

(4) Amphibians and reptiles, including but not limited to poisonous snakes.

(5) Aquatic and terrestrial invertebrates, including but not limited to insects and other arthropods, molluscs and nematodes.

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

(7) Viruses, bacteria, mycoplasmata and protozoans other than those on or in living humans or other animals.

History: Cr. Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.13 to be Ag 29.11, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.11 and am. (intro.), (5) to (7), Register, March, 1982, No. 315, eff. 4-1-82.

Ag 29.03 Prohibited pesticides. (1) The registration, purchase, sale or use of the following pesticides is prohibited in Wisconsin, except for use under emergency permit as provided in s. Ag 29.06, use under experimental use permit as provided in s. Ag 29.07, or in the case of DDT and its isomers and metabolites, emergency or experimental uses authorized by the pesticide review board under s. 134.67, Stats.:

(a) DDT.

(b) DDE (TDD).

(c) Endrin.

(d) Cadmium.

(e) Thallium sulfate.

(f) Any pesticide whose registration has been suspended or cancelled, or whose use has been prohibited under the federal act or by order of the department, to the extent that the sale, distribution or use is covered by the suspension, cancellation or order.

(2) The prohibitions under sub. (1) do not apply to the purchase, sale or use of pesticides as laboratory standards or educational exhibits, or for laboratory research other than research involving the use of DDT for which a permit is required under s. 134.67, Stats.

History: Cr. Register, March, 1982, No. 315, eff. 4-1-82.

Ag 29.04 Pesticides for use by special permit only. (1) **PERMIT REQUIREMENTS.** (a) The following pesticides may be used or purchased for use in Wisconsin only under a special permit from the department as provided in this section, except for emergency use under permit as provided in s. Ag 29.06, or experimental use under permit as provided in s. Ag 29.07:

1. Sodium fluoroacetate (1080).

2. Strychnine, including products containing strychnine sold or purchased for use as pesticides.

3. Chlordane, except that chlordane in the possession of users as of the effective date of this subsection may be used for registered purposes without a department permit for a period of 2 years after the effective date of this subsection. No permit shall be required for the purchase or use of chlordane by certified applicators certified in the category of wood destroying pest control as that category is defined in s. Ag 29.16 (2) (g) 3.

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4. Any pesticide used for the control of insects or rodents in public sewers, except when used by or under supervision of certified pest control applicators or government officials trained in public health pest control as defined in s. Ag 29.16 (2) (h), and acting in the course of their employment.

(b) The permit requirements under par. (a) do not apply to the purchase or use of pesticides as laboratory standards or educational exhibits, or for laboratory research.

(2) APPLICATIONS FOR PERMIT. Applications for special permits under this section shall be submitted to the department in writing, on forms prescribed by the department, except that an oral application may be accepted by the department in an emergency. Emergency oral applications, if accepted by the department, shall be followed by a written application postmarked or hand-delivered to the department within 48 hours after acceptance of the emergency oral application. Applications, including oral applications, shall specify:

(a) The name and address of the permit applicant, including the name and address of the pesticide applicator if different from the permit applicant.

(b) The name and formulation of the pesticide for which a permit is requested, and the purposes for which it will be used.

(c) Where and when the pesticide is to be used and in what quantity.

(d) Any special controls or precautions that will be exercised in the use of the pesticide.

(e) Any other information required by the department.

(3) STANDARDS FOR ISSUING PERMITS; GENERAL. Permits may be issued under this section only when, in the judgment of the department, adequate controls can be established to assure that the pesticide will be used with relative safety and without unreasonable hazard to persons, property, wild animals or the environment. As a condition to the issuance of permits, the department may require that the pesticide be used only by or under the direct and immediate supervision of government officials engaged in pest control work, certified applicators, or other qualified personnel. The department shall grant or deny a permit application within 60 business days after the application is filed with the department, provided that the application is accompanied by all requisite information and documentation.

(4) PERMITS FOR USE OF SODIUM FLUOROACETATE (1080); SPECIAL REQUIREMENTS. (a) Special permits for the use of sodium fluoroacetate (1080) may be granted only for use in the control of rats and mice by certified applicators.

(b) Requests for permits for the use of sodium fluoroacetate (1080) shall, in addition to the information required under sub. (2), include a description of:

1. The nature of the application site and surrounding area;
2. The types of wild animals frequenting the site, if any;

3. The type of bait or the form in which the sodium fluoroacetate (1080) will be used;

4. The method of application; and

5. The method of disposal of carcasses of rats or mice.

(c) The following conditions shall apply to all permits for the use of sodium fluoroacetate (1080) under this section, and to all emergency permits for its use under s. Ag 29.06:

1. All buildings or portions of buildings in which the pesticide is to be used shall be completely closed and sealed off against access by all non-target animals and persons other than those engaged in the control work. Control work within a building shall be carried on in such a manner as to prevent the contamination of the building or its contents. All remaining and unconsumed pesticide used in the building shall be completely removed from the building before the building is opened for further use.

2. Outdoor applications shall be made using tamper-proof bait boxes designed and secured to prevent a hazard to humans or non-target animals, including birds or fish.

3. Carcasses of rats and mice shall be picked up promptly after being killed by the pesticide, to prevent access to the carcasses by humans or other animals. Carcasses shall be disposed of at a landfill site approved by the department of natural resources.

4. Records of each use of the pesticide shall be maintained for a period of 2 years and be made available to the department upon request, for inspection and copying. Records shall include the date and time of application, and a description of the site at which the pesticide was used, the form in which it was used, the method of application, and the site used for the disposal of carcasses.

(5) PERMITS FOR USE OF STRYCHNINE AND CHLORDANE; SPECIAL REQUIREMENTS. (a) Special permits for the use of strychnine may be granted only for uses for which the product is registered, and only for applications below ground or for use in the control of rats and mice.

(b) Special permits for the use of chlordane may be granted only for uses for which the product is registered, and only for use by certified applicators. Permits shall not authorize the sale or purchase of chlordane in container quantities of less than one gallon.

(6) PROHIBITIONS. (a) No person may use any pesticide for which a permit is required under this section unless and until a permit has been received in writing from the department, or use the pesticide contrary to the terms and conditions specified in the permit.

(b) No person may openly display sodium fluoroacetate (1080), strychnine or chlordane for sale, or sell or offer to sell them to any person who does not have a permit from the department. Persons selling sodium fluoroacetate (1080), strychnine or chlordane shall make a record of each sale, to include the date of sale, the name and address of the purchaser, the purchaser's permit number, and the quantity of the pesticide sold. Records shall be kept for a period of 2 years and be made available to the department upon request, for inspection and copying.

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(c) No permit holder purchasing any sodium fluoroacetate (1080), strychnine or chlordane may resell or give the pesticide to persons who do not have a permit.

History: Cr. Register, March, 1982, No. 315, eff. 4-1-82; am. (3), Register, December, 1985, No. 360, eff. 1-1-86.

Ag 29.05 Pesticides for limited purposes only. (1) The following pesticides may be purchased, sold or used in Wisconsin only for the purposes specified in this section, except for emergency use under permit as provided in s. Ag 29.06, or experimental use under permit as provided in s. Ag 29.07:

(a) Aldrin may be used only for foundation treatment below ground to control termites and for root treatment of nonfood trees at planting.

(b) Benzene hexachloride may be used only to treat trees for the control of pine root collar weevil, pine tip weevil and balsam gall midge, at an application rate not to exceed $\frac{1}{4}$ pound per acre.

(c) Chromium in any pesticide formulation may be used only in the following forms and for the following purposes:

1. For pressure treatment of lumber for protection against termites and decay producing fungi.

2. In the form of potassium dichromate for the preservation of milk samples for testing. Milk samples treated with potassium dichromate shall not be sold or disposed of for consumption by persons or other animals. No person shall ship or deliver milk sample bottles containing potassium dichromate unless each bottle or the shipping container is labeled with the following:

a. The statement "NOT FOR SALE OR CONSUMPTION—CONTAINS POTASSIUM DICHROMATE;"

b. The signal words "DANGER-POISON;" and

c. A skull and crossbones, or other readily recognizable poison prevention symbol.

Note: Milk samples treated with potassium dichromate are classified as hazardous waste under ch. NR 181, Wis. Adm. Code, and must be disposed of in compliance with that chapter.

(d) Dieldrin may be used only for foundation treatment below ground to control termites.

(e) Heptachlor may be used only for foundation treatment below ground to control termites, and for registered uses in the treatment of seeds.

(f) Lindane (gamma isomer of benzene hexachloride) may be used only for:

1. The treatment of beef cattle, swine, goats except dairy goats, sheep and pets for mange and lice; treatment of sheep for fleeceworms; and spot treatment of animals, including dairy cattle and goats, for the protection of flesh and flesh wounds against insect infestation.

2. Seed treatment.

3. Treatment of yard and non-commercial garden ornamentals.

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4. Household uses for which the product is registered.
5. Medicinal use by physicians or persons acting under their direction.

(g) Mercury in any pesticide formulation may be used only in the manufacturing of paints and to control winter turf disease on golf tees and greens.

(2) The limitations under sub. (1) do not apply to the purchase, sale or use of pesticides as laboratory standards or educational exhibits, or for laboratory research.

History: Cr. Register, March, 1982, No. 315, eff. 4-1-82; am. (1)(c), Register, August, 1982, No. 320, eff. 9-1-82.

Ag 29.06 Emergency use permits. (1) PERMITS; AUTHORIZATION. The department may issue emergency use permits authorizing the purchase, sale, distribution and use of pesticides, other than DDT and its isomers and metabolites, for purposes not otherwise permitted under ss. 94.67 through 94.71, Stats., or this chapter, when necessary in an emergency situation to control the outbreak or spread of epidemic diseases of humans, or plant or animal diseases or pest infestations which threaten substantial destruction of property, where the disease or infestation can only be controlled by the use of a pesticide which would not be authorized for use except by emergency permit. An emergency permit may not be issued under this section for any purpose or use which is not also authorized or approved under the federal act. Emergency permits for the use of DDT and its isomers and metabolites may be issued only by the pesticide review board under s. 134.67, Stats.

(2) **APPLICATIONS FOR PERMIT.** Applications for emergency use permits shall be in writing, and include the following information:

(a) The name and address of the applicant, including the name and address of the pesticide applicator if different from the applicant;

(b) The nature and scope of the emergency warranting the pesticide use, and the purpose for which the pesticide will be used.

(c) The composition and formulation of the pesticide;

(d) The source from which the pesticide is to be purchased or shipped;

(e) The amount of pesticide to be applied;

(f) The site of the pesticide application;

(g) The method of pesticide application, and any special controls or precautions that will be exercised in the use and disposal of the pesticide; and

(h) Any additional information required by the department.

(3) **PERMIT CONDITIONS AND CONTROLS.** (a) The department may impose conditions or limitations on emergency use permits as necessary to protect persons, property, wild animals or the environment, including conditions and limitations on the duration of the permit, the amount of pesticide to be used, the location and size of the application site where the pesticide may be used, the method of pesticide application, and the disposal of unused pesticides and pesticide containers. The department may require that the pesticide be used only by or under the direct and

immediate supervision of government officials engaged in pest control work, certified applicators, or other qualified personnel.

(b) The department may summarily suspend or revoke an emergency use permit if it appears that any condition of the permit has been violated, or that continued pesticide use under the permit may result in an unreasonable hazard to persons, property, wild animals or the environment.

(4) **ACTION ON PERMIT APPLICATION; TIME LIMIT.** The department shall grant or deny an application for an emergency use permit within 20 business days after the application is filed with the department, provided that the application is accompanied by all requisite information and documentation.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.04 to be Ag 29.05, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.05 to be Ag 29.03 and am.; Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.03 and am., Register, March, 1982, No. 315, eff. 4-1-82; cr. (4), Register, December, 1985, No. 360, eff. 1-1-86.

Ag 29.07 Experimental use permits (1) PERMIT; AUTHORIZATION. The department may issue experimental use permits authorizing the sale, purchase, shipment and use of pesticides, 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. A permit may not be issued under this section for any purpose or use not also authorized or approved under the federal act. Permits may be issued only to:

(a) Persons wishing to accumulate experimental data within the state necessary to register a pesticide or pesticide use under the federal act or s. Ag 29.08.

(b) Public or private agricultural research agencies or educational institutions performing scientific research in this state not necessarily related to the registration of a pesticide or pesticide use. This paragraph does not authorize the issuance of permits to agencies or institutions engaged primarily in the sale or promotion of pesticides, except for purposes provided in par. (a).

(2) **APPLICATIONS FOR PERMIT.** Applications for experimental use permits shall be submitted to the department in writing, and include:

(a) The names and addresses of:

1. The applicant.
2. Persons who will be shipping pesticide, and the address of the place or places from which the pesticide will be shipped.
3. Persons who will be receiving shipments of the pesticide.
4. Persons who will be applying or supervising the experimental application of the pesticide.
5. Persons on whose property the pesticide will be used experimentally.

(b) A detailed description of the proposed experimental use of the pesticide, including:

1. The purpose of the experimental use.
2. The quantity of pesticide to be used.

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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 is to be used.

7. The methods of pesticide application or use.

(c) The proposed schedule of pesticide shipments, including individual shipment dates and amounts.

(d) A detailed description of the pesticide to be used, including:

1. The chemical composition and type of formulation of the pesticide, giving the chemical name and percentage by weight of each active and inert ingredient.

2. Relevant chemical and physical properties of the pesticide, as required by the department.

3. Methods used to analyze pesticide formulation and to determine the existence of pesticide residues.

4. Available data and 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 data and information on the rate of decline of pesticide residues in target and non-target organisms, raw agricultural commodities, food, feed and the environment.

6. Potential hazards to persons using the pesticide, and suggested precautions for use.

(e) A description of precautions to be taken in connection with the experimental use to prevent hazards to persons, property, wild animals and the environment. Where an experimental use may cause pesticide residues to occur in raw agricultural commodities, food or feed, the applicant shall:

1. Submit 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; or

2. Certify that any raw agricultural commodities, food or feed derived from the experiment or program will not be sold or disposed of for consumption by persons or animals, other than laboratory or experimental animals.

(f) A copy of any permit issued for the experimental use under the federal act.

(g) Copies of proposed labeling for the experimental use pesticide.

(h) Any additional information required by the department.

(3) **STANDARDS FOR ISSUING PERMITS.** The department may issue permits only for bona fide experimental uses under the supervision of persons qualified by training and experience to engage in pesticide research, when in the department's judgment the proposed experimental use presents no significant hazard to persons, property, wild animals or the environment, and includes adequate controls and safeguards to prevent actual hazards. The department shall grant or deny a permit application within 60 business days after the application is filed with the department, provided that the application is accompanied by all requisite information and documentation.

(4) **PERMIT CONDITIONS AND CONTROLS.** (a) The department may impose conditions or limitations on experimental uses as necessary to protect persons, property, wild animals or the environment, including limits on the amount of pesticide to be used experimentally, the size and location of experimental application sites, the method of pesticide use, and the disposal of unused pesticides and pesticide containers.

(b) Permits shall expire on a date set by the department, but shall in no case be effective for more than one year. Permits may be renewed or amended on basis of the standards and criteria applicable to the issuance of original permits. Permits may also be amended to authorize experimental use on property of persons not identified in the original application.

(c) The department may summarily suspend or revoke an experimental use permit if any condition of the permit has been violated, or if continuation of the experimental use may be hazardous to persons, property, wild animals or the environment.

(5) **LABELING.** Pesticides shipped or used under an experimental use permit shall be labeled to include:

(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) Any appropriate limitations on entry of persons into areas treated with the pesticide.

(h) Directions and conditions for use of the pesticide.

(i) Any other labeling required by the department.

(6) **REPORTS.** The department may require permit holders to file periodic reports with the department concerning the shipment or use of pesticides under the permit. In the reports, the department may request information on the amounts of pesticide shipped and used; shipment and delivery dates and locations; dates and site locations of pesticide use; experimental findings; disposal of unused pesticide and pesticide contain-

ers; disposal of treated agricultural commodities, food or feed; and other information pertaining to the experimental use of pesticides. Permit holders shall immediately report to the department any observed adverse effects of the experimental use on persons, property, wild animals, or the environment.

(7) **EXEMPTIONS.** An experimental use permit is not required for the preliminary screening or testing of a material by a state or federal agency, an accredited college or university, or a pesticide manufacturer or developer, if the screening or testing is designed solely to determine whether the material has value as a pesticide for specific purposes. This exemption is limited to laboratory tests or field tests on a total of not more than $\frac{1}{4}$ acre of land owned or leased by the testing agency, educational institution or pesticide developer. The exemption does not apply to pesticides or pesticide uses prohibited or limited under ss. Ag 29.03 through 29.05. Test crops or other products of the preliminary screening or testing shall not be sold or disposed of for consumption by persons or animals, other than laboratory or experimental animals.

History: Cr. Register, March, 1982, No. 315, eff. 4-1-82; am. (3), Register, December, 1985, No. 360, eff. 1-1-86.

Ag 29.08 Registration of pesticides to meet special local needs. (1) REGISTRATION; GENERAL REQUIREMENTS. The department may register pesticide products and uses not registered under the federal act, when necessary to meet a special local need in the state, as provided under s. 94.69 (11), Stats., and the federal act. Registration has the same effect within the state as registration under the federal act, unless disapproved by the environmental protection agency under the federal act. A product or use may be registered only if:

(a) Registration is necessary to meet a special local need within the state, as determined by the department. Situations which the department may consider as not constituting a special local need may include, but are not limited to, pest problems existing on a nationwide or multi-state regional basis.

(b) The product will be distributed for use only within the state, as evidenced by product labeling under sub. (4), and not for further manufacturing, reformulation or repackaging;

(c) The product or use is covered by necessary residue tolerances, exemptions, or other clearances under the federal act or the federal food, drug and cosmetic act, as amended (21 USC 301 et seq.), if the registration is for use on raw agricultural commodities, food or feed;

(d) The product is shown to be effective for use, and is warranted on the product label to perform as claimed;

(e) Registration of the product or use would, in the judgment of the department, result in no unreasonable adverse effects on persons, property, wild animals or the environment, assuming normal use according to label directions; and

(f) Registration of the product or the proposed use of the product has not been denied, disapproved, cancelled or suspended under the federal act. If registration of a product for any use has been denied, disapproved, cancelled or suspended under the federal act, no other use of the product

may be registered by the department without prior approval by the federal environmental protection agency.

(g) The product conforms to all applicable packaging, coloration and labeling standards and requirements under ss. 94.67 through 94.71, Stats., and the federal act.

(2) **REGISTRATION OF NEW PRODUCTS.** (a) The department may register a new product to meet a special local need only if it is formulated from ingredients found in federally registered products and:

1. Is identical in composition to a federally registered product, and differs only in packaging, formulation type, or identity of the manufacturer;

2. Contains the same active and inert ingredients as a federally registered product, except in different percentages; or

3. Contains a new combination of active or active and inert ingredients, all of which are found in federally registered products.

(b) If a new product is formulated from a product for which federal registration has been denied, disapproved, cancelled or suspended in part, the department may not register the new product without prior approval by the federal environmental protection agency.

(3) **APPLICATIONS FOR REGISTRATION; FEE.** (a) Applications for registration to meet a special local need shall include:

1. The name and address of the applicant, and the license number of the manufacturer's and labeler's license held by the applicant in this state.

2. A description of the special local need justifying registration.

3. The name of the product for which a registration is being sought and, if the application is for a new product registration, the complete formula of the product.

4. A copy of proposed labeling for the product.

5. Valid scientific evidence demonstrating that the product is effective for the proposed registered uses.

6. Any other information required by the department in order to make a determination on the application.

(b) Applications for registration to meet a special local need shall be accompanied by a fee of \$100.

(c) The department shall grant or deny an application for registration to meet a special local need within 180 business days after the application is filed with the department, provided that the application is accompanied by all requisite information and documentation.

(4) **LABELING.** (a) *New products.* New pesticide products registered by the department to meet a special local need shall be labeled in conformity with all applicable labeling standards and requirements for federally registered products, as provided under the federal act and ss. 94.67 through 94.71, Stats., and shall also contain:

1. A statement that the product is registered for distribution and use only in Wisconsin.

2. The special local need number assigned by the department.

3. The expiration date of state registration.

4. Any other labeling required by the department.

(b) *New uses of federally registered products.* Federally registered products which are registered by the department for an additional use to meet a special local need shall be accompanied at time of use by supplemental labeling containing:

1. A statement that the state-registered use is authorized only in Wisconsin.

2. Directions for use to meet the special local need.

3. The trade name of the product.

4. The name and address of the registrant.

5. The EPA (federal environmental protection agency) registration number of the federally registered product.

6. The special local need number assigned by the department.

7. A statement requiring persons using the product to comply with all applicable directions, restrictions and precautions found on the product label, and accompanying supplemental labeling.

8. The expiration date of the state registration.

9. Any other labeling required by the department.

(5) **USE RESTRICTIONS; USE BY CERTIFIED APPLICATORS ONLY.** The department may, as a condition to registering any pesticide product or use to meet a special local need, classify the product for use only by certified applicators. A product shall be classified for use only by certified applicators if:

(a) It is identical or similar in composition to a federally registered product for which all or similar uses have been restricted to use by certified applicators under the federal act;

(b) It meets the criteria for classification as a restricted-use pesticide under the federal act; or

(c) The department determines that the restricted-use classification is necessary to prevent unreasonable hazards to persons, property, wild animals or the environment.

(6) **SUSPENSION OR REVOCATION.** The department may summarily suspend or revoke a registration issued under this section if any conditions or requirements under which the product or use was registered is violated, the special local need no longer exists, or continuation of the registration may result in an unreasonable hazard to persons, property, wild animals or the environment. A registration shall be suspended or revoked

if at any time it is suspended or disapproved by action of the federal environmental protection agency under the federal act.

History: Cr. Register, March, 1982, No. 315, eff. 4-1-82; cr. (3) (c), Register, December, 1985, No. 360, eff. 1-1-86.

Ag 29.09 Licensing of pesticide manufacturers and labelers; filing of reports. (1) **LICENSE REQUIREMENT.** (a) No person may sell or distribute for sale any pesticide product in this state unless the product label bears the name and address of a licensee under s. 94.68, Stats., who, as the manufacturer, registrant or supplemental registrant of the pesticide product, is responsible for the introduction, sale or distribution of the pesticide product in this state. No license is required of a supplemental registrant if the product label bears the name and address of a licensed manufacturer or registrant, and 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.

(b) The name and address of the licensee, as it appears on the product label, shall conform to the name and address appearing on the license application. License applications shall include all addresses of licensees which may be used on product labels.

(2) **FILING OF REPORTS BY LICENSEES.** As a condition to the licensing of pesticide manufacturers and labelers under s. 94.68, Stats., persons holding or applying for licenses shall submit to the department upon request copies of pesticide labeling for each pesticide which may be sold or distributed by them in this state, a record of the quantities of each pesticide sold or distributed, the names and addresses of persons from or to whom pesticides are received or distributed for further manufacturing, packaging, or labeling, and such other information as the department may request concerning pesticides sold or distributed by them in this state.

(3) **ACTION ON LICENSE APPLICATION; TIME LIMIT.** The department shall grant or deny a license application by a pesticide manufacturer or labeler within 20 business days after the application is filed with the department, provided that the application is accompanied by all requisite information and documentation.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.06 to be Ag 29.07, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.07 to be Ag 29.05, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.05 and am., Register, March, 1982, No. 315, eff. 4-1-82; cr. (3), Register, December, 1985, No. 360, eff. 1-1-86.

Ag 29.10 Registration of commercial applicators and sellers. (1) **COMMERCIAL APPLICATORS.** (a) Commercial applicators, including but not limited to those licensed to use and apply restricted-use pesticides under s. 94.705 (1) (d) and (4) (c), Stats., shall register annually with the department if engaged in:

1. Forest, regulatory, public health or right-of-way pest control, as those categories are defined in s. Ag 29.16, whether or not the applications involve the use of restricted-use pesticides.

2. The use or application of pesticides as a commercial applicator for hire.

(b) Commercial applicators required to register under this subsection may not use or apply pesticides without a valid certificate of registration issued by the department. Certificates shall expire on December 31 of Register, December, 1985, No. 360

each year, and may be suspended or revoked for violations of any provisions of ss. 94.67 through 94.71, Stats., or this chapter. Certificate authorization may be partially suspended or revoked with respect to the use or application of pesticides by individual employes of a commercial applicator registered under this subsection.

(2) **DISTRIBUTORS AND RETAIL DEALERS.** Distributors and retail dealers of restricted-use pesticides and pesticides for which a use permit is required under s. Ag 29.04, shall register annually with the department. Registrations shall expire on December 31 of each year.

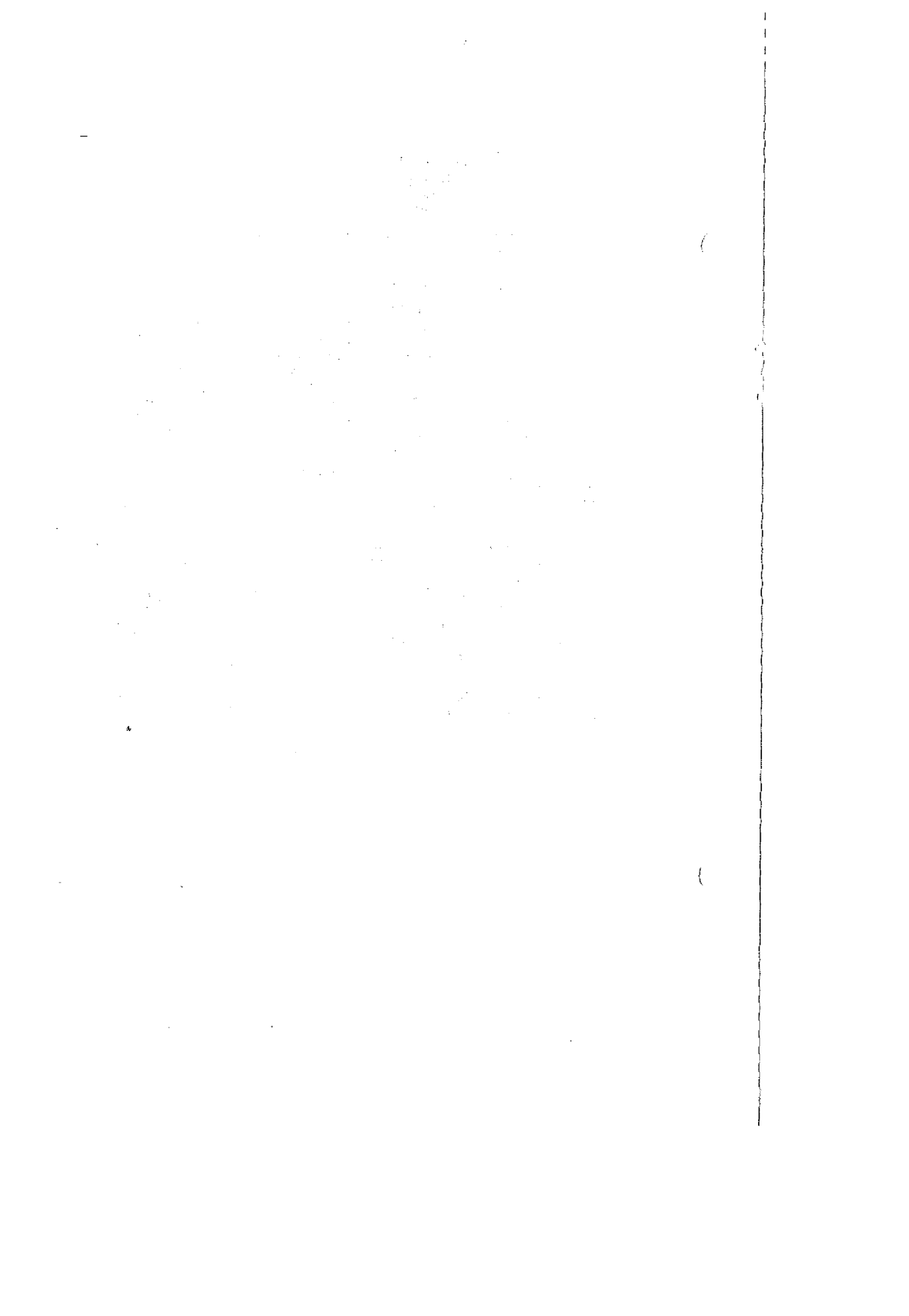
(3) **REGISTRATION PROCEDURES.** Persons required to register under this section shall register on forms furnished by the department, to include the name and address of the applicator or seller and business locations from which sales are made or from which business operations are conducted. Changes in business names or locations shall be reported to the department within 20 days after date of change. If a registration certificate is required by this section, the certificate shall be issued by the department within 20 business days after the department receives a completed registration form, unless the certificate is suspended or revoked by the department under this section.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.07 to be Ag 29.08, Register, April, 1972, No. 196, eff. 5-1-72; am. (1), Register, May, 1973, No. 209, eff. 6-1-73; renum. from Ag 29.08 to be Ag 29.06, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.06 and am., Register, March, 1982, No. 315, eff. 4-1-82; am. (3), Register, December, 1985, No. 360, eff. 1-1-86.

Ag 29.11 Commercial applicators and sellers; record keeping requirements. (1) **COMMERCIAL APPLICATORS.** All commercial applicators, whether or not subject to licensing under s. 94.705 (1) (d) and (4) (c), Stats., or registration under s. Ag 29.10, shall keep a record for a period of 2 years of all pesticide applications, other than applications of germicides, sanitizers and disinfectants. Records of pesticide applications shall be completed on the day pesticides are applied, and be made available to the department for inspection and copying upon request. Records shall include:

(a) The name of the individual using or applying the pesticide and the name and address of the person for whom the pesticide was applied.

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2. The time allotted to each topic;
3. The name, address, title and professional qualifications of each instructor;
4. The number of credit hours proposed for the course, in each category or subcategory of pesticide application; and
5. The name, address and telephone number of the person responsible for coordinating the course.

(7) **CERTIFICATION CARDS.** (a) A certification card shall be issued by the department to a private or commercial applicator when the applicator has satisfied all the conditions required for certification. Persons claiming to have satisfied the applicable certification requirements may submit a request for certification to the department. The department shall grant or deny a request for certification within 20 business days after the request is made, provided that the request is accompanied by all requisite information and documentation.

(b) Duplicates of the certification card may be issued by the department to the certified applicator if the applicator's card is lost, stolen, mutilated or destroyed upon payment of costs for duplicating the card.

(8) **SCOPE AND APPLICATION.** (a) This section is applicable to all commercial and private applicators of restricted-use pesticides. It does not apply to persons conducting laboratory type research involving restricted-use pesticides, and physicians or veterinarians using or applying restricted-use pesticides as drugs or medications in the treatment of persons or animals during the course of their normal practice.

(b) This section does not exempt persons certified to use or supervise the use of restricted-use pesticides from other provisions of this chapter as contained in ss. Ag 29.01 to 29.11, or ch. NR 80, Wis. Adm. Code, or other laws or regulations applicable to the use and application of pesticides.

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78; renum. from Ag 29.15 (2) to (6), (8) and (9), cr. (6), Register, March, 1982, No. 315, eff. 4-1-82; am. (7) (a), Register, December, 1985, No. 360, eff. 1-1-86.

Ag 29.17 Aldicarb use restrictions; reporting requirements. (1) PURPOSE. The purpose of this section is to minimize the quantity of aldicarb and its degradation products in groundwater, in order to prevent aldicarb residues in groundwater from reaching a level exceeding 10 ppb. The general restrictions in this section are based on the judgment that label restrictions implemented in 1982 on timing, amount and frequency of aldicarb use are adequate measures to prevent further deterioration of groundwater quality. Prohibitions, therefore, are intended to afford an opportunity for groundwater quality recovery by assuring that additional aldicarb applications be suspended according to these rules in the most critically affected areas. Should substantial evidence become available, through research or field monitoring, that, as a result of applications made since 1982, the label restrictions enumerated in this rule or label changes made subsequent to 1982 do not adequately minimize the quantity of aldicarb and its degradation products in groundwater in order to meet the purpose of this section, the rule will be amended. The department shall evaluate the need for further actions, including but not limited to monitoring, research, label restrictions, use restrictions and moratoriums.
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torial, when groundwater samples are found to contain aldicarb residues at a level from 2 to 10 parts per billion. Based upon that evaluation, prior to each growing season, the department shall implement those actions within its authority, necessary to meet the purpose of this rule. In the event the department concludes that further moratoria are required, such moratoria shall be implemented by amending the rule.

(2) **GENERAL RESTRICTIONS.** (a) *Amount and frequency of use.* Pesticides containing the active ingredient aldicarb shall not be applied at a rate exceeding 2 lbs. of aldicarb active ingredient per acre, or to the same application site more than once in any 2 successive years. Sites treated with aldicarb in 1982 may not be treated with aldicarb in 1983.

(b) *Use by certified applicators only.* Pesticides containing the active ingredient aldicarb are classified as restricted-use pesticides, to be applied only by commercial applicators certified in the pest control category pertaining to the type of application being made, certified private applicators, or persons acting under the direct supervision of the certified applicator.

(c) *Timing of application.* Pesticides containing the active ingredient aldicarb shall not be applied on potatoes sooner than 28 days after the date of planting or later than 42 days after the date of planting. Potatoes from fields treated with aldicarb shall not be harvested sooner than 50 days after the date of treatment.

(3) **REPORT OF INTENDED APPLICATION.** (a) No person may apply a pesticide containing the active ingredient aldicarb unless a report of intended application has been filed with the department at least 30 days before the pesticide is applied. Reports of intended application shall be made on forms provided by the department, and shall specify:

1. The name, address, and applicator certification number of the person making the application.
2. The name and address of the person contracting for the application, if any.
3. The type of crop on which the pesticide is to be applied, and the pests intended to be controlled by the application.
4. The specific location at which the pesticide is to be applied, including town, range, section and quarter-quarter section.
5. The approximate date on which the pesticide is to be applied.
6. The size of the area to be treated, and the amount of pesticide to be applied.
7. The history of aldicarb applications, if any, to the intended application site for the previous 3 years, specifying the year of each prior application.

(b) No person, other than a person identified on the report of intended application, may perform or supervise the application of a pesticide containing the active ingredient aldicarb. This does not apply to persons working under the direct supervision of the certified applicator.

(c) No person may apply a pesticide containing the active ingredient aldicarb except at the location identified in the report of intended application.

(d) No person may falsify information submitted under this subsection.

(4) SUMMARY SPECIAL ORDERS PROHIBITING ALDICARB USE IN CERTAIN AREAS. (a) Whenever the department receives a report of intended application under sub. (3), the department shall review the report to determine whether the intended application is subject to prohibition by summary special order, based on the prohibition criteria set forth under sub. (5). If the department finds that aldicarb applications to all, or a portion of the intended application site are subject to prohibition, it shall issue a summary special order under s. 94.71 (3) (c), Stats., and s. Ag 29.15 (2) (d), prohibiting aldicarb applications to the affected portions of the intended application site. Summary special orders shall expire on March 1 of the year following the year of intended application. Summary special orders shall prohibit all applications of aldicarb to the site for the duration of the order period. No person shall apply a pesticide containing the active ingredient aldicarb in violation of a summary special order issued under this subsection.

(b) A summary special order, if issued, shall be issued within 14 days after the date on which the report of intended application is received by the department. If a report of intended application is received on or before February 15 of the year of intended application, a summary special order may be issued at any time on or before March 1, based on new groundwater sample analyses received by the department more than 14 days after the receipt of the report of intended application. No summary special order shall be issued after March 1 of the year of intended application, except where the report of intended application is received after February 15 of that year.

(c) Summary special orders shall be issued to each person identified in the report of intended application. Orders shall be signed by the plant industry division administrator or designee, and be served in person or by certified mail, return receipt requested. Summary special orders are subject to a subsequent right of hearing before the department upon request, as provided in s. 94.71 (3) (c), Stats. Hearings shall be held within 14 days of the date on which the request for hearing is received by the department, unless the requesting person and the department agree to a later hearing date. Hearings shall be limited to the issue of whether the department has correctly interpreted and applied this subsection and sub. (5).

(5) APPLICATIONS SUBJECT TO PROHIBITION BY SPECIAL ORDER; CRITERIA. (a) *General criteria.* Aldicarb applications are subject to prohibition by summary special order under sub. (4) if the intended application site is located within a township quarter-quarter section lying wholly or in part within one mile of a sample point at which aldicarb residues have been detected in groundwater at a level exceeding 10 parts per billion. Groundwater sample analyses used as a basis for a summary special order shall be received by the plant industry division of the department, in completed form, on or before the date of the summary special order, but no earlier than March 1 of the year immediately preceding the year of intended application. For the purposes of this section, the groundwater

sample point shall be taken as the center point of the township quarter-quarter section in which the actual sample point is located. Survey boundaries are those established by the United States public lands surveys.

(b) *Individual exemptions.* 1. An aldicarb application which is subject to prohibition by summary special order may be exempted by the department, upon request, if:

a. The application site is separated by a groundwater recharge divide or discharge boundary from the sample point at which aldicarb residues have been detected in groundwater at a level exceeding 10 parts per billion; or

b. The application site is a single continuous field covering at least 160 acres, or covered by a center-pivot irrigation system having a radius of at least $\frac{1}{4}$ mile, if no more than one quarter-quarter section of land within the field is subject to the aldicarb use prohibition.

2. Persons requesting an exemption under this paragraph shall submit proof that the exemption prerequisites are met. Exemptions shall be issued in writing, signed by the plant industry division administrator or designee. Exemptions shall include a specific statement of the facts and conclusions which form the basis for the exemption.

(c) *Sample requirements.* Groundwater samples under par. (a) shall be properly drawn, by or under the supervision of the Wisconsin department of natural resources, the Wisconsin department of health and social services, or the department. Samples may be drawn from:

1. A potable water supply well; or

2. Any other well, including a test well, provided that the well construction and method of sampling are adequate to insure that soil and water located in the unsaturated zone of the soil profile are excluded from the well, and from the groundwater sample. Samples shall not be drawn from a high capacity irrigation well, or any well located within 300 feet of a high capacity irrigation well. For samples other than those drawn from a potable water supply well, the sample collection record shall include the date of well construction, the depth of the water intake screen, the depth of the well casing, and the method and date of sampling. The department shall exclude all samples, other than samples drawn from potable water supply wells, for which this information is not available.

(d) *Publication of map descriptions.* The department shall, at least annually, publish maps or other documents describing land areas where aldicarb applications may be subject to prohibition by summary special order, based on the criteria set forth in par. (a) and groundwater sample analyses received by the department as of the map publication date. Maps or descriptions published under this paragraph are for tentative informational purposes only, and do not have the force and effect of law, apart from a special order under sub. (4). A disclosure to this effect shall be included on all maps and descriptions published under this paragraph. Maps and descriptions shall clearly indicate the date of their publication.

(6) **DISTRIBUTORS AND RETAIL DEALERS OF ALDICARB; RECORDKEEPING AND REPORTING REQUIREMENTS.** Distributors and retail dealers shall keep records of aldicarb distributions and sales, specifying the amount of aldicarb product included in each sale or distribution, and the name and

address of the purchaser or recipient. During each week in which aldicarb sales or distributions are made by a distributor or dealer, the distributor or dealer shall file a written report with the department, specifying the amount of aldicarb product sold or distributed during that week to each purchaser or recipient, and the name and address of each purchaser or recipient. Reports may be in the form of actual invoice copies or written sales or distribution summaries.

(7) NOTICE OF CONTAMINATION FINDINGS. (a) Whenever a groundwater sample taken in accordance with sub. (5) (c) is found to contain aldicarb residues at a level of one part per billion or more, the department shall give written notice of the sample findings to:

1. The Wisconsin department of health and social services.
2. The county health department or county nurse, and the county extension agent for the county in which the groundwater sample was drawn.
3. All persons who have filed reports of intended application for aldicarb applications to be made in township quarter-quarter sections located wholly or in part within one mile of the sample point.

(b) Notice under par. (a) shall specify the township and quarter-quarter section in which the groundwater sample was taken, and the level of aldicarb residues found in the sample. Notice shall include such explanations and precautionary statements as may be considered appropriate by the department.

(8) GREENHOUSE AND RESEARCH APPLICATIONS; EXEMPTION. This section does not apply to greenhouse applications of aldicarb, or to research applications made pursuant to an experimental use permit issued by the department.

History: Emerg. cr. eff. 3-15-82; cr. Register, March, 1983, No. 327, eff. 4-1-83.

Ag 29.18 Authority. This chapter is adopted under authority of ss. 93.07 (1), 94.69 and 94.705 (2), Stats., and enforced under s. 94.71, Stats.

History: Cr. Register, March, 1982, No. 315, eff. 4-1-82; renun. from Ag 29.17, Register, March, 1983, No. 327, eff. 4-1-83.