Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

Chapter ATCP 29

PESTICIDE USE AND CONTROL

Subchapter I — Definitions and General Provisions
ATCP 29.01 Definitions.
ATCP 29.02 Declaration of pests.

Subchapter II — Pesticide Registration and Labeling
ATCP 29.05 Pesticide registration.
ATCP 29.06 Pesticide labeling.

Subchapter III — Pesticide Manufacturers and Labelers
ATCP 29.10 Pesticide manufacturers and labelers; license.
ATCP 29.11 Pesticide manufacturers and labelers; fees.
ATCP 29.12 Pesticide manufacturers and labelers; records and reports.

Subchapter IV — Pesticide Dealers and Distributors
ATCP 29.15 Dealers and distributors of restricted use pesticides.
ATCP 29.16 Pesticide sales records.

Subchapter V — Commercial Application Businesses
ATCP 29.20 Commercial application business; license.
ATCP 29.21 Commercial application business; records.
ATCP 29.22 Commercial application business; information to customers.

Subchapter VI — Individuals Handling Or Applying Pesticides
ATCP 29.25 Individual commercial applicator; license.
ATCP 29.26 Individual commercial applicator; certification.
ATCP 29.27 Private applicator certification.
ATCP 29.28 Pesticide mixers and loaders; certification.
ATCP 29.29 Special application methods; supplementary certification.
ATCP 29.30 General certification standards.
ATCP 29.31 Commercial applicators; certification categories.
ATCP 29.32 Trainee registration.
ATCP 29.33 Applicator records.

Subchapter VII — Storing, Transporting And Selling Pesticides
ATCP 29.40 Storing and transporting pesticides.
ATCP 29.41 Selling pesticides.

Subchapter VIII — Pesticide Handling, Disposal And Spills
ATCP 29.45 Pesticide mixing and loading; spill containment.
ATCP 29.46 Mixing or loading near surface waters.
ATCP 29.47 Disposal of pesticides and pesticide containers.
ATCP 29.48 Pesticide spills.

Subchapter IX — Pesticide Use
ATCP 29.50 Pesticide use; general.
ATCP 29.51 Advance notice of pesticide applications.
ATCP 29.52 Warning signs at application sites.
ATCP 29.53 Aerial applications.
ATCP 29.54 Chemigation.
ATCP 29.55 Commercial applications to residential structures.
ATCP 29.56 Landscape applications.
ATCP 29.57 Seed applications.
ATCP 29.58 Rodenticide bait station.

Subchapter X — Agricultural Worker Protection
ATCP 29.60 Definitions.
ATCP 29.61 Worker protection; general.
ATCP 29.62 Worker protection warning signs.
ATCP 29.63 Agricultural emergencies; early entry by workers.
ATCP 29.64 Training handlers.
ATCP 29.65 Training agricultural workers.
ATCP 29.66 Training records.

Subchapter XI — Special Registrations And Use Authorizations
ATCP 29.70 Emergency use permits.
ATCP 29.71 Experimental use permits.
ATCP 29.72 Special local needs registrations.

Note: Chapter Ag 29 was renumbered ch. ATCP 29 under s. 13.93 (2m) (b) 1., Stats., Register, April, 1993, No. 448. Chapter ATCP 29 as it existed on May 31, 1998 was repealed and a new chapter ATCP 29 was created effective 6-1-98.

Note: See chapters NR 80 and 107, Wis. Adm. Code for pesticide rules of the department of natural resources. See also chapters NR 660 to 673, Wis. Adm. Code, pertaining to disposal of hazardous wastes.

Subchapter I — Definitions and General Provisions

ATCP 29.01 Definitions. In this chapter:

(1) "Agricultural commodity" has the meaning given in s. 94.67 (2), Stats.

(2) "Agricultural employer" has the meaning given in s. ATCP 29.60 (1).

(3) "Agricultural establishment" has the meaning given in s. ATCP 29.60 (3).

(4) "Agricultural pesticide" has the meaning given in s. ATCP 29.60 (4).

(5) "Agricultural plant" has the meaning given in s. ATCP 29.60 (5).

(6) "Agricultural producer" means a person who produces agricultural commodities on land which that person owns or controls.

(7) "Air gap" means the unobstructed vertical distance through the free atmosphere between the following points:

(a) The lowest opening from any outlet supplying water to a tank, vat, reservoir, or other pesticide container.

(b) The overflow rim of the tank, vat, reservoir, or pesticide container.

(8) "Apply a pesticide" means to bring, or attempt to bring, a pesticide into contact with a target organism or site.

(8m) "Bulk pesticide" means liquid pesticide in a container larger than 55 gallons (208 liters) or dry pesticide in undivided quantities greater than 100 pounds (45 kilograms).

(9) "Catch basin" means all structures or containers used to provide the containment capacity required to contain or hold liquids at a site where pesticides are transferred from one container to another. "Catch basin" may include spill containment surfaces, sumps, and above-ground storage containers.

(10) "Certified applicator" means a pesticide applicator who is certified under s. ATCP 29.26 or 29.27.

(11) "Chemigation" has the meaning given in s. ATCP 29.54 (1) (d).

(12) "Chemigation system" has the meaning given in s. ATCP 29.54 (1) (e).

(13) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(14) "Direct the use of a pesticide" means to select or control the use of a pesticide, where the selecting or controlling individual has supervisory authority over the person using the pesticide.

(15) "Display pesticides" means to expose, to public view and access, containers of pesticides that are offered for sale to the public.

(16) "Distribute a pesticide" means to distribute a pesticide for sale or use in this state.

(17) "Dual notice agricultural pesticide" has the meaning given in s. ATCP 29.60 (9).

(18) "Environment" has the meaning given in s. 94.67 (12), Stats.

(19) "Federal act" means the federal insecticide, fungicide and rodenticide act, as amended (7 USC 136 et seq.) and regulations issued under that act.

(20) "Household pesticide" has the meaning given in s. ATCP 29.11 (1) (a).

(21) "Individual" means a natural person.

(22) "Irrigation" means the application of water to land, crops or plants in order to supply the water needs of plants or to promote plant growth.

(23) "Mix or load" a pesticide means to do any of the following:

(a) Mix a pesticide with water, other pesticides, fertilizer, or other substances, in preparation for a pesticide application.

(b) Transfer a pesticide into pesticide application equipment, or into a mix or nurse tank.

(c) Engage in any of the following activities which is incidental to an activity under par. (a) or (b):

1. Activities which the pesticide label requires of the mixer or loader.

2. Handling an open pesticide container, other than an empty container that has been triple-rinsed or cleaned according to the pesticide label.

3. Cleaning or rinsing an open pesticide container.

4. Disposing of a pesticide or pesticide rinsate.

(24) "Mix or nurse tank" means a tank or container used for any of the following purposes:

(a) Mixing pesticides with other pesticides, or with water, fertilizer, or other substances.

(b) Temporarily holding a mixture under par. (a) before transferring that mixture to pesticide application equipment.

(24m) "Natural area" means native, undeveloped, or wild land and land that is preserved or restored and managed for its natural or native features, including parks, forests, and native grassland on public and private land.

(25) "Ornamental" means a tree, shrub, or other planting grown for its decorative effect in or around a home, building, park, street, or roadway.

(25m) "Perimeter barrier application" means a pesticide application that is made on or within 10 feet of a building or structure to prevent or discourage pests from entering that building or structure.

(26) "Person" means an individual, corporation, partnership, cooperative association, limited liability company, trust, or other organization or entity. "Person" includes a county or local government entity, but does not include a state or federal government entity.

(27) "Pest" means anything declared to be a pest under s. ATCP 29.02 or the federal act.

(28) "Pesticide" has the meaning given in s. 94.67 (25), Stats., and includes a pesticide-fertilizer mixture.

(29) "Pesticide drift" means pesticide deposited outside a target application site as a result of pesticide movement caused by air currents or diffusion.

Note: See s. ATCP 29.50 (2), which prohibits any person from using a pesticide in a manner that results in significant pesticide drift.

(30) "Pesticide overspray" means pesticide deposited outside a target application site as a result of an applicator's failure to control the direct flow or application of pesticide from the application equipment so as to confine it to the target application site.

Note: See s. ATCP 29.50 (2), which prohibits any person from using a pesticide in a manner that results in pesticide overspray.

(31) "Pesticide product" means a pesticide, all of the containers of which in commerce are labeled with a unique combination of all of the following:

(a) The brand name of the pesticide.

(b) The pesticide registration number or, if the pesticide product is exempt from registration under 40 CFR 152.25, the labeling required under 40 CFR 152.25.

(c) The name of the pesticide labeler.

(32) "Protective equipment" means clothing and other materials or devices that protect individuals against unintended exposure to pesticides.

(33) "Record" means information in either of the following forms:

(a) Paper or other hard-copy form.

(b) Electronic form if the information can also be readily produced in hard-copy form.

(34) "Registrant" means a person in whose name a pesticide is registered with the federal environmental protection agency under the federal act, or with the department under s. ATCP 29.72.

(35) "Restricted entry interval" means the time after the end of a pesticide application during which entry into the treated area is restricted.

(36) "Restricted-use pesticide" means a pesticide which, for some or all uses, is classified under the federal act or s. ATCP 29.72 for use only by certified applicators.

(37) "Rinsate" means a dilute mixture, consisting of one or more pesticides diluted with water or other substances such as solvents, surfactants, rinsing agents, or detergents, that results from cleaning pesticide application equipment, mix or nurse tanks, pesticide containers, catch basins, or spill containment surfaces.

(37m) "Rodenticide bait station" means a tamper-resistant package, container, or device holding a pesticide used to control rodents.

(38) "Sell" means to sell, offer for sale, display for sale, or hold for sale in this state.

(39) "Supplemental registrant" means a person in whose name a pesticide is supplementally registered with the federal environmental protection agency under the federal act.

(40) "Toxicity" means the tendency or capacity of a pesticide to cause adverse physiological effects.

(41) "Use" a pesticide means to mix or load a pesticide, apply a pesticide, or engage in any of the following activities which is related to the mixing, loading, or application of a pesticide:

(a) Activities which the pesticide label requires of the mixer, loader, or applicator.

(b) Handling an open pesticide container, other than an empty container that has been triple-rinsed or cleaned according to the pesticide label.

(c) Cleaning or rinsing an open pesticide container, pesticide application equipment, or a mix or nurse tank.

(d) Disposing of a pesticide or pesticide rinsate.

(e) Aerating or ventilating spaces treated with a pesticide.

(42) "Water supply tank" means a tank or container that holds or supplies water for a pesticide use, but does not contain any pesticide or pesticide residue.

(43) "Waters of the state" means those portions of Lake Michigan and Lake Superior, and all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water

courses, drainage systems, and other surface or ground water, whether public or private, within the state or its jurisdiction.

Note: See additional definitions in s. 94.67, Stats., and ss. ATCP 29.11 (1), 29.54 (1), 29.55 (1), 29.56 (1) 29.60, and 30.01.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: cr. (8m), (24m), (25m), (37m) Register May 2013 No. 689, eff. 6-1-13.

ATCP 29.02 Declaration of pests. The following organisms and viruses are declared to be pests when present under circumstances where they may be injurious to persons, property, or the environment:

(1) Animals other than humans.

(2) Plants, fungi, or their parts growing where not wanted.

(3) Microscopic organisms or viruses other than those on or in living animals or humans.

Note: See s. 94.69 (1), Stats. A pesticide may be used against a "pest" only if it is registered and labeled for that purpose and used according to label directions. Pesticide use against certain "pests" may be limited by applicable law.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter II — Pesticide Registration and Labeling

ATCP 29.05 Pesticide registration. No person may sell or distribute any pesticide unless that pesticide is one of the following:

(1) Registered or permitted by the federal environmental protection agency under the federal act.

(2) Specifically exempted from registration under the federal act.

(3) Registered by the department under s. ATCP 29.72 to meet a special local need in this state.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.06 Pesticide labeling. No person may sell or distribute any pesticide unless that pesticide is labeled in compliance with s. 94.676, Stats., and the federal act. The pesticide label shall include all of the following:

(1) The federal pesticide registration number if the federal environmental protection agency has registered the pesticide under the federal act. Pesticides exempted from federal registration by 40 CFR 152.25 shall be labeled in compliance with applicable requirements under 40 CFR 152.25.

(2) The state pesticide registration number if the department has registered the pesticide under s. ATCP 29.72 to meet a special local need in this state.

(3) The name and address of a person licensed under s. ATCP 29.10 who is responsible as the manufacturer, registrant, or supplemental registrant of the pesticide product.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter III — Pesticide Manufacturers and Labelers

ATCP 29.10 Pesticide manufacturers and labelers; license. (1) LICENSE REQUIRED. Except as provided under sub. (2), no person may manufacture, formulate, package, label, or produce any pesticide for sale or distribution in this state, or sell or distribute any pesticide in this state, without an annual license from the department. A license expires on December 31 of each year and is not transferable.

Note: See s. 94.68, Stats.

(2) EXEMPTIONS. The following persons are not required to obtain a license under sub. (1):

(a) An individual, employed by a license holder under sub. (1), who engages in activities under sub. (1) solely on behalf of the license holder and not on the individual's own behalf.

(b) A person engaged in the following activities:

1. Selling or distributing a pesticide product in a sealed and unopened container which a person licensed under sub. (1) has packaged and labeled according to s. ATCP 29.06.

2. Selling a pesticide or active ingredient to a pesticide manufacturer licensed under sub. (1), for use as a basic ingredient in the manufacture or formulation of another pesticide, or for further processing, packaging, or labeling.

3. Blending a pesticide mixture or pesticide-fertilizer mixture at a customer's request, according to the pesticide label, for use on property which the customer owns or controls. This exemption does not apply if the mixture is resold or redistributed to any other person, or for use on any other property.

4. Blending a pesticide mixture or pesticide-fertilizer mixture according to the pesticide label, for application by the blender, provided that the blender is licensed under s. ATCP 29.20 or exempted under s. ATCP 29.20 (2).

5. Applying a pesticide mixture or pesticide-fertilizer mixture that the person has blended according to the pesticide label, provided that the person is licensed under s. ATCP 29.20 or exempted under s. ATCP 29.20 (2).

6. The repackaging of a bulk pesticide.

(c) A supplemental registrant identified on a pesticide product label if both of the following apply:

1. The product label also bears the name and address of a manufacturer or registrant licensed under sub. (1).

2. The name of the supplemental registrant is qualified by appropriate wording such as "Packed for...," "Distributed by...", or "Sold by..." to show that the name of the supplemental registrant is not that of a licensed manufacturer or registrant.

(3) LICENSE APPLICATION. A person applying for a license under sub. (1) shall apply on a form provided by the department. An application shall include all of the following:

(a) The applicant's name and address as they appear on pesticide labels. If the applicant has more than one name or address appearing on pesticide labels, the applicant shall include all of those names and addresses in the license application.

(b) All fees and surcharges required under s. ATCP 29.11.

(c) A report that identifies each pesticide product that the applicant sells or distributes.

(4) SUPPLEMENTARY INFORMATION. At least 15 days before a license holder under sub. (1) begins selling or distributing any additional pesticide product that was not identified in the license holder's most recent annual license application, the license holder shall file a supplementary report and pay fees and surcharges for that pesticide product according to sub. (3). The department may not disclose sales revenue information obtained under this subsection.

(5) ACTION ON LICENSE APPLICATION; TIME LIMIT. The department shall grant or deny a license application under sub. (3) within 20 business days after the applicant files a complete application with the department.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: cr. (2) (b) 6. Register May 2013 No. 689, eff. 6-1-13; CR 22-080: cons. (3) (c) (intro.) and 1. and renum. to (3) (c) and am., r. (3) (c) 2. Register February 2024 No. 818, eff. 3-1-24.

ATCP 29.11 Pesticide manufacturers and labelers; fees. (1) DEFINITIONS. In this section:

(a) "Household pesticide" means a pesticide that is any of the following:

1. A sanitizer.

2. A disinfectant.

3. A germicide.

4. An insect repellant that is applied to the human body or to clothing.

5. A pesticide that is used exclusively for the treatment of household pets.

6. A pesticide product that is labeled exclusively for household, lawn, or garden use if the product either is sold in ready-to-use form or is sold exclusively in container sizes of less than one gallon.

7. A solid or liquid pesticide product that is used exclusively for the treatment of swimming pools, spas, or hot tubs.

(b) "Industrial pesticide" means a pesticide that is not a household pesticide and that is one of the following:

1. Solely labeled for use on wood and contains pentachlorophenol, coal tar creosote, or inorganic arsenical wood preservatives.

2. Labeled for use in controlling algae, fungi, bacteria, microscopic organisms, or mollusks in or on one or more of the following, and for no other use except a use described in par. (a) 6. or 7.:

a. Textiles, paper, leather, plastic, vinyl, or other synthetic materials, metal or rubber.

b. Paints, varnishes, other coating products, lubricants, or fuels.

c. Commercial, construction, manufacturing, or industrial fluids, including adhesives, additives or pigments.

d. Commercial, construction, manufacturing or industrial processes, equipment, devices, or containers, other than those used in the production or storage of human food or animal feed.

e. Air washing, cooling, or heat transfer systems.

f. Medical equipment.

g. Drinking water or waste water systems.

(c) "Nonhousehold pesticide" means a pesticide that is not a household pesticide or an industrial pesticide.

(e) "Primary producer" means a person who manufactures an active ingredient that is used to manufacture or produce a pesticide.

(2) ANNUAL LICENSE FEE. An applicant for a license under s. ATCP 29.10 shall pay an annual license fee for each pesticide product that the applicant sells or distributes for use in this state during the license year. Except as provided in subs. (5) to (7), the fee for each pesticide product is $500.

(3) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE. An applicant for a license under s. ATCP 29.10 shall pay an agricultural chemical cleanup surcharge for each nonhousehold pesticide product that the applicant sells or distributes. Except as provided in sub. (6) or (7), the amount of the surcharge is $30.

(4) PRIMARY PRODUCERS; WELL COMPENSATION FEE. Except as provided under sub. (7), a primary producer applying for a license under s. ATCP 29.10 shall pay a well compensation fee of $150.

(5) UNREPORTED PESTICIDE; INCREASED LICENSE FEE. If a person sells or distributes a pesticide product without having filed a report for that product under s. ATCP 29.10 (3) (c) or (4), the license fee for that product is twice the amount determined under sub. (2), except that if the pesticide product is exempt from federal registration under 40 CFR 152.25, the license fee for that product is $250.

(6) DISCONTINUED PESTICIDE; FINAL LICENSE FEE AND CLEANUP SURCHARGE. A person who stops selling or distributing a pesticide product for use in this state shall do all of the following:

(a) Notify the department by December 31 of the year in which the person stops selling or distributing the pesticide product.

(c) By December 31 of the year in which the person stopped selling the pesticide product for use in this state, pay a final license fee of $500 for the pesticide product.

(d) If the product is a nonhousehold pesticide, pay a final agricultural chemical cleanup surcharge of $30.

(7) EXEMPT PESTICIDE PRODUCTS. Subsections (2) to (4) do not apply to pesticides that are exempt from federal registration under 40 CFR 152.25.

(8) FEES AND SURCHARGES NONREFUNDABLE. The department may not refund a fee or surcharge under this section after the department issues a license under s. ATCP 29.10 to the person who paid the fee or surcharge, unless the fee or surcharge was not properly collected or charged.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; am. (3) (intro.), Register, May, 2000, No. 533, eff. 6-1-00; CR 01-021: am. (3) (intro.) and (c), Register October 2001 No. 550, eff. 11-1-01; CR 08-075: am. (3), r. and recr. (8) Register April 2009 No. 640, eff. 5-1-09; correction in (8) (b) made under s. 13.92 (4) (b) 7., Stats., Register April 2009 No. 640; CR 12-003: am. (2) (a) 1. to 3., (b) 1. to 3., (c) 1. to 3. Register May 2013 No. 689, eff. 6-1-13; CR 14-047: am. (3) (a) to (c) Register May 2015 No. 713, eff. 6-1-15; CR 22-080: r. (1) (d), renum. (2) (intro.) to (2) and am., r. (2) (a) to (c), renum. (3) (intro.) to (3) and am., r. (3) (a) to (c), (3m), am. (5), r. (6) (b), am. (6) (c), (d) Register February 2024 No. 818, eff. 3-1-24; CR 25-028: r. and recr. (8) Register September 2025 No. 837, eff. 10-1-25.

ATCP 29.12 Pesticide manufacturers and labelers; records and reports. (1) RECORDS. A person required to be licensed under s. ATCP 29.10 shall legibly record all of the following information and keep each record for at least 2 years:

(a) The names and addresses of persons from whom that person receives pesticides, and the amounts and kinds of pesticides received.

(b) The names and addresses of persons to whom that person sells or distributes pesticides, and the amounts and kinds of pesticides sold or distributed to each of them.

(c) Gross revenue information required under s. ATCP 29.10 (3) (c) and (4).

(2) REPORTS. A person required to be licensed under s. ATCP 29.10 shall provide to the department, upon request, information which is relevant to the regulation of pesticides in this state, including:

(a) Relevant information under sub. (1).

(b) Pesticide labeling.

(c) Relevant information related to pesticide products, formulation materials, and breakdown products, including:

1. Their chemical identity and properties.

2. Analytical methods which may be used to detect and quantify their presence in groundwater or other media.

3. Information related to their toxicology and environmental fate.

4. Summaries of all pertinent data, in that person's possession, related to their interactive toxicological effects.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter IV — Pesticide Dealers and Distributors

ATCP 29.15 Dealers and distributors of restricted use pesticides. (1) LICENSE REQUIRED. Except as provided under sub. (2), no person may sell or distribute any restricted-use pesticide unless that person holds an annual license issued by the department under this section. A license expires on December 31 of each year and is not transferable to another person.

Note: See s. 94.685, Stats.

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

(2) EXEMPTIONS. Subsection (1) does not apply to any of the following:

(a) An individual, employed by a license holder under sub. (1), who sells or distributes restricted-use pesticides solely on behalf of the license holder and not on the individual's own behalf.

(b) A person licensed under s. ATCP 29.10 whose name appears on the pesticide label.

(c) A pesticide supplemental registrant who is identified on the pesticide label according to s. ATCP 29.10 (2) (c).

(d) A person who applies all of the restricted-use pesticide which that person sells or distributes.

Note: See s. ATCP 29.20.

(3) LICENSE APPLICATION. A person applying for a license under sub. (1) shall apply on a form provided by the department. The application shall include all of the following:

(a) The applicant's correct name, mailing address, and street address. The application shall specify whether the applicant is an individual, corporation, or other business entity.

(b) Every other name under which the applicant does business.

(c) The mailing address and street address of each location from which the applicant sells or intends to sell any restricted-use pesticide. This includes any location at which the applicant regularly takes pesticide orders, but does not include a motorized vehicle from which the applicant takes orders by mobile telephone.

(d) The license fees and surcharges required under sub. (4).

(e) Other information reasonably required by the department for the administration of this section.

(4) LICENSE AND SURCHARGES. A person applying for a license under sub. (1) shall pay the following annual license fee and surcharge for each business location under sub. (3) (c), including any new location opened during the license year:

(a) A license fee of $60.

(b) An agricultural chemical cleanup surcharge of $20, except as provided in s. 94.73 (15), Stats.

(5) ADDITIONAL LOCATIONS. Before a person licensed under sub. (1) sells a restricted-use pesticide from any additional location not identified in that person's most recent annual license application under sub. (3) (c), that person shall do both of the following:

(a) Provide the department with the mailing address and street address of that additional location.

(b) Pay the fee and surcharge required under sub. (4) for that additional location.

(6) ACTION ON LICENSE APPLICATION. The department shall grant or deny a license application under sub. (3) within 30 business days after the applicant files a complete application with the department.

(7) SALES OF RESTRICTED-USE PESTICIDES. A person required to be licensed under sub. (1) may sell or distribute a restricted-use pesticide only to one of the following:

(a) A pesticide dealer or distributor licensed under sub. (1), or equivalent laws of another state, to sell or distribute restricted-use pesticides.

(b) A commercial application business licensed under s. ATCP 29.20, or equivalent laws of another state, to use or direct the use of restricted-use pesticides.

(c) An individual commercial applicator licensed and certified under ss. ATCP 29.25 and 29.26, or certified under equivalent laws of another state, to use or direct the use of that pesticide.

(d) A private applicator certified under s. ATCP 29.27, or equivalent laws of another state, to use or direct the use of that pesticide.

(8) RESTRICTED-USE PESTICIDES; SALES RECORDS. A person required to be licensed under sub. (1) shall keep legible records of all restricted-use pesticides which that person sells or distributes in this state. The person shall retain the records for at least 2 years, and shall make them available to the department for inspection and copying upon request. The person shall keep all of the following records related to each sale or distribution of a restricted-use pesticide:

(a) The pesticide brand name.

(b) The identity of the pesticide manufacturer or labeler.

(c) The pesticide registration number assigned by the federal environmental protection agency.

(d) The amount of the pesticide sold or distributed.

(e) The date of the sale or distribution.

(f) The first name, last name, and address of the purchaser or intended recipient and the commercial application business license number, restricted use dealer license number, and applicator license and certification number, if any, of the purchaser or intended recipient.

(g) The certification expiration date.

(h) The certification categories relevant to the pesticide sold.

(i) The record of the state, tribe, or federal agency that issued the certification.

(j) The record of any applicable emergency exemption and state special local need registration numbers.

(k) The first name, last name, and address of the person to whom the seller delivered custody of the pesticide, if other than the purchaser or intended recipient.

(9) ANNUAL REPORT. Not later than October 30 of each year, a person required to be licensed under sub. (1) shall report each of the following to the department on a report form provided by the department:

(a) The name and address of each person from whom that person received any pesticide during the preceding 12-month period ending September 30.

(b) The amount of each pesticide which that person sold to end users for use in Wisconsin during the preceding 12-month period ending September 30.

Note: Reports under sub. (9) must include all pesticides, not just restricted-use pesticides. Report forms may be obtained from the department at the following address: Department of Agriculture, Trade and Consumer Protection; Division of Agricultural Resource Management; P.O. Box 8911, Madison, WI 53708-8911.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; am. (4) (b), Register, May, 2000, No. 533, eff. 6-1-00; CR 01-021: am. (4) (b), Register October 2001 No. 550, eff. 11-1-01; CR 08-075: am. (4) (b) Register April 2009 No. 640, eff. 5-1-09; CR 12-003: am. (4) (b), (8) (f), (g) Register May 2013 No. 689, eff. 6-1-13; CR 14-047: am. (4) (b) Register May 2015 No. 713, eff. 6-1-15; CR 22-080: am. (4) (b) Register February 2024 No. 818, eff. 3-1-24; **CR 25-074: renum. (8) (g) to (8) (k), cr. (8) (g) to (j) Register June 2026 No. 846, eff. 7-1-26.**

ATCP 29.16 Pesticide sales records. A person who sells or distributes pesticides shall record the amounts and brand names of pesticides which that person sells or distributes. The person shall retain the records for at least 2 years, and shall make them available to the department for inspection and copying upon request. Individual employees who sell or distribute pesticides only on behalf of their employer, and not on their own behalf, need not keep personal copies of records which their employer keeps under this section.

Note: Section ATCP 29.16 applies to persons who sell or distribute pesticides of any kind, not just those who sell or distribute restricted-use pesticides. Records must show the amounts and brand names of all pesticides sold, not just restricted-use pesticides sold.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Published under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

Subchapter V — Commercial Application Businesses

ATCP 29.20 Commercial application business; license. (1) LICENSE REQUIRED. Except as provided under sub. (2), no person may do any of the following, either directly or through an employee, without an annual license from the department:

(a) Use or direct the use of any pesticide as an independent contractor for hire.

(b) Use or direct the use of a restricted-use pesticide.

Note: See s. 94.703, Stats. A sole proprietor licensed under this section may also be required to obtain a license as an individual commercial applicator under s. ATCP 29.25.

(2) EXEMPTIONS. The following persons are not required to obtain a license under sub. (1):

(a) A government entity.

(b) An individual, employed by a person licensed under sub. (1), who uses or directs the use of pesticides solely on behalf of that employer and not on the individual's own behalf.

(c) A person applying pesticides as part of a medical treatment provided by a licensed medical practitioner, or as part of a veterinary treatment provided by a licensed veterinary practitioner.

(d) A person applying pesticides in the laboratory in the course of bona fide laboratory research.

(e) A person applying germicides, sanitizers, or disinfectants.

(f) An agricultural producer, except that an agricultural producer who does any of the following is not exempt:

1. Uses or directs the use of pesticides for a person who is not an agricultural producer.

2. Uses or directs the use of pesticides for another agricultural producer for a purpose other than the production of agricultural commodities, or for the purpose of producing pesticide-treated commercial seed or pesticide-treated commercial wood products.

3. For compensation other than the exchange of goods or services, uses or directs the use of pesticides for more than 3 other agricultural producers in any calendar year.

4. For compensation other than the exchange of goods or services, uses or directs the use of pesticides applied in any calendar year to a total of more than 500 acres of land which the agricultural producer does not own or control.

(3) LICENSE EXPIRATION. A license under sub. (1) expires on December 31 annually and is not transferable to another person.

(4) LICENSE APPLICATION. An applicant for an annual license under sub. (1) shall apply on a form provided by the department. The application shall include all of the following information, together with the fees required under sub. (6):

(a) The applicant's correct name, mailing address, and street address. The application shall specify whether the applicant is an individual, corporation, or other business entity.

(b) Every other name under which the applicant does business.

(c) The mailing address and street address of each business location under sub. (5). If 2 or more license applicants engage in activities under sub. (5) at the same business location, all of those applicants shall identify that business location in their own applications.

(d) The complete name and license number of each of the applicant's employees who are required to be licensed under s. ATCP 29.25.

(e) Other information reasonably required by the department for the administration of this section.

(5) BUSINESS LOCATIONS. A business location under this section means any of the following:

(a) A site from which the person operates on a regular basis as a pesticide applicator for hire, including any site at which the person regularly takes orders for pesticide applications. A motorized vehicle, from which a person takes orders by mobile telephone, is not a site under this paragraph.

(b) A site, or a group of sites located within 1/2 mile of each other, at which a person mixes or loads a total of at least 1,500 pounds of pesticide active ingredient, excluding active ingredient applied at or immediately adjacent to the mixing or loading site.

(6) FEES. A person required to be licensed under sub. (1) shall pay the following annual license fee and surcharge for each business location under sub. (5) from which that person operates during the license year:

(a) A basic annual license fee of $70.

(b) An agricultural chemical cleanup surcharge of $20, except as provided in par. (c) or s. 94.73 (15), Stats.

(c) If the applicant manufactures or distributes bulk pesticides in this state, an additional agricultural chemical cleanup surcharge of $25, except as provided in s. 94.73 (15), Stats.

(7) ACTION ON LICENSE APPLICATION. The department shall grant or deny a license application under sub. (4) within 30 business days after the department receives a complete application.

(8) UPDATED INFORMATION. A person submitting an annual license application under sub. (4) shall promptly notify the department if any of the following occurs after that person submits that application:

(a) The person adds a business location under sub. (5). The person shall pay a license fee and surcharge for that additional location, as provided under sub. (6).

(b) There is any other significant change in information provided under sub. (4).

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; am. (6) (b), Register, May, 2000, No. 533, eff. 6-1-00; CR 00-121: am. (6) (b), Register October 2001 No. 550, eff. 11-1-01; CR 08-075: am. (6) (b) Register April 2009 No. 640, eff. 5-1-09; CR 14-047: am. (6) (b) Register May 2015 No. 713, eff. 6-1-15; CR 22-080: r. and recr. (6) (b), cr. (6) (c) Register February 2024 No. 818, eff. 3-1-24.

ATCP 29.21 Commercial application business; records. (1) RECORD OF PESTICIDE APPLICATIONS. A person required to be licensed under s. ATCP 29.20 shall keep a legible record of each pesticide application which that person makes directly or through an employee. The person shall keep the record for at least 2 years, and shall make it available to the department for inspection and copying upon request. The individual making the pesticide application shall complete the required record on the day of the application.

Note: Under s. ATCP 30.31 (5), a commercial application business must keep a record of atrazine applications for at least 3 years.

(2) RECORD CONTENTS. A pesticide application record under sub. (1) shall include all of the following:

(a) The first and last name of each individual making the pesticide application.

(b) The name and address of the customer, if any, for whom the pesticide was applied.

(c) The crop, commodity, or site to which the pesticide was applied.

(d) A specific description of the location of the pesticide application site. The description shall contain sufficient information and detail so that the location of the pesticide application site may be readily determined from the description.

(e) The month, day, year, and approximate starting and ending time of the pesticide application.

(f) The brand name, or product name, or common chemical name, and the federal environmental protection agency registration number, of each pesticide applied.

(g) At least one of the following:

1. The concentration and total quantity of each pesticide applied.

2. The amount of each pesticide applied per unit area and the total area treated.

(h) Each location, other than a business location licensed under s. ATCP 29.20, at which the pesticide was mixed or loaded. Mixing and loading sites need not be identified if the pesticide is applied directly from a prepackaged retail container, or is applied with application equipment having a total capacity of not more than 5 gallons of liquid pesticide or 50 pounds dry pesticide.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (2) (d) Register May 2013 No. 689, eff. 6-1-13.

ATCP 29.22 Commercial application business; information to customers. Within 30 days after making a pesticide application for a customer, either directly or through an employee, a person required to be licensed under s. ATCP 29.20 shall provide that customer with all of the information in subs. (1) to (9) in writing. The information may be provided to the customer electronically if the customer consents in writing to such notification prior to the application.

Note: Types of electronic communication include, but are not limited to, email and text.

(1) A telephone number at which the customer may contact the person.

(2) The first name, last name, and license number of each individual who made or directly supervised the pesticide application.

(3) The crop, commodity, or site to which the pesticide was applied.

(4) A specific description of the location of the pesticide application site. The description shall contain sufficient information and detail so that the location of the pesticide application site may be readily determined from the description.

(5) The month, day, year, and approximate starting and ending time of the pesticide application.

(6) The brand name or product name or common chemical name, and the federal environmental protection agency registration number of each pesticide applied.

Note: Under federal worker protection rules, a commercial application business making a pesticide application for an "agricultural establishment" as defined under s. ATCP 29.60 (3) must also provide that customer with the names of the pesticide active ingredients applied.

(7) At least one of the following:

(a) The concentration and total quantity of each pesticide applied.

(b) The amount of each pesticide applied per unit area and the total area treated.

(8) Post-application precautions which the pesticide label requires of the customer. This information shall be provided in time for the customer to take the required precautions.

Note: For example, pesticide labels might require customers to observe post-application precautions such as restricted entry intervals, preharvest intervals, grazing intervals, and subsequent planting restrictions.

(9) A free copy of the pesticide label, or notice that the customer may request a free copy. The person shall provide a free copy to each customer who requests it.

Note: Applicators making certain types of pesticide applications must comply with additional notification requirements under subchs. IX and X. This section does not limit the applicator's responsibility under those subchapters. Under s. ATCP 29.55, businesses applying pesticides to residential structures must provide information to residents at the time of application. Under s. ATCP 29.56, a commercial application business making a landscape application for a customer must provide that customer with information at the time of application.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (intro), (4) Register May 2013 No. 689, eff. 6-1-13.

Subchapter VI — Individuals Handling Or Applying Pesticides

ATCP 29.25 Individual commercial applicator; license. (1) LICENSE REQUIRED. Except as provided under sub. (2), no individual may do any of the following without an annual license from the department:

(a) Use or direct the use of any pesticide as an independent contractor for hire, or as an employee of an independent contractor for hire.

(b) Use or direct the use of a restricted-use pesticide.

Note: See s. 94.704, Stats. A license under this section entitles the license holder to engage only in those activities for which the license holder is also certified for competency under s. ATCP 29.26. An individual who is the sole proprietor of a pesticide application business must be licensed under s. ATCP 29.20 and this section.

(2) EXEMPTIONS. No license is required under sub. (1) for any of the following:

(a) A health practitioner who uses or directs the use of a pesticide as part of a medical treatment which that practitioner is licensed to provide in this state.

(b) A veterinarian who uses or directs the use of a pesticide as part of a veterinary treatment which that veterinarian is licensed to provide in this state.

(c) A veterinary technician who uses a pesticide as part of a veterinary treatment which that technician is certified to provide under ch. 89, Stats.

(d) A laboratory researcher who uses or directs the use of pesticides only in the laboratory as part of a bona fide laboratory research project.

(e) An individual who only uses or directs the use of germicides, sanitizers, or disinfectants.

(f) An employee of a pesticide application business licensed under s. ATCP 29.20 who applies pesticides only to property owned or controlled by that pesticide application business, and who applies no restricted-use pesticides.

(g) An individual who is currently registered as a trainee under s. ATCP 29.32.

Note: A trainee registration under s. ATCP 29.32 expires 30 days after the trainee's employer files the registration with the department.

(h) An agricultural producer, except that an agricultural producer who does any of the following is not exempt:

1. Uses or directs the use of pesticides for a person who is not an agricultural producer.

2. Uses or directs the use of pesticides for another agricultural producer for a purpose other than the production of agricultural commodities, or for the purpose of producing pesticide-treated commercial seed or pesticide-treated commercial wood products.

3. For compensation other than the exchange of goods or services, uses or directs the use of pesticides for more than 3 other agricultural producers in any calendar year.

4. For compensation other than the exchange of goods or services, uses or directs the use of pesticides applied in any calendar year to a total of more than 500 acres of land which the agricultural producer does not own or control.

(3) LICENSE CONDITIONS. (a) A license under sub. (1) expires on December 31 annually and is not transferable between persons.

(b) An individual licensed under sub. (1) shall carry the license when engaged in any activity for which the license is required.

(c) The department may not issue a license under sub. (1) to an individual who is less than 18 years old.

(4) LICENSE APPLICATION. An applicant for a license under sub. (1) shall apply on a form provided by the department. An application shall include all of the following information, together with the fees required under sub. (5):

(a) The applicant's complete name, mailing address, and street address.

(b) The applicant's business name and address if the individual is engaged in business as a sole proprietor.

(c) The name and address of the person, if any, who employs the applicant to use or direct the use of pesticides.

(d) Any other information which the department reasonably requires to administer this section.

(5) FEES. (a) Except as provided under par. (b), an applicant for an annual license under sub. (1) shall pay an agricultural chemical cleanup surcharge of $10, except as provided in s. 94.73 (15), Stats.

(b) No fee or surcharge is required under par. (a) for an applicant who uses or directs the use of pesticides under sub. (1) only as a government employee or as an employee of a public or private educational institution.

(6) ACTION ON LICENSE APPLICATION. The department shall grant or deny an application under sub. (4) within 30 business days after the department receives a complete application.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; am. (5) (a) 1. and 2., Register, May, 2000, No. 533, eff. 6-1-00; CR 01-021: am. (5) (a) 2., Register October 2001 No. 550, eff. 11-1-01; CR 08-075: am. (5) (a) 2. Register April 2009 No. 640, eff. 5-1-09; CR 12-003: am. (2) (b), (c) Register May 2013 No. 689, eff. 6-1-13; CR 14-047: am. (5) (a) 1., 2. Register May 2015 No. 713, ef. 6-1-15; correction in (2) (c) made under s. 13.92 (4) (b) 7., Stats., Register October 2015 No. 718; CR 22-080: cons. (5) (a) (intro.) and (a) 2. and renum. to (5) (a) and am., r. (5) (a) 1. Register February 2024 No. 818, eff. 3-1-24; **CR 25-074: am. (3) (c) Register June 2026 No. 846, eff. 7-1-26.**

ATCP 29.26 Individual commercial applicator; certification. (1) CERTIFICATION REQUIRED. No individual may engage in any activity for which a license is required under s. ATCP 29.25 unless one of the following applies:

(a) The individual is certified under this section to engage in that activity as a commercial applicator.

(b) The individual is certified as a pesticide mixer and loader under s. ATCP 29.28, and is solely engaged in mixing and loading pesticides for application by others.

Note: According to s. 94.715 (2) (dm), Stats., school boards must ensure that persons making pesticide applications to public school grounds are certified under s. 94.705, Stats.

(2) SCOPE OF CERTIFICATION. The department may certify an individual commercial applicator in one or more categories under s. ATCP 29.31. The department may not issue certification under this subsection to an individual who is less than 18 years old. An individual certified in any category may do any of the following:

(a) Use or direct the use of pesticides in that category.

(b) Mix or load pesticides, for application by others, in all of the categories under s. ATCP 29.31.

(3) LENGTH OF CERTIFICATION. (a) An individual commercial applicator certification is valid for 5 years unless the department suspends or revokes the certification.

(b) The department may certify an individual commercial applicator in additional categories under s. ATCP 29.31 during that individual's 5-year certification period. The additional certifications are valid for the remainder of the 5-year period, and expire simultaneously at the end of that period.

(c) The department may renew an individual commercial applicator certification for another 5 years if the individual again satisfies the requirements for certification.

(4) SPECIAL APPLICATION METHODS OR CATEGORIES; SUPPLEMENTARY CERTIFICATION. No individual commercial applicator may control mosquitoes or use aircraft, chemigation, or soil fumigation to apply pesticides in any category under s. ATCP 29.31 for which that individual is certified unless that individual is also certified under s. ATCP 29.29 to apply pesticides.

Note: See certification requirements under s. ATCP 30.22 (2) for applicators using metam sodium.

(5) CERTIFICATION CARD. (a) Within 30 business days after an individual commercial applicator satisfies the requirements for certification under this section, the department shall issue a commercial applicator certification card to that individual. The card shall include all of the following:

1. The individual's name and certification number.

2. A statement indicating the categories under s. ATCP 29.31 in which the individual is certified as a commercial applicator.

3. A statement indicating that the individual is certified under s. ATCP 29.29 to apply pesticides by means of aerial application, chemigation, soil fumigation, or mosquito application, if that is the case.

4. The expiration date of the certification.

(b) An individual commercial applicator shall carry a current certification card when engaged in any activity for which certification is required under this section.

(c) The department may, upon request, replace a certification card that is lost, stolen, damaged, or destroyed. The card holder shall pay the replacement cost.

(6) CERTIFICATION STANDARDS. To be certified in any category under s. ATCP 29.31, an individual shall demonstrate practical knowledge and competency related to all of the following:

(a) The general areas identified under s. ATCP 29.30.

(b) Each category under s. ATCP 29.31 in which the individual seeks certification.

(7) CERTIFICATION TEST. Except as provided under sub. (10), an individual shall demonstrate practical knowledge and competency in each category under sub. (6) by scoring at least 70 percent on a written, closed-book examination which the department administers for that category. The department may arrange with an equivalent agency in another state to administer the department's examination to individuals in that state, for purposes of certification in this state.

(8) RETESTING APPLICANTS WHO FAIL TO PASS. An individual who fails an initial examination under sub. (7) may retake the examination not sooner than 24 hours later, on a regularly scheduled examination date. An individual who fails a second or subsequent examination may retake the examination not sooner than 30 days later, on a regularly scheduled examination date. An individual who fails 4 examinations in any category in any 6-month period may not retake the examination for at least 6 months following the date of the last failed examination.

(9) APPLYING FOR CERTIFICATION. To apply for certification as a commercial applicator, an individual shall do all of the following:

(a) Obtain certification training from the University of Wisconsin-Extension.

Note: Training consists of a self-study manual and, for some certification categories, supplementary training sessions. Training may be obtained by contacting the University of Wisconsin - Madison Division of Extension at the following address: University of Wisconsin - Madison Division of Extension; Agriculture Institute - PAT; 3500 University Ave.; Madison, WI 53705, phone: (608) 262-7588. On-

line information on pesticide certification, training, and examination registration is available at http://pestexam.datcp.wi.gov.

(b) Schedule a certification examination date with the department.

Note: Examination dates may be scheduled by contacting the department at the following address: Wisconsin Department of Agriculture, Trade and Consumer Protection; Division of Agricultural Resource Management, Pesticide Certification and Licensing; P. O. Box 8911; Madison, WI 53708-8911; Phone (608) 224-4548. Online examination registration is available at http://pestexam.datcp.wi.gov.

(c) Bring both of the following to the certification examination:

1. The certification training materials received under par. (a).

2. A driver's license or other valid photo identification.

(10) APPLICATORS CERTIFIED IN OTHER STATES. (a) The department may certify an individual commercial applicator without examination if the individual is currently certified as a commercial applicator in another state and if all of the following apply:

1. The department determines that the other state has equivalent certification standards.

2. The other state has certified the individual, in the same or equivalent pesticide use categories, based on a written closed-book examination passed within the last 5 years.

3. The other state has never suspended or revoked its certification of that individual.

4. The individual provides proof of certification by the other state and pays a certification fee of $75.

(b) Certification under par. (a) expires on December 31 of the year in which it is issued.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; **CR 25-074: am. (2) (intro.), (4), (5) (a) 3. Register June 2026 No. 846, eff. 7-1-26.**

ATCP 29.27 Private applicator certification. (1) CERTIFICATION REQUIRED. No individual may use or direct the use of a restricted-use pesticide as an agricultural producer unless one of the following applies:

(a) The individual is certified as a private applicator under this section.

(b) The individual is certified as a commercial applicator under s. ATCP 29.26 in the appropriate certification category or categories, and is not engaged in any activity for which a commercial applicator license is required under s. ATCP 29.25.

(c) The individual is licensed as a commercial applicator under s. ATCP 29.25 and certified under s. ATCP 29.26 in the appropriate certification category or categories.

(d) The individual is all of the following:

1. Certified as a pesticide mixer and loader under s. ATCP 29.28.

2. Engaged only in mixing and loading pesticides for application by others.

3. Licensed under s. ATCP 29.25 if engaged in any activity for which a license is required.

(2) SCOPE OF PRIVATE APPLICATOR CERTIFICATION. The department may certify an individual agricultural producer to use or direct the use of restricted-use pesticides as a private applicator. Private applicator certification does not authorize an agricultural producer to engage in activities for which a commercial applicator license is required under s. ATCP 29.25. The department may not issue a certification under this subsection to an individual who is less than 18 years old.

(3) LENGTH OF CERTIFICATION. A private applicator certification is valid for 5 years unless the department suspends or revokes the certification. The department may renew a private applicator certification for another 5 years if the private applicator again satisfies the requirements for certification.

(4) SPECIAL APPLICATION METHODS; SUPPLEMENTARY CERTIFICATION. No private applicator may use aircraft, chemigation, or soil fumigation to apply restricted-use pesticides unless that private applicator is also certified under s. ATCP 29.29 to apply pesticides by that method.

Note: See certification requirements under s. ATCP 30.22 (2) for applicators using metam sodium.

(5) CERTIFICATION CARD. (a) Within 30 business days after an individual agricultural producer satisfies the requirements for certification as a private applicator, the department shall issue a private applicator certification card to that individual. The card shall include all of the following:

1. The individual's name and certification number.

2. A statement that the individual is certified as a private applicator.

3. A statement indicating that the individual is certified under s. ATCP 29.29 to apply restricted-use pesticides as private applicator by means of aerial application, chemigation, or soil fumigation, if that is the case.

4. The expiration date of the certification.

(b) A private applicator shall carry a current certification card when engaged in any activity for which certification is required under this section.

(c) The department may, upon request, replace a certification card that is lost, stolen, damaged, or destroyed. The card holder shall pay the replacement cost.

(6) CERTIFICATION STANDARDS. To be certified as a private applicator, an individual agricultural producer shall demonstrate practical knowledge and competency related to the general areas identified under s. ATCP 29.30.

(7) CERTIFICATION PROCEDURE. To be certified as a private applicator, an individual agricultural producer shall do one of the following:

(a) Attend a training program provided by the University of Wisconsin-Extension, and score at least 50 percent on an open-book examination administered by the training provider. An individual who fails the open-book examination may be retested.

(b) Complete self-study training using materials provided by the University of Wisconsin-Extension, and score at least 70 percent on an open-book examination administered by the department or its designee. An individual who fails the open-book examination may be retested.

(8) APPLYING FOR CERTIFICATION. An individual agricultural producer may contact the University of Wisconsin-Extension educator in a county that provides exam proctoring to arrange for training and evaluation under sub. (7).

Note: The University of Wisconsin-Extension may charge a fee to cover the cost of training.

(9) PRIVATE APPLICATORS CERTIFIED IN OTHER STATES. An individual agricultural producer who is currently certified as a private applicator in another state is automatically deemed to be certified as a private applicator in this state. The certification card issued by the other state serves as a certification card under sub. (5), so that the producer need not obtain a certification card from the department.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; **CR 25-074: am. (2), (4), (5) (a) 3., (8) Register June 2026 No. 846, eff. 7-1-26.**

ATCP 29.28 Pesticide mixers and loaders; certification. (1) SCOPE OF CERTIFICATION. The department may certify an individual to mix or load pesticides for application by others. An individual certified under this section may mix and load pesticides for application by others in all of the categories under s. ATCP 29.31, but may not do any of the following:

(a) Apply pesticides in any category under s. ATCP 29.31.

(b) Engage in any activity for which a license is required under s. ATCP 29.25 unless that individual holds a license under s. ATCP 29.25.

(2) LENGTH OF CERTIFICATION. A pesticide mixer and loader certification is valid for 5 years unless the department suspends or revokes the certification. The department may renew an individual's certification for another 5 years if, before the individual's certification expires, the individual again satisfies the requirements for certification.

(3) CERTIFICATION CARD. (a) Within 30 business days after an individual satisfies the requirements for certification under this section, the department shall issue a certification card to that individual. The card shall include all of the following:

1. The individual's name and certification number.

2. A statement indicating that the individual is certified as a pesticide mixer and loader.

3. The expiration date of the certification.

(b) A pesticide mixer and loader shall carry a current certification card when engaged in any activity for which certification is required.

(c) The department may, upon request, replace a certification card that is lost, stolen, damaged, or destroyed. The card holder shall pay the replacement cost.

(4) CERTIFICATION STANDARDS. To be certified as a pesticide mixer and loader, an individual shall demonstrate practical knowledge and competency related to the general areas identified under s. ATCP 29.30.

(5) CERTIFICATION TEST. An individual shall demonstrate practical knowledge and competency under sub. (4) by scoring at least 70 percent on a written, closed-book examination administered by the department. An individual who fails an examination may be retested according to the procedure described in s. ATCP 29.26 (8).

(6) APPLYING FOR CERTIFICATION. To apply for certification under this section, an individual shall follow the procedure described in s. ATCP 29.26 (9).

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.29 Special application methods; supplementary certification. (1) AERIAL APPLICATOR; SUPPLEMENTARY CERTIFICATION. The department may certify an individual to use aircraft to make pesticide applications for which that individual is certified as a commercial or private applicator under s. ATCP 29.26 or 29.27. To be certified as an aerial applicator, an individual shall do all of the following:

(a) *License and training.* Provide proof that he or she is licensed and fully trained to operate and apply pesticides with each type of aircraft used for that purpose.

(b) *Knowledge and competency.* Demonstrate practical knowledge and competency related to all of the following:

1. 'Labeling.' Labeling requirements and restrictions specific to aerial application of pesticides including:

a. Spray volumes.

b. Buffers and no-spray zones.

c. Weather conditions specific to wind and inversion.

2. 'Application equipment.' Understand how to choose and maintain aerial application equipment, including all of the following:

a. The importance of inspecting application equipment to ensure it is in proper operating condition prior to beginning an application.

b. Selecting proper nozzles to ensure appropriate pesticide dispersal and to minimize drift.

c. Knowledge of the components of an aerial pesticide application system, including pesticide hoppers, tanks, pumps, and types of nozzles.

d. Interpreting a nozzle flow rate chart.

e. Determining the number of nozzles for an intended pesticide output using nozzle flow rate chart, aircraft speed, and swath width.

f. How to ensure nozzles are placed to compensate for uneven dispersal due to uneven airflow from wingtip vortices, helicopter rotor turbulence, and aircraft propeller turbulence.

g. Where to place nozzles to produce the appropriate droplet size.

h. How to maintain the application system in good repair, including pressure gauge accuracy, filter cleaning according to schedule, and checking nozzles for excessive wear.

i. How to calculate required and actual flow rates.

j. How to verify flow rate using fixed timing, open timing, known distance, or a flow meter.

3. 'Application considerations.' The applicator must demonstrate knowledge of factors to consider before and during application, including all of the following:

a. Weather conditions that could impact application by affecting aircraft engine power, take-off distance, and climb rate, or by promoting spray droplet evaporation.

b. How to determine wind velocity, direction, and air density at the application site.

c. The potential impact of thermals and temperature inversions on aerial pesticide application.

4. 'Minimizing drift.' The applicator must demonstrate knowledge of methods to minimize off-target pesticide movement, including all of the following:

a. How to determine drift potential of a product using a smoke generator.

b. How to evaluate vertical and horizontal smoke plumes to assess wind direction, speed, and concentration.

c. Selecting techniques that minimize pesticide movement out of the area to be treated.

d. Documenting special equipment configurations or flight patterns used to reduce off-target pesticide drift.

e. Requirements under s. ATCP 29.53

5. 'Performing aerial application.' The applicator must demonstrate competency in performing an aerial pesticide application, including all of the following:

a. Selecting a flight altitude that minimizes streaking and off-target pesticide drift.

b. Choosing a flight pattern that ensures applicator and bystander safety and proper application.

c. The importance of engaging and disengaging spray precisely when entering and exiting a predetermined swath pattern.

d. Tools available to mark swaths, such as global positioning systems and flags.

e. Recordkeeping requirements for aerial pesticide applications including application conditions if applicable.

(2) CHEMIGATION APPLICATOR; SUPPLEMENTARY CERTIFICATION. (a) The department may certify an individual to make pesticide applications, for which that applicator is certified as a commercial or private applicator under s. ATCP 29.26 or 29.27, by means of chemigation.

(b) To be certified as a chemigation applicator, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Proper chemigation procedures.

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

2. Chemigation equipment, including calibration and operation.

3. Potential health and environmental hazards related to chemigation.

4. Requirements under s. ATCP 29.54.

(3) SOIL FUMIGATION; SUPPLEMENTARY CERTIFICATION. The department may certify an individual commercial or private applicator to make pesticide applications, for which that individual is certified under s. ATCP 29.26 or 29.27, by means of soil fumigation. To be certified as a soil fumigator, an applicator shall demonstrate practical knowledge and competency related to all of the following:

(a) *Label and labeling comprehension.* 1. Entry-restricted periods for tarped and untarped field application scenarios.

2. Recordkeeping requirements.

(b) *Safety.* 1. Worker safety, notice, posting, and restricted entry interval requirements.

2. Understanding how certified applicators and bystanders can become exposed to fumigants.

3. Air concentrations of a fumigant that require applicators to wear respirators or to exit the work area entirely.

4. Steps to take if a fumigant applicator experiences sensory irritation.

5. Understanding air monitoring, when it is required, and where and when to take samples.

6. Buffer zones, including procedures for buffer zone monitoring and who is permitted to be in a buffer zone.

(c) *Soil fumigant chemical characteristics.* 1. How fumigants change from a liquid or a solid to a gas.

2. How fumigants disperse in the application zone.

3. Compatibility concerns for tanks, hoses, tubing, and other equipment.

4. Potential health and environmental hazards related to fumigants.

(d) *Application.* Selecting appropriate application methods and timing, including all of the following:

1. Application methods, including but not limited to water-run and non-water-run applications, and equipment commonly used for each soil fumigant.

2. Site characteristics that influence fumigant exposure.

3. Understanding temperature inversions and their impact on soil fumigant application.

4. Conducting pre-application inspection of application equipment and the site to be fumigated.

5. Understanding the purpose and methods of soil sealing, including the factors that determine which soil sealing method to use.

6. Calculating the amount of product required for a specific treatment area.

7. Understanding the use of tarps, including the range of tarps available, how to seal tarps, and labeling requirements for tarp removal, perforation, and repair.

8. Proper soil fumigation methods, including restricted entry intervals, proper use of safety apparatus, and other safeguards to protect human health and the environment.

9. Factors that may determine the need for, or appropriate use of, a soil fumigant.

(e) *Soil and soil factors.* Understanding soil and soil factors, including all of the following:

1. Influence of soil factors on fumigant volatility and movement within the soil profile.

2. Factors that influence gaseous movement through the soil profile and into the air.

3. Soil characteristics, including how soil characteristics affect the success of a soil fumigant application, assessing soil moisture, and correcting for soil characteristics that could hinder a successful soil fumigant application.

4. The importance of proper application depth and timing.

(f) *Personal protective equipment.* Understanding what personal protective equipment is necessary and how to use it properly, including all of the following:

1. Understanding the types of respirators required when using specific soil fumigants and how to use them properly, including medical evaluation, fit testing, and required replacement of cartridges and canisters.

(g) *Fumigant management plans and post application summaries.* Information about fumigant management plans and when they are required, including all of the following:

1. When a fumigant management plan must be in effect, how long it must be kept on file, where it must be kept during the application, and who must have access to it.

2. The elements of a fumigant management plan and resources available to assist the applicator in preparing a fumigant management plan.

3. The person responsible for verifying that a fumigant management plan is accurate.

4. The elements, purpose and content of a post-application summary, who must prepare it, and when it must be completed.

(h) *Buffer zones and posting requirements.* Understanding buffer zones and posting requirements, including all of the following:

1. Buffer zones and the buffer zone period.

2. Identifying who is allowed in a buffer zone during the buffer zone period and who is prohibited from being in a buffer zone period.

3. Using the buffer zone table from the labeling to determine the size of the buffer zone.

4. Factors that determine the buffer zone credits for application scenarios and calculating buffer zones using credits.

5. Distinguishing buffer zone posting and treated area posting, including the pre-application and post-application posting timeframes for each.

6. Proper choice and placement of warning signs.

(4) MOSQITO CONTROL BY COMMERCIAL APPLICATOR; SUPPLEMTARY CERTIFICATION. The department may certify an individual commercial applicator to make pesticide applications, for which that individual is certified under s. ATCP 29.26. This category includes individuals who use or the direct the use of any pesticides to control adult mosquitoes and larval mosquitoes in any location other than waters of the state. To be certified as a mosquito applicator, an individual commercial applicator shall demonstrate practical knowledge and competency related to all of the following:

(a) Important vectors of disease.

(b) Recognizing the pests and signs of their presence.

(c) Pest habitat, lifecycles, biology, and behavior as it may be relevant to problem identification and control.

(d) How to minimize damage to and containment of areas treated.

(e) Acute and chronic exposure of people and pets, and non-target exposures.

(5) CERTIFICATION PROCEDURE; COMMERCIAL APPLICATORS. A commercial applicator certified under s. ATCP 29.26 may apply for supplementary certification under this section according

to the procedure specified under s. ATCP 29.26 (9). To be certified under sub. (1), (2) or (3), the applicant shall score at least 70 percent on a written, closed-book examination administered by the department. An individual who fails an examination may be retested according to the procedure described in s. ATCP 29.26 (8). If necessary, the department may require the individual to pass a field or operational examination in addition to a written examination.

(6) CERTIFICATION PROCEDURE; PRIVATE APPLICATORS. A private applicator certified under s. ATCP 29.27 may apply for supplementary certification under this section by contacting the University of Wisconsin-Extension agent, in the county where the private applicator resides. To be certified under sub. (1), (2) or (4), the private applicator shall do both of the following:

(a) Complete self-study training using materials provided by the University of Wisconsin-Extension.

(b) Demonstrate practical knowledge and competency by scoring at least 70 percent on an open-book examination administered by the training provider. The examination may include a field or operational examination. An individual who fails an examination may be retested.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; **CR: 25-074: r. and recr. (1) (b), am. (3) (intro.), r. and recr. (3) (a) to (g), cr. (3) (h), r. and recr. (4) Register June 2026 No. 846, eff. 7-1-26; (1) (a) (title), (b) (title) created under s. 13.92 (4) (b) 2., Stats., Register June 2026 No. 846.**

ATCP 29.30 General certification standards. In order to be certified under s. ATCP 29.26, 29.27 or 29.28, an individual shall do all of the following:

(1) PESTICIDE LABELS. Demonstrate all of the following:

(a) Knowledge related to the general format and terminology used on pesticide labels.

(b) Ability to understand instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels.

(c) Knowledge of pesticide use classifications.

(d) Knowledge that pesticide use inconsistent with labeling is prohibited.

(e) Recognizing and understanding the difference between mandatory and advisory labeling language.

(f) Verifying that the labeling does not prohibit the use of product to control the target pest.

(2) PESTICIDE HAZARDS; GENERAL. Demonstrate practical knowledge and competency related to all of the following:

(a) Pesticide toxicity.

(b) Common hazards to persons, property, and the environment.

(3) HUMAN HEALTH HAZARDS AND RESPONSES. Demonstrate practical knowledge and competency related to all of the following:

(a) Pesticide exposure and health risks related to different types of pesticides and pesticide applications to customers, agricultural workers and handlers, and other persons.

(b) Common exposure routes by which pesticides may reach or enter an organism.

(c) Common types and causes of pesticide accidents.

(d) Safety measures to prevent or minimize human exposure.

(e) Worker protection, including the use of protective equipment.

(f) Symptoms of pesticide poisoning.

(g) First aid and other procedures to be followed in case of pesticide exposure.

(h) Precautions to be taken to prevent children from having access to pesticides and pesticide containers.

(i) Knowledge of all applicable State, Tribal and Federal laws and regulations, including understanding the Worker Protection Standard in 40 CFR part 170 and the circumstances where compliance is required.

(j) Relative hazards associated with using pesticides on animals or places in which animals are confined based on formulation, application technique, age of animal, stress, and extent of treatment.

(4) ENVIRONMENT. Demonstrate practical knowledge related to all of the following:

(a) Potential environmental hazards related to pesticide use or misuse, including hazards to surface water, groundwater, nontarget organisms, and endangered species.

(b) How environmental hazards may be affected by factors such as weather, terrain, drainage patterns, soil types, hydrogeologic conditions, and the nature of surrounding biological communities.

(5) PESTS. Demonstrate practical knowledge and competency related to all of the following unless the individual is certified only as a pesticide mixer and loader under s. ATCP 29.28:

(a) Identification of relevant pests.

(b) Common features of pest organisms.

(c) Characteristic damage caused by pest organisms.

(d) Pest development and biology as it may be relevant to problem identification and control.

(e) Factors affecting the need for, and appropriate use of, pesticides to control pests.

(6) PESTICIDES. Demonstrate practical knowledge and competency related to all the following:

(a) Pesticide types and formulations.

(b) The compatibility, synergism, persistence, and toxicity of different pesticide formulations.

(c) Potential hazards associated with the use of different pesticides.

(d) Factors influencing pesticide effectiveness and pest resistance to pesticides.

(e) The mixing and dilution of pesticides.

(f) Specific pesticide toxicity and residue potential when pesticides are applied to animal product agricultural commodities.

(g) The different natures of the risks of acute toxicity and chronic toxicity, as well as the long-term effects of pesticides.

(7) EQUIPMENT. Demonstrate practical knowledge and competency related to the types of equipment used to apply pesticides, including the advantages and limitations of each type of equipment, the use and maintenance of equipment, and the calibration of equipment.

(8) PESTICIDE MIXING AND LOADING. Demonstrate practical knowledge and competency related to all of the following:

(a) Mixing and loading instructions.

(b) Proper mixing and loading procedures.

(c) Mixing and loading equipment and facilities.

(d) Spill prevention and spill response procedures.

(e) Worker safety, including use of protective safety equipment.

(9) PESTICIDE APPLICATION. Demonstrate practical knowledge and competency related to all the following unless the individual is certified only as a pesticide mixer and loader under s. ATCP 29.28:

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

(a) The methods or procedures used to apply different pesticides and pesticide formulations.

(b) Factors affecting the choice of application method or application rate.

(c) The relationship between pesticide discharge, pesticide placement, and proper use of pesticides.

(d) Unnecessary use and misuse of pesticides.

(e) Prevention of overspray and drift.

(f) Pre-harvest and restricted entry intervals and entry-restricted periods and areas.

(10) PESTICIDE HANDLING, STORAGE, TRANSPORTATION AND DISPOSAL. Demonstrate practical knowledge and competency related to all of the following:

(a) Proper equipment, facilities and procedures for handling, storing, transporting and disposing of pesticides.

(b) Proper procedures for rinsing and disposing of pesticide containers.

(c) Proper spill prevention and spill response procedures.

(d) Safeguards to prevent or minimize hazards to persons, property and the environment.

(e) Worker protection, including use of protective equipment.

(11) PESTICIDE REGULATIONS. Demonstrate knowledge of relevant state and federal pesticide regulations including:

(a) The federal act.

(b) Sections 94.67 to 94.71, Stats.

(c) This chapter, chs. ATCP 30, 31 and 33, and ch. NR 80.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; **CR 25-074: cr. (1) (e), (f), am. (3) (a), cr. (3) (h) to (j), (6) (f), (g), (9) (f) Register June 2026 No. 846, eff. 7-1-26.**

ATCP 29.31 Commercial applicators; certification categories. The department may certify an individual as a commercial applicator, under s. ATCP 29.26, in any of the following categories:

(1) FIELD AND VEGETABLE CROP PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to control pests affecting agricultural field and vegetable crops, or to control pests on noncrop agricultural lands.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Agricultural crops and noncrop agricultural land uses, and key pests that may affect them.

2. Pesticides that may be used to control relevant pests, and factors that may affect the need for and appropriate use of those pesticides.

3. Potential health and environmental hazards related to the use of pesticides in this category, including hazards related to surface water and groundwater.

4. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

5. The safe use of pesticide-treated crops for food or feed, including required pre-harvest intervals.

6. Worker safety, notice, posting and restricted entry interval requirements.

7. Hazards to treated plants and nontarget organisms, including phytotoxicity.

8. Pesticide overspray and drift, and how to avoid them.

9. Public and community relations issues related to pesticide applications.

(2) FRUIT CROP PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to control pests affecting the production of agricultural fruit crops, including small fruits, tree fruits, and nuts.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Common agricultural fruit crops grown in this state, and the pests that affect them.

2. Pesticides that may be used to control relevant pests, and factors that may affect the need for and appropriate use of those pesticides.

3. Potential health and environmental hazards related to pesticide use in this category, including hazards related to surface water and groundwater.

4. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

5. The safe use of pesticide-treated fruit crops for food or feed, including required pre-harvest intervals.

6. Worker safety, notice, posting, and restricted entry interval requirements.

7. Hazards to treated plants and nontarget organisms, including phytotoxicity.

8. Pesticide overspray and drift, and how to avoid them.

9. Public and community relations issues related to pesticide applications.

(3) LIVESTOCK AND POULTRY PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to do either of the following:

1. Control pests on agricultural animals such as livestock, poultry, or horses.

2. Control pests other than birds and rodents in places, other than human habitations, where agricultural animals are confined.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Common agricultural animals, and the pests that affect them.

2. Pesticides that may be used to control relevant pests, and factors that may affect the need for and appropriate use of those pesticides.

3. Potential adverse health effects on animals and humans and the associated hazards with such factors as formulation application techniques, age of animals, and extent of treatment.

4. Potential adverse effects of pesticide toxicity and residue potential on food and other uses of animals or their products.

5. Appropriate procedures for preparing, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

(4) FOREST PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to control pests in forests, forest nurseries, Christmas tree plantations, and tree seed producing areas.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Forests, forest nurseries, Christmas tree plantations, and tree seed production in this state, and pests that may affect them.

2. Pesticides that may be used to control relevant pests.

3. Factors, including pest population dynamics and cycles, that may affect the need for pesticides and to determine the proper use of pesticides.

4. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

5. Potential adverse effects on treated plants and plant products.

6. Potential adverse effects on nontarget organisms.

7. Potential health and environmental hazards, including hazards to aquatic habitats and wildlife.

8. Pesticide overspray and drift, and how to avoid them.

9. Applicable laws, including s. 26.30, Stats., and ch. NR 35, pertaining to forest pest control.

10. Public and community relations issues related to pesticide applications.

11. Appropriate responses to meteorological factors and adjacent land use.

(5) TURF AND LANDSCAPE PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to control pests affecting turf or landscape.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Production and maintenance of turf and landscape in this state.

2. Common pests affecting turf and landscape.

3. Pesticides that may be used to control relevant pests, and factors that may affect the need for and appropriate use of those pesticides.

4. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

5. Worker safety, notice, posting, and restricted entry interval requirements.

6. Potential health and environmental hazards, including hazards related to surface water and groundwater.

7. Hazards to treated plants and nontarget organisms like humans, pets, and other domestic animals and reducing phytotoxicity.

8. Pesticide overspray and drift, and how to avoid them.

9. Public and community relations issues related to pesticide applications.

(6) GREENHOUSE AND NURSERY PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to control pests affecting greenhouse or nursery plants.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Production of greenhouse and nursery plants.

2. Common pests affecting greenhouse and nursery plants.

3. Pesticides that may be used to control relevant pests, and factors that may affect the need for and appropriate use of those pesticides.

4. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

5. Worker safety, notice, posting, and restricted entry interval requirements.

6. Potential health and environmental hazards.

7. Hazards to treated plants and nontarget organisms, including phytotoxicity.

(7) SEED TREATMENT PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides, other than in planter box treatments, to control pests on seeds used for planting or propagation.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Seeds and the pests that may affect them.

2. Pesticides that may be used to control relevant seed pests, and factors that may affect the need for and appropriate use of those pesticides.

3. Potential health and environmental hazards related to pesticide applications, including hazards related to handling, sorting, mixing, using, and disposing of pesticide-treated seed.

4. Appropriate procedures for preparing, applying and disposing of pesticides, including procedures for handling, sorting, mixing, using, and disposing of pesticide-treated seed, to prevent or minimize pesticide-related hazards.

5. Factors, such as seed coloration carriers and surface active agents, that may affect pesticide efficacy or seed germination.

6. Worker safety, notice, posting, and restricted entry interval requirements.

(8) AQUATIC PEST CONTROL. (a) *Category description.* This category includes individuals who do either of the following:

1. Use or direct the use of any pesticide in standing or running surface water, or below the high water mark, to control pests.

2. Use or direct the use of any pesticide to control larval mosquitoes on land or in waters of the state.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Pests in aquatic environments.

2. Pesticides that may be used to control relevant aquatic pests, and factors that may affect the need for and appropriate use of those pesticides.

3. Potential health and environmental effects of pesticide applications, including potential downstream effects, and effects on nontarget plants, fish, birds, and beneficial insects.

4. Proper procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards. This includes limited area application principles.

5. Applicable regulations including s. ATCP 29.62 and ch. 281, Stats., and ch. NR 107.

6. Public and community relations issues related to aquatic pesticide applications.

(9) ANTIFOULING PAINT APPLICATIONS. (a) *Category description.* This category includes individuals who use or direct the use of anti-fouling paint pesticides to preserve and protect boat hulls, buoys, and other materials against damage from marine plants and animals such as barnacles, algae, and tube worms.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. The pests against which antifouling paints are commonly used.

2. Antifouling paints, and factors that may affect the need for and appropriate use of antifouling paints.

3. Potential health and environmental hazards related to antifouling paints.

4. Proper procedures for mixing, loading, applying, and disposing of antifouling paints, to prevent or minimize hazards related to those paints.

(10) RIGHT-OF-WAY AND NATURAL AREA PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to maintain lands used for electric power lines, pipelines, railways, public roads, or similar purposes, or to restore or maintain the ecological integrity of natural areas.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. The variety of environments that may be affected by right-of-way and natural area pesticide applications.

2. Recognition of common pests controlled by right-of-way and natural area pesticide applications.

2m. Restoration and maintenance of natural areas.

3. Pesticides that may be used to control relevant pests, and factors that may affect the need for and appropriate use of those pesticides.

4. Potential health and environmental hazards, including hazards related to surface water and groundwater.

5. Hazards to treated plants and nontarget organisms, including phytotoxicity.

6. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

7. Notice, posting, and restricted entry interval requirements.

8. Pesticide overspray and drift, and how to avoid them.

9. Public and community relations issues related to pesticide applications.

10. Techniques to minimize runoff and excessive foliage destruction.

(11) INDUSTRIAL, INSTITUTIONAL, STRUCTURAL, AND HEALTH- RELATED PEST CONTROL; GENERAL. (a) *Category description.* This category includes individuals, other than those included in categories subs. (12) to (15), who use or direct the use of pesticides for any of the following purposes:

1. To protect stored, processed, or manufactured products.

2. To control pests in or around food handling establishments, human dwellings, schools, institutions, industrial establishments, warehouses, grain elevators, or like facilities. It includes individuals making perimeter barrier applications. It also includes individuals making spot or directed applications to landscapes to control structural, household, or nuisance pests such as ants, fleas, wasps, bees, and hornets. It does not include individuals making applications under sub. (5) to control pests of turf or ornamentals; nor does it include individuals making applications under sub. (8) to control mosquitoes.

Note: Landscape applications other than perimeter barrier applications must comply with s. ATCP 29.56.

3. To control, as part of a public health program, pests other than mosquitoes that have public health or medical importance.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Pests that have public health or medical importance.

2. Pesticides that may be used to control relevant pests, and factors that may affect the need for and appropriate use of those pesticides.

3. Potential health and environmental hazards related to the use of pesticides in this category.

4. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

5. Pest life cycles, behaviors, and habitats.

(12) FUMIGATION; SPACES AND COMMODITIES. (a) *Category description.* This category includes individuals who use or direct the use of fumigant pesticides to control pests in industrial, institutional, or structural settings, or for health-related purposes. It includes individuals who apply fumigants by means of general, spot, tarpaulin, chamber, vehicle, or in-transit fumigation, or who aerate or ventilate fumigated spaces. It does not include individuals who use or direct the use of soil fumigants.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. 'Safety.' a. Worker safety, notice, posting, and restricted entry interval requirements.

b. Understanding how certified applicators and bystanders can become exposed to fumigants.

c. Air concentrations of a fumigant that require applicators to wear respirators or to exit the work area entirely.

d. Steps to take if a fumigant applicator experiences sensory irritation.

e. Understanding air monitoring, when it is required, and where and when to take samples.

f. Buffer zones, including procedures for buffer zone monitoring and who is permitted to be in a buffer zone.

2. 'Non-soil fumigant chemical characteristics.' a. Chemical characteristics of non-soil fumigants

b. Specific human exposure concerns for non-soil fumigants.

c. How fumigants change from a liquid or solid to a gas.

d. How fumigants disperse in the application zone.

e. Compatibility concerns for tanks, hoses, tubing, and other equipment.

f. Potential health and environmental hazards related to fumigants.

3. 'Application.' Selecting appropriate application methods and timing, including all of the following:

a. Site characteristics that influence fumigant exposure.

b. Conditions that could impact timing of non-soil fumigant application, such as air stability, air temperature, humidity, and wind currents, and labeling statements limiting applications under specific conditions.

c. Conducting pre-application of inspection of application equipment and the site to be fumigated.

d. Understanding the purpose and methods of sealing the area to be fumigated, including the factors that determine which sealing method to use.

e. Calculating the amount of product required for a specific treatment area.

f. Understanding the basic techniques for calibrating non-soil fumigant application equipment.

g. Understanding when and how to conduct air monitoring and when it is required.

h. Factors that may determine the need for, or appropriate use of, a fumigant.

i. Appropriate procedures for mixing, loading, applying, and disposing of fumigants, to prevent or minimize fumigant-related hazards.

4. 'Pest factors.' Pest factors that influence fumigant activity, including all of the following:

a. Influence of pest factors on fumigant volatility.

b. Factors that influence gaseous movement through the area being fumigated and into the air.

5. 'Personal protective equipment.' Understanding what personal protective equipment is necessary and how to use it properly, including all of the following:

a. Understanding the types of respirators required when using specific non-soil fumigants and how to use them properly, including medical evaluation, fit testing, and required replacement of cartridges and canisters.

b. Labeling requirements and other laws applicable to medical evaluation for respirator use, fit tests, training, and recordkeeping.

6. 'Fumigant management plans and post application summaries.' Information about fumigant management plans and when they are required, including all of the following:

a. When a fumigant management plan must be in effect, how long it must be kept on file, where it must be kept during the application, and who must have access to it.

b. The elements of a fumigant management plan and resources available to assist the applicator in preparing a fumigant management plan.

c. The person responsible for verifying that a fumigant management plan is accurate.

d. The elements, purpose, and content of a post-application summary, who must prepare it, and when it must be completed.

7. 'Posting requirements.' a. Distinguishing fumigant labeling-required posting and treated area posting, including the pre-application and post-application posting timeframes for each.

b. Proper choice and placement of warning signs.

c. Restricted entry interval requirement.

d. Proper posting and notices.

(13) SEWER ROOT CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of metam sodium or other fumigants to control root growth in sewers.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. The use of metam sodium and other fumigants to control root growth in sewers.

2. Factors that may determine the need for, or appropriate use of, a sewer fumigant.

3. Potential health and environmental hazards related to sewer fumigants.

4. Appropriate procedures for mixing, loading, applying, and disposing of sewer fumigants, to prevent or minimize fumigant-related hazards.

5. Fumigation equipment.

6. Worker safety, notice, posting, and restricted entry interval requirements.

(14) TERMITE CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to prevent or control termites.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Termites, including termite biology.

2. Pesticides that may be used to control termites, and factors that may affect the need for, and appropriate use of, those pesticides.

3. Potential health and environmental hazards related to termite control.

4. Key factors affecting the nature and severity of health and environmental hazards related to termite control.

5. Appropriate procedures for mixing, loading, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

6. Pest life cycles, behaviors, and habitats.

(15) WOOD PRESERVATION. (a) *Category description.* This category includes individuals, other than those identified under sub. (9), who use or direct the use of pesticides for wood treatment to preserve and protect wood or wood-based materials against damage from insects, fungi, surface molds and mildew, marine crustaceans, shipworms, and other pests.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Wood species and wood structure.

2. Wood destroying pests and their biology.

3. Wood preservatives that may be used to prevent or control damage caused by wood destroying pests.

4. Factors that may affect the need for, and appropriate use of, wood preservatives.

5. Potential health and environmental hazards related to the use of wood preservatives.

6. Appropriate procedures for mixing, loading, applying, and disposing of wood preservatives, to prevent or minimize related hazards.

(16) COMPANION ANIMAL PEST CONTROL. (a) *Category description.* This category includes individuals who use or direct the use of pesticides to do either of the following:

1. Control pests on companion animals, such as dogs or cats.

2. Control pests in places, other than human habitations, where companion animals are confined.

(b) *Certification requirements.* To be certified in this category, an individual shall demonstrate practical knowledge and competency related to all of the following:

1. Common companion animals and household pets, and the pests that affect them.

2. Pesticides that may be used to control relevant pests, and factors that may affect the need for, and appropriate use, of those pesticides.

3. Potential toxic or adverse health effects on animals or humans.

4. Appropriate procedures for preparing, applying, and disposing of pesticides, to prevent or minimize pesticide-related hazards.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (10) (title), (a), (b) 1., 2., cr. (10) (b) 2m., am. (11) (a) 2. Register May 2013 No. 689, eff. 6-1-13; **CR 25-074: am. (3) (b) 3., 4., (4) (b) 3., cr. (4) (b) 11., am. (5) (b) 7., (8) (title), (a) 2., (b) 3., cr. (10) (b) 10., (11) (b) 5., r. and recr. (12) (b), cr. (14) (b) 6. Register June 2026 No. 846, eff. 7-1-26.**

ATCP 29.32 Trainee registration. (1) GENERAL. An employer licensed under s. ATCP 29.20 may register an employee as a trainee if that employer is training that employee for licensing under s. ATCP 29.25 and certification under s. ATCP 29.26 or 29.28. A registered trainee may, without being licensed or certified, temporarily engage in activities for which a license and certification are normally required if those activities are reasonably necessary for the training. A trainee registration takes effect when properly filed with the department, and expires 30 days after it is filed.

(2) RESTRICTIONS ON TRAINEE USE OF PESTICIDES. A trainee registration under sub. (1) does not authorize the trainee to do any of the following:

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

(a) Use any pesticide except under the direct on-site supervision of an individual who is licensed under s. ATCP 29.25 and certified under s. ATCP 29.26 or 29.28 to perform the functions for which the trainee is being trained.

(b) Direct the use of pesticides.

(c) Engage in any category of pesticide use which is not identified in the trainee registration.

(d) Use any restricted-use pesticide.

(e) Engage in aquatic pest control under s. ATCP 29.31 (8).

(f) Use any soil fumigant, or apply any pesticide by aircraft or chemigation.

(3) ELIGIBILITY LIMITS. (a) No employer may register a trainee more than once in the same category.

(b) No trainee may be registered under sub. (1) to do any of the following:

1. Use any pesticide in any certification category under s. ATCP 29.31 in which that trainee has failed to renew a prior certification.

2. Mix or load pesticides if the trainee has failed to renew any prior certification under s. ATCP 29.26 or 29.28.

(4) REGISTRATION PROCEDURE. An employer shall file a trainee registration under sub. (1) on a form provided by the department. The completed registration form shall include all of the following:

(a) The trainee's name, home address, and telephone number.

(b) The employer's name, business address, and telephone number.

(c) The name, license number, and certification number of each individual who will supervise the trainee under sub. (2) (a).

(d) The brand name and federal environmental protection agency registration number of each pesticide that the trainee may use during the training period.

(e) The categories under s. ATCP 29.31 in which the trainee will use pesticides during the training period.

(f) A declaration stating all the following:

1. That the employer is preparing the trainee for licensing under s. ATCP 29.25 and certification under s. ATCP 29.26 or 29.28.

2. That the employer assumes complete responsibility for the trainee's use of pesticides during the training period.

3. That the training will comply with the restrictions under sub. (2).

4. That the trainee is at least 18 years old.

5. That the trainee can understand and follow oral instructions.

6. That the trainee can read and comprehend written instructions, including pesticide labels and labeling.

7. That the trainee can carry out assignments and instructions in a responsible manner.

8. That the trainee is capable of using pesticides as a trainee, under direct on-site supervision.

(g) The dated signatures of all the following persons:

1. The trainee.

2. Each individual identified under par. (c).

3. The employer or a responsible officer of the employer.

(h) Other relevant information reasonably required by the department.

(5) COPY TO TRAINEE. An employer filing a trainee registration form under sub. (4) shall provide a true copy of that registration form to the trainee. The trainee shall carry the registration form when engaged in any activity for which licensing or certification would be required under s. ATCP 29.25, 29.26, or 29.28 if the individual were not registered as a trainee.

(6) SUMMARY SUSPENSION OR REVOCATION. The department may by written notice, without prior notice or hearing, summarily suspend or revoke a trainee registration if the department finds a violation of this section, or determines that any information in the registration is false.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; **CR 25-074: am. (4) (f) 4. Register June 2026 No. 846, eff. 7-1-26.**

ATCP 29.33 Applicator records. **(1)** INDIVIDUAL COMMERCIAL APPLICATORS. An individual who is required to be licensed as a commercial applicator under s. ATCP 29.25 shall make a record of each pesticide application for which that license is required. The individual shall make the record on the day of the application. The individual shall keep the record for at least 2 years unless the individual is employed by a commercial application business that keeps the record under s. ATCP 29.21.

Note: Under s. ATCP 30.31 (5), an individual must keep a record of atrazine applications for at least 3 years.

(2) PRIVATE APPLICATORS. An individual agricultural producer who applies a restricted-use pesticide as a private applicator shall make a record of that application. The individual shall keep the record for at least 2 years.

(3) RECORD CONTENTS. A pesticide application record under this section shall include all of the following:

(a) The first and last name of the individual making the pesticide application.

(am) The certification number of the individual making the pesticide application.

(b) The name and address of the customer, if any, for whom the pesticide was applied.

(c) The crop, commodity, or site to which the pesticide was applied.

(d) A specific description of the location of the pesticide application site. The description shall contain sufficient information and detail so that the location of the pesticide application site may be readily determined.

(e) The month, day, year, and approximate starting and ending time of the pesticide application.

(f) The brand name, or product name, or common chemical name, and the federal environmental protection agency registration number, of each pesticide applied.

(g) At least one of the following:

1. The concentration and total quantity of each pesticide applied.

2. The amount of pesticide product applied per unit area and the total area treated.

(h) Each location, other than a business location licensed under s. ATCP 29.20, at which the pesticide was mixed or loaded. Mixing and loading sites need not be identified if the pesticide is applied directly from a prepackaged retail container, or is applied with application equipment having a total capacity of not more than 5 gallons of liquid pesticide or 50 pounds dry pesticide.

(4) RECORDS AVAILABLE FOR INSPECTION AND COPYING. Records kept under this section shall be made available to the department for inspection and copying upon request.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (3) (d) Register May 2013 No. 689, eff. 6-1-13; **CR 25-074: cr. (3) (am) Register June 2026 No. 846, eff. 7-1-26.**

Published under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

Subchapter VII — Storing, Transporting And Selling Pesticides

ATCP 29.40 Storing and transporting pesticides. **(1)** REQUIREMENTS. Persons storing or transporting pesticides shall do all of the following:

(a) Store and transport pesticides according to label directions, in a manner that avoids reasonably foreseeable and reasonably preventable hazards to persons, property, and the environment.

(b) Store bulk pesticides according to ch. ATCP 33.

(c) Secure pesticides and pesticide containers against access by children, the general public, domestic animals, and wild animals.

(d) Keep pesticides adequately separated from food, feed, and other products so that pesticides will not contaminate or be mistaken for those products.

(e) Thoroughly clean pesticide residues from storage areas and transport vehicles before reusing those storage areas or transport vehicles for other purposes.

(f) Protect pesticide containers and labels from reasonably foreseeable damage or destruction.

(g) Inspect pesticide containers when those containers are removed from their outer shipping containers, to ensure that the pesticide containers are intact and properly sealed, and that pesticide labels are intact and fully legible.

(2) PROHIBITIONS. No person may do any of the following:

(a) Store or transport a pesticide in a manner inconsistent with the pesticide label.

(b) Store or transport a pesticide in a visibly broken, defective, or improperly sealed container unless that container is enclosed in another suitable container which effectively prevents foreseeable spillage.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.41 Selling pesticides. **(1)** GENERAL. No person may do any of the following:

(a) Sell any pesticide that is not properly registered and labeled according to subch. II.

(b) Sell a pesticide if any part of the pesticide label is absent or illegible.

(c) Sell a pesticide in a manner inconsistent with the pesticide label.

(d) Sell a pesticide in a visibly broken, defective, or improperly sealed container.

(e) Sell a pesticide for a use which is not specifically identified on the pesticide label or, in the case of an additional registered use, on supplemental labeling which the seller receives from the pesticide manufacturer or registrant and provides to the purchaser at the time of sale.

(f) Make any false, deceptive, or misleading representation in connection with the sale or offer of a pesticide.

(g) Continue to sell any pesticide after its registration expires or is canceled, or after the department orders the pesticide removed from sale for any reason.

(2) RETAIL SALES. (a) No person may sell, at retail, any substance with instructions for using that substance to formulate a pesticide unless that substance is registered as a pesticide under s. ATCP 29.05.

(b) Pesticides bearing the precautionary signal words "POISON", "DANGER" or "WARNING", when displayed at retail, shall be protected from access by children. A retail display complies with this paragraph if any of the following applies:

1. The pesticides are kept at least 42 inches above the floor.

2. The pesticides are packaged in nonbreakable tamper-resistant containers.

(c) Pesticides displayed at retail shall be adequately separated from food, feed, and other products so they will not contaminate or be mistaken for those products.

(3) RETAIL SALES OF LANDSCAPE PESTICIDES. No person may sell at retail, to any person other than a certified commercial applicator, any landscape pesticide as defined in s. ATCP 29.56 (1) (f) unless that person displays all of the following items at the point of sale and offers them to the buyer at no additional charge at the time of sale:

(a) Warning signs containing the information shown in ch. ATCP 29 Appendix F. Each warning sign shall be all of the following:

1. At least 4 inches by 5 inches in size.

2. Professionally printed in red lettering, on a white background, according to the format shown in ch. ATCP 29 Appendix F. A warning sign may contain supplementary information beyond that shown in ch. ATCP 29 Appendix F if the information is consistent with, and does not detract from, that shown in ch. ATCP 29 Appendix F.

3. Constructed so that it remains clearly legible for at least 72 hours after it is posted, despite reasonably foreseeable adverse weather conditions.

(b) Pesticide information sheets which are identical to that shown in ch. ATCP 29 Appendix G.

Note: See also subch. IV related to pesticide dealers and distributors.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; corrections in (3) (a) (intro.), 2., (b) made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689.

Subchapter VIII — Pesticide Handling, Disposal And Spills

ATCP 29.45 Pesticide mixing and loading; spill containment. **(1)** SPILL CONTAINMENT REQUIRED. Except as provided under sub. (2), no person may mix or load a pesticide at any of the following sites unless the mixing or loading operation is conducted over a spill containment surface that complies with this section:

(a) A site located within 100 feet of any well or surface water.

(b) A site, or a group of jointly owned or operated sites located within 1/2 mile of each other, at which a total of more than 1,500 pounds of dry or liquid pesticide active ingredients are mixed or loaded in any calendar year. Pesticide active ingredients under this paragraph include those contained in pesticide-fertilizer mixtures.

Note: See also ch. ATCP 33.

(2) EXEMPTIONS. Subsection (1) does not apply to any of the following:

(a) Applying a pesticide to the waters of the state, according to ch. NR 107, in order to manage or control aquatic organisms.

(b) Mixing or loading a pesticide into application equipment having a total capacity of 5 gallons or less of liquid pesticide, or 50 pounds or less of nonliquid pesticide.

(c) Mixing or loading a pesticide at a site that is at or immediately adjacent to the pesticide application site and at least 100 feet from any well or surface water.

(3) SPILL CONTAINMENT SURFACE; GENERAL. A spill containment surface under sub. (1) shall comply with all of the following:

(a) It shall be designed to catch and contain all reasonably foreseeable spills of pesticides mixed or loaded over that spill containment surface.

(b) It shall be liquid tight and made of portland cement concrete or other nonabsorbent materials. It shall be strong enough to withstand all foreseeable loading conditions, including the filled weight of all vehicles, application equipment, or other equipment that may be used or located on it. A tarpaulin may not be used as a spill containment surface for liquid pesticides.

Note: Spill containment surfaces constructed prior to June 1, 2013, may be made of asphalt or other materials approved by the department.

(c) It shall extend beneath the pesticide load-out conveyor, if any, unless the load-out conveyor is fully enclosed within a housing that is adequate to contain all spillage from the conveyor.

(d) A spill containment surface shall be inspected at least semi-annually and be maintained to ensure compliance with this section. All repairs to a spill containment surface shall be made according to good engineering practices and manufacturer specifications.

(e) A spill containment surface shall be removed if it cannot be maintained in compliance with this section for at least 2 years after the date of an initial repair or if corrective action is needed to remove environmental contamination beneath the spill containment surface.

(4) SPILL CONTAINMENT SURFACE; LIQUID PESTICIDES. (a) If any liquid pesticide is mixed or loaded over a spill containment surface under sub. (1), the surface shall meet all of the requirements under sub. (3) in addition to all of the following requirements:

1. The spill containment surface shall be liquid tight.

2. The spill containment surface shall have one or more fully functioning pumps that can be used to remove liquid from the surface of the mixing and loading pad. Each pump shall be plumbed or have a readily available hose connection to a storage container that shall be designed, constructed, inspected, and maintained to operate effectively and to prevent discharges under all reasonably foreseeable use conditions. The storage container shall at all times have an unused capacity of at least 200 gallons. The pump shall self-activate or shall be susceptible to immediate activation whenever needed.

3. If the spill containment surface drains to a sump area, the sump area shall meet all requirements set forth under sub. (5).

4. The spill containment surface shall be protected against precipitation runoff from surrounding surfaces.

5. The spill containment surface may not have any precipitation drain through which spilled pesticide could discharge.

(b) A tarpaulin may not be used as a spill containment surface for liquid pesticides.

(c) A pesticide mixed with a liquid carrier is considered a liquid pesticide under this subsection. The impregnation of a nonliquid fertilizer with a liquid pesticide does not constitute the mixing or loading of a liquid pesticide under this subsection.

(5) SUMP AREA. If the spill containment surface drains to a sump area, the sump area shall meet all of the following requirements:

(a) The sump area shall be designed, constructed, and maintained to contain all liquid that drains to the sump.

(b) The sump area shall be liquid-tight.

(c) The sump area shall have a pump and storage container as described in s. ATCP 29.45 (4) (a) 2.

(d) The capacity of a sump installed after June 1, 2013, shall not be more than 50 gallons.

(e) The sump area shall be routinely inspected and maintained in compliance with this section and shall make and keep records of inspection and maintenance for at least 3 years.

(f) The sump area shall be repaired, when necessary, to good engineering practices and manufacturer specifications.

(g) The sump area shall be removed if it cannot be maintained in compliance with this section, or if corrective action is needed to remove environmental contamination from beneath the sump area. A leaking sump area shall be removed unless the sump is repaired and remains liquid-tight for at least 2 years after the date of repair.

Note: Construction standards for sumps at fertilizer and pesticide bulk storage facilities are found in s. ATCP 33.38. In addition, the *Wisconsin minimum design standards for concrete agrichemical containment (February, 2005),* written by Professor David W. Kammel, department of biological systems engineering, University of Wisconsin-Extension, is on file with the department and the legislative reference bureau. Copies are available from the department, free of charge, at the following address:

Department of Agriculture, Trade and Consumer Protection
Agricultural Resource Management Division
P.O. Box 8911
Madison, WI 53708-8911
Phone: (608) 224-4500
Web: http://datcp.wi.gov

(6) RECOVERY OF DISCHARGES. Pesticides spilled or intentionally released onto a spill containment surface under sub. (1) shall be promptly recovered from the spill containment surface or from the catch basin to which it drains.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (3) (b), cr. (3) (d), (e), r. and recr. (4) (a), (5) Register May 2013 No. 689, eff. 6-1-13.

ATCP 29.46 Mixing or loading near surface waters.

(1) PROHIBITIONS. Except as provided under sub. (2), no person may do any of the following:

(a) Immerse any pesticide application equipment, mix tank, or nurse tank in the waters of the state.

(b) Fill any pesticide application equipment, mix tank, or nurse tank from the waters of the state.

(c) Clean or fill any pesticide application equipment, mix tank, or nurse tank near the surface waters of the state, or near any well site, if pesticide spillage or overflow may contaminate waters of the state.

(2) EXEMPTIONS. Subsection (1) does not prohibit any of the following:

(a) Filling pesticide application equipment, or a mix or nurse tank, from a well or discharge outlet that is fully protected against backflow and backsiphonage under s. SPS 382.41. The air gap from the supply outlet to the equipment being filled shall be at least twice the effective opening of the supply outlet, but not less than one inch.

(b) Filling or cleaning pesticide application equipment, or a mix or nurse tank, over a spill containment surface that complies with s. ATCP 29.45.

(c) Applying a pesticide by means of chemigation that complies with s. ATCP 29.54.

(d) Filling a water supply tank from surface waters if the water supply tank is used only to carry water. If the vehicle carrying the water supply tank also carries a pesticide container, the pesticide container must remain at least 8 feet from the surface water while the water supply tank is being filled.

(e) Making an aquatic pesticide application according to ch. NR 107, or filling a water supply tank from surface waters for that application.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; correction in (2) (a) made under s. 13.92 (4) (b) 6., Stats., Register January 2012 No. 673.

ATCP 29.47 Disposal of pesticides and pesticide containers.

(1) GENERAL. No person may dispose of any pesticide or pesticide container, or hold any pesticide or pesticide container for disposal, in a manner that is inconsistent with label

directions, that risks contaminating the waters of the state, or that creates a hazard to persons, property, or the environment.

(2) REUSE PROHIBITED. No person may reuse a pesticide container for any purpose. This subsection does not prohibit any of the following:

(a) Recycling a container for scrap in compliance with applicable law.

(b) Reusing, in compliance with label directions, a pesticide container that is designed to be reused.

(c) Returning a pesticide container to a pesticide manufacturer or seller who has agreed to receive that container.

(d) Temporarily reusing a pesticide container to hold the same pesticide recovered from a leaking or damaged pesticide container.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.48 Pesticide spills. (1) CLEANUP. In order to minimize hazards to persons, property and the environment, a person who spills a pesticide shall immediately take appropriate measures to contain the spill, recover the spilled pesticide, and clean surfaces exposed to the spilled pesticide.

(2) REPORTING. A person who spills a pesticide shall immediately notify the department of natural resources as required by s. 292.11, Stats.

Note: The spill hotline for the department of natural resources is 1-800-943-0003. Ch. NR 706 specifies reportable spill amounts for all agricultural chemicals including pesticides. The department of agriculture, trade and consumer protection administers an agricultural chemical cleanup program under s. 94.73, Stats., and ch. ATCP 35, and can reimburse certain cleanup costs. You may contact the department's spill response coordinator by calling 608-224-4500.

(3) STORING SPILLED PESTICIDE AND RINSATE. No spilled pesticides or spilled materials containing pesticides may be stored below ground level.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (3) Register May 2013 No. 689, eff. 6-1-13.

Subchapter IX — Pesticide Use

ATCP 29.50 Pesticide use; general. (1) NEGLIGENT USE. No person may do any of the following:

(a) Use or direct the use of a pesticide in a negligent manner, or in a manner inconsistent with the pesticide label.

(b) Use or direct the use of a pesticide for a purpose for which the pesticide is not registered or labeled under subch. II.

(2) OVERSPRAY AND DRIFT. (a) No person may use or direct the use of a pesticide in a manner that results in pesticide overspray or significant pesticide drift. This paragraph does not apply to mosquito control applications, made by, or under the direction of, a governmental entity for public health purposes, that use proper mosquito control application methods.

Note: See definitions of "pesticide drift" and "pesticide overspray" under s. ATCP 29.01 (29) and (30).

(b) The application of pesticide outside the target application site is presumed to be the result of pesticide drift unless there is evidence of pesticide overspray.

(c) Pesticide drift is significant, under par. (a), if there is credible evidence that it has moved outside the target application site in any of the following amounts:

1. Amounts that cause actual harm to persons, property, or the environment.

2. Amounts that could potentially harm persons, property, or the environment under any reasonably foreseeable circumstances, regardless of whether an actual exposure or harm has occurred.

3. Amounts that are readily visible.

(3) PREHARVEST INTERVAL. (a) No person may harvest an agricultural commodity from a pesticide application site during the preharvest interval specified for that commodity on the pesticide label.

(b) No person controlling a pesticide application site may direct or permit an agricultural commodity to be harvested from that site in violation of par. (a).

(4) CONTAMINATING WATERS OF THE STATE. (a) Except as provided under par. (b), no person may do either of the following:

1. Cause a pesticide to enter the waters of the state, either directly or through a sewer system.

2. Use a pesticide in any manner which the user knows or should know will result in contamination of the waters of the state.

(b) Paragraph (a) does not apply to any of the following:

1. The use of germicides, sanitizers, disinfectants, algaecides, or slimicides according to label directions.

2. Fish management, mosquito abatement, or other water applications made under the supervision or rules of the department of natural resources.

Note: See ch. NR 107.

3. The application of pesticides according to label directions to control roots, insects, or rodents in sewers.

4. The incidental application of pesticides to temporary rain puddles on target application sites.

5. Unforeseeable leaching or runoff of a pesticide applied according to label directions.

(5) DEFECTIVE APPLICATION EQUIPMENT. (a) Except as provided under par. (b), no person may use, furnish, lease, or sell pesticide application equipment that is clogged, unclean, leaking, or in disrepair, or that cannot be properly calibrated to apply pesticides at the rate specified on the pesticide label.

(b) Paragraph (a) does not prohibit the sale of pesticide application equipment that is clogged, unclean, leaking or in disrepair, or that cannot be properly calibrated, if the seller discloses those defective conditions to the buyer in writing prior to sale.

(6) EMPLOYER OR CONTRACTOR. No person may direct, compel, or coerce that person's employee or contract agent to do either of the following:

(a) Violate ss. 94.67 to 94.71, Stats., or this chapter.

(b) Use any pesticide in a manner which that person has reason to believe is likely to result in a violation of ss. 94.67 to 94.71, Stats., or this chapter.

Note: Nothing in this chapter limits the civil or criminal liability of an employer or contractor for the acts or omissions of an employee or contract agent if the employer or contractor may be held jointly liable with the employee or agent under this chapter or other applicable law.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.51 Advance notice of pesticide applications. (1) PESTICIDES HIGHLY TOXIC TO BEES. (a) At least 24 hours before a pesticide labeled "Highly Toxic to Bees" or containing the active ingredient methomyl is applied to any site, the person who owns or controls that application site shall notify each beekeeper who has made a request under par. (b) during the same calendar year.

(b) A beekeeper who owns a honeybee colony located within 1 1/2 miles of a pesticide application site under par. (a) may request notice of pesticide applications under par. (a). The beekeeper shall make the request in writing to a person who owns or controls the application site. The request shall include the beekeeper's name, address, and telephone number, if any, and the specific location of each of the beekeeper's bee yards.

(c) A notice under par. (a) may be written or oral. The notice shall include the intended date and time of application, the brand or common name of the pesticide to be applied, and the location of the application site. If the application date changes after the notice is issued, the person who owns or controls the application site shall issue a corrected notice as soon as reasonably possible before the application occurs.

(d) Paragraph (a) does not apply to an emergency application needed to control a sudden pest outbreak if, because of the emergency circumstances, there is not enough time for notice under par. (a). The person who owns or controls the application site shall give notice under par. (a) as soon as reasonably possible before or after the emergency application. The notice shall include a brief explanation of the circumstances constituting the emergency.

(e) Any person may give a notice under par. (a) on behalf of the person who owns or controls the application site.

(2) AERIAL APPLICATIONS. An individual may request advance notice of aerial pesticide applications to land immediately adjacent to that individual's residence, as provided under s. ATCP 29.53 (2).

(3) RESIDENTIAL APPLICATIONS. A person hired by a customer to make a residential pesticide application shall offer that customer pre-application information as provided under s. ATCP 29.55 (2).

(4) LANDSCAPE APPLICATIONS. (a) A person hired by a customer to make a landscape application shall offer that customer pre-application information as provided under s. ATCP 29.56 (2).

(b) An individual may register, under s. ATCP 29.56 (7), to receive advance notice of commercial landscape applications to land immediately adjacent to that individual's residence.

(5) APPLICATIONS AFFECTING AGRICULTURAL WORKERS. Persons employing agricultural workers, or applying pesticides to places where agricultural workers are employed, shall give prior notice of pesticide applications as required by s. ATCP 29.61.

Note: See also s. ATCP 29.22.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.52 Warning signs at application sites.

(1) AGRICULTURAL PESTICIDE APPLICATIONS; WARNING TO PUBLIC. (a) A responsible person under par. (b) shall post warning signs at a site where a dual notice agricultural pesticide is applied for agricultural purposes if that site is located within 300 feet of a residence, migrant labor camp, school, playground, day care facility, health care facility, commercial or industrial facility, public recreation area, or other nonagricultural area except a public road, where individuals are likely to be present during the restricted entry interval specified on the pesticide label. The warning signs shall comply with sub. (8).

Note: See definition of "dual notice agricultural pesticide" in ss. ATCP 29.01 (17) and 29.60 (9). This subsection applies to all persons applying "dual notice" agricultural pesticides for agricultural purposes — not just agricultural employers. The warning notices are intended to protect both the general public and agricultural workers.

(b) The following persons are individually and jointly responsible for posting warning signs under par. (a):

1. The person who operates or controls the premises at which the pesticide is applied.
2. The pesticide applicator.
3. The pesticide applicator's employer, if any.

Note: The persons identified under par. (b) may contract between themselves to post warning signs under par. (a), but any or all of them may be held liable if the warning signs are not properly posted.

(2) AGRICULTURAL PESTICIDE APPLICATIONS; WARNING TO WORKERS. An agricultural employer shall post worker protection warning signs as required under s. ATCP 29.62.

(3) NONAGRICULTURAL PESTICIDE APPLICATIONS; RESTRICTED ENTRY INTERVALS. (a) A responsible person under par. (b) shall post warning signs at a pesticide application site, other than a site under sub. (1), if the pesticide label prescribes a restricted entry interval for that pesticide application. The warning signs shall comply with sub. (8).

Note: A label which merely directs individuals to stay off the treated area until the pesticide dries does not prescribe a "restricted entry interval" for purposes of sub. (3).

(b) The following persons are individually and jointly responsible for posting warning signs under par. (a):

1. The person who operates or controls the premises at which the pesticide is applied.
2. The pesticide applicator.
3. The pesticide applicator's employer, if any.

Note: The persons identified under par. (b) may contract between themselves to post warning signs under par. (a), but any or all of them may be held liable if the warning signs are not properly posted.

(4) CHEMIGATION APPLICATIONS. A person operating a chemigation system shall post warning signs at the chemigation application site as required under s. ATCP 29.54 (17).

(5) RESIDENTIAL APPLICATIONS. A person making a residential application shall give notice to residents as required under s. ATCP 29.55 (3) and (4).

Note: A person making a residential application must also post warning signs under sub. (3) if the pesticide label prescribes a restricted entry interval.

(6) LANDSCAPE APPLICATIONS. A person making a landscape application shall post warning signs at the application site as required under s. ATCP 29.56 (3).

(7) STORED SEED TREATED WITH PESTICIDE. A person who stores pesticide-treated seed in bulk shall post warning signs at the seed storage facility as required under s. ATCP 29.57 (4). In this subsection, "pesticide-treated seed" means seed intended for planting or propagation that is treated with a pesticide for the purpose of providing post-planting protection to the seed or seedling.

(8) WARNING SIGNS. Except as provided under sub. (9), warning signs under subs. (1) and (3) shall comply with all of the following:

(a) Each warning sign shall be at least 8 1/2 inches by 11 inches.

(b) The form and content of each warning sign shall be identical to that shown in ch. ATCP 29 Appendix D. A warning sign may contain supplementary information, beyond that shown in ch. ATCP 29 Appendix D, if the information is consistent with, and does not detract from, that shown in ch. ATCP 29 Appendix D.

(c) Each warning sign shall be constructed to resist deterioration and remain legible throughout the required posting period.

(d) Warning signs shall be posted before the pesticide application begins, and shall remain posted for the duration of any restricted entry interval specified on the pesticide label. Warning signs may remain posted indefinitely.

(e) Warning signs shall be posted at the following locations:

1. At normal points of access to the application site.
2. At 1/4 mile intervals along those borders of an outdoor application site that lie within 300 feet of a residence, migrant labor camp, school, playground, day care facility, health care facility, commercial or industrial facility, public recreation area, or other nonagricultural area except a public road, where individuals are likely to be present during the restricted entry interval specified on the pesticide label. An application site bordering an area identified under this subdivision for less than 1/2 mile shall be posted with at least one sign.

(9) ALTERNATIVE WARNING SIGNS. (a) A worker protection warning sign under s. ATCP 29.62 may be used in place of a stan-

dard warning sign under sub. (8). A worker protection warning sign shall be removed or covered not more than 3 days after the restricted entry interval expires unless the sign continues to be required for another pesticide application at the same site.

(b) If a pesticide application site, such as a potted plant or greenhouse bench top, is too small to accommodate standard warning signs under sub. (8), it may be posted with smaller warning signs that are at least 4 inches by 5 inches. The warning signs shall be clearly posted on each side of the application site at intervals of not more than 25 feet. An individual treated plant may be posted with a single sign. The content and format of the smaller signs shall correspond to the content and format of the standard signs under sub. (8).

(c) If the pesticide label requires a warning sign which is different from the warning sign under sub. (8), the warning sign specified on the pesticide label shall be used in place of the warning sign under sub. (8).

Note: According to s. 94.715 (2) (g), Stats., school boards must ensure that warning signs are posted for pesticide applications to public school grounds.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; correction in (8) (b) made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689.

ATCP 29.53 Aerial applications. (1) AIRCRAFT. Aircraft used to apply pesticides shall comply with, and be operated according to, applicable regulations of the federal aviation administration and the Wisconsin department of transportation.

Note: See certification requirements for aerial applicators under ss. ATCP 29.26, 29.27 and 29.29.

(2) PRIOR NOTICE OF APPLICATION. (a) At least 24 hours before an aerial pesticide application occurs, the person who owns or controls the application site shall notify each adjacent resident from whom that person has received a written request under par. (b) during the same calendar year. Notice is not required if the application site is more than 1/4 mile from the adjacent parcel on which the requester resides.

(b) An individual residing on a parcel of land may request advance notice of aerial pesticide applications to any immediately adjacent parcel. Parcels are immediately adjacent if they are directly contiguous, are separated only by a road, railway, or utility right-of-way, or are separated only by a government-owned land corridor or waterway having a width of not more than 66 feet.

(c) A request under par. (b) shall be made in writing to the person who owns or controls the application site. The request shall include the requester's name, mailing address, property location, and telephone number if any. If residents of a migrant labor camp as defined under s. 103.90 (3), Stats., are entitled to request notice under par. (b), the camp operator shall annually request notice on their behalf and shall promptly communicate to them any notice received.

(d) A notice under par. (a) may be written or oral. The notice shall include the intended date and time of application, the brand or common name of the pesticide to be applied, and the location of the application site. If the application date changes after the notice is issued, the person who owns or controls the application site shall issue a corrected notice as soon as reasonably possible before the application occurs.

(e) Paragraph (a) does not apply to an emergency aerial application needed to control a sudden pest outbreak if, because of the emergency circumstances, there is inadequate time for notice under par. (a). The person who owns or controls the application site shall give notice under par. (a) as soon as reasonably possible before or after the emergency application. The notice shall include a brief explanation of the circumstances constituting the emergency.

(f) Any person may give a notice under par. (a) on behalf of the person who owns or controls the application site.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.54 Chemigation. (1) DEFINITIONS. In this section:

(a) "Agricultural chemigation system" means a chemigation system that mixes pesticides with irrigated water and applies the pesticides with the irrigation water in an agricultural setting.

(am) "Automatic low pressure drain valve" means a self-activating device which is designed and constructed to drain the water supply pipeline in a chemigation system if water pressure falls or the water supply pump ceases operation.

(b) "Calibrate" means to measure and adjust the dispersal or output of equipment to control the rate of pesticide dispersal, and the droplet or particle size of pesticides dispersed by that equipment.

(c) "Check valve" means a device designed and constructed to close a water supply pipeline, pesticide injection line, or other conduit in a chemigation system and to prevent reverse flow in that line.

(d) "Chemigation" means the application of pesticides using a chemigation system.

(e) "Chemigation system" means a device or system which mixes pesticides with irrigation water drawn from any source, and which applies the pesticides with the irrigation water. "Chemigation system" includes all of the components of the system. "Chemigation system" does not include any of the following:

1. A hand-held or hose-end sprayer.

3. A device or system used only to inject pesticides directly into plants.

4. A device or system used only to apply pesticides directly to the roots of ornamental trees and shrubs.

(f) "Flush time" means the time needed under normal operating conditions to completely fill an irrigation system with water so that all outlets are discharging water.

(g) "Injection unit" means a chemical metering pump or device that withdraws pesticide from a supply tank and injects the pesticide into irrigation water during chemigation.

(gm) "Non-agricultural chemigation system" means a chemigation system that is used to apply pesticides in a non-agricultural setting, including to urban lawns and gardens.

(h) "Pesticide supply tank" means a container used to hold pesticides for injection into a chemigation system.

(j) "Potable water supply" means a well or other source of water which is used for human consumption, hygiene, or preparation of food products.

(k) "Reduced pressure principle backflow preventer" means a backflow prevention device consisting of 2 independently acting check valves, spring-loaded to a closed position and separated by an intermediate chamber in which there is an automatic relief that is vented to the atmosphere and spring-loaded to the open position.

(km) "Urban pesticide misting system" means a non-agricultural chemigation system that draws water from any source, mixes the water with a pesticide, and applies the mixture outdoors and into the air to kill, repel, or otherwise control pests in an urban setting, including a residential or commercial area.

(L) "Vacuum relief valve" means an atmospheric device designed, constructed, and installed to protect against backsiphonage by allowing the entry of air to relieve vacuums in a chemigation system.

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

(2) GENERAL REQUIREMENTS. (a) A person operating a chemigation system shall comply with this section.

(b) Except as provided under sub. (18), a chemigation system shall be designed and constructed according to this section.

(c) A chemigation system shall be designed, constructed, operated, and maintained to do all of the following:

1. Comply with the manufacturer's specifications.

2. Prevent pesticides used in the system from contaminating the waters of the state.

3. Prevent unreasonable hazards to persons, property, and the environment.

Note: See also ss. NR 812.38 and SPS 382.41.

(3) CHEMIGATION WATER SUPPLY. No chemigation system may draw water directly from a potable water supply. A chemigation system may draw water from a pond or reservoir to which water has been pumped from a potable water supply, provided that there is an unobstructed vertical air gap between the potable water supply outlet and the flood level of the pond or reservoir. The air gap shall be at least 2 feet, or at least twice the diameter of the effective opening of the water supply outlet, whichever is greater.

(4) CHEMIGATION SYSTEM; CONSTRUCTION MATERIALS. (a) A chemigation system shall be resistant to corrosion, puncture, and cracking.

(b) Every chemigation system component that may come into contact with pesticides shall be chemically compatible with every pesticide used in the system. Before using any pesticide in a chemigation system, the user shall obtain a written confirmation of chemical compatibility from the system manufacturer or the pesticide manufacturer. The user shall keep the written confirmation on file, and shall make it available to the department for inspection and copying upon request.

(5) PESTICIDE INJECTED INTO CHEMIGATION SYSTEM. (a) No pesticide may be injected into a chemigation system unless the pesticide is labeled for application by chemigation.

(b) No pesticide may be injected into a chemigation system contrary to, or inconsistent with, label directions.

(c) Every chemigation system shall be properly calibrated to apply the pesticide at the application rate specified on the pesticide label.

(d) The point at which pesticides are injected into a chemigation system shall be located downstream from all devices required under subs. (7) to (10).

(e) No pesticide may be injected into an urban pesticide misting system unless the pesticide is labeled for application by misting.

(f) A rain sensor and a wind sensor must be installed on an urban pesticide misting system to prevent drift and control runoff.

(g) A legible copy of the label must be securely attached to an urban pesticide misting system's reservoir tank or on the outside of the system timer.

(6) PESTICIDE SUPPLY TANK. No container used to hold pesticides for injection into a chemigation system may be located less than 8 feet horizontally from any water supply, including any well head or surface water source. The pesticide container, pesticide injection unit, and all connections between the pesticide container and injection unit shall be located within secondary containment that complies with ss. ATCP 33.40, 33.42, and 33.44.

(7) PREVENTING BACKFLOW. A chemigation system shall comply with the following requirements unless the system draws nonpotable water from a privately-owned watertight container or impoundment that is protected by an air gap under sub. (3):

(a) A reduced pressure principle backflow preventer shall be installed in every chemigation system, except as provided under pars. (b) to (d). The reduced pressure principle backflow preventer shall be all of the following:

1. In compliance with s. SPS 382.41.

2. Installed according to the manufacturer's specifications in the water supply pipeline between the supply pump discharge and the point at which pesticides are injected.

3. Maintained in fully operational condition.

4. Tested annually by a tester who is currently listed with the department of safety and professional services as a backflow tester.

5. Protected so that it does not freeze.

Note: The department of safety and professional services can provide a list of persons qualified to test reduced pressure principle backflow preventers.

(b) A barometric loop may be installed in a chemigation system, in place of a reduced pressure principle backflow preventer under par. (a), if the chemigation system is not subject to back pressure. The barometric loop shall extend to an elevation at least 35 feet above the highest outlet in the chemigation system. The loop shall be installed in the water supply pipeline between the supply pump discharge and the point at which pesticides are injected.

(c) Two check valves may be installed in a chemigation system, in place of a reduced pressure principle backflow preventer under par. (a), if the chemigation system draws from surface waters. The check valves shall be connected in series, and shall be installed in the water supply pipeline between the supply pump discharge and the point at which pesticides are injected. Each check valve shall comply with par. (e), and shall be preceded by a vacuum relief valve under par. (g) and an automatic low pressure drain valve under par. (h).

(d) A check valve followed by a gooseneck loop may be installed in a chemigation system, in place of a reduced pressure principle backflow preventer under par. (a), if all of the following conditions are met:

1. The chemigation system draws water from surface waters that are higher in elevation than the surface being chemigated.

2. The check valve complies with par. (e), and is preceded by an automatic low pressure drain valve under par. (h).

3. The gooseneck loop complies with par. (f).

(e) A check valve under par. (c) or (d) shall be all of the following:

1. Quick-closing by spring action.

2. Certified for compliance with underwriters' laboratory (UL) standard 312.

Note: UL Standard 312, published by the underwriters' laboratory, is on file with the department and the legislative reference bureau.

(f) A gooseneck loop under par. (d) shall be constructed and installed so that all of the following conditions are met:

1. The irrigation pump is located at a higher elevation than the water source.

2. The bottom of the pipe at the apex of the gooseneck loop is at least 24 inches higher in elevation than the highest outlet in the chemigation system.

3. The pesticide injection port is located downstream from the gooseneck loop at a point at least 6 inches lower in elevation than the bottom of the pipe at the apex of the loop.

4. A vacuum relief valve under par. (g) is installed in the top of the pipe at the apex of the gooseneck loop.

(g) Each vacuum relief valve under par. (c) or (f) 4. shall be installed on top of the horizontal water supply pipeline on the supply side of the check valve. The diameter of the vacuum relief

valve orifice shall be at least 3/4 inch if the water supply pipe has a nominal inside diameter of 4 inches or less; at least one inch if the pipe diameter is 5 to 8 inches; and at least 2 inches if the pipe diameter is 10 to 12 inches.

(h) Each automatic low pressure drain valve under par. (c) or (d) 2. shall be installed on the bottom of the horizontal water supply pipeline on the supply side of the check valve. The automatic low pressure drain valve shall have a minimum orifice diameter of 3/4 inch. The valve shall not extend upward beyond the inside surface of the bottom of the water supply pipeline. The drain outlet shall be located above grade at a distance of at least 2 inches or twice the diameter of the drain outlet, whichever is greater. The drain outlet shall be installed and located so that, when draining occurs, the drained liquid will flow away from any nearby wellhead or surface water.

(8) FLOW INTERRUPTER; PESTICIDE SUPPLY LINE. In every chemigation system, a flow interrupter shall be installed in the pesticide supply line between the pesticide injection unit and the pesticide supply tank. The flow interrupter shall be designed to stop the flow through the pesticide supply line if the pesticide injection unit stops operating. The flow interrupter may consist of a normally closed, solenoid-operated valve or similar device which forms part of the interlock system under sub. (11).

(9) FLOW SENSOR; INJECTION LINE. In every chemigation system, a flow sensor or pressure switch shall be installed at or near the outlet of the injection pump on the injection line. The flow sensor or pressure switch shall be installed so that, if the injection line fails for any reason, the flow sensor or pressure switch will shut off the injection pump.

(10) CHECK VALVE; PESTICIDE INJECTION LINE. In every chemigation system, a check valve shall be installed in the pesticide injection line between the pesticide injection unit and the point at which pesticides are injected into the water supply. The check valve shall be spring loaded and have a minimum opening or cracking pressure of 10 pounds per square inch.

(11) INTERLOCK BETWEEN WATER PUMP AND PESTICIDE INJECTION UNIT. In every chemigation system, there shall be a mechanical or electrical interlock between the water supply pump and the pesticide injection unit. If the flow of water is interrupted, the interlock shall immediately shut off the pesticide injection unit.

(12) WATER PRESSURE FAILURE; AUTOMATIC SHUT-OFF. In every chemigation system, a low pressure switch shall be effectively designed and installed to shut off power to the application system if water pressure decreases to the point that the pesticide application no longer complies with the pesticide label directions.

(13) PURGING A CHEMIGATION SYSTEM. After pesticide injection is completed, water shall be pumped through a chemigation system for at least the flush time of the application system.

(14) CHEMIGATION OPERATING PLAN; CONTENTS. A chemigation system shall be operated according to a written operating plan that describes all of the following:

(a) Sensitive nontarget areas that may be subject to overspray or drift from the chemigation system. Sensitive nontarget areas include all of the following:

1. Surface water.

2. Wetlands.

3. Public roads within 100 feet of the application site.

4. Residences, migrant labor camps, schools, playgrounds, day care facilities, health care facilities, commercial or industrial facilities, public recreation areas or other areas, located within 300 feet of the application site, at which individuals are likely to be present during the chemigation application.

(b) Effective methods for preventing overspray and drift, including all of the following:

1. Effective methods for monitoring wind speed and direction.

2. Effective methods for disabling sprinkler heads or end guns, when necessary.

(c) Effective methods to prevent backflow from the chemigation system.

(d) Effective methods to ensure that the chemigation system is properly calibrated at all times.

(e) Effective methods to monitor chemigation operations and ensure that the chemigation system is functioning properly. Monitoring shall include personal observation under sub. (16).

(f) The flush time for the chemigation system.

(g) Safety procedures and required safety equipment for persons who operate, repair, or monitor the chemigation system.

(15) CHEMIGATION OPERATING PLAN; LOCATION AND AVAILABILITY. When a chemigation system is operating, the chemigation operating plan under sub. (14) shall be kept at the chemigation site or in the custody of the individual who is operating the chemigation system. A person who owns or operates a chemigation system shall also keep a copy of the plan at that person's business office or residence. A person having custody of a plan shall make it available to the department for inspection and copying upon request.

(16) OBSERVING CHEMIGATION OPERATIONS. An individual operating a chemigation system shall be present at the chemigation site at all times when chemigation overspray or drift may affect sensitive nontarget areas under sub. (14) (a). For other chemigation operations, the individual shall be present at least hourly. An individual is not present unless the individual can effectively monitor whether the chemigation system is properly functioning, whether it is properly calibrated, whether it is causing pesticide overspray or drift, and whether it is creating an unreasonable hazard to persons, property, or the environment. If a pesticide label imposes additional observation requirements, the operator of the chemigation system shall comply with those requirements.

(17) WARNING SIGNS. (a) A person operating a chemigation system shall post warning signs at the chemigation application site if any of the following apply:

1. Any portion of the application site is located within 100 feet of a public road.

2. Any portion of the application site is located within 300 feet of a residence, migrant labor camp, school, playground, day care facility, health care facility, commercial or industrial facility, public recreation area, or other area where individuals are likely to be present during the operation of the chemigation system.

Note: A chemigation application site must also be posted in compliance with s. ATCP 29.52.

(b) Warning signs under par. (a) shall comply with all of the following:

1. Warning signs shall be posted before chemigation begins, and shall remain posted until chemigation is completed and treated surfaces have dried. All warning signs shall be intact and fully legible throughout the required posting period. Warning signs may remain posted indefinitely if they are intact and fully legible during all required posting periods.

2. Warning signs shall be posted at regular intervals along the border between the application site and any road or area identified under par. (a), and at normal points of access to the application site. At least one warning sign shall be posted for each 1/4

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

mile of border. At least one warning sign shall be posted at each application site identified under par. (a).

3. The form and content of each warning sign shall be identical to that shown in ch. ATCP 29 Appendix E. A warning sign may contain supplementary information, beyond that shown in ch. ATCP 29 Appendix E, if the information is consistent with, and does not detract from, that shown in ch. ATCP 29 Appendix E.

(18) ALTERNATIVE CHEMIGATION SYSTEM. (a) The department may issue a permit authorizing an alternative chemigation system that does not comply with this section if the alternative chemigation system provides equal or greater protection to the waters of the state, and complies with other applicable state and federal laws.

(b) A person applying for a permit under par. (a) shall apply in writing, and shall include all relevant information and design specifications required by the department. The department shall grant or deny a permit within 45 days after receiving a complete application.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; correction in (6) made under s. 13.93 (2m) (b) 7., Stats., Register November 2006 No. 611; correction in (7) (a) 4. made under s. 13.92 (4) (b) 7., Stats., Register January 2012 No. 673; CR 12-003: r. and recr. (1) (a), cr. (1) (am), (gm), (km), r. (1) (e) 2., cr. (5) (e) to (g), am. (7) (a) 1., (10), (12), (13) Register May 2013 No. 689, eff. 6-1-13; correction in (17) (b) 3. made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689; CR 14-047: am. (1) (e) 4. Register May 2015 No. 713, eff. 6-1-15.

ATCP 29.55 Commercial applications to residential structures.

(1) DEFINITIONS. In this section:

(a) "Common area" means an area in a residential structure that is accessible to residents but is not part of any individual dwelling unit.

(b) "Dwelling unit" means that portion of a residential structure that is used, or designed for use, as a residence by a household.

(c) "Resident" means any person residing in a residential structure.

(d) "Residential application" means the application of a pesticide, other than a germicide, sanitizer, or disinfectant, to a residential structure. "Residential application" includes perimeter barrier applications, but does not include an individual's application of a pesticide to a dwelling unit in which that individual resides, provided that the individual does not apply the pesticide to other dwelling units or common areas in the residential structure, or its perimeter barrier.

(e) "Residential structure" means a structure used wholly or in part as a human residence, and includes all facilities and furnishings pertaining to that structure. Residential structure includes a residential structure occupied on a rental basis, and also includes a mobile home. Residential structure does not include any of the following:

1. A hotel, motel, or similar premises occupied on a transient basis.

2. A hospital, nursing home, or similar facility occupied by persons receiving medical care or related services.

3. A prison, jail, or other place of detention.

(f) "Restricted entry interval" has the meaning given in s. ATCP 29.01 (35).

(2) INFORMATION TO CUSTOMER. A person hired by a customer to make a residential application shall provide that customer with all of the following:

(a) A written notice offering to provide pre-application information under par. (b). The written notice may be provided electronically to the customer if the customer consents in writing to such notification. The person shall make the offer before making the first residential application for the customer, and shall repeat the offer at least annually if there is a continuing contract for more than one year.

Note: See ch. ATCP 29 Appendix A for an example of a written offer of information under par. (a). Nothing in this section authorizes a commercial applicator to make a residential application which the customer has not affirmatively authorized.

(b) The following pre-application information, in writing, if requested by the customer:

1. The brand name, product name, or common chemical name of each pesticide that may be applied.

2. A copy of the pesticide label for each pesticide that may be applied.

3. The date on which the pesticide application will be made. The date may be communicated orally, rather than in writing, if the requester agrees to oral notification.

4. The name, business address, and telephone number of a person who can provide further information about the pesticide application.

(c) The information required under s. ATCP 29.22. This information shall be provided within the time period specified under s. ATCP 29.22.

(3) NOTICE TO RESIDENTS. (a) A person making a residential application shall provide the following information in writing to residents at the time of the application:

1. The name and address of the person making the application, and a telephone number at which residents can obtain further information about the application.

Note: The name and address under subd. 1. may be the name and address of the business entity making the residential application.

2. The first and last name of each individual making the application and, if the application is one for which the individual must be licensed under s. ATCP 29.25, the individual's license number.

3. The brand name, product name, or common chemical name of the pesticide applied.

4. The concentration and total quantity of each pesticide applied, or the amount of pesticide product applied per unit area and the total area treated.

5. Any pertinent post-application precautions stated on the pesticide label. If the pesticide label prescribes a restricted entry interval, the person making the residential application shall also post a warning sign under s. ATCP 29.52 at each entrance to each treated area.

6. The month, day, year, and approximate starting and ending time of the pesticide application.

7. Notice that a copy of the pesticide label is available upon request. The person making the residential application shall provide a copy of the pesticide label to each resident who requests a copy, but may first require the requester to pay reasonable copying and postage costs if the requester is not the customer who contracted for the application.

8. A specific description of the location of the pesticide application site. The description shall contain sufficient information and detail so that the location of the pesticide application can be readily determined.

(b) A person making a residential application in any dwelling unit shall leave the information under par. (a) with an adult resident of that dwelling unit, or shall prominently post the information at the entrance to that dwelling unit.

(c) A person making a residential application to any common area within a residential structure, or making a perimeter barrier application, shall provide the information under par. (a) by posting clearly legible notices in common entryways or other conspicuous locations so that all residents are likely to see the notices.

Note: A person making a residential application must comply with sub. (3) regardless of whether the application is a contract application. For example, a landlord making a residential application to the landlord's own rental units must provide information to tenants residing in those units.

(4) RESTRICTED ENTRY INTERVAL; WARNING SIGNS. If a person makes a residential application of a pesticide whose label prescribes a restricted entry interval, that person shall post a warning sign at each entrance to the treated area. Each warning sign shall be at least 8 1/2 inches by 11 inches. The form and content of each warning sign shall be identical to that shown in ch. ATCP 29 Appendix D. The person making the residential application shall post the warning sign before the application begins, and shall not remove it until the restricted entry interval expires.

Note: A person making a residential application must comply with sub. (4) regardless of whether the application is a contract application. For example, a landlord making a residential application to the landlord's own rental units must post warning signs under sub. (4) if the pesticide label prescribes a restricted entry interval. See also s. ATCP 29.52 (3) which provides that landlords and contract applicators are individually and jointly responsible for posting warning signs.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; correction in (1) (f) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519; CR 12-003: am. (1) (d), (2) (a), cr. (3) (a) 8., am. (3) (c) Register May 2013 No. 689, eff. 6-1-13; correction in (4) made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689.

ATCP 29.56 Landscape applications. (1) DEFINITIONS. In this section:

(a) "Division" means the agricultural resource management division of the department.

(b) "Cemetery grounds manager" means the person responsible for on-site management of cemetery grounds.

(c) "Golf course superintendent" means the person responsible for on-site management of a golf course.

(d) "Landscape" means turf, ornamental and mulched areas, and areas being prepared for those purposes, that are located in or around residential premises, public or commercial facilities, parks, workplaces, care facilities, recreational areas, and public lands. "Landscape" does not include utility or transportation right-of-way areas, greenhouses, nurseries, or areas used for agricultural production, forest production, or commercial turf production.

(e) "Landscape application" means the application of a pesticide to a landscape. "Landscape application" does not include any of the following:

1. Pesticide applications for any of the purposes identified in s. ATCP 29.31 (4) or (14).

2. A perimeter barrier application.

3. Mosquito control applications made by a government entity for public health purposes.

4. Pesticide applications made by the department or its agent pursuant to s. 94.01 or 94.02, Stats., or ch. ATCP 21.

(f) "Landscape pesticide" means a pesticide that is labeled for use on a landscape.

(g) "Ornamental" has the meaning given in s. ATCP 29.01 (25).

(h) "Restricted entry interval" has the meaning given in s. ATCP 29.01 (35).

(i) "Treated landscape" means that portion of a landscape to which a pesticide is applied.

(2) INFORMATION TO CUSTOMER. A person hired by a customer to make a landscape application shall provide that customer with all of the following in writing, or electronically if the customer consents in writing to electronic notification:

Note: *See* ch. ATCP 29 Appendix A for an example of a written or electronically transmitted notice under par. (a). Nothing in this section authorizes a commercial applicator to make a landscape application which the customer has not affirmatively authorized.

(a) An offer to provide pre-application information under par. (b). The person shall make the offer before making the first landscape application for the customer, and shall repeat the offer at least annually if there is a continuing contract for more than one year.

(b) The following pre-application information, if requested:

1. The brand name, product name, or common chemical name of each pesticide that may be applied.

2. A copy of the pesticide label for each pesticide that may be applied.

3. The date on which the landscape application will be made. The person making the application may communicate the application date orally, rather than in writing, if the requester agrees to oral notification.

4. The name, business address, and telephone number of a person who can provide further information about the pesticide application.

(c) The information required under s. ATCP 29.22. The person making the application shall provide this information to the customer when the application is completed.

(3) WARNING SIGNS POSTED. (a) Except as provided under par. (c), a person shall post warning signs at a landscape application site before making a landscape application to that site. Warning signs shall comply with subs. (4) and (5).

(b) No person may remove a warning sign posted under par. (a) until sunset of the day following the landscape application, or until sunset of the day on which the restricted entry interval on the pesticide label expires, whichever is later. This paragraph does not require a person to remove warning signs.

(c) Paragraph (a) does not apply to any of the following:

1. An individual making a landscape application to residential premises occupied only by that individual's household.

2. Golf course applications that are exempt under sub. (9).

3. Cemetery applications that are exempt under sub. (10).

(4) WARNING SIGNS; FORM AND CONTENTS. Each warning sign under sub. (3) shall comply with all of the following:

(a) It shall be at least 4 inches by 5 inches, and shall be attached to a stable supporting device.

(b) It shall contain the information shown in ch. ATCP 29 Appendix B. The information shall be professionally printed with red lettering on a white background, according to the format shown in ch. ATCP 29 Appendix B, except that sign removal dates may be entered by hand. A warning sign may contain supplementary information beyond that shown in ch. ATCP 29 Appendix B if the information is consistent with, and does not detract from, that shown in ch. ATCP 29 Appendix B.

(c) It shall be constructed and posted so that it remains clearly legible for at least 72 hours after it is posted, despite reasonably foreseeable adverse weather conditions.

(5) WARNING SIGNS; WHERE POSTED. At least one of the warning signs required under sub. (3) shall be clearly visible from each point at which there is significant potential for human access to the treated area.

Note: For example, warning signs should be posted so as to be clearly visible from potential access points including roads, sidewalks, driveways, doorways, alleys, and adjacent yards unless a fence, wall, hedge, or similar feature effectively prevents human access to the treated area from that direction.

(6) INFORMATION PROVIDED UPON REQUEST. (a) A person making a landscape application shall offer the following information to any person who requests information about that landscape application:

1. The complete name and address of the person making the landscape application.

Note: This may be the name and address of the business entity that makes the application.

2. The brand name, product name, or common chemical name of each pesticide applied, and the EPA registration number of that pesticide.

3. The concentration and total quantity of each pesticide applied, or the amount of each pesticide product applied per unit area and the total area treated.

4. The date and approximate time of application.

5. All post-application precautions stated on the pesticide label.

6. A copy of the pesticide label for each pesticide applied.

(b) If a requester asks for any of the information under par. (a), the person making the landscape application shall promptly provide that information to the requester. The information may be provided orally or in writing except that a copy of the pesticide label, if requested, shall be provided in writing. The person making the landscape application may require the requester to pay reasonable copying and postage costs before providing a copy of a pesticide label if the requester is not the customer who contracted for the application.

(7) REGISTRY OF INDIVIDUALS REQUESTING ADVANCE NOTICE OF LANDSCAPE APPLICATIONS. (a) The department shall compile an annual registry of individuals requesting advance notice of landscape applications to parcels of land identified in the registry. An annual registry takes effect on March 15 of each year, and expires on March 14 of the following year.

Note: The department will distribute registries by March 1.

(b) An individual who registers under par. (c) may request advance notice of landscape applications, other than applications for which that individual has contracted, to any parcels on the block where that individual resides or on any blocks immediately adjacent to that block.

Note: If a landlord contracts for landscape applications to a rental property, tenants on that property may register to receive advance notice of those applications.

(c) An individual shall register with the department by February 1 of each year to be included in the registry that takes effect on March 15 of that year. An individual shall register on an electronic or paper form provided by the department. The registration form shall include all of the following information which shall be included in the registry under par. (a):

1. The individual's complete name, street address, and mailing address if different from street address.

2. A telephone number where the individual may be contacted.

3. The street address of each parcel under par. (b) for which the individual requests advance notice of landscape applications.

4. Other information which the department reasonably requires to administer this section.

Note: Individuals may obtain registration forms and submit registrations at the following website address:

http://datcp.wi.gov

Forms may also be obtained by mailing a request to Landscape Registry Coordinator, DATCP, PO Box 8911, Madison, WI 53708-8911, or by calling (608) 224-4500.

A registration complies with the filing deadline under par. (c) if the registration is postmarked, delivered to the department, or entered onto the department's website by February 1. The department may accept registrations filed after February 1 for inclusion in the March 15 registry, but is not required to do so.

(d) The department shall provide a free copy of the annual registry under par. (a) to all of the following:

1. Each license holder under s. ATCP 29.20 that employs individuals licensed and certified under ss. ATCP 29.25 and 29.26 to make landscape applications. If a person is licensed under s. ATCP 29.20 by March 1, the department shall provide that person with a free copy of the registry by March 1.

2. Each individual, licensed and certified under ss. ATCP 29.25 and 29.26 to make landscape applications, who requests a copy of the registry.

Note: The department may compile supplementary registries for distribution after March 1.

(8) ADVANCE NOTICE TO REGISTERED INDIVIDUALS. (a) Before making any landscape application, a person required to be licensed under s. ATCP 29.20 shall give at least 12 hours advance notice to every individual who is currently registered to receive notice of that application under sub. (7).

Note: An applicator may voluntarily give notice to an individual who is included in a supplementary registry, but is not required to do so unless the individual has registered the same parcel in the primary registry under sub. (7).

(b) A person may give advance notice under par. (a) by telephone, or may mail or deliver notice to the requester's address as listed in the registry. Notice, if given by mail, shall be postmarked at least 2 business days before the person makes the landscape application. A notice shall include all of the following:

1. The complete name, business address, and telephone number of the person making the application.

Note: The name, address, and telephone number may be those of the business entity making the application.

2. The address of the landscape to be treated.

3. The scheduled date of application.

4. The brand name, product name, or common chemical name of each pesticide that may be applied.

(c) If a landscape application date is changed after the person making the application gives notice under par. (a), that person shall give a revised notice to each individual previously notified. The revised notice shall comply with par. (b).

(9) LANDSCAPE APPLICATIONS TO GOLF COURSES. (a) Subsection (3) does not apply to a golf course application of a pesticide whose label prescribes no restricted entry interval, provided that a permanent warning sign is conspicuously posted at each of the following locations:

1. At or near the place where golfers register to play the course.

2. At or near the first tee of every 9 holes.

3. At every point on the golf course boundary at which the non-golfing public is permitted to enter the golf course by means of a road, sidewalk, path, or other established thoroughfare.

(b) A permanent warning sign under par. (a) shall comply with all of the following requirements:

1. It shall be clearly legible at all times.

2. It shall be at least 12 inches by 12 inches.

3. It shall contain the following statement, in red letters not less than 1/2 inch high on a white background:

"PESTICIDES ARE PERIODICALLY APPLIED TO THIS GOLF COURSE. YOU MAY CONTACT THE GOLF COURSE SUPERINTENDENT FOR FURTHER INFORMATION."

(c) If any person asks a golf course superintendent for information about pesticide applications to a golf course, the superintendent shall notify that person that the following information is available, and shall provide the information in writing upon request:

1. A general description of the types and amounts of pesticides commonly applied to the golf course.

2. An identification of pesticide applications made to the golf course within the last week prior to the request, including the common chemical or brand names of the pesticides applied and the areas to which those pesticides were applied.

3. A copy of the pesticide label related to each pesticide application under subd. 2., if any. The superintendent may require

the requester to pay reasonable copying and postage costs before providing the label.

(10) LANDSCAPE APPLICATIONS TO CEMETERIES. (a) Subsection (3) does not apply to a cemetery application of a pesticide whose label prescribes no restricted entry interval, provided that a permanent warning sign is conspicuously posted at each established entrance to the cemetery.

(b) A permanent warning sign under par. (a) shall comply with all of the following requirements:

1. It shall be clearly legible at all times.

2. It shall be at least 12 inches by 12 inches.

3. It shall contain the following statement, in red letters not less than 1/2 inch high on a white background:

"PESTICIDES ARE PERIODICALLY APPLIED TO THIS CEMETERY. YOU MAY CONTACT THE CEMETERY GROUNDS MANAGER FOR FURTHER INFORMATION."

(c) If any person asks a cemetery grounds manager for information about pesticide applications to a cemetery, the grounds manager shall notify that person that the following information is available, and shall provide the information in writing upon request:

1. A general description of the types and amounts of pesticides commonly applied to the cemetery.

2. An identification of pesticide applications made to the cemetery within the last week prior to the request, including the common chemical or brand names of the pesticides applied and the areas to which those pesticides were applied.

3. A copy of the pesticide label related to any pesticide application under subd. 2. The grounds manager may require the requester to pay reasonable copying and postage costs before providing the label.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 01-028: am. (1) (e) 4., Register October 2001 No. 550, eff. 11-1-01; CR 01-076: am. (1) (e) 4., Register October 2002 No. 562, eff. 11-1-02; CR 12-003: am. (1) (e) 2., (2) (intro), (7) (c) (intro) Register May 2013 No. 689, eff. 6-1-13; correction in (4) (b) made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689.

ATCP 29.57 Seed applications. (1) DEFINITION. In this section, "pesticide-treated seed" means seed, intended for planting or propagation, that is treated with a pesticide for the purpose of providing post-planting protection to the seed or seedling.

(2) PLANTING PESTICIDE-TREATED SEED. Pesticide-treated seeds shall be incorporated into the soil when planted to prevent access by birds and other animals. This requirement does not apply to seed that is normally planted on the soil surface and poses no significant risk to birds or other animals.

(3) PESTICIDE-TREATED SEED; PROHIBITED USES. No person may do any of the following:

(a) Use pesticide-treated seed for food, feed, or oil, or mix it with food, feed, or oil.

(b) Expose pesticide-treated seed to access by birds or other animals.

(4) WARNING SIGNS POSTED ON SEED STORAGE BINS. (a) A person who stores pesticide-treated seed in bulk shall post a warning sign on every bin or storage area where that seed is stored. This paragraph does not apply to seed, stored on the property of an agricultural producer, that is not intended for sale.

(b) A warning sign under par. (a) shall remain posted as long as the pesticide-treated seed remains in storage. The warning sign shall be at least 8 1/2 inches by 11 inches, and shall conspicuously disclose the following statement or its equivalent:

"DANGER. THE SEED IN THIS STORAGE AREA HAS BEEN TREATED WITH THE PESTICIDE [name of pesticide] ON [date]."

(5) SEED DISPOSAL. Pesticide-treated seed shall be disposed of in a manner that does not pose a risk to persons, property, or the environment.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.58 Rodenticide bait station. (1) A person licensed under s. ATCP 29.20 or certified under s. ATCP 29.31 (11) who uses a rodenticide bait station shall mark it with the following information:

(a) The name of the person responsible for maintaining the rodenticide bait station.

(b) The EPA registration number of all the pesticide products that are currently in use within the rodenticide bait station.

(2) The information in sub. (1) shall be in English, resistant to deterioration, and remain legible throughout the length of time the rodenticide bait station is serviced.

History: CR 12-003: cr. Register May 2013 No. 689, eff. 6-1-13.

Subchapter X — Agricultural Worker Protection

ATCP 29.60 Definitions. In this subchapter:

(1) "Agricultural employer" means a person who hires or contracts for the services of one or more agricultural workers, or operates an agricultural establishment that uses one or more agricultural workers.

(2) "Agricultural emergency" means 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. "Agricultural emergency" does not include conditions which an agricultural employer could have anticipated and controlled, or which are precipitated by an agricultural employer's mismanagement or negligence.

(3) "Agricultural establishment" means any farm, forest, nursery, or greenhouse where agricultural plants are produced.

(4) "Agricultural pesticide" means any pesticide used or labeled for use in the production of agricultural plants at an agricultural establishment.

(5) "Agricultural plant" means any plant grown or maintained for commercial or research purposes.

(6) "Agricultural worker" means an individual who performs activities related to the production of agricultural plants at an agricultural establishment.

(7) "Crop advisor" means any individual who assesses pest numbers or damage, pesticide distribution, or the status or requirements of agricultural plants.

(8) "Direct the use of a pesticide" has the meaning given in s. ATCP 29.01 (14).

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

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

(b) Give workers oral notice of applications.

(10) "Early entry" means the entry of agricultural workers into an area treated with an agricultural pesticide, for the purpose of performing hand labor, before the restricted entry interval has expired.

(11) "Hand labor" means any agricultural activity, performed by hand or with hand tools, that causes a worker to have substantial contact with surfaces such as plants, plant parts, or soil that may contain pesticide residues. "Hand labor" includes activities

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

such as harvesting, detasseling, thinning, weeding, topping, planting, removing suckers, pruning, debudding, roguing, and packing produce into containers in the field. "Hand labor" does not include operating, moving or repairing irrigation, watering or frost protection equipment; acting as a crop advisor; or performing similar activities which do not entail substantial contact with surfaces that may contain pesticide residues.

(12) "Handler" means an individual who does any of the following:

(a) Mixes or loads an agricultural pesticide.

(b) Uses an agricultural pesticide.

(c) Acts as a flagger to mark the pesticide application pathway during an agricultural pesticide application.

(d) Cleans, adjusts, handles, or repairs those parts of pesticide mixing, loading, or application equipment that may contain agricultural pesticide residues.

(e) Assists with the application of agricultural pesticides in any manner which could expose that person to pesticides.

(f) Enters a greenhouse or other enclosed area during or after an agricultural pesticide application, and before the inhalation exposure level specified on the pesticide label and the ventilation criteria specified by 40 CFR 170.110(c) (3) or the pesticide label have been met, in order to operate ventilation equipment, adjust or remove covers used in fumigation, or monitor air quality.

(g) Enters an outdoor area treated with a soil fumigant in order to adjust or remove soil coverings such as tarpaulins.

(h) Performs tasks as a crop advisor at an agricultural pesticide application site during or after a pesticide application, and before any of the following have occurred:

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

2. The ventilation criteria specified by 40 CFR 170.110(c)(3) or the pesticide label are met.

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

(13) "Mix or load" a pesticide has the meaning given in s. ATCP 29.01 (23).

(14) "Restricted entry interval" has the meaning given in s. ATCP 29.01 (35).

(15) "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.

(16) "Use" a pesticide has the meaning given in s. ATCP 29.01 (41).

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; corrections in (14) and (16) made under s. 13.93 (2m) (b) 7., Stats., Register, March, 1999, No. 519.

ATCP 29.61 Worker protection; general. The following persons shall comply with federal worker protection standards under 40 CFR 170:

(1) An agricultural employer.

(2) A person who employs one or more handlers.

(3) A person who uses or directs the use of an agricultural pesticide as an independent contractor for hire.

Note: Some federal requirements under 40 CFR 170 are stated in full on the pesticide label, while others are merely referenced. The department will provide a free summary of the federal rules upon request. The entire federal worker protection standards rule can also be accessed at https://www.federalregister.gov/d/2015-25970. 40 CFR 170 requires specific pesticide safety practices, including pesticide product application posting, training of equipment operators and pesticide workers and handlers, and use of preventative emergency response measures including sanitation, decontamination, and availability of emergency medical treatment. To obtain summary materials, contact the department at: Department of Agriculture, Trade and Consumer Protection; Division of Agricultural Resource Management; Worker Protection Program; P.O. Box 8911, Madison, WI 53708-8911 or call (608) 224-4500.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.62 Worker protection warning signs. (1) WARNING SIGNS REQUIRED. An agricultural employer shall post worker protection warning signs at pesticide application sites as required under 40 CFR 170. Except as provided under sub. (2) or by the federal environmental protection agency, each warning sign shall comply with all of the following requirements:

(a) It shall be at least 14 inches by 16 inches.

(b) Its form and content shall be identical to that shown in ch. ATCP 29 Appendix C.

(c) It shall be constructed to resist deterioration, and shall remain legible throughout the required posting period.

(d) It shall be posted not more than 24 hours before the pesticide application is scheduled to begin.

(e) It shall remain posted for the duration of any restricted entry interval specified on the pesticide label.

(f) It shall be removed or covered not more than 3 days after the restricted entry interval expires unless it is required for another pesticide application.

(2) SMALL APPLICATION SITES. If a pesticide application site, such as a potted plant or greenhouse bench top, is too small to accommodate standard warning signs under sub. (1), it may be posted with smaller warning signs that are at least 4 inches by 5 inches. The warning signs shall be clearly posted on each side of the application site at intervals of not more than 25 feet. An individual treated plant may be posted with a single sign. A sign under this subsection shall comply with sub. (1) (b) to (f).

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; correction in (1) (b) made under s. 13.92 (4) (b) 7., Stats., Register May 2013 No. 689.

ATCP 29.63 Agricultural emergencies; early entry by workers. (1) EMERGENCY CONDITIONS. An agricultural employer may have agricultural workers enter an area treated with an agricultural pesticide before the restricted entry interval has expired if all of the following apply:

(a) The early entry is necessary to prevent or mitigate the effects of an agricultural emergency.

(b) The early entry complies with applicable worker protection standards under 40 CFR 170.112.

(c) The agricultural workers entering the treated area have been trained in compliance with 40 CFR 170.130.

(d) The agricultural employer files a written report with the department under sub. (2) within 72 hours after the early entry occurs. The department may require an agricultural employer to file additional information with the department, as necessary.

Note: ATCP 29.61 incorporates federal rules that prohibit agricultural workers from reentering a treated area during a restricted entry interval except in an "agricultural emergency." Subsection (1) serves as a "declaration of emergency" for purposes of 40 CFR 170.112 (d)(2)(i). If all of the conditions under sub. (1) are met, no further "declaration" by the department is needed in order to permit the early entry of agricultural workers into a treated area.

(2) REPORT FILED BY AGRICULTURAL EMPLOYER. An agricultural employer shall file a report under sub. (1) (d) in writing, and shall include all of the following:

(a) The complete name, mailing address, and telephone number of the agricultural employer.

Note: The name under par. (a) may be that of a business entity.

(b) The date and location of the early entry.

(c) A description of the agricultural emergency which necessitated the early entry.

(d) The brand name, EPA registration number, and restricted entry interval for each pesticide applied to the treated area.

(e) The number of agricultural workers involved in the early entry.

Published under s. 35.93, Stats. Updated on the first day of each month. Entire code is always current. The Register date on each page is the date the chapter was last published.

Note: An agricultural employer filing a report under sub. (2) should file that report at the following address: Department of Agriculture, Trade and Consumer Protection Agricultural Resource Management Division Worker Protection Program P.O. Box 8911 Madison, Wisconsin 53708-8911

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.64 Training handlers. (1) TRAINING REQUIRED. Every person who employs a handler shall ensure that the handler is trained as required by 40 CFR 170.230 before the handler engages in any handler activity.

(2) TRAINER QUALIFICATIONS. An individual who trains handlers under sub. (1) shall be at least one of the following:

(a) Currently certified as a pesticide applicator by the department.

(b) Currently certified as a pesticide applicator in another state, pursuant to an applicator certification program approved by the federal environmental protection agency.

(c) Employed by the University of Wisconsin-Extension to train pesticide applicators.

(d) A graduate of a worker protection train-the-handler program approved by the department or the federal environmental protection agency.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.65 Training agricultural workers. (1) TRAINING REQUIRED. An agricultural employer may not require or permit any agricultural worker, other than a worker trained as required under 40 CFR 170.130, to enter any area that has been subject to a restricted entry interval during the previous 30 days.

(2) TRAINER QUALIFICATIONS. An individual who trains agricultural workers under par. (a) shall be at least one of the following:

(a) Currently certified by the department as a pesticide applicator under s. ATCP 29.26 or 29.27.

(b) Currently certified by another state as a pesticide applicator, pursuant to an applicator certification program approved by the federal environmental protection agency.

(c) Employed by the University of Wisconsin-Extension to train pesticide applicators.

(d) A graduate of a worker protection train-the-handler or train-the-worker program approved by the department or the federal environmental protection agency.

(e) Trained as a pesticide handler under 40 CFR 170.230.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

ATCP 29.66 Training records. (1) EMPLOYER RECORDS. A person who employs agricultural workers or handlers shall keep current pesticide training records for each agricultural worker or handler employed. The employer shall keep each employee's records for at least one year after that individual's employment ends. The records shall include all of the following:

(a) The first name, last name, and permanent home address of the agricultural worker or handler.

(b) The date or dates on which the agricultural worker or handler received training required under s. ATCP 29.64 or 29.65.

(c) A signed statement by the agricultural worker or handler confirming that the worker or handler received the training required under s. ATCP 29.64 or 29.65 on the dates indicated.

(2) TRAINER RECORDS. A person who trains agricultural workers or handlers under s. ATCP 29.64 or 29.65 shall keep a training record for each individual trained. The training record shall include all of the information required under sub. (1). The trainer shall keep the training record for at least 5 years after the training is given.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98.

Subchapter XI — Special Registrations And Use Authorizations

ATCP 29.70 Emergency use permits. (1) AUTHORITY AND SCOPE. The department may issue an emergency use permit authorizing the purchase, sale, distribution, and use of a pesticide for a purpose not otherwise permitted under this chapter or ch. ATCP 30, if that use is necessary in an emergency to control a serious disease or pest infestation. The department may not issue an emergency use permit for any of the following:

(a) A pesticide use that is not authorized under the federal act.

(b) The use of DDT or its isomers or metabolites.

Note: The department may issue permits, under s. 94.709, Stats., for the use of DDT, its isomers or metabolites. See s. ATCP 30.19 related to emergency use permits for bat control.

(2) PERMIT APPLICATION. An application for an emergency use permit under sub. (1) shall be submitted by electronic means to the department unless advance approval to submit a paper application is granted by the department. The application shall include all of the following:

(a) The complete name and address of the applicant, including the complete name and address of the pesticide applicator if different from the applicant.

(b) A detailed description of the nature and scope of the emergency warranting the pesticide use, including information on the target pest.

(c) A description of the purpose for which the pesticide will be used.

(d) A detailed description of the potential benefits, adverse effects, and hazards which may result from the use of the pesticide.

(e) A description and analysis of feasible alternative pesticides and control measures that could be utilized to control the pest.

(f) The composition and formulation of the pesticide.

(g) The source from which the pesticide is to be purchased or shipped.

(h) The amount of pesticide to be used.

(i) The site of the pesticide application.

(j) The method of pesticide application and any special precautions that will be taken in the use and disposal of the pesticide.

(k) Any additional information required by the department.

Note: The use of certain pesticides, such as use of atrazine in an atrazine prohibition area, may require a permit under ch. ATCP 30.

(3) ACTION ON PERMIT APPLICATION. The department shall grant or deny a permit application under sub. (2) within 20 business days after the department receives a complete application.

(4) ISSUING A PERMIT. The department may issue an emergency use permit under sub. (1), based on a complete application under sub. (2), if the department finds all of the following:

(a) The emergency use is necessary to prevent a serious risk to persons, property, or the environment.

(b) The benefits from the proposed emergency use outweigh the potential risks which that use may pose to persons, property, and the environment.

(c) There are no effective alternative control measures.

Note: The department must prepare an environmental assessment on each permit issued under this subsection. See ch. ATCP 3.

(6) PERMIT CONDITIONS. (a) The department may impose conditions on an emergency use permit to protect persons, prop-

erty, and the environment. These may include any of the following:

1. Time limits.

2. Conditions related to the amount of pesticide used, the location and size of the application site, the method of application, and the disposal of pesticide containers and unused pesticides.

3. Conditions related to the training and qualifications of persons applying the pesticide.

4. Other conditions which the department considers appropriate.

(7) SUSPENDING OR REVOKING A PERMIT. The department may summarily suspend or revoke an emergency use permit if the department finds any of the following:

(a) Information contained in the permit application is false or misleading.

(b) Permit conditions or limitations have been violated.

(c) The pesticide use poses an unreasonable risk to persons, property, or the environment.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (2) (intro) Register May 2013 No. 689, eff. 6-1-13.

ATCP 29.71 Experimental use permits. (1) AUTHORIZATION. The department may issue an experimental use permit authorizing the sale, purchase, shipment, and use of a pesticide, other than DDT and its isomers and metabolites, for experimental purposes not otherwise permitted under ss. 94.67 through 94.71, Stats., or this chapter. The department may not issue a permit for any purpose that is prohibited under the federal act. The department may issue a permit to any of the following persons:

(a) A person who needs the permit to acquire experimental data in this state in order to register a pesticide or pesticide use under the federal act or s. ATCP 29.72.

(b) A person, other than a pesticide seller or a seller's promotional agent, who needs the permit to perform bona fide scientific research in this state.

(2) PERMIT APPLICATION. An application for an experimental use permit under sub. (1) shall be submitted by electronic means to the department unless advance approval to submit a paper application is granted by the department. The application shall include all of the following:

(a) The applicant's complete name and address.

(b) The complete name and address of each person who will be shipping the pesticide, and the address from which each shipment will originate.

(c) The complete name and address of each person who will receive a pesticide shipment in this state.

(d) The complete name and address of each individual who will use or direct the use of the pesticide.

(e) The complete name and address of each person on whose property the pesticide will be used.

(f) A detailed description of the proposed experimental use, including all of the following:

1. The purpose of the experimental use.

2. The amount of pesticide to be used.

3. The target organisms against which the experimental use will be directed.

4. The type of plants, animals, or site to be treated.

5. The location, nature, and size of the site to be treated, and the nature of the surrounding environment.

6. The dates or time periods on or within which the pesticide will be used.

7. The methods by which the pesticide will be applied or used.

(g) The proposed schedule of pesticide shipments, including individual shipment dates and amounts.

(h) A detailed description of the pesticide, including all of the following:

1. The pesticide's chemical composition and formulation type, including the chemical name and percentage by weight of each active and inert ingredient.

2. Relevant chemical and physical properties of the pesticide.

3. Methods used to analyze the pesticide formulation and identify pesticide residues.

4. Available information on pesticide toxicity, including oral, dermal, and inhalation toxicity, lethal concentrations in the aquatic environment, chronic toxicity hazards, and symptoms of toxicity in persons, plants, and animals.

5. Available information on the rate of decline of pesticide residues in target and nontarget organisms, raw agricultural commodities, food, feed, and the environment.

6. Potential hazards to persons using the pesticide, and suggested precautions for use.

(i) A description of precautions that will be taken in connection with the experimental use to prevent hazards to persons, property, and the environment.

(j) Either of the following if the experimental use may cause pesticide residues to occur in raw agricultural commodities, food, or feed:

1. Proof that the proposed experimental use will not result in pesticide residues in excess of tolerances established under the federal act or the federal food, drug and cosmetic act, as amended (21 USC 301 et seq.), or that the pesticide's active and inert ingredients are exempted from the requirement of a residue tolerance in raw agricultural commodities, food, and feed.

2. Certification that no raw agricultural commodities, food, or feed involved in the experimental use will be consumed by humans or other animals, except laboratory or experimental animals not used for food or feed.

(k) A copy of any permit which the federal environmental protection agency has issued for the experimental use under the federal act.

(L) Proposed labeling for the experimental use pesticide.

(m) Other relevant information required by the department.

(3) ACTION ON PERMIT APPLICATION. The department shall grant or deny a permit application under sub. (2) within 60 business days after the department receives a complete application.

(4) ISSUING A PERMIT. The department may issue a permit under sub. (1), based on a complete application under sub. (2), if the department finds all of the following:

(a) The experimental use is one for which a permit may be issued under sub. (1).

(b) The permit applicant qualifies under sub. (1).

(c) The persons conducting the experimental use are qualified by training or experience to do so.

(d) The experimental use presents no significant hazard to persons, property, or the environment, and includes adequate controls and safeguards.

Note: The department must prepare an environmental assessment on each permit issued under this subsection. See ch. ATCP 3, Wis. Adm. Code.

(5) PERMIT CONDITIONS. The department may impose conditions on permits issued under sub. (1). Permit conditions may include limits on the amount of pesticide used, the method of use, the size and location of application sites, and the disposal of unused pesticides and pesticide containers.

(6) PERMIT EXPIRATION. A permit under sub. (1) expires on a date set by the department. The expiration date shall correspond to the expiration date set by the federal environmental protection agency on any corresponding federal permit. If no federal permit is required, the department shall set an expiration date which is no more than 2 years from the date on which the department issues the permit.

(7) PERMIT RENEWAL OR AMENDMENT. A person holding a permit under sub. (1) may apply to have that permit renewed or amended. The application shall comply with sub. (2). The department shall act on the application as if it were an application for a new permit.

(8) PERMIT SUSPENSION OR REVOCATION. The department may summarily suspend or revoke an experimental use permit if the department finds any of the following:

(a) Information contained in the permit application is false or misleading.

(b) Permit conditions or limitations have been violated.

(c) The pesticide use poses an unreasonable risk to persons, property, or the environment.

(9) PESTICIDE LABELING. No person may ship or use a pesticide under an experimental use permit unless the pesticide is labeled with all of the following:

(a) The prominent statements "**FOR EXPERIMENTAL USE ONLY"** and **"NOT FOR RESALE."**

(b) The name, brand, or trademark of the pesticide.

(c) The name and address of the experimental use permit holder.

(d) The net contents of the pesticide container.

(e) A complete ingredient statement.

(f) Appropriate warning or cautionary statements.

(g) A restricted entry interval, if appropriate.

(h) Directions and conditions for use of the pesticide.

(i) Other labeling required by the department.

(10) REPORTS. (a) The department may require the holder of an experimental use permit under sub. (1) to file periodic reports related to the shipment or use of pesticides under that permit. These may include reports related to any of the following:

1. The amounts of pesticide shipped and used.
2. Shipment and delivery dates and locations.
3. Dates and locations of pesticide use.
4. Experimental findings.
5. Disposal of unused pesticide and pesticide containers.
6. Disposal of treated agricultural commodities, food, or feed.
7. Other information related to the experimental use.

(b) A permit holder shall immediately report to the department any observed adverse effects of the experimental use on persons, property, or the environment.

(11) EXEMPTIONS. (a) The following entities may conduct preliminary screening tests under par. (b) without an experimental use permit under sub. (1):

1. A state or federal agency.
2. An accredited college or university.
3. A pesticide registrant.

(b) The following tests are considered preliminary screening tests under par. (a) if they are solely designed to determine whether a substance has value as a pesticide for specific purposes:

1. Laboratory or greenhouse tests.
2. Field tests, other than field tests of microorganisms produced or modified by recombinant DNA techniques, conducted on test plots owned by the testing entity. No individual test plot may exceed 1/2 acre, nor may the combined area of all the test plots exceed 5 acres.
3. Tests for which the federal environmental protection agency issues an experimental use permit. The testing entity shall provide the department with a copy of the federal permit and shall notify the department of the test locations before conducting the tests.

(c) No raw agricultural commodities, food, or feed involved in a screening test under par. (b) may be consumed by humans or other animals, except laboratory or experimental animals which are used in the test and are not used for food or feed. The agricultural commodities, food, and feed shall be disposed of in a manner that minimizes exposure to human beings and the environment.

(d) The exemption under par. (a) does not apply to a pesticide or pesticide use which is specifically prohibited under this chapter, or for which a federal registration has been denied, suspended, or canceled.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (2) (intro) Register May 2013 No. 689, eff. 6-1-13.

ATCP 29.72 Special local needs registrations. (1) AUTHORITY. The department may register either of the following if the registration is necessary to meet a special local need in the state:

(a) A pesticide product which is not registered under the federal act. The registration shall specify the uses for which the pesticide product is registered.

(b) A new use for a pesticide product that is currently registered under par. (a).

(2) EFFECT OF REGISTRATION. Registration under sub. (1) has the same effect in this state as registration under the federal act unless the federal environmental protection agency disapproves the registration.

(3) REGISTRATION STANDARDS. The department may register a pesticide product or use under sub. (1) if the department finds all of the following:

(a) Registration is necessary to meet a special local need in this state. A special local need is a current or imminent pest problem in this state that cannot be adequately controlled by the use of any available federally registered pesticide product. The department may find that a pest problem existing on a nationwide or multi-state regional basis is not a special local need.

(b) There are insufficient alternative pesticides or pest control methods to meet the special local need.

(c) The pesticide product is effective, for the uses registered under sub. (1), when used according to label directions. The department's finding under this paragraph does not constitute a warranty by the department.

(d) The pesticide label complies with this chapter and the federal act, and warrants that the product is effective for the uses registered under sub. (1).

(e) The pesticide product will not be distributed for further manufacturing, reformulation, or repackaging.

(f) The pesticide product, if registered for use on raw agricultural commodities, food, or feed, is covered by necessary residue tolerances, exemptions, and clearances under the federal act and the federal food, drug and cosmetic act as amended (21 USC 301 et seq.).

(g) The pesticide product, when used according to label directions for the purposes registered under sub. (1), will not have un-

Published under s. 35.93, Wis. Stats., by the Legislative Reference Bureau.

reasonable adverse effects on persons, property, or the environment.

(h) The federal environmental protection agency has not denied, disapproved, canceled, or suspended any registration of the pesticide product under the federal act. If the federal environmental protection agency has denied, disapproved, canceled, or suspended the registration of the product for any use, the department may not register any other use of that product without approval from the federal environmental protection agency.

(i) The pesticide product complies with all applicable packaging, coloration, and labeling provisions under this chapter, ss. 94.67 to 94.71, Stats., and the federal act.

(j) The benefits derived from pesticide product uses registered under sub. (1) will exceed the adverse effects on persons, property, and the environment.

(k) The pesticide product is currently registered under the federal act, or is formulated from ingredients which are all found in other federally registered pesticide products.

Note: The department must prepare an environmental assessment on each permit issued under this subsection. See ch. ATCP 3.

(4) APPLYING FOR REGISTRATION. A person licensed under s. ATCP 29.10 may apply for a special local needs registration under sub. (1). The application shall be submitted by electronic means to the department unless advance approval to submit a paper application is granted by the department. The application shall include all of the following:

(a) The applicant's name, address, and license number under s. ATCP 29.10. If the applicant is not yet licensed under s. ATCP 29.10, the applicant shall also submit a license application under that section.

(b) A fee of $250.

(c) A complete description of the special local need justifying the registration.

(d) The name of the pesticide product.

(e) The registration number of the pesticide product or, if the product is not currently registered under the federal act, the complete product formula.

(f) A copy of the proposed pesticide product label.

(g) Valid scientific evidence demonstrating that the product is effective for the proposed use.

(h) Evidence showing that alternative pesticides and pest control methods are not adequate to meet the special local need.

(i) A description and analysis of the benefits to be derived from the proposed pesticide use.

(j) A description and analysis of potential adverse effects to persons, property, and the environment which may result from the proposed pesticide use.

(k) Evidence demonstrating that the pesticide product will not have unreasonable adverse effects on persons, property, or the environment when used according to label directions.

(L) An analysis demonstrating that the benefits to be derived from the proposed pesticide use exceed the potential adverse effects.

(m) Other relevant information required by the department.

(5) ACTION ON APPLICATION. The department shall grant or deny an application under sub. (4) within 180 business days after the department receives a complete application.

(6) REGISTRATION EXPIRES. A special local needs registration under sub. (1) expires on a date specified by the department in the registration. The expiration date shall be not more than 5 years after the date on which the department issues the registration.

(7) REGISTRATION RENEWAL OR AMENDMENT. A registrant under sub. (1) may apply to have that registration renewed or amended. The application shall comply with sub. (4). The department shall act on the application as if it were an application for a new registration. If a registration is amended during a registration period, the amendment expires at the end of that registration period. A registration may be renewed for a period of up to 5 years.

(8) LABELING. A pesticide product registered for one or more uses under sub. (1) shall be labeled in compliance with s. ATCP 29.06. The product label shall also include all of the following:

(a) A statement indicating that the registration under sub. (1) applies only in Wisconsin.

(b) The registration number assigned by the department.

(c) The expiration date of state registration.

(d) Other labeling required by the department.

(9) REGISTRATION CONDITIONS. The department may restrict a registered use under sub. (1) to certified applicators, and may attach other conditions to the registration of a pesticide product or use under sub. (1). The department shall restrict a use to certified applicators if any of the following apply:

(a) The pesticide product is similar in composition to a federally registered product for which similar uses are restricted to certified applicators. Pesticide products are similar in composition if they have the same active ingredients and are in the same toxicity category. Pesticide uses are similar if they have substantially equivalent purposes and the same precautionary labeling.

(b) The use would be restricted to certified applicators under the federal act.

(c) The restriction is justified in order to prevent unreasonable hazards to persons, property, or the environment.

(10) SUSPENSION OR REVOCATION. The department may summarily suspend or revoke a registration under sub. (1) if the department finds any of the following:

(a) Information contained in the registration application is false or misleading.

(b) Registration conditions have been violated.

(c) A registered use poses an unreasonable risk to persons, property, or the environment.

(d) The special local need no longer exists.

(e) The registration is suspended or disapproved by the federal environmental protection agency.

History: Cr. Register, May, 1998, No. 509, eff. 6-1-98; CR 12-003: am. (4) (intro) Register May 2013 No. 689, eff. 6-1-13.