

Chapter Ag 29

PESTICIDE USE AND CONTROL

Ag 29.01	Definitions (p. 177)	Ag 29.11	Commercial applicators and sellers; record keeping requirements (p. 192)
Ag 29.02	Declaration of pests (p. 180)	Ag 29.12	Storage of pesticides (p. 193)
Ag 29.03	Prohibited pesticides (p. 181)	Ag 29.13	Sale and display of pesticides (p. 194)
Ag 29.04	Pesticides for use by special permit only (p. 181)	Ag 29.14	Removal of pesticides from sale (p. 194)
Ag 29.05	Pesticides for limited purposes only (p. 184)	Ag 29.15	Application, use and disposal of pesticides (p. 195)
Ag 29.06	Emergency use permits (p. 184)	Ag 29.16	Standards for certification of applicators of restricted-use pesticides (p. 198-1)
Ag 29.07	Experimental use permits (p. 185)	Ag 29.17	Aldicarb use restrictions; reporting requirements (p. 198-11)
Ag 29.08	Registration of pesticides to meet special local needs (p. 189)	Ag 29.18	Authority (p. 198-15)
Ag 29.09	Licensing of pesticide manufacturers and labelers; filing of reports (p. 191)		
Ag 29.10	Registration of commercial applicators and sellers (p. 192)		

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

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

(3) "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.

(4) "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.

(5) "Certified applicator" means a person certified by the department to use or supervise the use of restricted-use pesticides as a private or commercial applicator, as defined in s. 94.67 (4), Stats.

(6) "Commercial applicator" means a person, whether or not a private applicator with respect to some uses, who uses or supervises the use of pesticides for any purpose on any property other than as a private applicator. The term does not apply to persons applying pesticides other than restricted-use pesticides for household purposes in and around their own homes.

(7) "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.

(8) "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.

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

(10) "Commercial applicator for hire" means a commercial applicator using or applying pesticides in the performance of pest control work as an independent contractor for hire.

(11) "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.

(12) "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.

(13) "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.

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

(15) "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.

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

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

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

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

(20) "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.

(21) "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.

(22) "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.

(23) "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 application equipment, under surrounding conditions of use and application, so as to confine the pesticide to the target area.

(24) "Pesticide product" means a pesticide which, with its container and labeling, including any supplemental labeling, is offered for distribution and use.

(25) "Pesticide registration" means the registration of pesticides and pesticide uses with the federal environmental protection agency under the federal act, or with the department to meet a special local need as provided under s. Ag 29.08.

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

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

(28) "Private applicator" means a person who uses or supervises the use of pesticides for 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 used without compensation other than the trading of goods or services between producers of agricultural commodities on an exchange basis.

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

(30) "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.

(31) "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.

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

(33) "Significant risk of injury or damage" means, with respect to pesticide drift, a potential for injury or damage which is not purely remote or highly speculative, but capable of being perceived or recognized based on the location, type and amount of pesticide involved, and available scientific information about the pesticide and its effects on persons, property and the environment.

Ag 29

(34) "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.

(35) "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.

(36) "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.

(37) "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.

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

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

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

(41) "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.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. (5) to (12) to be (6) to (13); cr. (5) and am. (6) as renum. Register, April, 1972, No. 196, eff. 5-1-72; am. (13), Register, May, 1973, No. 209, eff. 6-1-73; r. (3) and (5), renum. (4) to be (3) and recr., renum. (6) to (13) to be (4) to (11) and cr. (12) and (13), Register, August, 1975, No. 236, eff. 9-1-75; r. (3) and (4), renum. (1), (2), (5) through (13) and Ag 29.15 (1) (a) through (j), (l) through (t) to be (28), (1), (25), (10), (32), (11), (37), (12), (21) through (23), (2) through (9), (13), (14), (17), (18), (20), (27) through (31) and (40), am. (1) to (3), (5), (6), (10), (11), (13), (20) to (23), (25), (28), (31), (32) and (37), cr. (15), (16), (19), (24), (33) to (36), (38), (39) and (41), Register, March, 1982, No. 315, eff. 4-1-82.

Ag 29.02 Declaration of pests. Under authority of s. 94.69 (1), Stats., the following named forms of plant or animal life or viruses are declared to be pests and subject to destruction or control by use of pesticides when present under circumstances where they may be injurious to humans or their property, or to plants, plant products, or animals:

(1) Mammals, other than humans, including but not limited to dogs, cats, moles, bats, wild carnivores, and deer.

(2) Birds, including but not limited to starlings, house sparrows, crows, pigeons, and redwing blackbirds.

(3) Fishes, including but not limited to the jawless fishes such as the sea lamprey, and the bony fishes such as the carp.

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

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

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

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

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

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

- (a) DDT.
- (b) DDE (TDD).
- (c) Endrin.
- (d) Cadmium.
- (e) Thallium sulfate.

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

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

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

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

1. Sodium fluoroacetate (1080).
2. Strychnine, including products containing strychnine sold or purchased for use as pesticides.
3. Chlordane, except that chlordane in the possession of users as of the effective date of this subsection may be used for registered purposes without a department permit for a period of 2 years after the effective date of this subsection. No permit shall be required for the purchase or use of chlordane by certified applicators certified in the category of wood destroying pest control as that category is defined in s. Ag 29.16 (2) (g) 3.

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

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

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

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

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

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

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

(e) Any other information required by the department.

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

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

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

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

3. The type of bait or the form in which the sodium fluoroacetate (1080) will be used;
4. The method of application; and
5. The method of disposal of carcasses of rats or mice.

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

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

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

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

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

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

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

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

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

Ag 29

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Seed treatment.

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

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

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

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

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

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

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

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

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

(c) The composition and formulation of the pesticide;

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

(e) The amount of pesticide to be applied;

(f) The site of the pesticide application;

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

(h) Any additional information required by the department.

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

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

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

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

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

Ag 29.07 Experimental use permits (1) PERMIT; AUTHORIZATION. The department may issue experimental use permits authorizing the sale, purchase, shipment and use of pesticides, other than DDT and its isomers and metabolites, for experimental purposes not otherwise permitted under ss. 94.67 through 94.71, Stats., or this chapter. A permit may not be issued under this section for any purpose or use not also authorized or approved under the federal act. Permits may be issued only to:

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

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

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

(a) The names and addresses of:

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

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

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

3. The target organisms against which the experimental use will be directed.

4. The type of plants, animals or site to be treated.

5. The location, nature and size of the site to be treated, and the nature of the surrounding environment.

6. The dates or time periods on or within which the pesticide is to be used.

7. The methods of pesticide application or use.

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

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

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

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

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

4. Available data and information on pesticide toxicity, including oral, dermal and inhalation toxicity, lethal concentrations in the aquatic environment, chronic toxicity hazards, and symptoms of toxicity in persons, plants and animals.

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

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

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

1. Submit proof that the proposed experimental use will not result in pesticide residues in excess of tolerances established under the federal act or the federal food, drug and cosmetic act, as amended (21 USC 301 et seq.), or that the pesticide's active and inert ingredients are exempted from the requirement of a residue tolerance in raw agricultural commodities, food and feed; or

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

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

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

(h) Any additional information required by the department.

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

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

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

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

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

(a) The prominent statements, "FOR EXPERIMENTAL USE ONLY" and "NOT FOR RESALE."

(b) The name, brand or trademark of the pesticide.

(c) The name and address of the experimental use permit holder.

(d) The net contents of the pesticide container.

(e) A complete ingredient statement.

(f) Appropriate warning or cautionary statements.

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

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

(i) Any other labeling required by the department.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

4. A copy of proposed labeling for the product.

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

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

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

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

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

1. A statement that the product is registered for distribution and use only in Wisconsin.
2. The special local need number assigned by the department.
3. The expiration date of state registration.
4. Any other labeling required by the department.

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

1. A statement that the state-registered use is authorized only in Wisconsin.
2. Directions for use to meet the special local need.
3. The trade name of the product.
4. The name and address of the registrant.
5. The EPA (federal environmental protection agency) registration number of the federally registered product.
6. The special local need number assigned by the department.
7. A statement requiring persons using the product to comply with all applicable directions, restrictions and precautions found on the product label, and accompanying supplemental labeling.
8. The expiration date of the state registration.
9. Any other labeling required by the department.

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

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

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

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

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

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

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

Ag 29.09 Licensing of pesticide manufacturers and labelers; filing of reports. (1) **LICENSE REQUIREMENT.** (a) No person may sell or distribute for sale any pesticide product in this state unless the product label bears the name and address of a licensee under s. 94.68, Stats., who, as the manufacturer, registrant or supplemental registrant of the pesticide product, is responsible for the introduction, sale or distribution of the pesticide product in this state. No license is required of a supplemental registrant if the product label bears the name and address of a licensed manufacturer or registrant, and the name of the supplemental registrant is qualified by appropriate wording such as "Packed for...", "Distributed by...", or "Sold by..." to show that the name of the supplemental registrant is not that of a licensed manufacturer or registrant.

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

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

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

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

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

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

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

(b) Commercial applicators required to register under this subsection may not use or apply pesticides without a valid certificate of registration issued by the department. Certificates shall expire on December 31 of

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

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

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

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

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

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

Next page is numbered 193

- (b) The location of the site where the pesticide was applied.
- (c) The pest or pests against which the pesticide was applied.
- (d) The date and time of application.
- (e) The trade name of the pesticide applied, and either the manufacturer's name or the E.P.A. (federal environmental protection agency) registration number of the pesticide.
- (f) The amount of pesticide used and the total area treated.
- (g) Specific types of crops, agricultural commodities, plants, animals, structures, equipment, materials or sites treated.

(2) **DISTRIBUTORS AND RETAIL DEALERS.** Distributors and retail dealers of pesticides, whether or not subject to registration under s. Ag 29.10 (2), shall keep records of the amounts and kinds of pesticides sold. Records shall be kept for a period of 2 years, and be made available to the department for inspection and copying upon request.

History: Renum. from Ag 29.15 (7) and am., Register, March, 1982, No. 315, eff. 4-1-82; am. (1) (intro.), Register, August, 1982, No. 320, eff. 9-1-82.

Ag 29.12 Storage of pesticides. (1) Pesticides shall be stored in accordance with temperature and moisture requirements and other precautionary storage instructions contained on the product label, and in a manner which will assure that original labels on the containers are protected from damage or destruction and kept in readable condition.

(2) Pesticides and their containers while in storage shall be kept in separate rooms or areas, adequately separated from areas used for the storage or display of food, feed, seed, livestock remedies, drugs, plants, and other products or materials so as to prevent possible contamination of those products or materials which could result from volatilization of pesticides, the leakage or breakage of pesticide containers, or other causes.

(3) Indoor rooms or areas used for the storage of pesticides shall be protected and secured in such manner that they are not readily accessible to children or the general public.

(4) Pesticides and pesticide containers stored at outdoor locations, including loading or application sites, shall be kept in a fenced or walled enclosure, secured against entry by children or the general public. Pesticides and pesticide containers shall be covered or otherwise protected and secured to avoid damage to or destruction of product labels, and to prevent hazards to persons, property or wild animals. This subsection does not apply to pesticides or containers temporarily held at loading and application sites in connection with their use, subject to s. Ag 29.15 (8).

(5) Pesticides removed from original shipping containers prior to storage shall be inspected to assure that caps, lids or other sealing devices on the container are tight or secure, and that the container is sound and unbroken. Defective containers, if not fully repaired, shall be destroyed or disposed of in accordance with label directions or in a landfill site approved by the Wisconsin department of natural resources.

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

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

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.08 to be Ag 29.09, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.09 to Ag 29.07, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.07 and am. (2) to (5), Register, March, 1982, No. 315, eff. 4-1-82.

Ag 29.13 Sale and display of pesticides. (1) No pesticide shall be sold or displayed which is not labeled, or on which the label is illegible in any respect.

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

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

(4) Pesticides and their containers, while on display, shall be adequately separated from food, feed, seed, livestock remedies, drugs, plants, or other products or materials displayed or offered for sale, so as to prevent possible contamination of those products or materials which could result from volatilization of pesticides, the leakage or breakage of pesticide containers, or other causes. Under no circumstances shall pesticide containers which have been opened be displayed for sale.

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

(6) No person may sell or distribute any poison or chemical at retail with instructions for its use in the formulation of a pesticide unless it is registered as a pesticide.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.09 to be Ag 29.10, Register, April, 1972, No. 196, eff. 5-1-72; cr. (6) Register, May, 1973, No. 209, eff. 6-1-73; renum. from Ag 29.10 to be Ag 29.08, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.08 and am. (2), (4), to (6), Register, March, 1982, No. 315, eff. 4-1-82.

Ag 29.14 Removal of pesticides from sale. (1) The department may by summary order direct the removal from sale of pesticides which are adulterated or misbranded, or held or offered for sale in violation of these rules. Notice of any removal order shall be given to the manufacturer, distributor or registrant whenever recall of the pesticide or other corrective action is appropriate, unless the removal order was served directly on them. The notice shall include the reasons for the order and such instructions as may be necessary to accomplish the recall or removal of such products from sale.

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

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

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.10 to be Ag 29.11, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.11 to be Ag 29.09, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.09, Register, March, 1982, No. 315, eff. 4-1-82.

Ag 29.15 Application, use and disposal of pesticides. (1) **USE CONTRARY TO LABELING; NEGLIGENCE USE.** (a) No person may mix, handle, store, transport, display or use a pesticide in a manner inconsistent with its labeling or in a negligent manner.

(b) Any use resulting in pesticide drift is negligent, and prohibited under par. (a), if it causes injury or damage, or creates a significant risk of injury or damage to other persons or their property, or wild animals other than those declared pests under s. Ag 29.02. In any judicial or administrative enforcement action or proceeding brought by or on behalf of the department for violation of this subsection, proof of pesticide drift shall be prima facie evidence of a significant risk of injury or damage to other persons, their property and wild animals.

(c) Any use resulting in pesticide overspray is negligent, and prohibited under par. (a), regardless of whether it causes injury or damage, or creates a significant risk of injury or damage to other persons, their property, or wild animals.

(d) The department shall seek equivalent enforcement sanctions for pesticide overspray and drift violations in cases involving human exposure.

(2) **CONTAMINATION OF THE WATERS OF THE STATE.** (a) No person may apply a pesticide to or cause a pesticide to enter waters of the state directly or through sewer systems. This does not apply to:

1. Fish management, mosquito abatement, or other treatment of waters under the supervision or rules of the department of natural resources;

2. The use of pesticides under special department permit, as provided in s. Ag 29.04, for the treatment of sewers for insect or rodent control by or under the supervision of qualified government officials or certified commercial applicators or government officials trained in public health pest control; or

3. The use of pesticides registered and not otherwise prohibited for use in root control in sewage lines or in cleaning, sanitizing, algaeciding, slimiciding, or disinfecting toilets, urinals, sewers, sinks, swimming pools, food processing equipment, dishes, utensils, hospital equipment,

walls, floors, or other surfaces or materials in any building or area where such uses are necessary for the protection of persons, animals or property.

(b) Pesticide spray equipment, including mix or nurse tanks, shall not be filled from any waters of the state, other than from public water supplies and private wells fully protected against backflow or back-siphonage as provided under chapter H62, Wis. Adm. Code. This does not prohibit the filling of tanks used exclusively for water supply purposes from surface waters, provided that no pesticides or pesticide containers are carried on the tank vehicle.

(c) Pesticide spray equipment, including mix or nurse tanks other than nurse tanks used exclusively for water supply purposes, shall not be cleaned in any surface waters of the state. Pesticide spray equipment shall also not be filled or cleaned adjacent to surface waters or wells where, because of the slope or other condition of the ground or bank, pesticides or materials contaminated with pesticides could enter or contaminate the surface waters or well as a result of overflow, leakage or other causes, or rising waters could reach the filling or cleaning area and become contaminated as a result of prior surface contamination or other causes.

(d) The department may, by rule or special order, take such action as may be necessary to prevent the contamination of groundwaters resulting from the seepage or leaching of pesticides through the soil. Rules or orders may restrict or regulate the storage, use or disposal of pesticides in those areas under the department's jurisdiction where, under surrounding environmental conditions or conditions of use and application of pesticides, contamination may occur. Rules or orders may be issued on an emergency or summary order basis where necessary to prevent an imminent hazard to human health or groundwater quality, subject to a right of hearing before the department.

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

(4) AERIAL APPLICATIONS. (a) *Aircraft requirements and operations.* No person may apply a pesticide by aircraft unless the aircraft meets the requirements of and is operated according to the regulations of the federal aviation administration and the Wisconsin department of transportation.

(b) *Notice of applications.* 1. Residents on land immediately adjacent to land on which pesticides are to be applied by aircraft shall be given advance notice of the aerial application 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 adjacent land on which pesticides may be applied. Written requests for advance notification shall include the name, mailing address, property location, and telephone number if any, of the person making the request. Responsibility for giving notice shall be with the landowner or person controlling the use of the land on which aerial application of pesticide is to be made, whichever party received the request for notification. Notice from either responsible party shall constitute notice from both. Notice of an aerial application is not required under this paragraph if the target site of the

application is at no point closer than $\frac{1}{4}$ mile to the adjacent land on which the party requesting notice resides.

2. 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 aerial 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.

3. If a migrant labor camp, as defined in s. 103.90 (5), Stats., is located on land immediately adjacent to land on which pesticides may be applied by aircraft, the operator of the camp shall make annual written request for advance notification under this paragraph.

(5) **DISPOSAL OF PESTICIDES AND CONTAINERS.** No person may dispose of or hold pesticides or their containers, including empty containers, for disposal in a manner which is inconsistent with label directions or which may contaminate the waters of the state or create a hazard to persons, property, fish or wildlife. Pesticide containers, other than containers recycled for scrap or returned to the pesticide manufacturer for re-use, shall not be re-used for any purpose.

(6) **TREATED GRAIN AND SEED; HANDLING AND STORAGE.** (a) Seeds treated with pesticides and intended for planting and propagation shall be incorporated into the soil during planting and shall not be used for or mixed with any food, feed, or oil, or be exposed in such a manner that birds or other animals have access to them.

(b) Bins or storage areas used for the bulk storage of grain or seed treated with pesticide shall be prominently posted with a placard at least 11 inches square bearing the following statement, or words or symbols having the same meaning and effect, in conspicuous lettering: "DANGER. THE GRAIN OR SEED IN THIS STORAGE AREA HAS BEEN TREATED WITH THE PESTICIDE (name of pesticide) ON (date)." The placard shall be posted immediately upon treatment or placement of the treated grain or seed in the storage area, and shall be kept posted until the treated grain or seed has been removed from storage, or the storage area can be entered safely. If grain or seed is treated with pesticide while in storage, the pesticide applicator shall be responsible for posting the required placard. This paragraph does not apply to treated grain or seed stored on the property of the producer and not intended for sale.

(7) **POSTING OF TREATED AREAS; RE-ENTRY INTERVAL; NOTICE TO WORKERS.** (a) *General posting requirement.* Fields, buildings or areas treated with pesticides whose labels prescribe time intervals for safe re-entry following application shall be posted with placards at least 11 inches square bearing, in conspicuous lettering, the words "WARNING—AREA TREATED WITH PESTICIDE—DO NOT ENTER," or words

or symbols having the same meaning and effect. Placards shall be posted before or immediately after treatment, and shall not be removed until the re-entry interval prescribed on the pesticide label has expired.

(b) *Posting locations; exceptions.* The posting requirement under par. (a) applies to fields or other outdoor areas only to the extent that the target area to be treated with pesticide borders within 100 feet of a road or other public right-of-way. Placards shall be posted at approximately regular intervals along the border between the treated area and the public right-of-way, and at normal points of access, with at least one placard being posted for each $\frac{1}{4}$ mile of border. Treated areas bordering within 100 feet of the public right-of-way for less than $\frac{1}{4}$ mile shall be posted with at least one placard. Treated buildings or indoor enclosures shall be posted at each entrance, unless the building or enclosure is otherwise adequately secured against entry.

(c) *Notice to workers.* Persons employed in or around areas treated with pesticides whose labels prescribe time intervals for safe re-entry following application shall be given clear notice and warning of each application, including a description of the treated area and the time interval required for safe re-entry into the area. Notice shall be given in such a manner as to be received and readily understood by all employes who 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.* Responsibility for compliance with this subsection shall be with the landowner or other person controlling the use of the property on which the pesticide is applied. If a contract application is made under this subsection by a commercial applicator for hire, responsibility for compliance shall also be with the applicator, unless the applicator clearly informs the contracting party of the re-entry interval and the requirements of this subsection prior to application.

(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 $1\frac{1}{2}$ 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.

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.

Ag 29.16 Standards for certification of applicators of restricted-use pesticides. (1) **GENERAL STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS.** Commercial applicators of restricted-use pesticides shall as a condition of certification demonstrate practical knowledge of the nature and safe use of pesticides and the principles and practices of pest control, and competency in the safe use, handling and application of pesticides. Practical knowledge and competency shall be determined on basis of written examination and, as appropriate, performance testing in general areas applicable to all commercial applicators as specified under this subsection as well as specific areas applicable to the various categories or subcategories of commercial application as provided in sub. (3). All commercial applicators shall demonstrate practical knowledge and competency in the following general areas:

(a) *Label and labeling comprehension.* The general format and terminology of pesticide labels and labeling; understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels; knowledge of use classifications; and prohibitions against the use of pesticides contrary to their labeling.

(b) *Safety.* Safety factors including knowledge of 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 in or near treated areas; 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, and mixing of pesticides; and the disposal of pesticides and their containers in accordance with label directions and department rules.

(c) *Environment.* Knowledge of potential environmental consequences resulting from the use or misuse of pesticides influenced by such factors as weather and other climatic conditions; types of terrain, soil or other substrate; presence of fish, wildlife and other non-target organisms; and drainage patterns.

(d) *Pests.* Knowledge of pests including the identification of relevant pests, the common features of pest organisms and characteristics of

damage caused by them, and pest development and biology as it may be relevant to problem identification and control.

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

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

(g) *Application techniques*. Knowledge of methods, techniques or procedures used in the application of various pesticide formulations, gases, and solutions, including a knowledge of the techniques and rates of application to be used in a given situation; the relationship of discharge and placement of pesticides to proper use; unnecessary use and misuse of pesticides; and the prevention of drift and overspray.

(h) *Supervision*. Knowledge of supervisory standards and requirements applicable to the direct supervision of competent non-certified applicators acting under the instructions and control of certified applicators in the use and application of restricted-use pesticides.

(i) *Laws and regulations*. Knowledge of state and federal laws and regulations applicable to pesticides and their use and application, including the federal act, ss. 94.67 through 94.71, Stats., chs. Ag 29 and NR 80, Wis. Adm. Code.

(2) **CATEGORIES AND SPECIFIC STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS**. The various categories and subcategories for the certification of commercial applicators, and the specific standards applicable to each, are as set forth in pars. (a) through (j) below. All commercial applicators of restricted-use pesticides shall be certified in the particular category or subcategory of pesticide use and application in which they wish to engage. To be certified in the categories or subcategories specified in this subsection, commercial applicators shall demonstrate by written examination, and as appropriate, performance testing, their competency to engage in the use and application of restricted-use pesticides under such categories or subcategories.

(a) *Agricultural pest control*. 1. Field and vegetable crop pest control.
a. This subcategory includes commercial applicators using or supervising the use of restricted-use 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; pre-harvest intervals; re-entry intervals; phytotoxicity; and the potential for environmental contamination, non-target injury, and community problems associated with the use of restricted-use pesticides in or on agricultural field and vegetable crops, grasslands and noncrop agricultural lands.

2. Fruit crop pest control. a. This subcategory includes commercial applicators using or supervising the use of restricted-use 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 restricted-use pesticides which may be used to control such pests; soil and water problems; pre-harvest and re-entry intervals; phytotoxicity; and the potential for environmental contamination, non-target injury and community problems resulting from the use of restricted-use pesticides in agricultural fruit crop areas and on small fruits, tree fruits and nuts.

3. Animal pest control. a. This subcategory includes commercial applicators using or supervising the use of restricted-use pesticides to control pests on animals, including beef and dairy cattle, swine, sheep, goats, horses, poultry and livestock, and to places on or in which animals are confined. Veterinarians engaged in the business of applying pesticides for hire, publicly holding themselves out as pesticide applicators, or engaged in large scale use of pesticides are included in this subcategory.

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.

(b) *Forest pest control.* 1. This category includes commercial applicators using or supervising the use of restricted-use pesticides to control pests in forests, forest nurseries, and tree seed producing areas.

2. 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.

(c) *Ornamental and turf pest control.* 1. This category includes commercial applicators using or supervising the use of restricted-use pesticides to control pests in the maintenance and production of ornamentals and turf.

2. Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of orna-

mentals 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.

(d) *Seed treatment pest control.* 1. This category includes commercial applicators using or supervising the use of restricted-use pesticides to control pests on seeds.

2. 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.

(e) *Aquatic pest control.* 1. This category includes commercial applicators using or supervising the use of any restricted-use pesticide applied to standing or running water to control pests, excluding applicators engaged in public health related activities under par. (h).

2. 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 NR 107, Wis. Adm. Code, as they relate to the control of aquatic nuisances, protection of water resources, and control of detrimental fish.

(f) *Right-of-way pest control.* 1. This category includes commercial applicators using or supervising the use of restricted-use pesticides to control pests in the maintenance of public roads, electric powerlines, pipelines, railway right-of-ways or other similar areas.

2. 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.

(g) *Industrial, institutional, structural, and health related pest control.* 1. General pest control. a. This subcategory includes commercial applicators using or supervising the use of restricted-use pesticides for the protection of stored, processed, or manufactured products and to control pests in, on, or around food handling establishments, human dwellings, schools, institutions, industrial establishments, warehouses,

grain elevators, and any other public or private structures and adjacent areas.

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.

2. Fumigation pest control. a. This subcategory includes commercial applicators using or supervising the use of restricted-use pesticides as fumigants for the control of pests in industrial, institutional, structural, or health related pest control application by means of general, spot, tarpaulin, chamber, vehicle, in-transit, or any other form, process, or method of fumigation.

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.

3. Wood destroying pest control. a. This subcategory includes commercial applicators using or supervising the use of restricted-use pesticides for the control of pests in, on, or around wood products, including the prevention or control of termites, true or false powder post beetles, death watch beetles, carpenter ants, carpenter bees, wood rotting fungi and other pests that may damage or destroy wood.

b. Applicators shall demonstrate practical knowledge of a variety of wood destroying pests and their life cycles; types of pesticides and pesticide formulations which may be used for their control; 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 wood destroying pests.

(h) *Public health pest control.* 1. This category includes state, federal, or other governmental employees using or supervising the use of restricted-use pesticides to control pests in public health programs for the management and control of pests having medical and public health importance.

2. 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.

(i) *Regulatory pest control.* 1. This category includes state, federal and other governmental employes who use or supervise the use of restricted-use 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.

(j) *Demonstration and research pest control.* 1. This category includes individuals who demonstrate to the public the proper use and techniques of application of restricted-use pesticides or supervise such demonstrations, and extends to extension specialists and county agents, commercial representatives demonstrating pesticide products, and individuals demonstrating methods used in public programs, or who otherwise demonstrate the use and application of restricted-use pesticides or supervise such demonstrations. This category also includes state, federal, commercial and other individuals conducting field research with or on pesticides and in so doing, use or supervise the use of restricted-use pesticides.

2. Applicators in this category shall meet comprehensive standards reflecting a broad spectrum of pesticide uses. They shall demonstrate practical knowledge of pests and pesticides which may be used for the control of pests, population levels occurring in each demonstration situation and of problems which may be encountered in the course of activities associated with demonstration. They shall also demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. Applicators engaged in demonstration pest control work shall demonstrate practical knowledge and competency in all general areas specified under sub. (2) and all the specific areas specified under sub. (3) (a) through (g) which may be applicable to their particular activity. Persons conducting field research or method improvement work with restricted-use pesticides shall demonstrate practical knowledge and competency in all general areas specified under sub. (2). In addition, persons conducting field research or method improvement work with restricted-use pesticides shall demonstrate practical knowledge and competency in all specific areas specified under sub. (3) (a) through (i) which may be applicable to their particular activity, or alternatively, meet the more inclusive requirements of this paragraph.

(3) **AERIAL APPLICATORS.** (a) Commercial applicators applying or supervising the application of restricted-use pesticides by fixed or rotary wing aircraft shall, as a condition of certification, demonstrate by writ-

ten examination practical knowledge of the nature and safe use and handling of pesticides, the principles and practices of aerial pest control, and the effects of aerial pest control on the environment. Applicators shall also demonstrate overall competency in the aerial application of pesticides to prevent drift and overspray.

(b) Commercial applicators applying or supervising the application of restricted-use pesticides by fixed or rotary wing aircraft shall, as a condition of certification, demonstrate practical knowledge and competency in all general areas under sub. (2) and be certified in the particular categories or subcategories of sub. (3) in which they wish to engage.

(4) **STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS.** (a) *Standards of competency.* Private applicators of restricted-use pesticides shall, as a condition of certification, demonstrate competency in the safe use and application of restricted-use pesticides. Competency shall be determined on basis of a showing that they possess practical knowledge of the pest control problems and practices associated with agricultural operations; the proper use, storage, handling, and disposal of restricted-use pesticides and their containers; the legal liabilities and responsibilities of the private applicator; and state and federal laws and regulations applicable to the use and application of pesticides, including ss. 94.67 through 94.71, Stats., the federal act, and chs. Ag 29 and NR 80, Wis. Adm. Code. Private applicators shall also demonstrate practical knowledge of supervisory standards and requirements applicable to the direct supervision of competent noncertified applicators acting under their instructions and control. Practical knowledge shall also include the ability to:

1. Recognize common pests to be controlled and damage caused by them.
2. Read and understand labels and labeling information, including the common or generic names of pesticides and the types of pests they are intended to control; use classification and directions for use; methods and timing of application; safety measures and precautions to be taken; pre-harvest and re-entry restrictions; and specific disposal instructions and procedures.
3. Apply pesticides in accordance with label instructions and warnings, including the ability to prepare the proper concentration of pesticides to be used under particular circumstances, taking into account such factors as areas to be covered, speed at which application equipment is to be used, the rate of application, and the quantity dispersed during a given period of operation.
4. Recognize local environmental problems and situations to be considered in the safe use and application of pesticides.
5. Recognize poisoning symptoms, antidotes, and procedures to follow in case of a pesticide accident.

(b) *Certification procedures.* The competence of private applicators of restricted-use pesticides shall be determined by training or examination as provided under s. 94.706, Stats., and standards prescribed under par. (a).

(c) *Non-resident private applicators.* Non-resident private applicators shall not use or supervise the use of restricted-use pesticides in this state unless:

1. They are certified under this subsection; or
2. They possess a current and valid certification issued under equivalent laws or programs of another state and are registered with the department under s. 94.705 (4) (c), Stats.

(5) **STANDARDS FOR SUPERVISION OF NONCERTIFIED APPLICATORS.** (a) No person may use or supervise the use of restricted-use pesticides as a private applicator unless certified to engage in such activity, or as a commercial applicator unless certified in the specific category or subcategory in which the restricted-use pesticide is to be applied. Restricted-use pesticides may be used or applied by competent noncertified applicators acting under the direct supervision of a certified applicator in specific categories, subcategories, or areas in which the certified applicator is authorized to act as a private or commercial applicator.

(b) In this subsection a competent noncertified applicator means a person who:

1. Has the ability to understand and follow oral instructions and, except as otherwise provided in this subsection, read and comprehend written instructions including pesticide labels and labeling information;
2. Is at least 16 years of age; and
3. To the satisfaction of the certified applicator under whose supervision the noncertified applicator will be acting, is capable of performing functions associated with the safe use and application of pesticides on basis of prior training or experience, and who can be expected to carry out assignments and instructions in a responsible manner.

(c) The following standards shall apply to the direct supervision of the work of competent noncertified applicators:

1. The certified applicator shall be physically present during all periods of pesticide use and application by competent noncertified applicators acting under their supervision or, if unable to be physically present, shall provide noncertified applicators with legible and detailed instructions or directions in writing of the manner in which pesticides are to be used, mixed, handled, or applied and of the precautions to be taken to prevent accidents or injury to the applicator, other persons, and the environment. Instructions shall include precise directions as to how the certified applicator may be contacted by telephone or other voice communication during all periods in which pesticides are being used or applied. The pesticide label may be used as part of the instructions or directions to the extent applicable. Noncertified applicators shall have such written instructions or directions in their possession during all periods in which pesticides are used or applied by them.

2. Supervising certified applicators, if not physically present during all phases of pesticide use and application by noncertified applicators acting under their direction, shall at all times be available to receive calls and maintain direct communication with the noncertified applicator and be able physically to reach the site where pesticides are being used or applied within a reasonable period of time.

3. Supervising certified applicators shall be physically present at the site where pesticides are being used or applied if required by the pesticide label or if the noncertified applicator has had no prior experience with the pesticide being used or the specific method by which it is to be used or applied.

(d) Restricted-use pesticides may be used or applied by competent noncertified applicators who, because of limited English language ability, are unable to read or comprehend labels, label information, and instructions written in the English language only if the supervising certified applicator is physically present during all periods of pesticide use and application. Private applicators of limited English language ability certified under s. 94.706 (1) (d), Stats., may not supervise the work of noncertified applicators who are similarly unable to read and understand pesticide labels, label information, and instructions written in the English language.

(e) Ultimate responsibility for the application of restricted-use pesticides by a competent noncertified applicator shall remain with the supervising certified applicator.

(6) RECERTIFICATION OF COMMERCIAL APPLICATORS OF RESTRICTED-USE PESTICIDES. (a) *General standards.* Commercial applicators of restricted-use pesticides shall, as a condition to recertification, demonstrate continuing practical knowledge of the nature and safe use of pesticides and the principles and practices of pest control, and continuing competency in the safe use, handling and application of pesticides, in accordance with the standards for certification provided in subs. (1) and (2). Continuing practical knowledge and competency shall be determined by written examination as provided in s. 94.705 (1) (c), Stats., or by training as provided in this subsection.

(b) *Recertification by training.* 1. A certified commercial applicator may, by training, be recertified in any category or subcategory of pesticide application in which the applicator was originally certified by written examination. In order to be recertified by training, applicators shall attend a minimum number of hours in approved courses relating to the category or subcategory of pesticide application for which recertification is desired, as follows:

Category	Hours of Training Required for Recertification
Agricultural Pest Control	
Field and Vegetable Crops	30
Fruit Crops	30
Livestock	12
Forest Pest Control	24
Ornamental and Turf Pest Control	30
Seed Treatment Pest Control	12
Aquatic Pest Control	18
Right-of-Way Pest Control	18
Industrial, Institutional and Health-Related Pest Control	
General	30
Fumigation	30
Wood Destroying	18
Public Health Pest Control	30
Regulatory Pest Control	18

2. No more than $\frac{1}{2}$ of the total hours of training required for certification in each category or subcategory may be accumulated in any single year, with years being calculated from the date of prior certification. To obtain credit for attendance at approved training courses, persons shall submit proof of attendance to the department. No person shall claim credit for any portion of an approved training course which was not actually given or attended.

(c) *Approved training courses.* A course may be counted toward the recertification training requirement in any category or subcategory of pesticide application only if it has been approved in advance by the department. No course may be advertised or represented as being approved for recertification training credit until and unless it has been approved in writing by the department. To qualify for approval a course must:

1. Be directly relevant to the category or subcategory of pesticide application for which training credit is to be given;
2. Cover at least 3 of the general areas of knowledge and competency provided in sub. (1), or be otherwise approved for content by the department;
3. Be taught by an instructor certified in the category or subcategory of pesticide application for which training credit is to be given, or who has recognized expertise in the subject area; and
4. Be at least 1- $\frac{1}{2}$ hours in length.

(d) *Training courses; manner of obtaining approval.* In order to obtain approval of a course for recertification training credit, the course sponsor must submit a course description to the department at least 30 days before the scheduled date on which the course is to be given. The description shall include;

1. The topics to be covered in the course, and the nature of course contents pertaining to each topic;

2. The time allotted to each topic;

3. The name, address, title and professional qualifications of each instructor;

4. The number of credit hours proposed for the course, in each category or subcategory of pesticide application; and

5. The name, address and telephone number of the person responsible for coordinating the course.

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

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

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

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

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

Ag 29.17 Aldicarb use restrictions; reporting requirements. (1) 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. A commercial applicator certified in the pest control category pertaining to the type of application being made.

2. A certified private applicator, or a person acting under the direct supervision of a certified private applicator, if the application is not a commercial application.

(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.

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

sults 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 APPLICATIONS; EXEMPTION.** This section does not apply to greenhouse applications of aldicarb.

(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 preven-

Register, March, 1988, No. 387

tive 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.

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.