

Ag 29

Filed
9/29/70

STATE OF WISCONSIN)
DEPARTMENT OF AGRICULTURE) SS

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETING:

I, Donald E. Wilkinson, Secretary of Agriculture, and custodian of the official records of the State of Wisconsin Department of Agriculture, do hereby certify that the annexed rules relating to pesticide use and control, Wis. Adm. Code chapter Ag 29, were duly adopted by this department on September 28, 1970.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN WITNESS WHEREOF, I have hereunto set my hand at Madison, Wisconsin, this 28th day of September, 1970.


Secretary of Agriculture

Docket No. 882.

ORDER OF THE DEPARTMENT OF AGRICULTURE
ADOPTING RULES

Pursuant to authority vested in the Department of Agriculture by sections 93.07 (1) and 94.69, Wis. Stats., the Department of Agriculture hereby adopts rules as follows:

✓ Chapter Ag 29 of the Wisconsin administrative code is adopted to read:

Chapter Ag 29

PESTICIDE USE AND CONTROL

Ag 29.01 Definitions. (1) "Pesticide Review Board" means the board created under section 15.195 (1), Wis. Stats.

(2) "Department" means the State of Wisconsin Department of Agriculture.

(3) A "prohibited use pesticide" is a pesticide the use of which constitutes such a serious hazard to persons or property that its use is prohibited as provided under these rules.

(4) A "restricted use pesticide" is a pesticide certain uses of which constitute a serious hazard to persons or property and may be registered and used only for purposes as provided in these rules.

(5) "Experimental use pesticide" is a pesticide in any stage of testing or development, except screening for pesticidal activity, for uses other than those for which the product has been registered.

(6) "Pesticide registration" means the registration of pesti-

cides with the department under section 94.68, Wis. Stats.

(7) "Commercial applicator" is a person using or applying pesticides in the performance of pest control work for hire.

(8) "Retail dealer" is a person engaged in the sale of pesticides to consumers at retail.

(9) "Distributor" is a person engaged in the sale of pesticides for resale and includes persons selling at both wholesale and retail.

(10) "Storage" means the keeping or holding of pesticides, other than pesticides on display, at any location at which pesticides are held for distribution, sale, use or disposal, and except for storage as used in section Ag 29.11 (1), excludes pesticides held on residential property for use in and about the home.

(11) "Display" means the exposure or holding open to public view of pesticides in any sales room or business area from which sales are made and to which the public has access.

(12) "Pesticide" is as defined in section 94.67, Wis. Stats., and, for purposes of use, storage, transport and display under these rules, includes seeds treated with a pesticide.

Ag 29.02 Prohibited use pesticides. The following pesticides are declared to be prohibited use pesticides and their registration, possession, sale and use are prohibited, except for research and experimental purposes, or emergency use under permit, as provided in these rules; or in the case of DDT and its isomers and metabolites, emergency or experimental uses authorized by the Pesticide Review Board under section 134.67, Wis. Stats.:

- (1) DDT (dichloro diphenyl trichloroethane)
- (2) DDD (TDE) dichloro diphenyl dichloroethane).
- (3) Endrin (hexachloroepoxyoctahydro-endo, endo-dimethano-naphthalene).

Ag 29.03 Restricted use pesticides. The following pesticides are declared to be restricted use pesticides and may be registered, sold and used only for the purposes specified, except for research or experimental purposes, or emergency use under permit, as provided in these rules:

(1) Aldrin (hexachlorohexahydro-endo, exo-dimethanonaphthalene).

(a) Control of termites (Reticulitermes Spp.) in structural pest control.

(b) Seed treatment.

(c) The treatment of tree roots prior to planting.

(2) Benzene hexachloride (1,2,3,4,5,6-hexachloro-cyclohexane).

(a) Treatment of trees for control of pine root collar weevil, pine tip weevil and balsam gall midge.

(3) Dieldrin (hexachloroepoxyoctahydro-endo, exo-dimethanonaphthalene).

(a) Structural pest control as provided under subsection

(1) (a).

(b) Seed treatment.

(4) Heptachlor (heptachlorotetrahydro-4,7-methanoindene).

(a) Structural pest control as provided under subsection

(1) (a).

(b) Seed treatment.

(5) Lindane (gamma isomer of benzene hexachloride).

(a) Treatment of beef cattle, swine, goats (except dairy goats), sheep, and pets for mange and lice.

(b) Seed treatment.

(c) Ornamental and forestry uses.

(6) Alkyl mercury products.

(a) Turf disease control.

Ag 29.04 Emergency use permits. The department may authorize the registration, possession, sale and use of prohibited or restricted use pesticides under permit for purposes otherwise prohibited under these rules, when necessary in an emergency situation to control the outbreak or spread of plant or animal diseases or pest infestations which threaten substantial destruction of property or to control epidemic diseases of humans which can be controlled only by the use of prohibited or restricted use pesticides.

Ag 29.05 Experimental use pesticides. (1) Permit and notice requirements. (a) A manufacturer's or shipper's permit from the department is required for the sale of experimental use pesticides for testing or research and no person shall sell, purchase or use such pesticides until a permit has been issued.

(b) No permit shall be required for the distribution of experimental use pesticides furnished free of cost for testing or research but they shall not be shipped or distributed for experimental use without direct notification to the department at or prior to the time actual shipment or delivery is made to the user. Notification shall be submitted on forms prescribed by the department and shall include notice of the fact that certain experimental use

pesticides are being shipped or delivered to a named user or users, and other information as the department requires. Such pesticides shall be conspicuously labeled "For Experimental Use Only--Not To Be Sold."

(c) Experimental use pesticides shipped or delivered for use by or under the supervision of any federal or state agency authorized by law to conduct research in the field of pesticides are exempt from permit or notice.

(2) Applications for permit. (a) All applications for permits shall be submitted in duplicate, be signed by the shipper or the person making the delivery and include the following information:

1. Name and address of the shipper and place or places from which the shipment will be made.
2. Proposed date of shipment or in the case of a general permit the shipping period for which a permit is requested, not to exceed one year.
3. The name and address of the person to whom shipment or delivery will be made and under whose supervision the experimental use program will be conducted. In the case of general permits under subsection (2) (b) such information shall be submitted on request.
4. A statement of composition applicable to individual pesticide materials or a group of closely allied formulations of pesticides for which a permit is requested.
5. A statement of the approximate quantity to be shipped.
6. Available data or information, or reference thereto, on the toxicity of the pesticide and precautions to be taken in

its use.

7. A statement of the nature of the proposed experimental use program, including the type of pests or organisms toward which the testing program will be directed, the type of crops or animals for which the pesticide is to be used, the locations where the program will be conducted, and the results of previous tests.

8. If food or feed is likely to be contaminated, a statement of action which will be taken to prevent the food or feed from being consumed by man or other animals, except laboratory or experimental animals. The method of analysis for residues shall be included.

9. Proposed labeling to include: a. a conspicuous statement, "For Experimental Use Only," both on the container label and any other labeling matter; b. a warning or caution statement which if complied with is adequate for the protection of those who may handle or be exposed to the experimental formulations; c. the name or designation of the formulation; and d. the names and percentages of the principal active ingredients in the product.

(b) Permits are of two types, specific and general. Specific permits are issued for individual shipments of a single pesticide on a specific date to persons named in the permit application and must be secured prior to actual shipment or delivery to the intended experimental user. General permits are issued for multiple shipments of the same product over a given period of time to different experimental users.

(c) If a copy of a valid experimental permit issued under the provisions of the Federal Insecticide, Fungicide, and Rodenti-

icide Act (7 USC 135-135k) is submitted with accepted labeling related thereto, the department may exempt the shipper from the requirements of subsection (2) (a) 6 to 9 inclusive.

(3) Restrictions on issuance of permits. (a) If a pesticide is to be tested for a use which is likely to result in a residue in or on food or feed, a permit for shipment or delivery will be issued only on basis of written assurances that the food or feed will not be used except for laboratory or experimental animals and evidence is submitted that the proposed use will not result in residues which would be hazardous to man or other animals.

(b) A permit for the testing of experimental use pesticides in any place likely to be frequented by persons other than those directly engaged in the experimental use or testing will be granted only if it can be shown in the application that use instructions and controls will reasonably protect persons or property from injury.

(c) The department may limit the quantity of a pesticide to be used under an experimental use permit to a lesser quantity than that requested if in its judgment available information on effectiveness, toxicity, or other hazards is insufficient to justify the scope of experimental use proposed in the application, or impose such other restrictions on use it may consider necessary for the protection of the public.

(d) Permits will be issued only for bona fide experimental programs under the supervision of persons qualified by training or experience to engage in pesticide research work.

(e) A pesticide for which an experimental use permit has been

granted shall not be sold or offered for sale to the general public.

(4) Cancellation of permits. Permits for shipment of pesticides for experimental use may be cancelled at any time for any violation of this chapter.

Ag 29.06 Pesticide registration; filing of reports. As a condition of pesticide registration under section 94.68, Wis. Stats., each registrant shall annually submit to the department a record of the quantities of each pesticide registered by him which he has sold or distributed within the state, including such other data as the department may request concerning pesticide uses. Such records shall be submitted by July 1 of each year for the preceding calendar year.

Ag 29.07 Registration of commercial applicators and sellers; reports. (1) Retail dealers of restricted use pesticides in Wisconsin shall register with the department, and upon request submit to the department records of the amounts and kinds of such pesticides sold during the preceding calendar year. Other retail dealers of pesticides shall upon request submit to the department records of the amounts and kinds of pesticides sold during the preceding calendar year.

(2) Distributors of pesticides in Wisconsin shall register with the department, and upon request submit to the department records of the amounts and kinds of pesticides sold during the preceding calendar year.

(3) Commercial applicators of pesticides in Wisconsin shall annually register with the department on or before April 15 of

each year, and submit information of the amounts and kinds of pesticides used or sold as required by the department.

(4) Persons required to register under this section shall register on forms furnished by the department, to include the name and address of the applicator or seller and business locations from which sales are made or from which business operations are conducted. Changes in business names and locations shall be reported to the department within 30 days after date of change.

Ag 29.08 Storage of pesticides. (1) Pesticides shall be stored in accordance with temperature and moisture requirements and other precautionary storage instructions contained on the product label, and in a manner which will assure that original labels on the containers are protected from damage or destruction and kept in readable condition.

(2) Pesticides while in storage shall be kept reasonably separated from food, feed, seed, livestock remedies, drugs, or any other products or materials, including other pesticides, which could become contaminated by leakage, breakage or volatilization.

(3) Storage rooms or areas in buildings shall be protected and secured in such manner that they are not readily accessible to children or the general public.

(4) Pesticides stored or held at outdoor locations, including loading or application sites, shall be covered or otherwise protected or secured to avoid damage to or destruction of product labels on the container and to prevent public access or injury to persons or property, including fish and wildlife.

(5) Pesticides removed from original shipping containers prior to storage shall be inspected to assure that caps, lids or other sealing devices on the container are tight or secure, and that the container is sound and unbroken. Defective containers shall be repaired if repairable or be destroyed or disposed of in a safe manner.

(6) Hypochlorite sanitizers held in storage for sale or distribution shall be stored in such a manner that the oldest stocks will be used to replace stock which has been sold.

(7) Bins or areas used for storage of pesticides shall be maintained in a clean condition and be thoroughly inspected and cleaned prior to use for any other purpose.

Ag 29.09 Sale and display of pesticides. (1) No pesticide shall be sold or displayed which is not labeled, or on which the label is illegible in any respect.

(2) Pesticides labeled with the precautionary signal words, "POISON", "DANGER" or "WARNING", and pesticides packaged in glass or non-rigid containers, or in containers the caps, lids or dispensing devices of which are not equipped with a protective seal or covering, shall be displayed at a height not less than 42 inches above the floor or otherwise protected to assure they are out of reach of children.

(3) Any pesticide before being sold or displayed shall be examined to assure that caps, lids or other sealing devices on the container are tight or secure and that the container is sound and unbroken. Defective containers shall not be placed on display.

(4) No pesticide shall be displayed in such proximity to food, feed, seed, plants or other products displayed or offered for sale that contamination will result from volatilization, or leakage or breakage of the pesticide container.

(5) No person shall sell a pesticide for uses other than those specifically set forth on the original product label, or supplemental labeling supplied by the manufacturer or registrant for new and approved uses registered with the department and furnished to the purchaser at time of sale. Such labeling shall be considered a part of the product label.

Ag 29.10 Removal of pesticides from sale. (1) The department may by summary order direct the removal from sale of pesticides which are adulterated or misbranded, or held or offered for sale in violation of these rules. Notice of any removal order shall be given to the manufacturer, distributor or registrant whenever recall of the pesticide or other corrective action is appropriate, unless the removal order was served directly on them. The notice shall include the reasons for the order and such instructions as may be necessary to accomplish the recall or removal of such products from sale.

(2) A pesticide, the labeling of which was acceptable at the time of registration but which at a later date is determined to be defective or deficient because of changes in approved uses, directions for use, warning or precautionary statements or for any other reason, may be ordered removed from sale by the department. The product may be released from the removal order if relabeled to correct existing deficiencies.

(3) Pesticides not registered with the department or for which registration has expired, been discontinued or cancelled shall be removed from sale or display by retail dealers and distributors. Such pesticides, including pesticides ordered removed from sale by the department for any reason, shall not be sold or displayed until registered or brought into compliance with the law.

Ag 29.11 Application, use and disposal of pesticides. (1)

No person shall use, store, transport or display pesticides contrary to label instructions, or in a careless or reckless manner so as to endanger the life ~~of~~^{OR} property of another or to cause the contamination of raw agricultural commodities or food or feed in any stage of production or processing, either on his own premises or the premises of another. Any use, storage, transport or display of pesticides in violation of these rules, or any use of a pesticide which a person knows or ought to know creates a high degree of risk and probability of injury or harm to other persons or their property, is careless or reckless use.

(2) No person shall apply to or cause a pesticide to enter public or ground waters of this state directly or through sewage systems. This does not apply to persons engaged in fish management or the treatment of waters under the supervision or rules of the Department of Natural Resources, or to chemicals accepted and registered for use in the cleaning, sanitizing, algaeciding, slimiciding, or disinfection of toilets, urinals, sewers, sinks, swimming pools, food processing equipment, dishes, utensils, hospital equipment, walls, floors, or other surfaces or materials in any building or area where such uses are necessary.

(3) No person shall fill pesticide spray equipment from any public waters of the state in a manner that contamination of such waters will result from back siphonage, spillage, overflow, or other causes. Pesticide spray equipment shall not be cleaned in public waters.

(4) No commercial applicator or person engaged in the rental, sale or furnishing of pesticide application equipment shall use, furnish, rent or sell pesticide application equipment which is clogged, unclean or in disrepair, or which cannot be properly calibrated.

(5) No person shall apply a pesticide by aircraft unless the aircraft meets the requirements of and is operated according to the regulations of the Federal Aviation Administration and the Wisconsin Department of Transportation, and the operator is licensed by the Wisconsin Department of Transportation for the operation of such aircraft.

(6) No person shall dispose of pesticides or their containers contrary to directions on the label or in any manner which may be hazardous to the public.

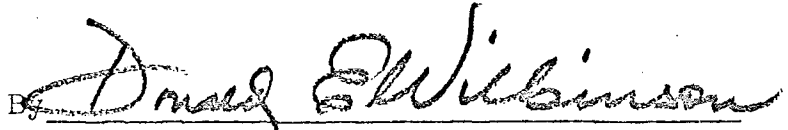
(7) Treated seeds shall be incorporated into the soil during planting and shall not be used for or mixed with any food or feed, or be exposed in such a manner that birds or other wildlife have access to them.

The rules contained herein shall take effect November 1, 1970.

Dated: September 25, 1970.

STATE OF WISCONSIN.

DEPARTMENT OF AGRICULTURE

A handwritten signature in cursive script, reading "Doug E. Wilkinson". The signature is written in dark ink and is positioned above a horizontal line.

Secretary of Agriculture

The rules contained herein shall take effect November 1, 1970.

Dated: September 25, 1970.

STATE OF WISCONSIN

DEPARTMENT OF AGRICULTURE

By *Don E. Wilkinson*

Secretary of Agriculture