

## Chapter Ag 29

### PESTICIDE USE AND CONTROL

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Note: See chapters NR 80 and 107, Wis. Adm. Code for pesticide rules of the department of natural resources. See also chapter NR 181, Wis. Adm. Code, pertaining to disposal of hazardous wastes.

**Ag 29.01 Definitions.** (1) "Accident" means an unexpected or undesirable event caused by the use or presence of a pesticide, adversely affecting persons, property or the environment.

(2) "Agricultural commodity" means any plant or part of a plant, or animal or animal product, produced by a person primarily for sale, consumption, propagation or other use by humans or animals, as defined in s. 94.67 (2), Stats.

(3) "Air gap" means the unobstructed vertical distance through the free atmosphere between the lowest opening from any pipe supplying water to a tank, vat, reservoir, or other pesticide container and the flood level rim of the tank, vat, reservoir or other container.

(4) "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.

(5) "Business location," as used under s. Ag 29.11 (1), means any place from which a commercial application business operates on a regular basis as a commercial applicator for hire. "Business location" includes a location at which orders for pesticide applications are regularly taken, but does not include motorized vehicles containing mobile telephone units utilized to take pesticide application orders.

(6) "Calibration of equipment" means the measurement of dispersal or output of application equipment, and the adjustment of such equipment to control the rate of dispersal and droplet or particle size of a pesticide dispersed by the equipment.

(7) "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. The term may include spill containment surfaces, sumps and above ground storage containers.

(8) "Certified applicator" means a private applicator or individual commercial applicator who is certified by the department under s. 94.705, Stats., and this chapter.

(9) "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.

(10) "Chemigation" means the process of applying pesticides with irrigation water during irrigation.

(11) "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 during irrigation.

(11m) "Commercial application business" has the meaning given under s. 94.67 (5), Stats.

(12) "Commercial applicator" means a person, whether or not a private applicator with respect to some uses, who uses or directs the use of any pesticide, either directly or through an employee, for any purpose or on any property other than as a private applicator. "Commercial applicator" does not include:

(a) A person who applies a pesticide, other than a restricted-use pesticide, solely for household purposes in and around that person's residence.

(b) A person who contracts with a commercial applicator for hire to apply a pesticide for that person, if the person does not otherwise use or direct the use of a pesticide as a commercial applicator.

(13) "Commercial applicator for hire" means a commercial applicator who uses or directs the use of a pesticide as an independent contractor for hire, either directly or through an employee. "Commercial applicator for hire" does not include a provider of janitorial, cleaning or sanitizing services if the provider of the services uses no pesticides other than sanitizers, disinfectants and germicides.

(14) "Common exposure route" means a likely way by which a pesticide may reach or enter an organism.

(15) "Compatibility" means that property of a pesticide which permits it to be used or combined with another pesticide or chemical without undesirable results being caused by the combination.

(16) "Competent" means qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and associated responsibility.

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

(18) "Directs the use" means to select a pesticide for use by another person or to instruct or control the application of a pesticide by another person and to be available if and when needed during that application.

"Directs the use" may, but does not necessarily, mean to be physically present at the time and place a pesticide is being applied.

(19) "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.

(20) "Distributor" means a person engaged in the sale of pesticides for resale and includes a person who sells at both wholesale and retail, as provided in s. 94.67 (11), Stats.

(21) "Environment" includes water, air, land and all plants and persons and other animals living in or on the water, air, or land and the interrelationships which exist among them, as defined in s. 94.67 (12), Stats.

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

(23) "Flow interrupter" means a device designed and constructed to stop the flow through a pesticide injection line if a pesticide injection unit ceases operation.

(24) "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.

(25) "Immediately adjacent land" means, with respect to the advance notification requirement under s. Ag 29.15 (4) (b), land which is directly contiguous to land on which pesticides may be applied, or which is separated only by a road, railway, or utility right-of-way, or by a government-owned land corridor or waterway having a width of not more than 66 feet.

(26) "Individual commercial applicator" means a natural person who does any of the following:

(a) Personally uses or directs the use of any pesticide as a commercial applicator for hire, or as an employee of a commercial applicator for hire. This paragraph does not apply to a person performing janitorial, cleaning or sanitizing services if the person uses no pesticides other than sanitizers, disinfectants and germicides.

(b) Personally uses a restricted-use pesticide as a commercial applicator.

(c) Directs the use of a pesticide by a person specified under par. (a) or (b).

(d) Mixes or directs the mixing of a pesticide for the purpose of commercial application.

(e) Loads or directs the loading of a pesticide into application or nurse equipment for the purpose of commercial application.

(27) "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.

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

(29) "New product" means a pesticide product which is not a federally registered product.

(30) "Nonpotable water supply" means a well or other source of water which is not used for human consumption, hygiene or preparation of food products. "Nonpotable water supply" includes surface water.

(31) "Non-target organism" means a plant or animal other than the one against which the pesticide is applied.

(32) "Ornamental" means trees, shrubs, and other plantings grown for their decorative effect in or around homes, buildings, parks, streets, or roadways.

(33) "Person" means an individual, partnership, corporation, association, and any other business association or entity. The term includes counties, municipalities and townships.

(34) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other microorganism, except viruses, bacteria or other microorganisms on or in living persons or other living animals, declared to be a pest under the federal act or this chapter.

(35) "Pesticide" means any substance or mixture of substances labeled or designed or intended for use in preventing, destroying, repelling or mitigating any pest, or as a plant regulator, defoliant or desiccant, as defined in s. 94.67 (25), Stats. For purposes of use, storage, transportation, disposal and display under this chapter, the term includes pesticide-fertilizer mixtures and seeds, seed pieces and other plant parts intended for planting or propagation which have been treated with a pesticide.

(36) "Pesticide drift" means the drifting or movement of pesticide by air currents or diffusion onto property beyond the boundaries of the target area to be treated with pesticide, other than by pesticide overspray. Absent evidence of pesticide overspray, the application of pesticide beyond the boundaries of the target area shall be considered to be the result of pesticide drift.

(37) "Pesticide mixing and loading site," as used under s. Ag 29.151, means a site or facility where more than 1,500 pounds of pesticide active ingredients, including pesticide active ingredients, contained in pesticide-fertilizer mixtures or combinations, are transferred from one container to another, repackaged, or mixed in dry or liquid form during any calendar year. If, during any calendar year, more than 1500 lbs. of pesticide active ingredients are mixed or loaded at 2 or more locations which are within ½ mile of each other, and which are under common ownership or control, those locations are collectively considered a "pesticide mixing and loading site" under this subsection. Transfer between containers includes transfers to pesticide application equipment and nurse tanks.

(38) "Pesticide overspray" means the application of pesticide onto property beyond the boundaries of the target area to be treated, by the failure to control the direct flow or application of pesticide from the ap-

plication equipment, under surrounding conditions of use and application, so as to confine the pesticide to the target area.

(39) "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 assigned to the pesticide under the federal act.

(c) The name of the pesticide labeler.

(41) "Pesticide review board" means the board created under s. 15.195 (1), Stats.

(42) "Pesticide supply tank" means a container used to hold pesticides for injection into a chemigation system.

(43) "Potable water supply" means a well or other source of water which is used for human consumption, hygiene or preparation of food products.

(44) "Practical knowledge" means the possession and comprehension of pertinent facts together with the ability to use them in dealing with specific problems and situations.

(45) "Private applicator" means a person who uses or directs the use of any pesticide for the purposes of producing any agricultural commodity on property owned or rented by the person or the person's employer, or on property of another person if the pesticide is used without compensation other than the trading of goods or services between producers of agricultural commodities on an exchange basis.

(46) "Protective equipment" means clothing or any other materials or devices that shield against unintended exposure to pesticides.

(47) "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 vented to the atmosphere, spring-loaded to the open position.

(48) "Regulated pest" means a specific organism considered under the federal act or rules of the department to be a pest requiring regulatory restrictions, regulations, or control procedures in order to protect the host, or persons or the environment.

(49) "Residential premises," as used under s. Ag 29.15 (10) and (11), means a structure which is used wholly or in part as a human residence, and includes all lawns, grounds, facilities and furnishings pertaining to that structure. "Residential premises" includes a residential structure occupied on a rental basis, and also includes a mobile home and the site on which it is located. "Residential premises" does not include:

(a) A hotel, motel or similar premises occupied on a transient basis.

(b) A hospital, nursing home or similar facility occupied by persons receiving medical care or related services.

(c) A prison, jail or other place of detention.

(50) "Restricted-use pesticide" means a pesticide which, with respect to certain or all of its uses, is classified under the federal act or s. Ag 29.08 (6), as a restricted-use pesticide for use only by certified applicators.

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

(52) "Similar composition" means composition of a pesticide product which, when compared to a federally registered pesticide product, has the same active ingredients, and the same category of toxicity, as the federally registered product with which it is compared.

(53) "Similar use" means use of a pesticide product which, when compared to a federally registered use of a product with similar composition, is substantially the same as the federally registered use, and does not require a change in precautionary labeling under the federal act.

(54) "Special local need" means an existing or imminent pest problem within the state which cannot be adequately controlled by the use of any available federally-registered pesticide product.

(55) "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 s. Ag 29.15 (1), excludes pesticides held on residential property for use in and about the home.

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

(57) "Target organism" means a plant, animal, or other organism against which a pesticide is applied.

(58) "Toxicity" means the property of a pesticide to cause any adverse physiological effects.

(59) "Vacuum relief valve" means an atmospheric device designed, constructed and installed to protect against back-siphonage by allowing the entry of air to relieve vacuums in a chemigation system.

(60) "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: Additional definitions are found in s. 94.67, Stats.

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Register, October, 1991, No. 430

may have access to the treated area, including persons of limited English language ability. Compliance with the posting requirement under par. (a) does not relieve any person of the duty to comply with this paragraph.

(d) *Responsibility for compliance; exemption.* 1. Except as provided under subd. 2, the pesticide applicator is responsible for complying with the posting requirements under this subsection.

2. Under an aerial application contract, the person contracting for the aerial application may agree to assume the applicator's responsibility for posting under this subsection. An agreement does not relieve the applicator of responsibility unless it is made prior to the aerial application, and clearly informs the contracting party of the re-entry interval and posting requirements under this subsection.

(e) *Aquatic applications; exemption.* This subsection does not apply to pesticide applications to waters of the state for the management or control of aquatic plants or organisms if the treated area is posted in compliance with ch. NR 107.

(8) **PESTICIDES TEMPORARILY HELD AT LOADING AND APPLICATION SITES.** Pesticides and their containers temporarily held at loading and application sites in connection with their use shall be kept covered, or otherwise secured or guarded so as to prevent access by children, the general public or wild animals, or the contamination of the waters of the state.

(9) **USE OF PESTICIDES HIGHLY TOXIC TO BEES; NOTICE TO BEEKEEPERS.**

(a) Persons owning honeybee colonies located within a 1½ mile radius of land on which pesticides are to be applied shall be notified prior to the application of any pesticide labeled as being "Highly Toxic to Bees" or containing the active ingredient methomyl if, at any time within the calendar year, they have made a written request for advance notification to the landowner or person controlling the use of the land on which the pesticides may be applied. Written requests for advance notification shall include the specific location of each bee yard, and the name, address, and telephone number if any, of the honeybee colony owner making the request. Responsibility for giving advance notice shall be with the landowner or person controlling the use of the land on which the pesticide is to be applied, whichever party has received the request for notification. Notice from either responsible party shall constitute notice from both.

(b) Advance notice of application may be written or oral, and shall include the intended date and time of application, the trade or common name of the pesticide to be applied, and the location of the land on which the application is to be made. Notice shall be given at least 24 hours in advance of application. If the application date is changed, so that the application will occur before or after the intended date specified in the original notice of application, a new notice shall be given as soon as reasonably possible prior to the application. Advance notice need not be given in emergencies where an immediate application is required to control a sudden pest infestation, and time does not reasonably allow the giving of an advance 24 hour notice. Notice of emergency applications shall be given as soon as reasonably possible before or after the application and include a brief explanation of the circumstances constituting the emergency.

(10) **COMMERCIAL APPLICATORS FOR HIRE; APPLICATION INFORMATION.** (a) *Applicator to provide information.* A commercial applicator for hire who performs a pesticide application for any person, other than a residential or yard application under sub. (11), shall provide that person with a written statement containing the information prescribed under par. (b). Except as provided under par. (c), the statement shall be provided to the contracting person before or immediately after the application is made.

(b) *Information required.* The statement under par. (a) shall include all of the following information:

1. The name, license number and certification number of the applicator.
2. The telephone number of the applicator or the commercial application business.
3. The common chemical or brand name of the pesticide applied.
4. The concentration and total quantity of the pesticide applied, or the amount of pesticide active ingredient applied per unit area and the total area treated.
5. Any post-application precautions stated on the pesticide label, including any prescribed time intervals for re-entry, grazing, harvest or swimming.
6. The date and approximate time of application.

(c) *Time for providing information; exemption.* The statement required under par. (a) may be provided up to 30 days after the pesticide application if the commercial applicator for hire does both of the following before the application is made:

1. Notifies the contracting person of pertinent post-application precautions specified on the pesticide label.
2. Notifies the contracting person of the date or dates on which the pesticide may be applied.

(11) **RESIDENTIAL AND YARD APPLICATIONS BY COMMERCIAL APPLICATORS.** (a) *Notice prior to application.* Except as provided under par. (c) or (f), a commercial applicator shall, before applying any pesticide to turf, ornamentals or structures on residential premises, notify residents of the premises that they may obtain the pre-application information specified under par. (b) upon request. If a commercial applicator contracts with a resident to make more than one pesticide application to the same residential premises, notice under this paragraph shall be given prior to the first application in each calendar year.

(b) *Pre-application information upon request.* If a resident requests pre-application information under par. (a), the commercial applicator shall provide the following information in writing to the requesting resident before making the pesticide application:

1. The common chemical or brand name of each pesticide which may be applied.



2. The range of concentrations and potential total quantities of pesticide, or the range of amounts of pesticide active ingredients, which may be applied.

3. The pesticide label of each pesticide which may be applied.

4. The date on which the pesticide application will be made. The pesticide application date may be verbally communicated to the resident by the commercial applicator if the resident consents to such notification at the time the advance notice is provided under par. (a).

5. The name, address and telephone number of a person employed by the commercial application business whom residents may contact to obtain further information about the application.

(c) *Pre-application notice; exemption.* If a pesticide is to be applied to residential premises containing 2 or more dwelling units, the notification under par. (a) may be provided to the person requesting the pesticide application, rather than to all residents.

(d) *Application information; required whether or not requested.* Except as provided under par. (f), a commercial applicator who applies pesticides to turf, ornamentals or structures on residential premises shall provide the following information to residents in the manner prescribed under par. (e) at the time of application, regardless of whether the information is requested:

1. The name of the applicator, and the applicator's license and certification number if applicable.

2. The telephone number of the applicator or the applicator's employer.

3. The common chemical or brand name of the pesticide applied.

4. The concentration and total quantity of the pesticide applied, or the amount of pesticide active ingredient applied per unit area and the total area treated.

5. Any pertinent post-application precautions stated on the pesticide label, including precautions related to re-entry into or use of treated areas.

6. The date and approximate time of application.

(e) *Application information; how provided.* Information under par. (d) related to pesticide applications to turf, ornamentals or structures on residential premises shall be provided to residents as follows:

1. If an application is made in or around a single family residence or dwelling unit, the information shall be left at that residence or dwelling unit before the applicator leaves the residence or dwelling unit.

2. If an application is made to common areas within structures containing multiple dwelling units, or to turf or ornamentals on residential premises containing multiple dwelling units, the required information shall be left at each dwelling unit before the applicator leaves the premises. Alternatively, the applicator may post clearly legible notices in common entryways or other conspicuous locations before making the application, so that there is a reasonable likelihood that all residents will be notified.

(f) Paragraphs (a) and (d) do not apply to applications of germicides, sanitizers or disinfectants.

(12) VIOLATIONS BY EMPLOYER OR CONTRACTOR. No person who employs a pesticide applicator, or who contracts with a pesticide applicator to use a pesticide on that person's behalf, may direct, compel or coerce the pesticide applicator in any manner to use a pesticide in violation of ss. 94.67 to 94.71, Stats., or this chapter knowing that there is a reasonable likelihood that the use would be in violation of the law.

Note: Nothing in this chapter limits the civil or criminal liability of an employer or contractor for the acts or omissions of a pesticide applicator if the employer or contractor may be held jointly liable with the applicator under this chapter or other applicable law.

(13) VIOLATION OF PREHARVEST INTERVAL. No person may harvest an agricultural commodity from a pesticide application site during the preharvest interval specified for that commodity on the pesticide label. The landowner or person controlling the use of the pesticide application site is responsible for any violation of this paragraph. If a commercial applicator for hire makes the pesticide application, the commercial applicator for hire is also responsible for any violation of this paragraph unless the applicator clearly informs the contracting party of the preharvest interval and the requirements of this paragraph prior to making the application.

(14) PESTICIDE SPILLS. Pesticide spills shall be immediately contained and recovered in a manner which prevents contamination of the waters of the state, and prevents hazards to persons, property, fish and other animals. Surfaces upon which pesticides have been spilled shall be promptly cleaned to assure the maximum recovery of the material spilled.

Note: The department of natural resources administers rules which require reporting of spills. Reporting requirements are based upon the quantity of pesticide spilled.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. Ag 29.11 to be Ag 29.12; (2) as renum. is am., Register, April, 1972, No. 196, eff. 5-1-72; am. (1), (2), (3), (5) and (6) and cr. (8), Register, May, 1973, No. 209, eff. 6-1-73; renum. from Ag 29.12 to Ag 29.10, am. (1), Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.10 and am., Register, March, 1982, No. 315, eff. 4-1-82; r. and recr. (1), (2) (b), (5) and (7) (a), (b) and (d), am. (2) (a) 2, and (3), cr. (7) (e) and (10) to (14), Register, April, 1990, No. 412, eff. 5-1-90.

**Ag 29.151 Pesticide mixing and loading.** (1) **GENERAL.** Except as provided under sub. (6), pesticide mixing and loading operations shall comply with applicable requirements under subs. (2) to (5) if the mixing or loading operations are conducted:

(a) Within 100 feet of any well or surface water; or

(b) At a pesticide mixing and loading site as defined under s. Ag 29.01 (37).

(2) **SPILL CONTAINMENT SURFACE.** (a) *General.* Pesticide mixing and loading operations under sub. (1), including operations to impregnate fertilizers with pesticides, shall be conducted over a surface which is designed to catch and contain pesticide spills. Except as provided under par. (c), the surface shall be paved or lined with asphalt, concrete or other materials approved in writing by the department.

Note: The department will maintain a list of approved paving and lining materials for various pesticide compounds, and will provide the current list to interested persons upon request. Additional materials may be approved and added to this list if the person requesting approval provides the department with information demonstrating the adequacy of the mate-

properly functioning, properly calibrated, not causing pesticide overspray or drift, and not creating an unreasonable hazard to persons, property or the environment. Operators of chemigation systems shall comply with observation requirements specified on the pesticide label if those requirements are more extensive than the requirements under this paragraph.

(14) **POSTING OF CHEMIGATED AREAS.** (a) *General posting requirement.* Sites treated with a pesticide by means of chemigation shall be posted with warning placards. Warning placards shall be white and bear the words, "KEEP OUT" below which is a octagonal stop sign symbol at least 8 inches in diameter containing the word "STOP". Below the symbol shall be the words, "PESTICIDES BEING APPLIED IN IRRIGATION WATER". All words shall consist of letters at least 2½ inches in height. The words and symbol shall be conspicuous and legible. Placards shall be posted in compliance with par. (b) before chemigation begins. Placards shall not be removed until chemigation is completed and treated surfaces have dried. If chemigation involves a pesticide with a prescribed re-entry interval, the treated area must also be posted in compliance with s. Ag 29.15 (7). Warning placards under this paragraph may remain posted indefinitely as long as they are composed of materials that are not subject to deterioration and remain legible for the duration of the posting interval.

(b) *Posting locations; exception.* The posting requirement under par. (a) applies to sites treated with pesticides by means of chemigation only to the extent that the target area to be treated with the pesticide borders within 100 feet of a public road or other public right-of-way, or within 300 feet of sensitive areas such as residential areas, labor camps, day care centers, hospitals, medical clinics, nursing homes, school yards, playgrounds, parks or similar public areas or facilities. Placards shall be posted at regular intervals along the border between the treated area and the public road or other sensitive area, and at normal points of access, with at least one placard being posted for each ¼ mile of border. Treated areas bordering a public road or other sensitive area for less than ¼ mile shall be posted with at least one placard.

(c) *Responsibility for compliance.* The person responsible for operation of the chemigation system shall be responsible for compliance with this subsection.

(15) **ADVANCE NOTICE TO OPERATE CHEMIGATION SYSTEM.** (a) *Initial notice.* Before operating a chemigation system for the first time after January 1, 1990 at any location, the operator shall give a written notice to the department. Notice shall state the following information for each location at which the chemigation system is operated:

1. The name and address of the person who operates and is responsible for the chemigation system.
2. The specific location of the chemigation system.
3. The type of water supply from which the chemigation system will draw.
4. The type of backflow protection to be used in the system, pursuant to sub. (6). If a backflow prevention device, other than a reduced pressure principle backflow preventer, is used in the chemigation system, no-

tice shall specify the type, manufacturer, model, serial number and installed location of the device.

(b) *Notice of changes.* The operator of a chemigation system shall promptly notify the appropriate department of any changes in the information provided under par. (a).

**Note:** Information provided under this subsection will be shared between the department, the department of industry, labor, and human relations, and the department of natural resources.

(16) **MODIFICATION CHEMIGATION SYSTEM; DEPARTMENT AUTHORIZATION.** The department may, for good cause shown, permit an alternative chemigation system design which does not comply with the standards under this section, provided that the alternative design complies with other applicable state and federal law and affords equal or greater protection to the waters of the state. No person may operate an alternative chemigation system which is not in compliance with this section unless the alternative chemigation system has been approved in writing by the department. Applications for department approval shall be submitted to the department in writing. Applications shall be accompanied by all information and design specifications which may be required by the department. The department shall grant or deny an application within 45 days after a complete application is received by the department.

**History:** Cr. Register, April, 1990, No. 412, eff. 5-1-90

**Ag 29.159 Certification of individual commercial applicators.** (1) **CERTIFICATION REQUIRED.** No individual commercial applicator licensed under s. Ag 29.11 (2) may engage in any activity for which that license is required unless the individual commercial applicator is also certified by the department in the applicable pesticide use category under s. Ag 29.16. If a license holder is certified under s. Ag 29.16 (1), (2), (4), (5) or (8), that license holder may mix or load pesticides for application in all of those categories, but may apply pesticides only in the category or categories for which the license holder is specifically certified. Persons exempt from licensing under s. Ag 29.11 (2) (b) are also exempt from certification under this section.

(2) **QUALIFYING FOR CERTIFICATION.** To be certified in any pesticide use category, an individual commercial applicator shall demonstrate through examination under sub. (4) practical knowledge of the nature and proper use of pesticides; practical knowledge of the principles and practices of pest control; and competency in the proper use and handling of pesticides. Practical knowledge and competency shall be demonstrated in the general areas identified under sub. (5), and in the pesticide use category under s. Ag 29.16 for which the applicator seeks certification. An aerial applicator in any pesticide use category shall also demonstrate practical knowledge and competency under sub. (6).

(3) **LENGTH OF CERTIFICATION; RENEWAL.** Except as provided under s. 94.705 (4) (c), Stats., certification is valid for a period of 5 years, unless suspended or revoked by the department. During the 5-year period, the certification may be amended to include additional pesticide use categories under s. Ag 29.16, but all amendments expire concurrently at the end of the 5-year period. An individual commercial applicator may be recertified in any pesticide use category for an additional 5-year period if the applicator demonstrates continuing practical knowledge and compe-

tency as required by sub. (2). Continuing practical knowledge and competency shall be demonstrated by a written examination under sub. (4).

(4) **TESTING FOR CERTIFICATION.** (a) *Written examination required.* Except as provided under s. 94.705 (4), Stats., no person may be certified or recertified as an individual commercial applicator in any pesticide use category unless that person passes a written examination administered by the department. The examination shall test the applicator's practical knowledge and competency in each area required under sub. (2). If necessary, the department may require an applicator to undergo a performance test in addition to a written examination. An examination shall be given within 10 business days after the applicator pays the required fee under par. (b), or at a later date if requested by the applicator. Certification shall be issued by the department to applicants within 20 business days after successfully passing the required examination.

(b) *Examination fees; reexamination.* An individual commercial applicator applying for certification or recertification shall pay an examination fee of \$10 for each pesticide use category in which the applicator applies to be certified or recertified, unless the applicator is exempt from fees under s. 94.705 (1) (d), Stats. If an applicator fails to pass an examination in any pesticide use category, the applicator may retake the examination after the 24-hour waiting period. If an applicator fails to pass a reexamination, the applicator may again retake the examination after a 30 day waiting period. Applicators shall pay a fee of \$5 for each reexamination. No examination may be administered until the required fee is paid.

(5) **CERTIFICATION STANDARDS; GENERAL.** In order to be certified in any pesticide use category under s. Ag 29.16, an individual commercial applicator shall demonstrate practical knowledge and competency in that pesticide use category, and in each of the following general areas:

(a) *Label and labeling comprehension.* Knowledge related to the general format and terminology of pesticide labels and labeling; ability to understand instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels; knowledge of pesticide use classifications; and knowledge that pesticide use inconsistent with labeling is prohibited.

(b) *Risks and safety measures.* Knowledge of risk factors and safety measures including pesticide toxicity; hazards to persons; common exposure routes; common types and causes of pesticide accidents; precautions necessary to guard against injury to applicators and other persons; the need for and use of protective equipment; symptoms of pesticide poisoning; first aid and other procedures to be followed in case of a pesticide accident; the proper identification, storage, transportation, handling, mixing and loading of pesticides; and the disposal of pesticides and their containers according to label directions and department rules.

(c) *Environment.* Knowledge of potential environmental consequences resulting from the use or misuse of pesticides. This includes the effect of climatic conditions; terrain; drainage patterns; soil types; hydrogeologic conditions; and the presence of fish, wildlife and other nontarget organisms including endangered species. Knowledge of potential hazards associated with indoor applications of pesticides including direct exposure to humans or pets and contamination of food and surfaces coming in contact with food.

(d) *Pests*. Knowledge of pests including the identification of relevant pests, the common features of pest organisms, characteristic damage caused by pest organisms, and pest development and biology as it may be relevant to problem identification and control.

(e) *Pesticides*. Knowledge of pesticide types and formulations; the compatibility, synergism, persistence, and animal and plant toxicity of different formulations; the hazards and residues associated with the use of different pesticides; factors influencing pesticide effectiveness or pest resistance to pesticides; and the mixing and dilution of pesticides.

(f) *Equipment*. Knowledge of the types of equipment used in the application of pesticides, including the advantages and limitations of each type of equipment, the use and maintenance of equipment, and the calibration of equipment.

(g) *Application techniques*. Knowledge of the methods or procedures used to apply different pesticides and pesticide formulations; factors affecting the choice of application method or application rate; the relationship of pesticide discharge and placement to proper use; unnecessary use and misuse of pesticides; and prevention of overspray and drift.

(h) *Laws and regulations*. Knowledge of state and federal laws and regulations applicable to pesticides and their use, including the federal act; ss. 94.67 to 94.71, Stats.; and chs. Ag 29 and NR 80.

(6) **CERTIFICATION STANDARDS; AERIAL APPLICATORS**. No individual commercial applicator may apply pesticides by fixed or rotary-wing aircraft unless that applicator is certified as an aerial applicator in the applicable pesticide use category under s. Ag 29.16. To be certified as an aerial applicator in any pesticide use category, the applicator shall comply with all applicable certification requirements under this section. In addition, the applicator shall demonstrate practical knowledge and competency in the application of pesticides by aircraft, including principles and practices of aerial pest control, effects of aerial pest control on the environment, and prevention of pesticide drift and overspray. No person may aerially apply pesticides unless that person is fully trained and licensed to operate the type of aircraft to be used in pesticide applications.

(7) **CERTIFICATION STANDARDS; PESTICIDE MIXER-LOADERS**. (a) Except as provided under par. (b), no person may mix or load pesticides for application or direct the mixing or loading of pesticides into application equipment or nurse vehicles unless certified as a mixer-loader. To be certified in this category, the mixer-loader shall, by examination, demonstrate practical knowledge and competency in the mixing and loading of pesticides, including determination of mixing rates and procedures, use of protective safety equipment, proper spill response procedures, and proper disposal practices.

(b) Persons may mix or load pesticides for application in any category for which the person is specifically certified. In addition, persons certified under s. Ag 29.16 (1), (2), (4), (5) or (8) may mix or load pesticides for application in all of those categories, but may apply pesticides only in the category or categories for which the person is specifically certified.

History: Cr. Register, April, 1990, No. 412, eff. 5-1-90

**Ag 29.16 Individual commercial applicators; certification categories**. In order to be certified under s. Ag 29.159 in any of the pesticide use category, Register, April, 1990, No. 412

ries under subs. (1) to (15), an individual commercial applicator shall meet the certification requirements provided for that pesticide use category under this section.

(1) **FIELD AND VEGETABLE CROP PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests in the production of agricultural field and vegetable crops, and on grasslands and noncrop agricultural lands.

(b) Applicators shall demonstrate practical knowledge of crops grown, specific pests affecting those crops, types of pesticides which may be used to control such pests, and the effects of such pesticides on the ultimate use of the crop for food or feed purposes. Practical knowledge shall also be demonstrated concerning soil and water problems; human safety considerations; pre-harvest intervals; re-entry intervals; phytotoxicity; and the potential for environmental contamination, non-target injury, and community problems associated with the use of pesticides on agricultural field and vegetable crops, grasslands and noncrop agricultural lands.

(2) **FRUIT CROP PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests affecting the production of agricultural fruit crops, including small fruits, tree fruits and nuts.

(b) Applicators shall demonstrate practical knowledge of crops grown; specific pests affecting small fruits, tree fruits and nuts, and the types of pesticides which may be used to control such pests; soil and water problems; human safety considerations; pre-harvest and re-entry intervals; phytotoxicity; and the potential for environmental contamination, non-target injury and community problems resulting from the use of pesticides in agricultural fruit crop areas and on small fruits, tree fruits and nuts.

(3) **ANIMAL PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests on animals, including livestock, poultry and pets, or to control pests in places, other than homes or residences, where animals are confined.

(b) Applicators applying pesticides to animals shall demonstrate practical knowledge of such animals and pests which may affect them, the types of pesticides and pesticide formulations which may be used to control such pests, and specific pesticide toxicity and residue potential associated with the use of such pesticides. Practical knowledge shall also be demonstrated concerning relative hazards associated with the use of such pesticides, taking into consideration application techniques, extent of treatment, age of the animal treated, and the effect the use of such pesticides may have on animals and their products.

(4) **FOREST PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests in forests, forest nurseries, Christmas tree plantations and tree seed producing areas.

(b) Applicators shall demonstrate practical knowledge of forests, forest nurseries, tree seeds, and tree seed production in this state, and pests which may affect forests, forest nurseries, tree seeds, and tree seed production; the types of pesticides which may be used to control such pests;

the effects of pesticides on tree or forest products; and the provisions of s. 26.30, Stats., and ch. NR 35, Wis. Adm. Code, as they relate to forest pest control. Practical knowledge shall also be demonstrated of the cyclic occurrence and specific population dynamics of certain pests as a basis for the programming of pesticide applications; relative biotic agents and their vulnerability to pesticides; and pest control methods which will minimize secondary problems associated with the use of pesticides, such as unintended effects on natural aquatic habitats and wildlife. Proper use of specialized equipment shall be demonstrated as it may relate to meteorological factors and adjacent land use.

(5) **ORNAMENTAL AND TURF PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests in the maintenance and production of ornamentals and turf.

(b) Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamentals and turf; pests which may affect them; the types of pesticides which may be used to control such pests; and the effects, including phytotoxicity, of pest control on ornamentals and turf. Applicators shall also demonstrate practical knowledge of drift, persistence of the pesticide beyond the intended period of pest control, and application methods which will minimize or prevent hazards to persons and the environment.

(6) **SEED TREATMENT PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests on seeds.

(b) Applicators shall demonstrate practical knowledge of seeds, the types of seeds that require chemical protection against pests, pests which may affect them, and the types of pesticides which may be used to control such pests. Practical knowledge shall also be demonstrated concerning seed coloration carriers, and surface active agents which influence pesticide binding and may affect germination. Applicators shall also demonstrate practical knowledge of hazards associated with the handling, sorting, mixing, use and disposal of treated seed.

(7) **AQUATIC PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of any pesticide in standing or running surface water to control pests, excluding applicators engaged in public health related activities under sub. (13).

(b) Applicators shall demonstrate practical knowledge of various water use situations, including the types of pests to be controlled, and pesticides which may be used to control them. They shall also demonstrate practical knowledge of the potential of downstream effects, secondary effects which may be caused by improper applications, and principles of limited area application. They shall demonstrate practical knowledge of potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments; and the provisions of ss. 29.62 and 144.025, Stats., and chs. NR 20 and 107, Wis. Adm. Code, as they relate to the control of aquatic nuisances, protection of water resources, and control of detrimental fish.

(8) **RIGHT-OF-WAY PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests on right-of-way. (b) Applicators shall demonstrate practical knowledge of the types of pests to be controlled, and pesticides which may be used to control them. They shall also demonstrate practical knowledge of the potential of downstream effects, secondary effects which may be caused by improper applications, and principles of limited area application. They shall demonstrate practical knowledge of potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in aquatic environments; and the provisions of ss. 29.62 and 144.025, Stats., and chs. NR 20 and 107, Wis. Adm. Code, as they relate to the control of aquatic nuisances, protection of water resources, and control of detrimental fish.

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control pests in the maintenance of public roads, electric powerlines, pipelines, railway right-of-ways or other similar areas.

(b) Applicators shall demonstrate practical knowledge of the wide variety of environments involved in this category, the types of pests to be controlled, and the types of pesticides which may be used to control them. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of such pesticides within right-of-way areas; the impact right-of-way pesticide applications may have on adjacent areas and communities; and runoff, drift, and excess foliage destruction problems as well as recognition of target organisms.

(9) **INDUSTRIAL, INSTITUTIONAL, STRUCTURAL, AND HEALTH-RELATED PEST CONTROL; GENERAL.** (a) This category includes individual commercial applicators using or directing the use of pesticides to protect stored, processed, or manufactured products; or to control pests in, or around food handling establishments, human dwellings, schools, institutions, industrial establishments, warehouses, grain elevators, and any other public or private structures and adjacent areas. It does not include individual commercial applicators under subs. (10) to (14).

(b) Applicators shall demonstrate practical knowledge of a wide variety of pests and their life cycles; types of pesticides and pesticide formulations which may be used for their control; methods of application that avoid the contamination of food, the damage and contamination of habitat, and the exposure of people and pets to pesticides; and specific factors which may lead to a hazardous condition including continuous exposure of humans to pesticides. Applicators shall also demonstrate a practical knowledge of environmental conditions affecting the outdoor application of pesticides for health related pest control.

(10) **FUMIGATION PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides for the control of pests in industrial, institutional, structural, or health related pest control application by means of fumigation, including general, spot, tarpaulin, chamber, vehicle, or in-transit fumigation. This category does not include individual commercial applicators under s. Ag 29.16 (10m) who use or direct the use of pesticides as soil fumigants.

(b) Applicators shall demonstrate a practical knowledge of a wide variety of pests and their life cycles; types of pesticides which may be used for their control; methods of fumigation application that avoid the contamination of food or other products or commodities, the damage and contamination of habitat, and the exposure of people and pets to fumigants. Applicators shall also demonstrate practical knowledge of safety apparatus, re-entry times, and any other conditions necessary to ensure the safety of persons or property, non-target organisms, and the environment.

(10m) **SOIL FUMIGATION PEST CONTROL.** (a) This category includes individual commercial applicators using or directing the use of pesticides as soil fumigants.

(b) Applicators shall demonstrate practical knowledge and competency in the application of soil fumigants including types of pesticides used as soil fumigants, human safety considerations, pests that can be successfully treated by soil fumigation, and methods of application that minimize exposure of persons and animals to soil fumigants and their

byproducts. Applicators shall also demonstrate practical knowledge of safety apparatus, re-entry times, and any other conditions necessary to ensure the safety of persons or property, non-target organisms, and the environment.

(11) WOOD DESTROYING PEST CONTROL. (a) This category includes individual commercial applicators using or directing the use of pesticides for the prevention or control of termites.

(b) Applicators shall demonstrate practical knowledge of the life cycle of termites; the types of pesticides and pesticide formulations which may be used to control termites; and methods of application that avoid damage and contamination of habitat and the exposure of people and pets to pesticides. Applicators shall also demonstrate practical knowledge of specific factors which may lead to hazardous conditions, including continuous exposure of humans to pesticides, and environmental factors related to the control of termites.

(12) WOOD PRESERVATION. (a) This category includes individual commercial applicators using or directing the use of pesticides to preserve and protect wood or wood based materials against damage from insects, fungi, surface molds and mildew, marine crustaceans, shipworms and other pests.

(a) Applicators shall demonstrate practical knowledge of wood species and wood structure, wood destroying pests and their biology, types and uses of wood preservatives and methods of application. Applicators shall also demonstrate knowledge of safe handling and disposal practices, and hazards to humans and the environment associated with use of wood preservatives.

(13) PUBLIC HEALTH PEST CONTROL. (a) This category includes individual commercial applicators using or directing the use of pesticides to control pests in public health programs for the management and control of pests having medical and public health importance.

(b) Applicators shall demonstrate practical knowledge of vector disease transmission as it relates to and influences application programs, the recognition of pests involved and their life cycles and habitats, and the types of pesticides which may be used for their control. Applicators shall also demonstrate practical knowledge of a great variety of environments covered by this category ranging from streams to conditions found in buildings and such non-chemical control methods as sanitation, waste disposal, and drainage.

(14) REGULATORY PEST CONTROL. (a) This category includes individual commercial applicators who use or direct the use of pesticides in the control of regulated pests.

2. Applicators shall demonstrate practical knowledge of regulated pests, the pesticides which may be used for their control, and laws relating to the quarantine and regulation of pests. They shall also demonstrate practical knowledge of factors influencing the introduction, spread and population dynamics of regulated pests; the potential impact on the environment of restricted-use pesticide used in suppression or eradication programs; and the provisions of ss. 26.30, 29.62, 144.025, Stats., and chs. NR 20, 35 and 107, Wis. Adm. Code, as they relate to the control of regulated pests. The applicator's knowledge shall extend beyond that required by their immediate duties and includes practical knowledge of

regulated pests and emergency control measures invoked to control such pests in other areas of the United States.

(15) **DEMONSTRATION AND RESEARCH PEST CONTROL.** (a) This category includes individual commercial applicators who demonstrate the use and application of pesticides, or who direct such demonstrations. This category includes extension specialists and county agents, commercial representatives demonstrating pesticide products, and other individual commercial applicators who demonstrate the use and application of pesticides. This category also includes individual commercial applicators who use pesticides pursuant to any field research project.

(b) Applicators in this category who demonstrate the use and application of pesticides shall demonstrate practical knowledge and competency in a broad spectrum of pesticide uses. They shall demonstrate practical knowledge of pests, pesticides which may be used for the control of pests, population levels occurring in each demonstration situation, and potential problems which may be associated with pest control demonstrations. They shall also demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. Applicators engaged in pesticide demonstrations or field research shall demonstrate practical knowledge and competency in all pest control categories under this section which are relevant to that demonstration or research.

(16) **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.

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; r. (1), (2) (intro.), (3) to (6) and (8), renum. (2) (a) 1. to 3., (b) to (f), (g) 1. to 3., (h) to (j) and (7) to be (1) to (11) and (13) to (16) and am. (1) to (3) (a), (4) (a), (5) (a), (6) (a), (7) (a), (8) (a), (9) (a), (10) (a), (11), (13) (a), (14) (a) and (15), cr. (intro.) and (12), Register, April, 1990, No. 412, eff. 5-1-90; am (10) (a), cr. (10m), Register, October, 1991, No. 430, eff. 7-1-92.

**Ag 29.161 Commercial applicator trainee registration.** (1) **REGISTRATION; AUTHORIZATION.** (a) A competent person, not certified as a commercial applicator under s. 94.705, Stats., and not licensed under s. 94.704, Stats., may commercially use pesticides for not more than 30 days as a registered trainee under this section, subject to the conditions specified under sub. (3). Registration under this section allows a registered trainee to apply pesticides only as part of a bona fide training program conducted by the trainee's employer in preparation for the trainee becoming certified and licensed as an individual commercial applicator.

(b) To be registered as a commercial applicator trainee under this section, a person shall:

1. Have the ability to understand and follow oral instructions and read and comprehend written instructions including pesticide labels and labeling information;

2. Be at least 16 years of age;

3. Be capable of performing functions associated with the proper use and application of pesticides on the basis of prior training and experience, to the satisfaction of the employer and the certified applicator under whose supervision the trainee will be acting; and

4. Be capable of carrying out assignments and instructions in a responsible manner.

(2) **REGISTRATION PROCEDURE.** To register as a commercial applicator trainee under this section, a trainee shall file with the department a completed registration form prescribed by the department. The completed registration form shall include the following information:

(a) The name and address of the applicant and the commercial application business employing the applicant.

(b) The name, certification number, pesticide use categories for which the certification is valid, and expiration date of certification, for each commercial applicator responsible for supervising the trainee under sub. (3) (c).

(c) The pesticide use category or categories under which the trainee will be using pesticides during the training period.

(d) The trade name and either the manufacturer's name or the EPA (federal environmental protection agency) registration number of each pesticide which may be applied by the trainee during the training period.

(e) The date on which the registration form is signed, and the signatures of the trainee and each of the certified and licensed applicators identified under sub. (2) (b).

(f) Other information required by the department.

(3) **CONDITIONS AND CONTROLS.** A registered trainee shall comply with all of the following conditions:

(a) A registered trainee may only use pesticides for a 30-day period beginning on the date that a complete registration form is filed with the department.

(b) A registered trainee may not use any pesticide classified as restricted-use unless authorized in writing by the department.

(c) A registered trainee may only use pesticides under the direct, on-site supervision of a certified, licensed applicator identified under sub. (2) (b), in pesticide use categories for which the supervisor is certified as a commercial applicator.

(d) A person may register as a trainee no more than once annually, except that a person may register twice within a year if the person is employed by a different commercial application business at the time of the second registration.

(e) A registered trainee may only commercially use pesticides if they have a dated copy of their registration form in their immediate possession.

(4) **SUSPENSION OR REVOCATION.** The department may summarily suspend or revoke a registration under this section if any condition or requirement under which a person was registered is violated.

History: Cr. Register, April, 1990, No. 412, eff. 5-1-90.

**Ag 29.162 Certification of private applicators.** (1) **RESTRICTED-USE PESTICIDES; CERTIFICATION REQUIRED.** No person may use or direct the use of a restricted-use pesticide as a private applicator unless that person is certified as a private applicator under this section. A person who mixes or loads a restricted-use pesticide, or who directs the mixing or loading of a restricted-use pesticide into pesticide application equipment or nurse tanks for application by a private applicator shall be certified as a private applicator under this section, or as an individual commercial applicator in a relevant pesticide use category under ss. Ag 29.159 and 29.16. No person under 16 years of age may be certified as a private applicator.

(2) **STANDARDS FOR CERTIFICATION.** To be certified under this section, a private applicator shall demonstrate practical knowledge and competency in the proper use and application of restricted-use pesticides. An applicant for certification shall demonstrate practical knowledge and competency in each of the following areas:

(a) Pest control problems and practices associated with the production of agricultural commodities, including recognition of common pests and the damage caused by those pests.

(b) Reading and understanding pesticide labels and labeling information, including the common or generic names of pesticides; the types of pests that they are intended to control; pesticide use classifications and directions for use; pesticide application methods and timing of pesticide applications; appropriate safety measures and precautions; pre-harvest and re-entry restrictions; and pesticide disposal instructions and procedures.

(c) Applying pesticides according to label directions.

(d) Preparing correct pesticide concentrations under various circumstances, taking into account relevant factors such as the area to be covered, the speed of the application equipment, the rate of application, and the quantity dispersed during a given period of operation.

(e) Proper handling, storage and disposal of pesticides and their containers.

(f) Recognizing potential human health hazards, including hazards to farm workers, and taking appropriate precautions.

(g) Recognizing potential environmental hazards, including hazards to groundwater and endangered species, and taking appropriate precautions.

(h) Recognizing poisoning symptoms, antidotes, and procedures to follow in case of a pesticide accident.

(i) Recognizing the legal liabilities and responsibilities of a private applicator, including those provided under the federal act, ss. 94.67 to 94.71, Stats., and chs. Ag 29 and NR 80.

(3) **SUPPLEMENTARY STANDARDS FOR CERTIFICATION; PRIVATE APPLICATORS APPLYING FUMIGANTS.** In addition to meeting the requirements under sub. (2), a private applicator who wishes to use or direct the use of a restricted-use fumigant pesticide shall demonstrate a practical knowledge of the pests against which the fumigants may be used, the life cycles of those pests, the types of fumigants that are available for use, methods of fumigation, and potential hazards to persons and the environment from the use of fumigants. The applicant shall also demonstrate practical knowledge and competency related to the use of fumigation equipment including safety procedures; monitoring devices; re-entry intervals and posting requirements; and other measures needed to ensure the safety of persons, property and the environment. Practical knowledge and competency under this subsection shall be demonstrated by means of a written examination under sub. (5).

(4) **CERTIFICATION BY TRAINING.** Pursuant to s. 94.705 (5) (a), Stats., an applicant for private applicator certification may attend a training session approved by the department. The training shall cover the areas of practical knowledge and competency required for certification. A private applicator shall be certified within 10 business days after the applicator successfully completes the training session. Certification is good for 5 years, unless suspended or revoked for cause.

(5) **CERTIFICATION BY EXAMINATION.** Pursuant to s. 94.705 (5) (b), Stats., an applicant for private applicator certification may take a written examination approved by the department. The examination shall cover the areas of practical knowledge and competency required for certification. A private applicator shall be certified within 10 business days after the applicator successfully completes the examination. Certification is good for 5 years unless suspended or revoked for cause.

(6) **EMERGENCY USE CERTIFICATION.** The department may issue an emergency use certification for a specific one-time use of a restricted-use pesticide, pursuant to s. 94.705 (5) (c), Stats.

(7) **CERTIFICATION FOR PERSONS OF LIMITED ENGLISH LANGUAGE ABILITY.** The department may certify persons of limited English language ability pursuant to s. 94.705 (5) (d), Stats.

(8) **NON-RESIDENT CERTIFICATION.** The department may certify a non-resident private applicator pursuant to s. 94.705 (4), Stats.

(9) **RENEWAL OF CERTIFICATION.** A person certified under sub. (4) or (5) may renew the certification for an additional 5 year period by either of the certification methods prescribed under sub. (4) or (5).

History: Cr. Register, April, 1990, No. 412, eff. 5-1-90, except (3) (b), eff. 1-1-91.

**Ag 29.17 Aldicarb use restrictions; reporting requirements. (1) DEFINITIONS.** As used in this section:

(a) "Division" means the agricultural resource management division of the department.

(b) "Point of standards application" means a point of standards application as defined in s. Ag 161.01 (13).

(c) "Prohibition area" means an area in which aldicarb use is prohibited under sub. (8).

(d) "Reliable groundwater test result" means an official groundwater test result as defined in s. Ag 161.01 (8), or a groundwater test result which the department determines to be reliable under s. Ag 161.02 (2). It includes every groundwater test result which was used as a basis for prohibiting aldicarb use under the provisions of s. Ag 29.17 or 29.171, which became effective on or after April 1, 1983.

(2) GENERAL RESTRICTIONS ON ALDICARB USE. (a) *Amount and frequency of use.* No pesticide containing the active ingredient aldicarb may 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 1987 may not be treated with aldicarb in 1988.

(b) *Use by certified applicators only.* Pesticides containing the active ingredient aldicarb are classified as restricted-use pesticides. As restricted-use pesticides, they may only be applied by the following persons:

1. An individual commercial applicator certified in the pest control category pertaining to the type of application being made.

2. A certified private applicator.

(c) *Timing of application.* No pesticide containing the active ingredient aldicarb may 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 may 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 45 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 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.

(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) DEPARTMENT REVIEW OF PROPOSED APPLICATIONS; EVALUATION OF APPLICATION SITES. Whenever the department receives a report of intended application under sub. (3), the department shall evaluate the proposed application site for susceptibility to groundwater contamination by aldicarb residues. The evaluation shall be based on the relevant environmental characteristics of the proposed application site, including depth to groundwater and soil texture. Site characteristics used in the evaluation shall be determined on the basis of data published by the Wisconsin geological and natural history survey, the U.S. department of agriculture soil conservation service, or other reliable sources.

(5) ALDICARB APPLICATIONS TO CERTAIN SITES PROHIBITED. (a) The department shall, by summary special order, prohibit a proposed aldicarb application if either of the following applies:

1. The proposed application site is within a prohibition area created under sub. (8).

2. In the judgment of the department based on a site evaluation under sub. (4), the proposed application is likely to cause aldicarb residues to be present in groundwater at a concentration of 10 ppb or more at any point of standards application.

(b) A person prohibited from using aldicarb under par. (a) 1 may request an exemption from the prohibition. Except as provided in par. (c), the department may not grant an exemption unless the department makes all of the determinations required under s. 94.709 (3) (a) and (b), Stats. The department may require the requester to submit proof that the exemption requirements are met. Exemptions, if any, shall be issued in writing and be signed by the division administrator or the administrator's designee. Every exemption shall contain a specific statement of facts and conclusions which form the basis for the exemption. An exemption under this subsection does not constitute an exemption from any other provision of this section.

(c) Notwithstanding par. (a), the department may authorize the controlled application of aldicarb for research purposes, pursuant to s. 94.709 (4), Stats., as created by 1985 Wisconsin Act 206. Authorizations, if any, shall be issued in writing, and shall describe the scope and basis of the authorization.

(6) ALDICARB APPLICATIONS PROHIBITED AT CERTAIN SITES EXCEPT IN CONJUNCTION WITH GROUNDWATER MONITORING. (a) If a proposed aldicarb application is not subject to prohibition under sub. (5), but the department determines under sub. (4) that the proposed application may cause aldicarb residues to be present in groundwater at a concentration of 2 ppb or more at any point of standards application, the department shall issue a summary special order prohibiting the proposed aldicarb application unless:

1. All of the conditions under par. (b) are met as required in the order; or



2. The owner of the proposed application site, and every other person filing a report of intended application for the site, agrees that future applications to the site may be prohibited based on groundwater test results obtained from a representative application site chosen by the department, if the groundwater test results at the representative application site show aldicarb residues in concentrations of 10 ppb or more. A representative application site is a site which, in the department's judgment, is similar in its relevant environmental characteristics to the proposed application site described in the report of intended application. Relevant environmental characteristics include the characteristics listed under sub. (4). In determining whether one application site may be considered representative of another, the department shall compare any prior existing concentrations of aldicarb residues which are known to be present in groundwater at the 2 sites.

(b) A summary special order under par. (a) 1 shall include all of the following conditions:

1. One or more monitoring wells shall be installed at the proposed application site according to a written plan which is approved in writing by the department prior to the aldicarb application. The plan shall specify:

a. The number and location of the monitoring wells. At least one monitoring well shall be installed for each quarter section of land on which aldicarb is to be applied.

b. The materials from which the monitoring wells will be constructed.

c. The depth of each monitoring well, and the type, length and diameter of the sample screen on each well.

d. The date by which each monitoring well is to be installed.

e. Whether or not each monitoring well will be considered a point of standards application.

2. Groundwater samples shall be collected from each monitoring well under par. (a) and tested for aldicarb residues according to a plan which is approved by the department prior to the aldicarb application. The plan shall specify:

a. The number of groundwater samples to be collected from each monitoring well, and the intended dates of collection.

b. The persons or agencies who will collect the groundwater samples.

c. The laboratory at which the groundwater samples are to be tested for aldicarb residues. Groundwater samples shall be promptly tested for aldicarb residues after the samples are collected. Test methods shall be approved by the department and have a limit of detection at or below one part per billion. Groundwater test results shall be promptly forwarded to the department.

3. The owner of each monitoring well site under par. (a) shall agree in writing, prior to the aldicarb application, that:

a. Groundwater test results obtained from the monitoring well may be used to prohibit future aldicarb applications to the application site, as appropriate pursuant to ch. 160, Stats., and department rules, if the

groundwater test results indicate that aldicarb residues are present in groundwater at a concentration of 10 parts per billion or more.

b. The department may at reasonable times, and upon prior notice to the owner of the monitoring well site, inspect the monitoring well and collect groundwater samples from the monitoring well.

(c) This subsection does not apply to controlled applications of aldicarb for research purposes, if authorized by the department under sub. (5) (c).

(7) SUMMARY SPECIAL ORDERS; GENERAL. (a) *How and to whom issued.* A summary special order under sub. (5) or (6) shall be issued to each person identified in the corresponding report of intended application. A summary special order shall be signed by the division administrator or the administrator's designee, and be served in person or by certified mail, return receipt requested.

(b) *Coverage; effective date and duration.* A summary special order under sub. (5) or (6) shall prohibit all proposed applications of aldicarb to the site or sites described in the order, except as specifically provided under sub. (6). A summary special order under sub. (5) or (6) becomes effective on the date of service.

Note: A "proposed application" means an application described in a report of intended application under sub. (3).

(c) *Timely response to notice of intended application.* A summary special order, if issued under sub. (5) or (6), shall be issued within 30 days after a report of intended application is filed with the department. This subsection does not prohibit the department from issuing a summary special order under sub. (5) at a later date, based on new information received more than 30 days after the date on which the report of intended application was received by the department.

(d) *Right of hearing.* 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 limited to the issue of whether the department has correctly interpreted and applied this section.

(e) *Violations prohibited.* No person may apply aldicarb in violation of a special order issued by the department under this section. No person may violate the terms and conditions of a monitoring agreement under sub. (6).

(8) PROHIBITION AREAS. (a) *General.* A proposed application site is subject to prohibition, for purposes of sub. (5), if the proposed application site is located wholly or in part within a prohibition area under this subsection.

(b) *Creation and scope of prohibition areas.* 1. A prohibition area is created to include every township quarter-quarter section lying wholly or in part within one mile of a point of standards application at which aldicarb residues have been detected in groundwater at a concentration of 10 ppb or more, based on a reliable groundwater test result received by the division at any time before or after April 1, 1988. If the reliable groundwater test result was received by the division before April 1, 1988, the prohibition area is created on April 1, 1988. If the reliable groundwater test result is received by the division after April 1, 1988, the prohibition area is created on the date when the groundwater test result is received by the

division. The one mile radius from the point of standards application shall be calculated from the center point of the township quarter-quarter section in which the actual point of standards application is located.

2. If any prohibition area is contiguous with or overlaps 2 or more other prohibition areas, there is created a new prohibition area which includes each quarter-quarter section any part of which lies within a 2-mile radius of each point of standards application used in determining the need for the contiguous or overlapping prohibition areas.

(9) **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.

(10) **NOTICE OF CONTAMINATION FINDINGS.** (a) Whenever the department receives a reliable groundwater test result which indicates that aldicarb residues are present in groundwater at a concentration of one part per billion or more, the department shall give written notice of the groundwater test result to:

1. The Wisconsin department of natural resources and 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, if known, and the concentration of aldicarb residues found in the sample. Notice shall include such explanations and precautionary statements as may be considered appropriate by the department.

(11) **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.

(12) **COMPLIANCE WITH PREVENTIVE ACTION LIMIT NOT NECESSARILY MAINTAINED; REQUIRED DISCLOSURE BY DEPARTMENT.** Based on information available to the department, it appears that aldicarb applications to susceptible application sites will result in groundwater contamination exceeding the preventive action limit for aldicarb at points of standards application downgradient from the application sites. Aldicarb applications to many of these sites will be subject to prohibition under sub. (5). In addition, sub. (2) continues current management practice requirements, and sub. (6) creates groundwater monitoring requirements.

These combined requirements are designed to limit aldicarb contamination and detect any contamination which may occur. However, these requirements may not be adequate to assure compliance with the preventive action limit for aldicarb in all cases. If the enforcement standard for aldicarb is unexpectedly exceeded at an individual site, future applications at that site will be subject to prohibition under ch. 160, Stats., ch. Ag 161, and other applicable rules of the department.

**Note:** This notice is given pursuant to the requirements of s. 160.19 (2) (b), Stats. It is intended solely as a disclosure statement, and does not affect or alter any other provision of this section.

**History:** Emerg. cr. eff. 3-15-82; cr. Register, March, 1983, No. 327, eff. 4-1-83; emerg. r. eff. 3-3-86; r. and recr. Register, March, 1988, No. 387, eff. 4-1-88; am. (2) (b) 1. and 2. and (11), r. (3) (b), Register, April, 1990, No. 412, eff. 5-1-90.

**Ag 29.171 Metam sodium pesticide use restrictions. (1) DEFINITIONS.** In this section:

(a) "Metam sodium" means Sodium N-Methyldithiocarbamate, also referred to as metham sodium.

(b) "Metam sodium pesticide" means any soil fumigant or other pesticide containing metam sodium.

(c) "Public building" has the meaning specified under s. 101.01 (2) (g), Stats., but does not include a residential structure.

(d) "Residential structure" means a structure which is used wholly or in part as a human residence, and includes all lawns, grounds, facilities, and furnishings pertaining to that structure. "Residential structure" includes all of the following:

1. A residential structure occupied on a rental basis.
2. A mobile home and the site on which it is located.
3. A hotel, motel or similar premises occupied on a transient basis.
4. A hospital, nursing home, or similar facility occupied by persons receiving medical care or related services.
5. A prison, jail or other place of detention.

(2) **GENERAL RESTRICTIONS.** (a) No person may apply a metam sodium pesticide unless one of the following applies:

1. The person is an individual commercial applicator and is certified in each applicable category under s. Ag 29.16.

**Note:** An applicator who applies metam sodium as a soil fumigant for agricultural purposes (e.g., on potato lands), must be certified in field and vegetable crop pest control under s. Ag 29.16 (1) and in soil fumigation pest control under s. Ag 29.16 (10m).

2. The person is a private applicator and is certified in the fumigation category under s. Ag 29.162 (3).

3. The person applies the metam sodium pesticide solely for household purposes around the person's residence.

(b) No agricultural application of metam sodium pesticide may be made within  $\frac{1}{4}$  mile of a hospital, nursing home, jail or prison.

(c) No agricultural application of metam sodium pesticide may be made within  $\frac{1}{4}$  mile of a school that will be in session during the application or within 48 hours after the application is completed.

(d) No agricultural application of a metam sodium pesticide may be made by applying the pesticide to the soil surface, or by applying the pesticide to the soil surface and incorporating by discing or tilling the soil surface, unless the soil is immediately covered by a tarp or other impermeable barrier as described on the pesticide label. This paragraph does not apply to:

1. An application in which the pesticide is injected beneath the soil surface.

2. A chemigation application made in compliance with sub. (3).

(e) No agricultural application of metam sodium pesticide may be made by knife rig injection when the soil temperature is greater than 75 degrees Fahrenheit measured at a depth of 5 to 6 inches.

(3) CHEMIGATION. No metam sodium pesticide may be applied by means of chemigation unless the chemigation system complies with s. Ag 29.152. Every chemigation application shall comply with sub. (2) and with all of the following:

(a) The certified applicator, or the commercial application business which is responsible for the application, shall provide 72 hours advance written notice of the application to the county public health agency and to every person or household residing within  $\frac{1}{4}$  mile of the chemigation application site. If a person or household resides in a residential structure other than a one-family or two-family dwelling, the applicator or commercial application business complies with this requirement by providing written notice to the manager of the residential structure. The notice shall state all of the following:

1. The location of the application site.
2. The earliest possible date and time when application will begin.
3. The brand name of the metam sodium pesticide that will be applied.
4. That eye irritation is an early symptom of exposure, and that eye irritation may be alleviated by leaving the affected area.
5. That a resident may obtain the pre-application information specified under par. (b) if the resident requests the information at least 24 hours before the application is scheduled to occur.

6. The name, address and telephone number of a person whom residents may contact to obtain further information about the application, including the pre-application information specified under par. (b). The identified person may be the certified applicator who performs the application, or an employee of the commercial application business which is responsible for the application.

(b) If a resident requests pre-application information under par. (a) 5, the certified applicator or commercial application business shall provide the following information in writing to the requesting resident before the application is made:

1. A copy of the label of the metam sodium pesticide to be applied.

2. The toxicology and manifestations of poisoning by metam sodium, and the treatment of metam sodium toxicosis, as described in *Recognition and Management of Pesticide Poisonings*, United States environmental protection agency, EPA-540/9-88-001, March 1989, fourth edition, or in other materials approved by the department.

Note: A copy of the relevant paragraphs of the EPA publication, *Recognition and Management of Pesticide Poisonings*, or of any other materials approved by the department under par. (b) 2, may be obtained upon a request to the Agrichemical Management Bureau, P.O. Box 8911, Madison, Wisconsin 53708-8911.

3. The date on which the pesticide will be applied. The pesticide application date may be provided orally, rather than in writing, if the resident consents to oral notification and if the resident gives that consent when he or she requests pre-application information under par. (a) 5.

(c) A certified applicator shall be present at the chemigation site at all times during application.

(d) No metam sodium pesticide may be applied by chemigation if the air temperature at the application site is higher than 80 degrees Fahrenheit.

(e) No metam sodium pesticide may be applied by chemigation if the soil temperature at the application site is greater than 70 degrees Fahrenheit at a depth of 5 to 6 inches.

(f) No metam sodium pesticide may be applied by chemigation if a local weather forecast indicates that more than  $\frac{1}{4}$  of an inch of rainfall may occur in the area of the application site within 6 hours following application.

(4) APPLICATION PRECAUTIONS. (a) Every field, and every portion of a field where a metam sodium pesticide has been applied shall be inspected by a certified applicator 6 to 7 hours after the application is completed, and again 12 to 13 hours after the application is completed. The certified applicator shall check the treated area and surrounding areas for volatilized gas odors resulting from the application. The certified applicator shall carefully monitor all locations where gases have volatilized, and shall initiate follow-up action as required under this subsection.

(b) If volatilized gases are found at any time during or after application, and if the volatilized gases have moved or could move off the application site in quantities that could result in significant drift under s. Ag 29.15 (1) (c), the site shall immediately be irrigated with  $\frac{1}{4}$ " to  $\frac{1}{2}$ " of water if an irrigation system is available at the application site.

(c) The certified applicator shall notify the department whenever significant drift of volatilized gas occurs. If residential structures or public buildings could be exposed to significant drift of volatilized gas, the certified applicator inspecting the site shall immediately notify the division of emergency government that persons may be exposed to drift of the gas, and shall identify the location of the application site.

Note: The telephone number for the division of emergency government is (608) 266-3232. The telephone number for the department is (608) 266-2295.

(5) RECORDKEEPING AND FILING REQUIREMENTS. (a) Every certified applicator who applies a metam sodium pesticide shall make and keep the following records:

1. All of the records required under s. Ag 29.11 (3) for that application.
2. The time of each inspection under sub. (4), the results of each inspection, and any actions taken under sub. (4) as a result of the inspection.
3. If the metam sodium is applied by knife rig injection or chemigation, the soil temperature at the time application begins. The soil temperature shall be measured at a point 5 to 6 inches below the soil surface, as provided under subs. (2) (e) and (3) (e).

(b) If a certified commercial applicator is required to keep records under par. (a) for a metam sodium pesticide application, the applicator shall retain the original records for at least 2 years after the application is made. Copies of records pertaining to each metam sodium application shall also be filed with the department by December 15th of the year in which the application was made.

(c) A commercial application business which performs metam sodium pesticide applications shall, for at least 2 years after each application, retain copies of the records made by its certified applicators under this subsection. A commercial application business may annually file copies on behalf of its certified applicators under par. (b).

(6) **SAFETY EQUIPMENT.** Certified applicators inspecting an area treated with metam sodium pesticide shall use proper safety equipment and precautions when visiting the treated area.

History: Emerg. cr. eff. 9-4-90; emerg. cr. eff. 9-9-91; cr. Register, October, 1991, No. 430, eff. 11-1-91.

**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; renum. from Ag 29.17, Register, March, 1983, No. 327, eff. 4-1-83.

