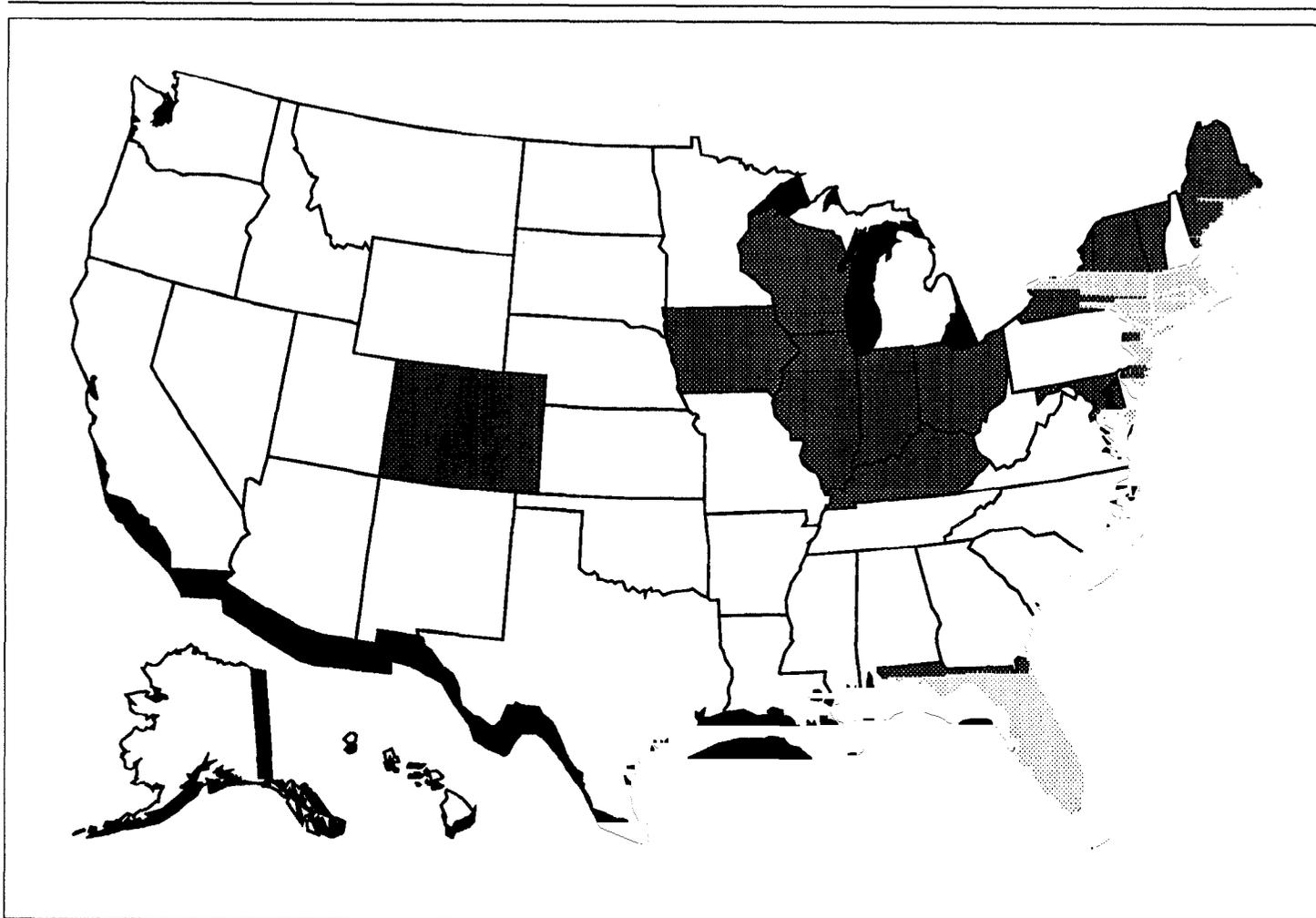
^aNotification provided upon request.

^bAny individual may request that his/her name be placed on the registry—not just those who are chemically sensitive.

^cParticipation by commercial firms is voluntary as it is with Louisiana and West Virginia, which also maintain registries.

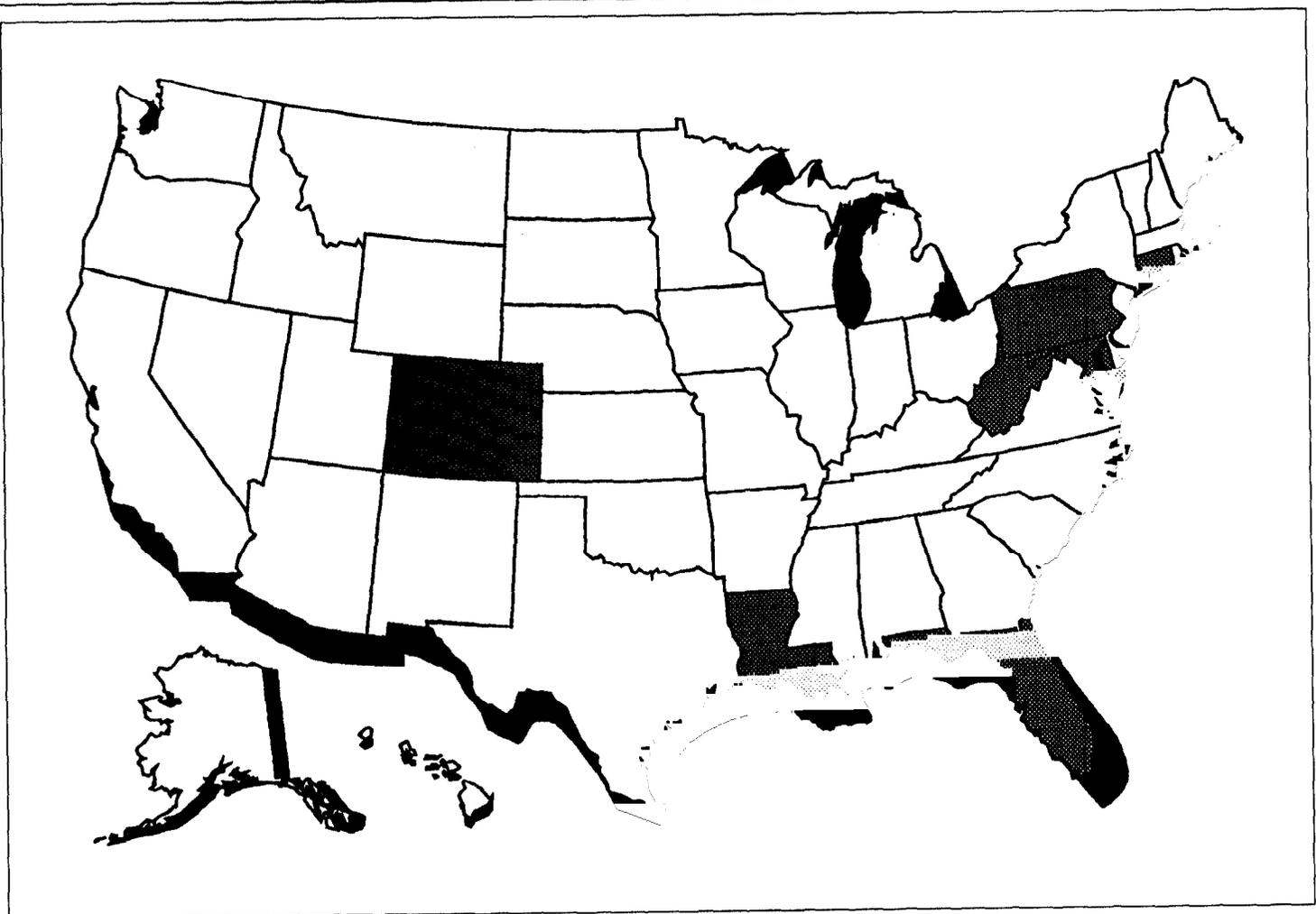
^dWhen pesticide label prescribes time interval for safe reentry into treated area.

States That Require Posting



Note: States that require posting are shaded.

States That Maintain a Registry



Note: States that maintain a registry are shaded.

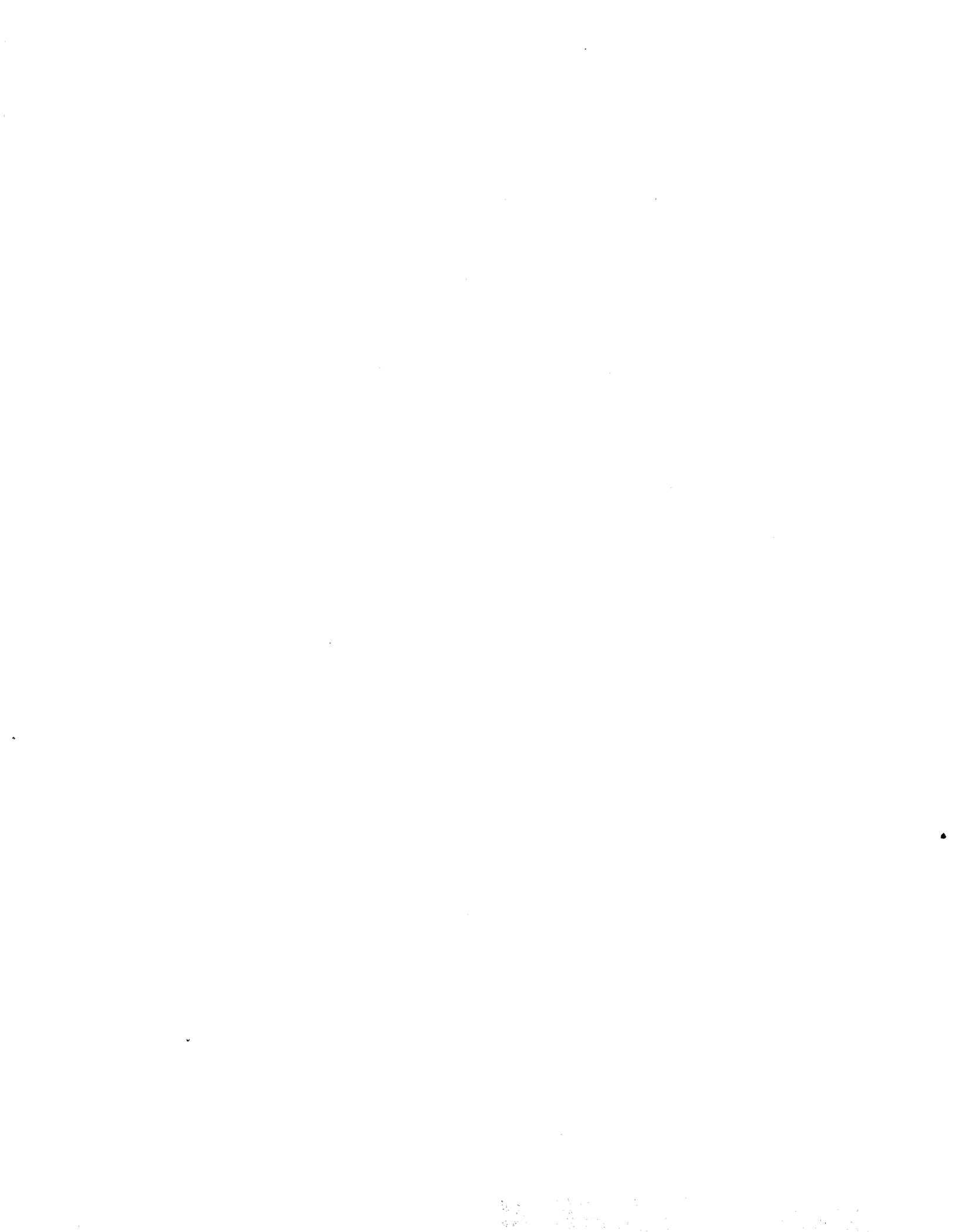
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