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Clearinghouse Rule 25-028

STATE OF WISCONSIN DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION

PROPOSED ORDER OF THE DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION REPEALING A RULE

The Wisconsin department of agriculture, trade and consumer protection (department) is petitioning the joint committee for review of administrative rules to repeal a rule the department has determined to be an unauthorized rule using the process under s. 227.26 (4), Stats.

PROPOSED ORDER

An order of the department of agriculture, trade and consumer protection *to amend* s. ATCP 29.11 (8) (a) and *to repeal* s. ATCP 29.11 (8) (b) *relating* to pesticide manufacturers and labelers; fees.

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

Statutes Interpreted: s. 94.681, Stats.

Statutory Authority: ss. 93.07 (1) and 94.69 (1), Stats.

Explanation of Agency Authority

The department has authority under ss. 93.07 (1) and 94.69 (1), Stats., to adopt rules which are necessary and proper to enforce ch. 94, Stats.

The department has authority under s. 94.681, Stats., to collect fees and surcharges from pesticide manufacturers and labelers.

Related Statutes and Rules

Section 94.681, Stats., and Wisconsin Admin. Code ch. ATCP 29.

Brief Summary of Proposed Rule

Wisconsin Admin. Code s. ATCP 29.11 (8) (b) clarifies that paragraph (a) does not prohibit a reimbursement under s. 94.681 (3s) (b) 2., Stats., other than a reimbursement of amounts deposited to the environmental fund under s. 94.681 (7), Stats., provided that the reimbursement under s. 94.681 (3s) (b) 2., Stats., is made in the form of a credit against amounts owed under this section in the next license year. Section ATCP 29.11 (8) (b) is unauthorized due to s. 94.681 (3s) (b) 2., Stats. Wisconsin Stat. s. 94.681 (3s) (b) 2. was repealed in 2017 Wisconsin Act 59 and the department no longer has authority to reimburse pesticide registrations through the annual reconciliation process.

Therefore, the department has determined that Wis. Admin. Code s. ATP 29.11 (8) (b) and the reference to it which appears as “Except as provided in par. (b)” in s. ATP 29.11 (8) (a) are unauthorized due to the passage of 2017 Wisconsin Act 59 and seeks the repeal of these sections pursuant to s. 227.26 (4), Stats.

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TEXT OF RULE

- 1 SECTION 1. ATP 29.11 (8) is repealed and is amended to read:
- 2 ATP 29.11 (8) FEES AND SURCHARGES NONREFUNDABLE. The department may not refund a fee or
- 3 surcharge under this section after the department issues a license under s. ATP 29.10 to the person who
- 4 paid the fee or surcharge, unless the fee or surcharge was not properly collected or charged.
- 5 SECTION 2. EFFECTIVE DATE. The rule repealed in this order and the reference to it shall take effect on
- 6 the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s.
- 7 227.22 (2) (intro.), Stats.

(END OF TEXT OF RULE)

Dated this _____ day of April 2025.

WISCONSIN DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By: Randy Romanski, Secretary