

Clearinghouse Rule 97-125

STATE OF WISCONSIN

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Clearinghouse Rule

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No. 97-125

DEPARTMENT OF AGRICULTURE

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TRADE AND CONSUMER PROTECTION

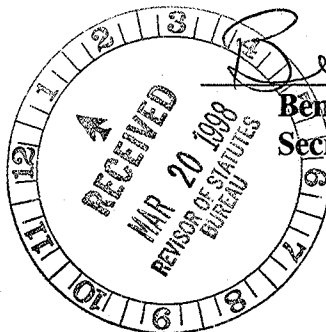
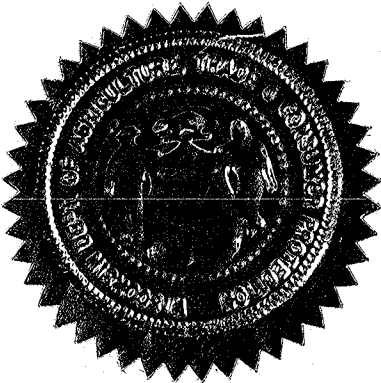
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CERTIFICATION:

I, Ben Brancel, Secretary of the State of Wisconsin Department of Agriculture, Trade and Consumer Protection, and custodian of the department's official records, hereby certify that the attached rulemaking order relating to the reorganization of pesticide rules was signed and adopted by the department on March 19, 1998.

I further certify that I have compared the attached copy to the original on file in the department, and that the attached copy is a complete and accurate copy of the original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department at the Department offices in the city of Madison, this 19 day of March, 1998.



Ben Brancel
Ben Brancel
Secretary

6-1-98

ORDER OF THE STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION
ADOPTING, AMENDING OR REPEALING RULES

1 The state of Wisconsin department of agriculture, trade and
2 consumer protection hereby adopts the following order to repeal
3 ch. ATCP 30 subch. I (title), subch. II (title) and subch. III
4 (title); to renumber ATCP 29.17(title) and (1) to (11), ATCP
5 30.01, 30.05, 30.10, 30.11, 30.18, 30.25, 30.26, 30.30, 30.35 and
6 30.40 and Appendix A; to renumber and amend ATCP 29.17(12); to
7 amend ATCP 3.02(1)(b) and 80.30(4)(note); to repeal and recreate
8 ch. ATCP 29 and ch. ATCP 30(title); and to create ch. ATCP
9 30(note), subchs. I to VI, subch. VII(title) and subch. VIII
10 (title); relating to pesticide regulation.

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

Statutory Authority: ss. 93.07(1) and (9), 94.69, 160.19(2)
and 160.21(1), Stats.

Statutes Interpreted: ss. 94.67 to 94.71 and ch. 160,
Stats.

This rule reorganizes and clarifies the department's current pesticide rules so they will be easier to read and understand. This rule redrafts the current rules according to current drafting standards. For the most part, this rule does not change the substance of the current rules. In some cases, however, this rule makes substantive changes.

Current Rules

The department administers Wisconsin's pesticide laws under ss. 94.67 to 94.71, Stats. The department licenses pesticide manufacturers, distributors and commercial applicators, and certifies farmers and commercial applicators for competence in using pesticides. The department regulates the distribution, storage, handling and use of pesticides to protect persons, property and the environment.

ATCP 29 and 30, Wis. Adm. Code. The current rules have been modified many times, and the current organization is becoming unworkable. The department proposes to recodify the current rules in a new, more workable, format.

In recent years, the Legislature has reorganized the licensing of pesticide manufacturers, distributors and applicators. The Legislature has also reduced tax dollar funding for the pesticide program, and has substituted license fee funding. This has created a license and fee structure which is not adequately reflected in the current rules. This rule incorporates current license and fee requirements, including changes proposed in the 1997-99 biennial budget bill. This rule does not change the fees prescribed by the Legislature.

Proposed Reorganization

The department proposes to reorganize ch. ATCP 29 as follows:

Chapter ATCP 29 Pesticide Use and Control

Subch. I	Definitions and General Provisions
Subch. II	Pesticide Registration and Labeling
Subch. III	Pesticide Manufacturers and Labelers
Subch. IV	Pesticide Dealers and Distributors
Subch. V	Commercial Application Businesses
Subch. VI	Individuals Handling or Applying Pesticides
Subch. VII	Storing, Transporting and Selling Pesticides
Subch. VIII	Pesticide Handling, Disposal and Spills
Subch. IX	Pesticide Use
Subch. X	Agricultural Worker Protection
Subch. XI	Special Registrations and Use Authorizations

The department also proposes to consolidate current substance-specific pesticide rules in ch. ATCP 30 as follows:

Chapter ATCP 30 Pesticide Product Restrictions

Subch. I	Definitions
Subch. II	Prohibited Pesticides (from current ATCP 29.03)
Subch. III	Pesticides Requiring Special Use Permit (from current ATCP 29.04)
Subch. IV	Pesticides Allowed Only for Certain Purposes (from current ATCP 29.05)
Subch. V	Pesticides Used to Control Bats (from current s. 94.708, Stats.)
Subch. VI	Metam Sodium Pesticides (from current ATCP 29.171)
Subch. VII	Aldicarb Pesticides (from current ATCP 29.17)
Subch. VIII	Atrazine Pesticides (from current ch. ATCP 30)

The department believes that this new organization will make it easier for affected businesses and individuals to identify the rules that apply to them. The new organization also reflects, more clearly, the current structure of the pesticide program.

Technical Drafting Changes

As part of the pesticide rule reorganization, the department has redrafted the current rules to meet current state drafting standards. This changes the appearance, but not the substance, of the rules. The redrafting:

- Simplifies and clarifies rule language.
- Eliminates ambiguities and inconsistencies.
- Incorporates current drafting conventions specified by the Legislative Council Rules Clearinghouse.
- Consolidates related rule provisions under common headings, for ease of reference.
- Spells out current requirements and exemptions in a more direct way.

Proposed Ch. ATCP 29

This rule reorganizes and clarifies current rules under ch. ATCP 29 as follows:

Definitions

Current pesticide rules under ch. ATCP 29 include over 75 definitions. In some cases, it is impossible to understand a substantive rule provision without consulting 3 or 4 "nested" definitions that contain extensive substantive material. This makes it more difficult for the public to read and understand the rules.

This rule removes substantive material from the definitions, and incorporates it in the rules themselves. This rule also deletes definitions that are no longer necessary. Definitions used only in one section of the rule are located in that section for easy reference.

Declaration of Pests

Current rules include a "declaration of pests" under s. 94.69(1), Stats. This rule simplifies the "declaration of pests" but makes no substantive change in that declaration.

Pesticide Registration and Labeling

Under current law, pesticides and pesticide labels must be registered by the federal environmental protection agency. This rule codifies this current requirement, but exempts pesticides that are specifically exempted from registration under the federal act.

Under current law, pesticides must be labeled with certain information including the identity of the responsible manufacturer or labeler. This rule incorporates current labeling requirements without substantive change.

Pesticide Manufacturers and Labelers

Under current law, a pesticide manufacturer or labeler must obtain an annual license and pay license fees. (There are certain exemptions.) This rule:

- Incorporates current license and fee requirements, but modifies them to reflect changes made by 1997 Wis. Act 27.
- Clarifies current license exemptions.
- Spells out license application procedures.
- Sets deadlines for department action on license applications.

Under current rules, pesticide manufacturers and labelers must keep records and provide information to the department upon request. This rule incorporates the current requirements without substantive change.

This rule clarifies that individual employees of a licensed manufacturer or labeler need not be separately licensed as manufacturers or labelers if they are acting solely in an employment capacity.

Pesticide Dealers and Distributors

Under current law, a dealer or distributor of restricted-use pesticides must be licensed by the department. This rule incorporates the current license requirement without substantive change, but clarifies that the following persons are exempt:

- Individual employees of a license holder who are acting solely in an employment capacity.
- Licensed manufacturers or labelers selling only pesticides which they have labeled.

- Persons who apply all of the restricted-use pesticides which they sell or distribute.

Under current law, a dealer or distributor of restricted-use pesticides must pay annual license fees. This rule incorporates current fee requirements, but modifies them to reflect changes made by 1997 Wis. Act 27. This rule also spells out license application procedures, and sets deadlines for department action on license applications.

Under current law, a dealer or distributor of restricted-use pesticides must keep records and file annual reports with the department. This rule incorporates these requirements without substantive change.

Under current law, a business selling pesticides of any kind must keep records of the amounts and kinds of pesticides sold. This rule incorporates this requirement without substantive change.

Commercial Application Business; License

Under current law (subject to certain exemptions), a business that does any of the following, either directly or through an employee, must be licensed by the department:

- Uses or directs the use of any pesticide as an independent contractor for hire.
- Uses or directs the use of restricted-use pesticides.

This rule incorporates the current license requirement but clarifies that the following persons are exempt:

- A government entity.
- An individual employee of a license holder who is acting solely in an employment capacity.
- An individual or business applying pesticides as part of a medical treatment provided by a licensed medical practitioner, or as part of a veterinary treatment provided by a licensed veterinary practitioner.
- An individual or business applying pesticides in the laboratory in the course of bona fide laboratory research.
- An individual or business applying germicides, sanitizers or disinfectants.
- An agricultural producer, except that an agricultural producer who does any of the following is not exempt:

- * Applies pesticides for a person who is not an agricultural producer.
- * Applies pesticides for another agricultural producer for a purpose other than the production of agricultural commodities, or for the purpose of producing pesticide-treated commercial seed or pesticide-treated commercial wood products.
- * Applies pesticides, for compensation other than the exchange of goods or services, for more than 3 other agricultural producers in any calendar year.
- * Applies pesticides in any calendar year, for compensation other than the exchange of goods or services, to more than 500 acres of land which the applying producer does not own or control.

Under current law, a license holder must pay annual license fees. This rule incorporates current fee requirements, but modifies them to reflect changes made by 1997 Wis. Act 27. This rule also spells out license application procedures, and sets deadlines for department action on license applications.

Commercial Application Business; Records

Under current rules, a licensed commercial application business must keep a record of pesticide applications which it makes directly or through an employee. This rule modifies current recordkeeping requirements to make them consistent with federal requirements. This rule also clarifies that:

- On the day of the application, the individual who applies the pesticide must make the business record of the application.
- The business must keep the record for at least 2 years. An employee need not keep duplicate copies of an employer's records.

Commercial Application Business; Information to Customers

Under current rules, a licensed commercial application business making a pesticide application for a customer must provide the customer with certain information about that application. This rule incorporates the current requirements without substantive change. Under the current rules, the business must provide the information within 30 days after the application, except that:

- Reentry precautions must be provided before the application is made.

- Information related to residential and landscape applications must be provided at the time of the application.

Veterinary Clinic Applying Pesticides

Under current law (s. 94.702, Stats.), a veterinary clinic applying pesticides must hold a permit from the department. This rule incorporates the current permit requirement without substantive change, and spells out the procedure for obtaining a permit.

Individual Commercial Applicator; License

Under current law, an individual must be licensed by the department if that individual does either of the following:

- Uses or directs the use of any pesticide as an independent contractor for hire, or as an employee of an independent contractor for hire.
- Uses or directs the commercial use of a restricted-use pesticide.

This rule incorporates the current license requirement without substantive change, but clarifies that the following individuals are exempt:

- A licensed health practitioner who uses or directs the use of a pesticide as part of a medical treatment.
- A licensed veterinarian or certified animal technician who uses or directs the use of a pesticide as part of a veterinary treatment.
- A laboratory researcher who uses or directs the use of pesticides only in the laboratory as part of a bona fide laboratory research project.
- An individual who only uses or directs the use of germicides, sanitizers or disinfectants.
- An employee of a licensed commercial application business who applies pesticides only to property owned or operated by that commercial application business, and who applies no restricted-use pesticides.
- An individual who is currently registered with the department as a 30-day "trainee" (see below). A trainee must be directly supervised by a license holder and may not apply restricted-use pesticides.

- An agricultural producer, except that an agricultural producer is not exempt if the producer does any of the following:
 - * Applies pesticides for a person who is not an agricultural producer.
 - * Applies pesticides for another agricultural producer for a purpose other than the production of agricultural commodities, or for the purpose of producing pesticide-treated commercial seed or pesticide-treated commercial wood products.
 - * Applies pesticides, for compensation other than the exchange of goods or services, for more than 3 other agricultural producers in any calendar year.
 - * Applies pesticides in any calendar year, for compensation other than the exchange of goods or services, to more than 500 acres of land which the applying producer does not own or control.

Under current law, license holders must pay annual license fees prescribed by statute. This rule incorporates current fee requirements, but modifies them to reflect changes made by 1997 Wis. Act 27. This rule also spells out license application procedures, and sets deadlines for department action on license applications.

Individual Commercial Applicators; Certification

Under current law, an individual licensed as a commercial applicator (see above) must also be certified for competence. The department may certify a commercial applicator for a period of 5 years in one or more application categories. A commercial applicator may apply pesticides only in those categories in which the applicator is certified.

To be certified in any pesticide use category, a commercial applicator must pass a written closed-book examination which demonstrates general pesticide knowledge, as well as specific knowledge in that pesticide use category.

This rule reformulates the current rules but makes few substantive changes. The rule:

- Clarifies current certification procedures.
- Adds 4 new certification categories (greenhouse and nursery, antifouling paint, sewer root and companion animal).

- Deletes 3 certification categories (public health, regulated pest, and demonstration and research) which are effectively covered by other categories.
- Modifies category descriptions, and clarifies the standards for certification in each category.
- Clarifies that a commercial applicator certified in any category may mix and load pesticides, for application by others, in other categories.

Under this rule, a commercial applicator may be certified in any of the following categories:

- Field and vegetable crop pest control
- Fruit crop pest control
- Livestock and poultry pest control
- Forest pest control
- Turf and landscape pest control
- Greenhouse and nursery pest control (new category)
- Seed treatment pest control
- Aquatic pest control
- Antifouling paint applications (new category)
- Right-of-way pest control
- Industrial, institutional, structural and health-related pest control; general
- Fumigation; spaces and commodities
- Sewer root control (new category)
- Termite control
- Wood preservation
- Companion animal pest control (new category)

Under this rule, a certified commercial applicator who wishes to apply pesticides by means of aerial application, chemigation or soil fumigation must obtain a supplementary certification related to that application method. The rule spells out standards for supplementary certification.

Private Applicators; Certification

Under current rules, an agricultural producer must be certified to use restricted-use pesticides. In lieu of being certified as a commercial applicator (see above), a producer may be certified as a private applicator. A private applicator certification does not authorize a producer to engage in activities for which a commercial applicator license and certification are required. Private applicators who complete training and pass an open-book examination are certified for a period of 5 years.

This rule reformulates, but does not substantially alter the current rules. This rule clarifies the distinction between a private applicator and commercial applicator, and clarifies the

standards and procedures for certifying private applicators.

Under this rule, a certified private applicator who wishes to apply pesticides by means of aerial application, chemigation or fumigation must obtain a supplementary certification related to that application method. The rule spells out standards for supplementary certification.

Pesticide Mixers and Loaders; Certification

This rule clarifies that the department may license and certify an individual to mix and load pesticides. A certified mixer and loader may mix and load pesticides for application by others in any pesticide use category, but may not apply pesticides in any category. Certification is good for 5 years.

To be certified as a mixer and loader, an individual must pass a written closed-book examination which demonstrates general pesticide knowledge. This rule clarifies the knowledge required of a pesticide mixer and loader.

Trainee Registration

Under current rules, an individual employed by a licensed commercial application business may register with the department as a trainee applicator. A registered trainee may apply pesticides for up to 30 days, without a license or certification, as part of a bona fide training program that prepares the trainee for licensing and certification. The trainee may not apply restricted-use pesticides, and may apply pesticides only under the direct supervision of a licensed and certified applicator.

This rule incorporates the current trainee registration program without substantive change, except that it requires the trainee's employer to file the trainee registration and certify that applicable conditions are met. This rule also clarifies the conditions and restrictions that apply.

Applicator Records

Under current rules, a commercial applicator must keep a record of pesticide applications. This rule reformulates and makes some substantive changes to the current rule. Under this rule:

- Certified commercial and private applicators must keep a record of each pesticide application for which certification is required. The individual must make the record on the day of the application. An individual need not keep a record of pesticide applications for which the individual is not required to be certified.

- A certified applicator employed by a licensed commercial application business need not retain a duplicate copy of an application record made by the applicator and kept by the employer.

Storing and Transporting Pesticides

This rule consolidates and reformulates current rules related to the safe storage of pesticides, but does not substantially alter those rules. This rule adds provisions related to pesticide transportation and deletes a provision related to "first in, first out" storage of hypochlorite sanitizers. Under this rule, persons storing or transporting pesticides must:

- Store and transport pesticides according to label directions, in a manner that avoids reasonably foreseeable and reasonably preventable hazards to persons, property and the environment.
- Store bulk pesticides according to ch. ATCP 33 (current rule).
- Secure pesticides and pesticide containers against access by children, the general public, domestic animals and wild animals.
- Keep pesticides adequately separated from food, feed and other products so that pesticides will not be mistaken for or contaminate other products.
- Clean pesticide storage areas and transport vehicles before reusing them for other purposes.
- Protect pesticide containers and labels from reasonably foreseeable damage and destruction.
- Inspect pesticide containers when they are removed from shipping containers.
- Refrain from storing or transporting pesticides for sale in visibly broken, defective, unsealed or improperly sealed containers.

Selling Pesticides

Current rules spell out standards for the safe display and sale of pesticides. This rule consolidates and reformulates, but does not substantially alter, the current rules.

This rule deletes a provision related to the department's authority to order pesticides removed from sale, because that authority is adequately set forth in s. 94.71, Stats., and need

not be repeated in the rule.

Pesticide Mixing and Loading

Under current rules, pesticide mixing and loading operations conducted at any of the following sites must be conducted over a spill containment surface (there are some exceptions):

- A site located within 100 feet of any well or surface water.
- A site at which more than 1,500 lbs. of pesticide active ingredients are mixed or loaded in any calendar year.

The current rules spell out minimum standards for spill containment surfaces. The current rules also prohibit certain mixing and loading practices that may contaminate the waters of the state. This rule consolidates and reformulates, but does not substantially alter, the current rules.

Pesticide and Container Disposal

Current rules prohibit the disposal of pesticides and pesticide containers in a manner inconsistent with label directions, or in a manner that creates a hazard to persons, property or the environment. Current rules also restrict the reuse of pesticide containers. This rule reformulates, but does not substantially alter, the current rules.

Pesticide Spills

Under current rules, persons who spill pesticides must take prompt action to contain and recover the spill. Current rules also contain provisions related to spill reporting and the storage of spilled material. This rule reformulates, but does not substantially alter, the current rules.

Pesticide Use; General

This rule reformulates, but does not substantially alter, current rules which prohibit any person from:

- Using pesticides in negligent manner, in a manner inconsistent with label directions, or in a manner which the user knows or should know will contaminate the waters of the state.
- Using pesticides in a manner that results in pesticide overspray or significant pesticide drift. This rule exempts, from overspray and drift prohibitions, government mosquito control applications made for public health purposes.

- Harvesting pesticide-treated commodities before the prescribed pre-harvest interval has expired.
- Causing pesticides to contaminate waters of the state. This rule clarifies that the prohibition does not apply to:
 - * Incidental application of pesticides to temporary rain puddles on target application sites.
 - * Unforeseeable pesticide leaching or runoff.
- Selling, furnishing or using defective application equipment that cannot apply pesticides according to label directions. (A person may sell defective equipment if, before the sale, that person specifically discloses the defect in writing.)
- Directing or coercing an employee or contract agent to violate applicable pesticide laws.

Advance Notice of Pesticide Applications

Current rules provide for advance notification of the following pesticide applications:

- Applications of pesticides labeled "Highly Toxic to Bees."
- Aerial applications (see below).
- Commercial applications to residential structures (see below).
- Commercial landscape applications (see below).

This rule consolidates and reformulates these pre-notification requirements, for ease of reference. Except as noted below, this rule does not alter the pre-notification requirements.

Warning Signs at Application Sites

Under current rules, warning signs must be posted in connection with the following pesticide applications:

- Agricultural applications for which the federal environmental protection agency requires worker protection warning signs under 40 CFR 170. (See worker protection requirements below.) Worker protection signs have a special format, and must be removed within 3 days after each application.
- Applications of "dual notice" agricultural pesticides if the application is located within 100 feet of a public road or within 300 feet of a nonagricultural area where people are likely to be present during the restricted entry interval specified on the pesticide label. Current rules prescribe warning sign contents and method of posting. These signs may remain posted indefinitely. Worker protection signs may

be substituted, but must be removed within 3 days after each application.

- Applications of nonagricultural pesticides whose labels prescribe restricted entry intervals. Current rules prescribe warning sign contents and posting methods.
- Chemigation applications (see below).
- Commercial applications to residential structures (see below).
- Commercial landscape applications (see below).
- Applications to bulk stored seeds. Bins used to store bulk treated seed must be posted. The current rules prescribe warning sign contents.

This rule consolidates and reformulates current warning sign posting requirements for ease of reference. This rule does not substantially alter the current requirements, except that it no longer requires warning signs for agricultural applications of "dual notice" agricultural pesticides applied within 100 feet of a public road unless the pesticides are applied by means of chemigation. Warning signs are still required if the application is made within 300 feet of other nonagricultural areas where people are likely to be present.

Aerial Applications

Under current rules, aerial applications must comply with applicable regulations of the federal aviation administration and the Wisconsin department of transportation. The person owning or controlling the application site (or that person's agent) must give prior notice to adjacent residents who have made a request during that calendar year. This rule reformulates, but does not substantially alter, the current rules.

Chemigation

Current rules spell out standards for chemigation systems, including engineering standards. Persons using chemigation systems to apply pesticides must have a chemigation operating plan, and must properly monitor chemigation operations. Warning signs must be posted if the chemigation application site is located within 100 feet of a public road or within 300 feet of an area where people are likely to be present. Current rules prescribe warning sign contents and posting methods.

This rule reformulates the current chemigation rules. This rule does not substantially alter the current rules, except that it eliminates the provision requiring a chemigation operator to

notify the department before operating a chemigation system at a chemigation site for the first time.

Commercial Applications to Residential Structures

Current rules spell out requirements for commercial applications to residential structures (other than applications of germicides, sanitizers or disinfectants). This rule reformulates, but does not substantially alter, the current rules.

Under this rule, as under current rules, a commercial application business hired to make a residential application must offer to provide the customer with certain information prior to the application. Even if the customer does not request any pre-application information, the commercial application business must provide certain information to the customer after it completes the application.

Under this rule, as under current rules, a business making a residential application must provide information to residents at the time of the application, and must post warning signs if the pesticide label prescribes a restricted entry interval. The rule spells out methods for providing information and posting warning signs.

Commercial Landscape Applications

Current rules define "landscape applications" to include applications to turf areas located in or around residential, public or commercial areas, or to plants located in those turf areas. This rule modifies the current definition to:

- Include applications to certain non-turf areas (ornamental and mulched areas).
- Include tree and subsoil injections.
- Exclude applications within 10 feet of a building that are designed to prevent structural or household pests from entering the building.

Under current rules, a commercial application business hired to make a landscape application must provide the customer with certain information about the application. This rule reformulates, but does not substantially alter, this requirement. The business must provide the information when it completes the application.

Under current rules, a business must post warning signs whenever it makes a landscape application in or around a residential, public or commercial site. The current rules specify the form, content and method of posting warning signs. If any person asks

for information about the landscape application, the business must offer to provide specified information. This rule reformulates but does not substantially alter the current rules, except that this rule:

- Makes changes in sign contents. Under this rule, every warning sign must specify the date when the warning sign may be removed.
- Makes changes related to posting locations. Under this rule, at least one warning sign must be visible from each point at which there is significant potential for human access to the treated area.
- Creates an exception for cemeteries posted with permanent warning signs. This new exception is similar to the current exception for golf courses:
 - * The rule specifies the location, form and content of permanent warning signs.
 - * Permanent warning signs must state that pesticides are used periodically, and that additional information is available from the golf course superintendent or cemetery grounds manager.
 - * The superintendent or grounds manager, if asked for information, must notify the requester that certain information is available and must provide that information upon request.

Under current rules, the department publishes an annual registry of persons requesting advance notice of landscape applications in their immediate area:

- Persons must register annually to be included in the annual registry.
- The department distributes the registry to commercial application businesses that make landscape applications.
- Before a commercial application business makes a landscape application to any site, it must notify registered individuals who are entitled to notice of that application.
- Registered individuals are entitled to advance notice of applications to property on which they reside, to immediately adjacent property, or to property located on the same or immediately adjacent blocks.

This rule reformulates the current landscape registry rules. This rule does not substantially alter the current rules, except

that it changes the annual registration deadline from March 1 to February 1, and changes the effective date of the registry from April 1 to March 15. (The department will distribute the registry by March 1.)

Seed Applications

Current rules regulate the planting and use of pesticide-treated seed, and require warning signs on bins used to store pesticide-treated seed. This rule reformulates, but does not substantially alter, the current rules.

Agricultural Worker Protection

The federal environmental protection agency has adopted agricultural worker protection rules under 40 CFR 170. This rule incorporates the federal standards.

Among other things, federal rules require agricultural employers to post worker protection warning signs and give workers notice of pesticide applications. The department's current rules spell out the content, format and method of posting worker protection warning signs, consistent with federal standards. This rule reformulates, but does not substantially alter, the current rules.

Federal rules currently prohibit agricultural workers from reentering a treated area during a restricted entry interval except in an "agricultural emergency." Current rules identify conditions that constitute "agricultural emergencies," and include the state "declaration of emergency" required under federal rules. This rule reformulates, but does not substantially alter, the current rules.

Current rules specify worker and handler training requirements, consistent with federal rules. This rule reformulates, but does not substantially alter, the current rules.

Emergency Use Permits

Under current rules, the department may issue an emergency permit authorizing a pesticide use (otherwise prohibited) which is necessary in an emergency to control a serious disease or pest infestation. Current rules spell out standards and procedures for issuing emergency use permits. This rule reformulates, but does not substantially alter, the current rules.

Experimental Use Permits

Under current rules, the department may issue an experimental use permit authorizing an experimental use of a pesticide that would otherwise be prohibited. Current rules spell out standards and

procedures for issuing experimental use permits. This rule reformulates, but does not substantially alter, the current rules.

Registering Pesticides to Meet Special Local Needs

Under current rules, the department may register a pesticide or pesticide use that is not registered by the federal environmental protection agency if use of that pesticide is necessary to meet a special local need in this state. Current rules spell out standards and procedures for issuing special local needs registrations. This rule reformulates, but does not substantially alter, the current rules.

Proposed Ch. ATCP 30

This rule consolidates current substance-specific pesticide rules into ch. ATCP 30 as follows:

Prohibited Pesticides

Current rules under ch. ATCP 29 prohibit the use of certain pesticides such as DDT. This rule moves the current rules to ch. ATCP 30. It also reformulates, but does not substantially alter, the current rules.

Pesticides Requiring Special Use Permit

Current rules under ch. ATCP 29 prohibit the use of certain pesticides, such as strychnine, without a permit from the department. This rule moves the current rules to ch. ATCP 30. It also reformulates, but does not substantially alter, the current rules.

Pesticides Allowed Only for Certain Purposes

Current rules under ch. ATCP 29 prohibit the use of certain pesticides except for certain purposes specified in the current rules. The pesticides include chromium, lindane, mercury and daminozide. This rule moves the current rules to ch. ATCP 30. It also reformulates, but does not substantially alter, the current rules.

Pesticides Used to Control Bats

Section 94.708(4), Stats., prohibits the use of pesticides other than naphthalene to control bats, except under an emergency permit from the department. This rule incorporates the statutory prohibition. The rules are incorporated in ch. ATCP 30.

Metam Sodium Pesticides; Use Restrictions

Current rules under ch. ATCP 29 restrict the use of pesticides (mainly soil fumigants) containing metam sodium. The current rules restrict who, how, where, and for what purposes these pesticides may be applied. The current rules also spell out special application precautions, as well as notice, monitoring, reporting and recordkeeping requirements. This rule moves the current rules to ch. ATCP 30. It also reformulates, but does not substantially alter, the current rules.

Aldicarb Pesticides; Use Restrictions

Current rules under ch. ATCP 29 restrict the use of aldicarb pesticides in order to protect groundwater. This rule moves the aldicarb rules to ch. ATCP 30 but does not change those rules.

Atrazine Pesticides; Use Restrictions

Current rules under ch. ATCP 30 restrict the use of atrazine pesticides in order to protect groundwater. This rule renumbers the atrazine rules within ch. ATCP 30 but does not change those rules.

Effective Date

This rule will take effect upon publication in the Wisconsin administrative register.

1 **SECTION 1.** ATCP 3.02(1)(b) is amended to read:

2
3 ATCP 3.02(1)(b) Pesticide permits. The issuance of any
4 permit authorizing the manufacture, sale, distribution, storage
5 or use of a pesticide if the activity would be prohibited by law
6 in the absence of a permit. This includes the issuance of
7 special use permits under s. ATCP ~~29.04~~ 30.10, emergency use
8 permits under s. ATCP ~~29.06~~ 29.70, experimental use permits under
9 s. ATCP ~~29.07~~ 29.71, special local needs registrations under s.
10 ATCP ~~29.08~~ 29.72, and crisis exemptions under the federal
11 insecticide, fungicide and rodenticide act (7 USC 136p). It does
12 not include the issuance of a ~~pesticide manufacturer's or~~

1 ~~labeler's license under s. 94.68, Stats., the issuance of a~~
2 ~~registration certificate to a commercial applicator or seller of~~
3 ~~pesticides under s. ATCP 29.10, or the certification or licensing~~
4 ~~of a pesticide applicator under s. 94.705, Stats. license, permit~~
5 ~~or certification under s. ATCP 29.10, 29.15, 29.20, 29.23, 29.25,~~
6 ~~29.26 or 29.27.~~

7 **SECTION 2.** ATCP 29.17 is renumbered ATCP 30.24 and ATCP
8 30.24(12), as renumbered, is amended to read:

9 ATCP 30.24(12) COMPLIANCE WITH PREVENTIVE ACTION LIMIT NOT
10 NECESSARILY MAINTAINED; REQUIRED DISCLOSURE BY DEPARTMENT. Based
11 on information available to the department, it appears that
12 aldicarb applications to susceptible application sites will
13 result in groundwater contamination exceeding the preventive
14 action limit for aldicarb at points of standards application
15 downgradient from the application sites. Aldicarb applications
16 to many of these sites will be subject to prohibition under sub.
17 (5). In addition, sub. (2) continues current management practice
18 requirements, and sub. (6) creates groundwater monitoring
19 requirements. These combined requirements are designed to limit
20 aldicarb contamination and detect any contamination which may
21 occur. However, these requirements may not be adequate to assure
22 compliance with the preventive action limit for aldicarb in all
23 cases. If the enforcement standard for aldicarb is unexpectedly
24 exceeded at an individual site, future applications at that site
25 will be subject to prohibition under ch. 160, Stats., ch. ATCP
26 ~~161~~ 31, and other applicable rules of the department.

SECTION 3. Ch. ATCP 29 is repealed and recreated to read:

CHAPTER ATCP 29

PESTICIDE USE AND CONTROL

Subchapter I

Definitions and General Provisions

ATCP 29.01 Definitions
ATCP 29.02 Declaration of Pests

Subchapter II

Pesticide Registration and Labeling

ATCP 29.05 Pesticide Registration
ATCP 29.06 Pesticide Labeling

Subchapter III

Pesticide Manufacturers and Labelers

ATCP 29.10 Pesticide Manufacturers and Labelers;
License
ATCP 29.11 Pesticide Manufacturers and Labelers;
Fees
ATCP 29.12 Pesticide Manufacturers and Labelers;
Records and Reports

Subchapter IV

Pesticide Dealers and Distributors

ATCP 29.15 Dealers and Distributors of Restricted-Use
Pesticides
ATCP 29.16 Pesticide Sales Records

Subchapter V

Commercial Application Businesses

ATCP 29.20 Commercial Application Business; License
ATCP 29.21 Commercial Application Business; Records
ATCP 29.22 Commercial Application Business; Information to
Customers
ATCP 29.23 Veterinary Clinic Applying Pesticides

Subchapter VI

Individuals Handling or Applying Pesticides

ATCP 29.25	Individual Commercial Applicator; License
ATCP 29.26	Individual Commercial Applicator; Certification
ATCP 29.27	Private Applicator Certification
ATCP 29.28	Pesticide Mixers and Loaders; Certification
ATCP 29.29	Special Application Methods; Supplementary Certification
ATCP 29.30	General Certification Standards
ATCP 29.31	Commercial Applicators; Certification Categories
ATCP 29.32	Trainee Registration
ATCP 29.33	Applicator Records

Subchapter VII

Storing, Transporting and Selling Pesticides

ATCP 29.40	Storing and Transporting Pesticides
ATCP 29.41	Selling Pesticides

Subchapter VIII

Pesticide Handling, Disposal and Spills

ATCP 29.45	Pesticide Mixing and Loading; Spill Containment
ATCP 29.46	Mixing or Loading Near Surface Waters
ATCP 29.47	Disposal of Pesticides and Pesticide Containers
ATCP 29.48	Pesticide Spills

Subchapter IX

Pesticide Use

ATCP 29.50	Pesticide Use; General
ATCP 29.51	Advance Notice of Pesticide Applications
ATCP 29.52	Warning Signs at Application Sites
ATCP 29.53	Aerial Applications
ATCP 29.54	Chemigation
ATCP 29.55	Commercial Applications to Residential Structures
ATCP 29.56	Landscape Applications
ATCP 29.57	Seed Applications

Subchapter X

Agricultural Worker Protection

ATCP 29.60	Definitions
ATCP 29.61	Worker Protection; General
ATCP 29.62	Worker Protection Warning Signs
ATCP 29.63	Agricultural Emergencies; Early Entry by Workers

ATCP 29.64 Training Handlers
ATCP 29.65 Training Agricultural Workers
ATCP 29.66 Training Records

Subchapter XI

Special Registrations and Use Authorizations

ATCP 29.70 Emergency Use Permits
ATCP 29.71 Experimental Use Permits
ATCP 29.72 Special Local Needs Registrations

NOTE: See also chs. ATCP 30, 31, 33, 34 and 35, chs. NR 80
and 107, and chs. NR 600 to 685.

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SUBCHAPTER I

DEFINITIONS AND GENERAL PROVISIONS

ATCP 29.01 DEFINITIONS. In this chapter:

(1) "Agricultural commodity" has the meaning given in s. 94.67(2), Stats.

(2) "Agricultural employer" has the meaning given in s. ATCP 29.60(1).

(3) "Agricultural establishment" has the meaning given in s. ATCP 29.60(3).

(4) "Agricultural pesticide" has the meaning given in s. ATCP 29.60(4).

(5) "Agricultural plant" has the meaning given in s. ATCP 29.60(5).

(6) "Agricultural producer" means a person who produces agricultural commodities on land which that person owns or controls.

(7) "Air gap" means the unobstructed vertical distance through the free atmosphere between the following points:

(a) The lowest opening from any outlet supplying water to a tank, vat, reservoir or other pesticide container.

(b) The overflow rim of the tank, vat, reservoir or pesticide container.

(8) "Apply a pesticide" means to bring, or attempt to bring, a pesticide into contact with a target organism or site.

(9) "Catch basin" means all structures or containers used to provide the containment capacity required to contain or hold

1 liquids at a site where pesticides are transferred from one
2 container to another. "Catch basin" may include spill
3 containment surfaces, sumps and above-ground storage containers.

4 (10) "Certified applicator" means a pesticide applicator
5 who is certified under s. ATCP 29.26 or 29.27.

6 (11) "Chemigation" has the meaning given in s. ATCP
7 29.54(1)(d).

8 (12) "Chemigation system" has the meaning given in s. ATCP
9 29.54(1)(e).

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

12 (14) "Direct the use of a pesticide" means to select or
13 control the use of a pesticide, where the selecting or
14 controlling individual has supervisory authority over the person
15 using the pesticide.

16 (15) "Display pesticides" means to expose, to public view
17 and access, containers of pesticides that are offered for sale to
18 the public.

19 (16) "Distribute a pesticide" means to distribute a
20 pesticide for sale or use in this state.

21 (17) "Dual notice agricultural pesticide" has the meaning
22 given in s. ATCP 29.60(9).

23 (18) "Environment" has the meaning given in s. 94.67(12),
24 Stats.

25 (19) "Federal act" means the federal insecticide, fungicide
26 and rodenticide act, as amended (7 USC 136 et seq.) and

1 regulations issued under that act.

2 (20) "Household pesticide" has the meaning given in s. ATCP
3 29.11(1)(a).

4 (21) "Individual" means a natural person.

5 (22) "Irrigation" means the application of water to land,
6 crops or plants in order to supply the water needs of plants or
7 to promote plant growth.

8 (23) "Mix or load" a pesticide means to do any of the
9 following:

10 (a) Mix a pesticide with water, other pesticides,
11 fertilizer or other substances, in preparation for a pesticide
12 application.

13 (b) Transfer a pesticide into pesticide application
14 equipment, or into a mix or nurse tank.

15 (c) Engage in any of the following activities which is
16 incidental to an activity under par. (a) or (b):

17 1. Activities which the pesticide label requires of the
18 mixer or loader.

19 2. Handling an open pesticide container, other than an
20 empty container that has been triple-rinsed or cleaned according
21 to the pesticide label.

22 3. Cleaning or rinsing an open pesticide container.

23 4. Disposing of a pesticide or pesticide rinsate.

24 (24) "Mix or nurse tank" means a tank or container used for
25 any of the following purposes:

26 (a) Mixing pesticides with other pesticides, or with water,

1 fertilizer or other substances.

2 (b) Temporarily holding a mixture under par. (a) before
3 transferring that mixture to pesticide application equipment.

4 (25) "Ornamental" means a tree, shrub or other planting
5 grown for its decorative effect in or around a home, building,
6 park, street or roadway.

7 (26) "Person" means an individual, corporation,
8 partnership, cooperative association, limited liability company,
9 trust or other organization or entity. "Person" includes a
10 county or local government entity, but does not include a state
11 or federal government entity.

12 (27) "Pest" means anything declared to be a pest under s.
13 ATCP 29.02 or the federal act.

14 (28) "Pesticide" has the meaning given in s. 94.67(25),
15 Stats., and includes a pesticide-fertilizer mixture.

16 (29) "Pesticide drift" means pesticide deposited outside a
17 target application site as a result of pesticide movement caused
18 by air currents or diffusion.

19 NOTE: See s. ATCP 29.50(2), which prohibits any person from
20 using a pesticide in a manner that results in
21 significant pesticide drift.
22

23 (30) "Pesticide overspray" means pesticide deposited
24 outside a target application site as a result of an applicator's
25 failure to control the direct flow or application of pesticide
26 from the application equipment so as to confine it to the target
27 application site.

28 NOTE: See s. ATCP 29.50(2), which prohibits any person from
29 using a pesticide in a manner that results in pesticide

1 overspray.

2
3 (31) "Pesticide product" means a pesticide, all of the
4 containers of which in commerce are labeled with a unique
5 combination of all of the following:

6 (a) The brand name of the pesticide.

7 (b) The pesticide registration number or, if the pesticide
8 product is exempt from registration under 40 CFR 152.25, the
9 labeling required under 40 CFR 152.25.

10 (c) The name of the pesticide labeler.

11 (32) "Protective equipment" means clothing and other
12 materials or devices that protect individuals against unintended
13 exposure to pesticides.

14 (33) "Record" means information in either of the following
15 forms:

16 (a) Paper or other hard-copy form.

17 (b) Electronic form if the information can also be readily
18 produced in hard-copy form.

19 (34) "Registrant" means a person in whose name a pesticide
20 is registered with the federal environmental protection agency
21 under the federal act, or with the department under s. ATCP
22 29.72.

23 (35) "Restricted entry interval" means the time after the
24 end of a pesticide application during which entry into the
25 treated area is restricted.

26 (36) "Restricted-use pesticide" means a pesticide which,
27 for some or all uses, is classified under the federal act or s.

1 ATCP 29.72 for use only by certified applicators.

2 (37) "Rinsate" means a dilute mixture, consisting of one or
3 more pesticides diluted with water or other substances such as
4 solvents, surfactants, rinsing agents or detergents, that results
5 from cleaning pesticide application equipment, mix or nurse
6 tanks, pesticide containers, catch basins or spill containment
7 surfaces.

8 (38) "Sell" means to sell, offer for sale, display for sale
9 or hold for sale in this state.

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

13 (40) "Toxicity" means the tendency or capacity of a
14 pesticide to cause adverse physiological effects.

15 (41) "Use" a pesticide means to mix or load a pesticide,
16 apply a pesticide, or engage in any of the following activities
17 which is related to the mixing, loading or application of a
18 pesticide:

19 (a) Activities which the pesticide label requires of the
20 mixer, loader or applicator.

21 (b) Handling an open pesticide container, other than an
22 empty container that has been triple-rinsed or cleaned according
23 to the pesticide label.

24 (c) Cleaning or rinsing an open pesticide container,
25 pesticide application equipment, or a mix or nurse tank.

26 (d) Disposing of a pesticide or pesticide rinsate.

1 (e) Aerating or ventilating spaces treated with a
2 pesticide.

3 (42) "Water supply tank" means a tank or container that
4 holds or supplies water for a pesticide use, but does not contain
5 any pesticide or pesticide residue.

6 (43) "Waters of the state" means those portions of Lake
7 Michigan and Lake Superior, and all lakes, bays, rivers, streams,
8 springs, ponds, wells, impounding reservoirs, marshes, water
9 courses, drainage systems and other surface or ground water,
10 whether public or private, within the state or its jurisdiction.

11 NOTE: See additional definitions in s. 94.67, Stats., and
12 ss. ATCP 29.11(1), 29.54(1), 29.55(1), 29.56(1) and
13 29.60.
14

1 ATCP 29.02 DECLARATION OF PESTS. The following organisms
2 and viruses are declared to be pests when present under
3 circumstances where they may be injurious to persons, property or
4 the environment:

- 5 (1) Animals other than humans.
6 (2) Plants, fungi or their parts growing where not wanted.
7 (3) Microscopic organisms or viruses other than those on or
8 in living animals or humans.

9 NOTE: See s. 94.69(1), Stats. A pesticide may be used
10 against a "pest" only if it is registered and labeled
11 for that purpose and used according to label
12 directions. Pesticide use against certain "pests" may
13 be limited by applicable law.
14

1 SUBCHAPTER II

2 PESTICIDE REGISTRATION AND LABELING

3 ATCP 29.05 PESTICIDE REGISTRATION. No person may sell or
4 distribute any pesticide unless that pesticide is one of the
5 following:

6 (1) Registered or permitted by the federal environmental
7 protection agency under the federal act.

8 (2) Specifically exempted from registration under the
9 federal act.

10 (3) Registered by the department under s. ATCP 29.72 to
11 meet a special local need in this state.

12 ATCP 29.06 PESTICIDE LABELING. No person may sell or
13 distribute any pesticide unless that pesticide is labeled in
14 compliance with s. 94.676, Stats., and the federal act. The
15 pesticide label shall include all of the following:

16 (1) The federal pesticide registration number if the
17 federal environmental protection agency has registered the
18 pesticide under the federal act. Pesticides exempted from
19 federal registration by 40 CFR 152.25 shall be labeled in
20 compliance with applicable requirements under 40 CFR 152.25.

21 (2) The state pesticide registration number if the
22 department has registered the pesticide under s. ATCP 29.72 to
23 meet a special local need in this state.

24 (3) The name and address of a person licensed under s. ATCP
25 29.10 who is responsible as the manufacturer, registrant or
26 supplemental registrant of the pesticide product.

1 This exemption does not apply if the mixture is resold or
2 redistributed to any other person, or for use on any other
3 property.

4 4. Blending a pesticide mixture or pesticide-fertilizer
5 mixture according to the pesticide label, for application by the
6 blender, provided that the blender is licensed under s. ATCP
7 29.20 or exempted under s. ATCP 29.20(2).

8 5. Applying a pesticide mixture or pesticide-fertilizer
9 mixture that the person has blended according to the pesticide
10 label, provided that the person is licensed under s. ATCP 29.20
11 or exempted under s. ATCP 29.20(2).

12 (c) A supplemental registrant identified on a pesticide
13 product label if both of the following apply:

14 1. The product label also bears the name and address of a
15 manufacturer or registrant licensed under sub. (1).

16 2. The name of the supplemental registrant is qualified by
17 appropriate wording such as "Packed for...", "Distributed by...",
18 or "Sold by..." to show that the name of the supplemental
19 registrant is not that of a licensed manufacturer or registrant.

20 (3) LICENSE APPLICATION. A person applying for a license
21 under sub. (1) shall apply on a form provided by the department.
22 An application shall include all of the following:

23 (a) The applicant's name and address as they appear on
24 pesticide labels. If the applicant has more than one name or
25 address appearing on pesticide labels, the applicant shall
26 include all of those names and addresses in the license

1 application.

2 (b) All fees and surcharges required under s. ATCP 29.11.

3 (c) A report that does both of the following:

4 1. Identifies each pesticide product that the applicant
5 sells or distributes.

6 2. States the gross revenue which the applicant derived
7 from the sale or distribution of each pesticide product, for use
8 in this state, during the preceding year as defined under s. ATCP
9 29.11(1)(d). The department may not disclose sales revenue
10 information obtained under this subdivision.

11 (4) SUPPLEMENTARY INFORMATION. At least 15 days before a
12 license holder under sub. (1) begins selling or distributing any
13 additional pesticide product that was not identified in the
14 license holder's most recent annual license application, the
15 license holder shall file a supplementary report and pay fees and
16 surcharges for that pesticide product according to sub. (3). The
17 department may not disclose sales revenue information obtained
18 under this subsection.

19 (5) ACTION ON LICENSE APPLICATION; TIME LIMIT. The
20 department shall grant or deny a license application under sub.
21 (3) within 20 business days after the applicant files a complete
22 application with the department.

23 **ATCP 29.11 PESTICIDE MANUFACTURERS AND LABELERS; FEES.** (1)

24 DEFINITIONS. In this section:

25 (a) "Household pesticide" means a pesticide that is any of
26 the following:

- 1 1. A sanitizer.
- 2 2. A disinfectant.
- 3 3. A germicide.
- 4 4. An insect repellent that is applied to the human body or
- 5 to clothing.
- 6 5. A pesticide that is used exclusively for the treatment
- 7 of household pets.
- 8 6. A pesticide product that is labeled exclusively for
- 9 household, lawn or garden use if the product either is sold in
- 10 ready-to-use form or is sold exclusively in container sizes of
- 11 less than one gallon.
- 12 7. A solid or liquid pesticide product that is used
- 13 exclusively for the treatment of swimming pools, spas or hot
- 14 tubs.

15 (b) "Industrial pesticide" means a pesticide that is not a
16 household pesticide and that is one of the following:

17 1. Solely labeled for use on wood and contains
18 pentachlorophenol, coal tar creosote or inorganic arsenical wood
19 preservatives.

20 2. Labeled for use in controlling algae, fungi, bacteria,
21 microscopic organisms or mollusks in or on one or more of the
22 following, and for no other use except a use described in par.

23 (a) 6. or 7.:

24 a. Textiles, paper, leather, plastic, vinyl or other
25 synthetic materials, metal or rubber.

26 b. Paints, varnishes, other coating products, lubricants or

1 fuels.

2 c. Commercial, construction, manufacturing or industrial
3 fluids, including adhesives, additives or pigments.

4 d. Commercial, construction, manufacturing or industrial
5 processes, equipment, devices or containers, other than those
6 used in the production or storage of human food or animal feed.

7 e. Air washing, cooling or heat transfer systems.

8 f. Medical equipment.

9 g. Drinking water or waste water systems.

10 (c) "Nonhousehold pesticide" means a pesticide that is not
11 a household pesticide or an industrial pesticide.

12 (d) "Preceding year" means the 12 months ending on
13 September 30 of the year immediately preceding the year for which
14 the applicant seeks a license under s. ATCP 29.10.

15 (e) "Primary producer" means a person who manufactures an
16 active ingredient that is used to manufacture or produce a
17 pesticide.

18 (2) ANNUAL LICENSE FEE. An applicant for a license under
19 s. ATCP 29.10 shall pay an annual license fee for each pesticide
20 product that the applicant sells or distributes. Except as
21 provided in subs. (5) to (7), the fee for each pesticide product
22 is as follows:

23 (a) Household pesticides. For each household pesticide
24 product:

25 1. If the applicant sold less than \$25,000 of the product
26 during the preceding year for use in this state, \$265, except

1 that the fee is \$215 for each of the license years beginning
2 January 1, 1999 and January 1, 2000.

3 2. If the applicant sold at least \$25,000 but less than
4 \$75,000 of the product during the preceding year for use in this
5 state, \$750, except that the fee is \$650 for each of the license
6 years beginning January 1, 1999 and January 1, 2000.

7 3. If the applicant sold at least \$75,000 of the product
8 during the preceding year for use in this state, \$1,500, except
9 that the fee is \$1,200 for each of the license years beginning
10 January 1, 1999 and January 1, 2000.

11 (b) Industrial pesticide. For each industrial pesticide
12 product:

13 1. If the applicant sold less than \$25,000 of the product
14 during the preceding year for use in this state, \$315, except
15 that the fee is \$265 for each of the license years beginning
16 January 1, 1999 and January 1, 2000.

17 2. If the applicant sold at least \$25,000 but less than
18 \$75,000 of the product during the preceding year for use in this
19 state, \$860, except that the fee is \$760 for each of the license
20 years beginning January 1, 1999 and January 1, 2000.

21 3. If the applicant sold at least \$75,000 of the product
22 during the preceding year for use in this state, \$3,060, except
23 that the fee is \$2,760 for each of the license years beginning
24 January 1, 1999 and January 1, 2000.

25 (c) Nonhousehold pesticide. For each nonhousehold
26 pesticide product:

1 1. If the applicant sold less than \$25,000 of the product
2 during the preceding year for use in this state, \$320, except
3 that the fee is \$270 for each of the license years beginning
4 January 1, 1999 and January 1, 2000.

5 2. If the applicant sold at least \$25,000 but less than
6 \$75,000 of the product during the preceding year for use in this
7 state, \$890, except that the fee is \$790 for each of the license
8 years beginning January 1, 1999 and January 1, 2000.

9 3. If the applicant sold at least \$75,000 of the product
10 during the preceding year for use in this state, \$3,060 plus 0.2%
11 of gross revenues from product sales during the preceding year
12 for use in this state, except that for each of the license years
13 beginning January 1, 1999 and January 1, 2000 the fee is \$2,760
14 plus 0.2% of gross revenues from product sales made during the
15 preceding year for use in this state.

16 (3) NONHOUSEHOLD PESTICIDES; CLEANUP SURCHARGE. Beginning
17 with the license year that begins on January 1, 2001, an
18 applicant for a license under s. ATCP 29.10 shall pay an
19 agricultural chemical cleanup surcharge for each nonhousehold
20 pesticide product that the applicant sells or distributes.
21 Except as provided in sub. (6) or (7), the amount of the
22 surcharge is as follows:

23 (a) If the applicant sold less than \$25,000 of the product
24 during the preceding year for use in this state, \$5.

25 (b) If the applicant sold at least \$25,000 but less than
26 \$75,000 of the product during the preceding year for use in this

1 state, \$170.

2 (c) If the applicant sold at least \$75,000 of the product
3 during the preceding year for use in this state, an amount equal
4 to 1.1% of gross revenues from product sales during the preceding
5 year for use in this state.

6 (3m) WOOD PRESERVATIVES; CLEANUP SURCHARGE. An applicant
7 for a license under s. ATCP 29.10 shall pay an environmental
8 cleanup surcharge for each pesticide product, sold or distributed
9 by the applicant in this state, that is not a household pesticide
10 and is solely labeled for use on wood and contains
11 pentachlorophenol or coal tar creosote. Except as provided in
12 sub. (6), the amount of the surcharge is as follows:

13 (a) If the applicant sold less than \$25,000 of that product
14 during the preceding year for use in this state, \$5.

15 (b) If the applicant sold at least \$25,000 but less than
16 \$75,000 of that product during the preceding year for use in this
17 state, \$170.

18 (c) If the applicant sold at least \$75,000 of that product
19 during the preceding year for use in this state, an amount equal
20 to 1.1% of gross revenues from sales of the product during the
21 preceding year for use in this state.

22 (4) PRIMARY PRODUCERS; WELL COMPENSATION FEE. Except as
23 provided under sub. (7), a primary producer applying for a
24 license under s. ATCP 29.10 shall pay a well compensation fee of
25 \$150.

26 (5) UNREPORTED PESTICIDE; INCREASED LICENSE FEE. If a

1 person sells or distributes a pesticide product without having
2 filed a report for that product under s. ATCP 29.10(3)(c) or (4),
3 the license fee for that product is twice the amount determined
4 under sub. (2).

5 (6) DISCONTINUED PESTICIDE; FINAL LICENSE FEE AND CLEANUP
6 SURCHARGE. A person who stops selling or distributing a
7 pesticide product for use in this state shall do all of the
8 following:

9 (a) Notify the department by December 31 of the year in
10 which the person stops selling or distributing the pesticide
11 product.

12 (b) By March 31 of the year following the year in which the
13 person stopped selling or distributing the pesticide product,
14 file a report with the department showing the gross revenue that
15 the person derived from the sale of the pesticide product, for
16 use in this state, from October 1 of the preceding year to
17 December 31 of the year in which the person stopped selling or
18 distributing that pesticide product. The department may not
19 disclose sales revenue information obtained under this paragraph.

20 (c) By March 31 of the year following the year in which the
21 person stopped selling the pesticide product for use in this
22 state, pay a final license fee for the pesticide product,
23 calculated under sub. (2) based on sales of that product during
24 the period specified in par. (b).

25 (d) If the product is a nonhousehold pesticide, pay a final
26 agricultural chemical cleanup surcharge calculated under sub. (3)

1 based on sales of that product during the period specified in
2 par. (b).

3 (7) EXEMPT PESTICIDE PRODUCTS. Subsections (2) to (4) do
4 not apply to pesticides that are exempt from federal registration
5 under 40 CFR 152.25.

6 (8) FEES AND SURCHARGES NONREFUNDABLE. The department may
7 not refund a fee or surcharge under this section after the
8 department issues a license under s. ATCP 29.10 to the person who
9 paid it unless the fee or surcharge was not properly collected or
10 charged.

11 **ATCP 29.12 PESTICIDE MANUFACTURERS AND LABELERS; RECORDS**

12 **AND REPORTS.** (1) RECORDS. A person required to be licensed
13 under s. ATCP 29.10 shall legibly record all of the following
14 information and keep each record for at least 2 years:

15 (a) The names and addresses of persons from whom that
16 person receives pesticides, and the amounts and kinds of
17 pesticides received.

18 (b) The names and addresses of persons to whom that person
19 sells or distributes pesticides, and the amounts and kinds of
20 pesticides sold or distributed to each of them.

21 (c) Gross revenue information required under s. ATCP
22 29.10(3)(c) and (4).

23 (2) REPORTS. A person required to be licensed under s.
24 ATCP 29.10 shall provide to the department, upon request,
25 information which is relevant to the regulation of pesticides in
26 this state, including:

- 1 (a) Relevant information under sub. (1).
- 2 (b) Pesticide labeling.
- 3 (c) Relevant information related to pesticide products,
4 formulation materials and breakdown products, including:
- 5 1. Their chemical identity and properties.
- 6 2. Analytical methods which may be used to detect and
7 quantify their presence in groundwater or other media.
- 8 3. Information related to their toxicology and
9 environmental fate.
- 10 4. Summaries of all pertinent data, in that person's
11 possession, related to their interactive toxicological effects.
- 12

1 SUBCHAPTER IV

2 PESTICIDE DEALERS AND DISTRIBUTORS

3
4 ATCP 29.15 DEALERS AND DISTRIBUTORS OF RESTRICTED-USE

5 PESTICIDES. (1) LICENSE REQUIRED. Except as provided under
6 sub. (2), no person may sell or distribute any restricted-use
7 pesticide unless that person holds an annual license issued by
8 the department under this section. A license expires on December
9 31 of each year and is not transferable to another person.

10 NOTE: See s. 94.685, Stats.

11 (2) EXEMPTIONS. Subsection (1) does not apply to any of
12 the following:

13 (a) An individual, employed by a license holder under sub.
14 (1), who sells or distributes restricted-use pesticides solely on
15 behalf of the license holder and not on the individual's own
16 behalf.

17 (b) A person licensed under s. ATCP 29.10 whose name
18 appears on the pesticide label.

19 (c) A pesticide supplemental registrant who is identified
20 on the pesticide label according to s. ATCP 29.10(2)(c).

21 (d) A person who applies all of the restricted-use
22 pesticide which that person sells or distributes.

23 NOTE: See s. ATCP 29.20.

24 (3) LICENSE APPLICATION. A person applying for a license
25 under sub. (1) shall apply on a form provided by the department.
26 The application shall include all of the following:

27 (a) The applicant's correct name, mailing address and

1 street address. The application shall specify whether the
2 applicant is an individual, corporation or other business entity.

3 (b) Every other name under which the applicant does
4 business.

5 (c) The mailing address and street address of each location
6 from which the applicant sells or intends to sell any restricted-
7 use pesticide. This includes any location at which the applicant
8 regularly takes pesticide orders, but does not include a
9 motorized vehicle from which the applicant takes orders by mobile
10 telephone.

11 (d) The license fees and surcharges required under sub.
12 (4).

13 (e) Other information reasonably required by the department
14 for the administration of this section.

15 (4) LICENSE FEES AND SURCHARGES. A person applying for a
16 license under sub. (1) shall pay the following annual license fee
17 and surcharge for each business location under sub. (3)(c),
18 including any new location opened during the license year:

19 (a) A license fee of \$60.

20 (b) Beginning with the license year that begins on January
21 1, 2000, an agricultural chemical cleanup surcharge of \$40.

22 (5) ADDITIONAL LOCATIONS. Before a person licensed under
23 sub. (1) sells a restricted-use pesticide from any additional
24 location not identified in that person's most recent annual
25 license application under sub. (3)(c), that person shall do both
26 of the following:

1 (a) Provide the department with the mailing address and
2 street address of that additional location.

3 (b) Pay the fee and surcharge required under sub. (4) for
4 that additional location.

5 (6) ACTION ON LICENSE APPLICATION. The department shall
6 grant or deny a license application under sub. (3) within 30
7 business days after the applicant files a complete application
8 with the department.

9 (7) SALES OF RESTRICTED-USE PESTICIDES. A person required
10 to be licensed under sub. (1) may sell or distribute a
11 restricted-use pesticide only to one of the following:

12 (a) A pesticide dealer or distributor licensed under sub.
13 (1), or equivalent laws of another state, to sell or distribute
14 restricted-use pesticides.

15 (b) A commercial application business licensed under s.
16 ATCP 29.20, or equivalent laws of another state, to use or direct
17 the use of restricted-use pesticides.

18 (c) An individual commercial applicator licensed and
19 certified under ss. ATCP 29.25 and 29.26, or certified under
20 equivalent laws of another state, to use or direct the use of
21 that pesticide.

22 (d) A private applicator certified under ATCP 29.27, or
23 equivalent laws of another state, to use or direct the use of
24 that pesticide.

25 (8) RESTRICTED-USE PESTICIDES; SALES RECORDS. A person
26 required to be licensed under sub. (1) shall keep legible records

1 of all restricted-use pesticides which that person sells or
2 distributes in this state. The person shall retain the records
3 for at least 2 years, and shall make them available to the
4 department for inspection and copying upon request. The person
5 shall keep all of the following records related to each sale or
6 distribution of a restricted-use pesticide:

7 (a) The pesticide brand name.

8 (b) The identity of the pesticide manufacturer or labeler.

9 (c) The pesticide registration number assigned by the
10 federal environmental protection agency.

11 (d) The amount of the pesticide sold or distributed.

12 (e) The date of the sale or distribution.

13 (f) The identity of the purchaser or intended recipient,
14 including name, address, seller or applicator license number if
15 any, and applicator certification number if any.

16 (g) The name and address of the person to whom the seller
17 delivered custody of the pesticide, if other than the purchaser
18 or intended recipient.

19 (9) ANNUAL REPORT. Not later than October 30 of each year,
20 a person required to be licensed under sub. (1) shall report each
21 of the following to the department on a report form provided by
22 the department:

23 (a) The name and address of each person from whom that
24 person received any pesticide during the preceding 12-month
25 period ending September 30.

26 (b) The amount of each pesticide which that person sold to

1 end users for use in Wisconsin during the preceding 12-month
2 period ending September 30.

3 NOTE: Reports under sub. (9) must include all pesticides,
4 not just restricted-use pesticides. Report forms may
5 be obtained from the department at the following
6 address:

7
8 Department of Agriculture, Trade and Consumer
9 Protection
10 Division of Agricultural Resource Management
11 P.O. Box 8911
12 Madison, WI 53708-8911.
13

14 **ATCP 29.16 PESTICIDE SALES RECORDS.** A person who sells or
15 distributes pesticides shall record the amounts and brand names
16 of pesticides which that person sells or distributes. The person
17 shall retain the records for at least 2 years, and shall make
18 them available to the department for inspection and copying upon
19 request. Individual employees who sell or distribute pesticides
20 only on behalf of their employer, and not on their own behalf,
21 need not keep personal copies of records which their employer
22 keeps under this section.

23 NOTE: ATCP 29.16 applies to persons who sell or
24 distribute pesticides of any kind, not just those who
25 sell or distribute restricted-use pesticides. Records
26 must show the amounts and brand names of all pesticides
27 sold, not just restricted-use pesticides sold.

1 SUBCHAPTER V

2 COMMERCIAL APPLICATION BUSINESSES

3 ATCP 29.20 COMMERCIAL APPLICATION BUSINESS; LICENSE. (1)

4 LICENSE REQUIRED. Except as provided under sub. (2), no person
5 may do any of the following, either directly or through an
6 employee, without an annual license from the department:

7 (a) Use or direct the use of any pesticide as an
8 independent contractor for hire.

9 (b) Use or direct the use of a restricted-use pesticide.

10 NOTE: See s. 94.703, Stats. A sole proprietor licensed
11 under this section may also be required to obtain a
12 license as an individual commercial applicator under s.
13 ATCP 29.25.

14
15 (2) EXEMPTIONS. The following persons are not required to
16 obtain a license under sub. (1):

17 (a) A government entity.

18 (b) An individual, employed by a person licensed under sub.
19 (1), who uses or directs the use of pesticides solely on behalf
20 of that employer and not on the individual's own behalf.

21 (c) A person applying pesticides as part of a medical
22 treatment provided by a licensed medical practitioner, or as part
23 of a veterinary treatment provided by a licensed veterinary
24 practitioner.

25 (d) A person applying pesticides in the laboratory in the
26 course of bona fide laboratory research.

27 (e) A person applying germicides, sanitizers or
28 disinfectants.

29 (f) An agricultural producer, except that an agricultural

1 producer who does any of the following is not exempt:

2 1. Uses or directs the use of pesticides for a person who
3 is not an agricultural producer.

4 2. Uses or directs the use of pesticides for another
5 agricultural producer for a purpose other than the production of
6 agricultural commodities, or for the purpose of producing
7 pesticide-treated commercial seed or pesticide-treated commercial
8 wood products.

9 3. For compensation other than the exchange of goods or
10 services, uses or directs the use of pesticides for more than 3
11 other agricultural producers in any calendar year.

12 4. For compensation other than the exchange of goods or
13 services, uses or directs the use of pesticides applied in any
14 calendar year to a total of more than 500 acres of land which the
15 agricultural producer does not own or control.

16 (3) LICENSE EXPIRATION. A license under sub. (1) expires
17 on December 31 annually and is not transferable to another
18 person.

19 (4) LICENSE APPLICATION. An applicant for an annual
20 license under sub. (1) shall apply on a form provided by the
21 department. The application shall include all of the following
22 information, together with the fees required under sub. (6):

23 (a) The applicant's correct name, mailing address and
24 street address. The application shall specify whether the
25 applicant is an individual, corporation or other business entity.

26 (b) Every other name under which the applicant does

1 business.

2 (c) The mailing address and street address of each business
3 location under sub. (5). If 2 or more license applicants engage
4 in activities under sub. (5) at the same business location, all
5 of those applicants shall identify that business location in
6 their own applications.

7 (d) The complete name and license number of each of the
8 applicant's employees who are required to be licensed under s.
9 ATCP 29.25.

10 (e) Other information reasonably required by the department
11 for the administration of this section.

12 (5) BUSINESS LOCATIONS. A business location under this
13 section means any of the following:

14 (a) A site from which the person operates on a regular
15 basis as a pesticide applicator for hire, including any site at
16 which the person regularly takes orders for pesticide
17 applications. A motorized vehicle, from which a person takes
18 orders by mobile telephone, is not a site under this paragraph.

19 (b) A site, or a group of sites located within 1/2 mile of
20 each other, at which a person mixes or loads a total of at least
21 1,500 pounds of pesticide active ingredient, excluding active
22 ingredient applied at or immediately adjacent to the mixing or
23 loading site.

24 (6) FEES. A person required to be licensed under sub. (1)
25 shall pay the following annual license fee and surcharge for each
26 business location under sub. (5) from which that person operates

1 during the license year:

2 (a) A basic annual license fee of \$70.

3 (b) Beginning with the license year that begins on January
4 1, 2000, an agricultural chemical cleanup surcharge of \$55.

5 (7) ACTION ON LICENSE APPLICATION. The department shall
6 grant or deny a license application under sub. (4) within 30
7 business days after the department receives a complete
8 application.

9 (8) UPDATED INFORMATION. A person submitting an annual
10 license application under sub. (4) shall promptly notify the
11 department if any of the following occurs after that person
12 submits that application:

13 (a) The person adds a business location under sub. (5).
14 The person shall pay a license fee and surcharge for that
15 additional location, as provided under sub. (6).

16 (b) There is any other significant change in information
17 provided under sub. (4).

18 **ATCP 29.21 COMMERCIAL APPLICATION BUSINESS; RECORDS.** (1)

19 RECORD OF PESTICIDE APPLICATIONS. A person required to be
20 licensed under s. ATCP 29.20 shall keep a legible record of each
21 pesticide application which that person makes directly or through
22 an employee. The person shall keep the record for at least 2
23 years, and shall make it available to the department for
24 inspection and copying upon request. The individual making the
25 pesticide application shall complete the required record on the
26 day of the application.

1 NOTE: Under s. ATCP 30.31(5), a commercial application
2 business must keep a record of atrazine applications
3 for at least 3 years.
4

5 (2) RECORD CONTENTS. A pesticide application record under
6 sub. (1) shall include all of the following:

7 (a) The first and last name of each individual making the
8 pesticide application.

9 (b) The name and address of the customer, if any, for whom
10 the pesticide was applied.

11 (c) The crop, commodity or site to which the pesticide was
12 applied.

13 (d) The specific location of the pesticide application
14 site.

15 (e) The month, day, year and approximate starting and
16 ending time of the pesticide application.

17 (f) The brand name or product name or common chemical name,
18 and the federal environmental protection agency registration
19 number, of each pesticide applied.

20 (g) At least one of the following:

21 1. The concentration and total quantity of each pesticide
22 applied.

23 2. The amount of each pesticide applied per unit area and
24 the total area treated.

25 (h) Each location, other than a business location licensed
26 under s. ATCP 29.20, at which the pesticide was mixed or loaded.
27 Mixing and loading sites need not be identified if the pesticide
28 is applied directly from a prepackaged retail container, or is

1 applied with application equipment having a total capacity of not
2 more than 5 gallons of liquid pesticide or 50 pounds dry
3 pesticide.

4 ATCP 29.22 COMMERCIAL APPLICATION BUSINESS; INFORMATION TO
5 CUSTOMERS. Within 30 days after making a pesticide application
6 for a customer, either directly or through an employee, a person
7 required to be licensed under s. ATCP 29.20 shall provide that
8 customer with all of the following information in writing:

9 (1) A telephone number at which the customer may contact
10 the person.

11 (2) The first name, last name and license number of each
12 individual who made or directly supervised the pesticide
13 application.

14 (3) The crop, commodity or site to which the pesticide was
15 applied.

16 (4) The specific location of the pesticide application
17 site.

18 (5) The month, day, year and approximate starting and
19 ending time of the pesticide application.

20 (6) The brand name or product name or common chemical name,
21 and the federal environmental protection agency registration
22 number of each pesticide applied.

23 NOTE: Under federal worker protection rules, a commercial
24 application business making a pesticide application for
25 an "agricultural establishment" as defined under s.
26 ATCP 29.60(3) must also provide that customer with the
27 names of the pesticide active ingredients applied.
28

29 (7) At least one of the following:

1 (a) The concentration and total quantity of each pesticide
2 applied.

3 (b) The amount of each pesticide applied per unit area and
4 the total area treated.

5 (8) Post-application precautions which the pesticide label
6 requires of the customer. This information shall be provided in
7 time for the customer to take the required precautions.

8 NOTE: For example, pesticide labels might require customers
9 to observe post-application precautions such as
10 restricted entry intervals, preharvest intervals,
11 grazing intervals and subsequent planting restrictions.
12

13 (9) A free copy of the pesticide label, or notice that the
14 customer may request a free copy. The person shall provide a
15 free copy to each customer who requests it.

16 NOTE: Applicators making certain types of pesticide
17 applications must comply with additional notification
18 requirements under subchapters IX and X. This section
19 does not limit the applicator's responsibility under
20 those subchapters. Under s. ATCP 29.55, businesses
21 applying pesticides to residential structures must
22 provide information to residents at the time of
23 application. Under s. ATCP 29.56, a commercial
24 application business making a landscape application for
25 a customer must provide that customer with information
26 at the time of application.
27

28 **ATCP 29.23 VETERINARY CLINIC APPLYING PESTICIDES.** (1)

29 PERMIT REQUIRED. No person may operate a veterinary clinic at
30 which pesticides are used, repackaged for use, or prescribed for
31 use unless that person holds an annual permit from the
32 department. A permit expires on December 31 of each odd-numbered
33 year and may not be transferred between persons. A single permit
34 covers all clinic locations operated by the permit holder.

35 NOTE: See s. 94.702, Stats.

1 (2) APPLYING FOR A PERMIT. An applicant for a permit under
2 sub. (1) shall apply on a form provided by the department. The
3 application shall include all of the following:

4 (a) The applicant's correct name and address. The
5 application shall indicate whether the applicant is an
6 individual, corporation, partnership, limited liability company
7 or other entity.

8 (b) The name, complete mailing address and complete street
9 address of the veterinary clinic. If the clinic operates from
10 more than one location, the application shall include the
11 addresses of all of those locations.

12 (c) The name, and license number under s. ATCP 29.25 if
13 any, of every individual affiliated with the veterinary clinic
14 who prescribes, repackages, uses or directs the use of
15 pesticides.

16 (d) A fee of \$25.

1 technician is certified to provide under ch. 453, Stats.

2 (d) A laboratory researcher who uses or directs the use of
3 pesticides only in the laboratory as part of a bona fide
4 laboratory research project.

5 (e) An individual who only uses or directs the use of
6 germicides, sanitizers or disinfectants.

7 (f) An employee of a pesticide application business
8 licensed under s. ATCP 29.20 who applies pesticides only to
9 property owned or controlled by that pesticide application
10 business, and who applies no restricted-use pesticides.

11 (g) An individual who is currently registered as a trainee
12 under s. ATCP 29.32.

13 NOTE: A trainee registration under s. ATCP 29.32 expires 30
14 days after the trainee's employer files the
15 registration with the department.
16

17 (h) An agricultural producer, except that an agricultural
18 producer who does any of the following is not exempt:

19 1. Uses or directs the use of pesticides for a person who
20 is not an agricultural producer.

21 2. Uses or directs the use of pesticides for another
22 agricultural producer for a purpose other than the production of
23 agricultural commodities, or for the purpose of producing
24 pesticide-treated commercial seed or pesticide-treated commercial
25 wood products.

26 3. For compensation other than the exchange of goods or
27 services, uses or directs the use of pesticides for more than 3
28 other agricultural producers in any calendar year.

1 4. For compensation other than the exchange of goods or
2 services, uses or directs the use of pesticides applied in any
3 calendar year to a total of more than 500 acres of land which the
4 agricultural producer does not own or control.

5 (3) LICENSE CONDITIONS. (a) A license under sub. (1)
6 expires on December 31 annually and is not transferable between
7 persons.

8 (b) An individual licensed under sub. (1) shall carry the
9 license when engaged in any activity for which the license is
10 required.

11 (c) The department may not issue a license under sub. (1)
12 to an individual who is less than 16 years old.

13 (4) LICENSE APPLICATION. An applicant for a license under
14 sub. (1) shall apply on a form provided by the department. An
15 application shall include all of the following information,
16 together with the fees required under sub. (5):

17 (a) The applicant's complete name, mailing address and
18 street address.

19 (b) The applicant's business name and address if the
20 individual is engaged in business as a sole proprietor.

21 (c) The name and address of the person, if any, who employs
22 the applicant to use or direct the use of pesticides.

23 (d) Any other information which the department reasonably
24 requires to administer this section.

25 (5) FEES. (a) Except as provided under par. (b), an
26 applicant for an annual license under sub. (1) shall pay the

1 following annual license fee and surcharge:

2 1. A license fee of \$40, except that the license fee is \$30
3 for each of the license years beginning January 1, 1998 and
4 January 1, 1999.

5 2. Beginning with the license year that begins on January
6 1, 2000, an agricultural chemical cleanup surcharge of \$20.

7 (b) No fee or surcharge is required under par. (a) for an
8 applicant who uses or directs the use of pesticides under sub.
9 (1) only as a government employe or as an employe of a public or
10 private educational institution.

11 (6) ACTION ON LICENSE APPLICATION. The department shall
12 grant or deny an application under sub. (4) within 30 business
13 days after the department receives a complete application.

14 **ATCP 29.26 INDIVIDUAL COMMERCIAL APPLICATOR; CERTIFICATION.**

15 (1) CERTIFICATION REQUIRED. No individual may engage in any
16 activity for which a license is required under s. ATCP 29.25
17 unless one of the following applies:

18 (a) The individual is certified under this section to
19 engage in that activity as a commercial applicator.

20 (b) The individual is certified as a pesticide mixer and
21 loader under s. ATCP 29.28, and is solely engaged in mixing and
22 loading pesticides for application by others.

23 (2) SCOPE OF CERTIFICATION. The department may certify an
24 individual commercial applicator in one or more categories under
25 s. ATCP 29.31. An individual certified in any category may do
26 any of the following:

1 (a) Use or direct the use of pesticides in that category.

2 (b) Mix or load pesticides, for application by others, in
3 all of the categories under s. ATCP 29.31.

4 (3) LENGTH OF CERTIFICATION. (a) An individual commercial
5 applicator certification is valid for 5 years unless the
6 department suspends or revokes the certification.

7 (b) The department may certify an individual commercial
8 applicator in additional categories under s. ATCP 29.31 during
9 that individual's 5-year certification period. The additional
10 certifications are valid for the remainder of the 5-year period,
11 and expire simultaneously at the end of that period.

12 (c) The department may renew an individual commercial
13 applicator certification for another 5 years if the individual
14 again satisfies the requirements for certification.

15 (4) SPECIAL APPLICATION METHODS; SUPPLEMENTARY
16 CERTIFICATION. No individual commercial applicator may use
17 aircraft, chemigation or soil fumigation to apply pesticides in
18 any category under s. ATCP 29.31 for which that individual is
19 certified unless that individual is also certified under s. ATCP
20 29.29 to apply pesticides by that method.

21 NOTE: See certification requirements under s. ATCP 30.22(2)
22 for applicators using metam sodium.
23

24 (5) CERTIFICATION CARD. (a) Within 30 business days after
25 an individual commercial applicator satisfies the requirements
26 for certification under this section, the department shall issue
27 a commercial applicator certification card to that individual.
28 The card shall include all of the following:

1 1. The individual's name and certification number.

2 2. A statement indicating the categories under s. ATCP
3 29.31 in which the individual is certified as a commercial
4 applicator.

5 3. A statement indicating that the individual is certified
6 under s. ATCP 29.29 to apply pesticides by means of aerial
7 application, chemigation or soil fumigation, if that is the case.

8 4. The expiration date of the certification.

9 (b) An individual commercial applicator shall carry a
10 current certification card when engaged in any activity for which
11 certification is required under this section.

12 (c) The department may, upon request, replace a
13 certification card that is lost, stolen, damaged or destroyed.
14 The card holder shall pay the replacement cost.

15 (6) CERTIFICATION STANDARDS. To be certified in any
16 category under s. ATCP 29.31, an individual shall demonstrate
17 practical knowledge and competency related to all of the
18 following:

19 (a) The general areas identified under s. ATCP 29.30.

20 (b) Each category under s. ATCP 29.31 in which the
21 individual seeks certification.

22 (7) CERTIFICATION TEST. Except as provided under sub.
23 (10), an individual shall demonstrate practical knowledge and
24 competency in each category under sub. (6) by scoring at least 70
25 percent on a written, closed-book examination which the
26 department administers for that category. The department may

1 arrange with an equivalent agency in another state to administer
2 the department's examination to individuals in that state, for
3 purposes of certification in this state.

4 (8) RETESTING APPLICANTS WHO FAIL TO PASS. An individual
5 who fails an initial examination under sub. (7) may retake the
6 examination not sooner than 24 hours later, on a regularly
7 scheduled examination date. An individual who fails a second or
8 subsequent examination may retake the examination not sooner than
9 30 days later, on a regularly scheduled examination date. An
10 individual who fails 4 examinations in any category in any 6-
11 month period may not retake the examination for at least 6 months
12 following the date of the last failed examination.

13 (9) APPLYING FOR CERTIFICATION. To apply for certification
14 as a commercial applicator, an individual shall do all of the
15 following:

16 (a) Obtain certification training from the university of
17 Wisconsin-extension.

18 NOTE: Training consists of a self-study manual and, for
19 some certification categories, supplementary training
20 sessions. Training may be obtained by contacting the
21 University of Wisconsin-Extension at the following
22 address:

23
24 University of Wisconsin-Extension
25 Pesticide Applicator Training
26 Department of Agronomy
27 1575 Linden Drive
28 Madison, WI 53706-1597
29 Phone: (608) 265-2950
30

31 (b) Schedule a certification examination date with the
32 department.

33

1 NOTE: Examination dates may be scheduled by contacting the
2 department at the following address:
3

4 Wisconsin Department of Agriculture, Trade and Consumer
5 Protection
6 Division of Agricultural Resource Management
7 Pesticide Certification and Licensing
8 P.O. Box 8911
9 Madison, WI 53708-8911
10 Phone: (608) 224-4560
11

12 (c) Bring both of the following to the certification
13 examination:

14 1. The certification training materials received under par.
15 (a).

16 2. A driver's license or other valid photo identification.

17 (10) APPLICATORS CERTIFIED IN OTHER STATES. (a) The
18 department may certify an individual commercial applicator
19 without examination if the individual is currently certified as a
20 commercial applicator in another state and if all of the
21 following apply:

22 1. The department determines that the other state has
23 equivalent certification standards.

24 2. The other state has certified the individual, in the
25 same or equivalent pesticide use categories, based on a written
26 closed-book examination passed within the last 5 years.

27 3. The other state has never suspended or revoked its
28 certification of that individual.

29 4. The individual provides proof of certification by the
30 other state and pays a certification fee of \$75.

31 (b) Certification under par. (a) expires on December 31 of
32 the year in which it is issued.

1 ATCP 29.27 PRIVATE APPLICATOR CERTIFICATION. (1)

2 CERTIFICATION REQUIRED. No individual may use or direct the use
3 of a restricted-use pesticide as an agricultural producer unless
4 one of the following applies:

5 (a) The individual is certified as a private applicator
6 under this section.

7 (b) The individual is certified as a commercial applicator
8 under s. ATCP 29.26 in the appropriate certification category or
9 categories, and is not engaged in any activity for which a
10 commercial applicator license is required under s. ATCP 29.25.

11 (c) The individual is licensed as a commercial applicator
12 under s. ATCP 29.25 and certified under s. ATCP 29.26 in the
13 appropriate certification category or categories.

14 (d) The individual is all of the following:

15 1. Certified as a pesticide mixer and loader under s. ATCP
16 29.28.

17 2. Engaged only in mixing and loading pesticides for
18 application by others.

19 3. Licensed under s. ATCP 29.25 if engaged in any activity
20 for which a license is required.

21 (2) SCOPE OF PRIVATE APPLICATOR CERTIFICATION. The
22 department may certify an individual agricultural producer to use
23 or direct the use of restricted-use pesticides as a private
24 applicator. Private applicator certification does not authorize
25 an agricultural producer to engage in activities for which a
26 commercial applicator license is required under s. ATCP 29.25.

1 (3) LENGTH OF CERTIFICATION. A private applicator
2 certification is valid for 5 years unless the department suspends
3 or revokes the certification. The department may renew a private
4 applicator certification for another 5 years if the private
5 applicator again satisfies the requirements for certification.

6 (4) SPECIAL APPLICATION METHODS; SUPPLEMENTARY
7 CERTIFICATION. No private applicator may use aircraft,
8 chemigation or fumigation to apply restricted-use pesticides
9 unless that private applicator is also certified under s. ATCP
10 29.29 to apply pesticides by that method.

11 NOTE: See certification requirements under s. ATCP 30.22(2)
12 for applicators using metam sodium.
13

14 (5) CERTIFICATION CARD. (a) Within 30 business days after
15 an individual agricultural producer satisfies the requirements
16 for certification as a private applicator, the department shall
17 issue a private applicator certification card to that individual.
18 The card shall include all of the following:

- 19 1. The individual's name and certification number.
- 20 2. A statement that the individual is certified as a
21 private applicator.
- 22 3. A statement indicating that the individual is certified
23 under s. ATCP 29.29 to apply restricted-use pesticides as a
24 private applicator by means of aerial application, chemigation or
25 fumigation, if that is the case.
- 26 4. The expiration date of the certification.

27 (b) A private applicator shall carry a current
28 certification card when engaged in any activity for which

1 certification is required under this section.

2 (c) The department may, upon request, replace a
3 certification card that is lost, stolen, damaged or destroyed.
4 The card holder shall pay the replacement cost.

5 (6) CERTIFICATION STANDARDS. To be certified as a private
6 applicator, an individual agricultural producer shall demonstrate
7 practical knowledge and competency related to the general areas
8 identified under s. ATCP 29.30.

9 (7) CERTIFICATION PROCEDURE. To be certified as a private
10 applicator, an individual agricultural producer shall do one of
11 the following:

12 (a) Attend a training program provided by the university of
13 Wisconsin-extension, and score at least 50 percent on an open-
14 book examination administered by the training provider. An
15 individual who fails the open-book examination may be retested.

16 (b) Complete self-study training using materials provided
17 by the university of Wisconsin-extension, and score at least 70
18 percent on an open-book examination administered by the
19 department or its designee. An individual who fails the open-
20 book examination may be retested.

21 (8) APPLYING FOR CERTIFICATION. An individual agricultural
22 producer may contact the university of Wisconsin-extension agent,
23 in the county where the producer resides, to arrange for training
24 and evaluation under sub. (7).

25 NOTE: The university of Wisconsin-extension may charge a
26 fee to cover the cost of training.

27 (9) PRIVATE APPLICATORS CERTIFIED IN OTHER STATES. An
28

1 individual agricultural producer who is currently certified as a
2 private applicator in another state is automatically deemed to be
3 certified as a private applicator in this state. The
4 certification card issued by the other state serves as a
5 certification card under sub. (5), so that the producer need not
6 obtain a certification card from the department.

7 **ATCP 29.28 PESTICIDE MIXERS AND LOADERS; CERTIFICATION.**

8 (1) SCOPE OF CERTIFICATION. The department may certify an
9 individual to mix or load pesticides for application by others.
10 An individual certified under this section may mix and load
11 pesticides for application by others in all of the categories
12 under s. ATCP 29.31, but may not do any of the following:

13 (a) Apply pesticides in any category under s. ATCP 29.31.

14 (b) Engage in any activity for which a license is required
15 under s. ATCP 29.25 unless that individual holds a license under
16 s. ATCP 29.25.

17 (2) LENGTH OF CERTIFICATION. A pesticide mixer and loader
18 certification is valid for 5 years unless the department suspends
19 or revokes the certification. The department may renew an
20 individual's certification for another 5 years if, before the
21 individual's certification expires, the individual again
22 satisfies the requirements for certification.

23 (3) CERTIFICATION CARD. (a) Within 30 business days after
24 an individual satisfies the requirements for certification under
25 this section, the department shall issue a certification card to
26 that individual. The card shall include all of the following:

1 1. The individual's name and certification number.

2 2. A statement indicating that the individual is certified
3 as a pesticide mixer and loader.

4 3. The expiration date of the certification.

5 (b) A pesticide mixer and loader shall carry a current
6 certification card when engaged in any activity for which
7 certification is required.

8 (c) The department may, upon request, replace a
9 certification card that is lost, stolen, damaged or destroyed.
10 The card holder shall pay the replacement cost.

11 (4) CERTIFICATION STANDARDS. To be certified as a
12 pesticide mixer and loader, an individual shall demonstrate
13 practical knowledge and competency related to the general areas
14 identified under s. ATCP 29.30.

15 (5) CERTIFICATION TEST. An individual shall demonstrate
16 practical knowledge and competency under sub. (4) by scoring at
17 least 70 percent on a written, closed-book examination
18 administered by the department. An individual who fails an
19 examination may be retested according to the procedure described
20 in s. ATCP 29.26(8).

21 (6) APPLYING FOR CERTIFICATION. To apply for certification
22 under this section, an individual shall follow the procedure
23 described in s. ATCP 29.26(9).

24 **ATCP 29.29 SPECIAL APPLICATION METHODS; SUPPLEMENTARY**

25 **CERTIFICATION.** (1) AERIAL APPLICATOR; SUPPLEMENTARY

26 CERTIFICATION. The department may certify an individual to use

1 aircraft to make pesticide applications for which that individual
2 is certified as a commercial or private applicator under s. ATCP
3 29.26 or 29.27. To be certified as an aerial applicator, an
4 individual shall do all of the following:

5 (a) Provide proof that he or she is licensed and fully
6 trained to operate and apply pesticides with each type of
7 aircraft used for that purpose.

8 (b) Demonstrate practical knowledge and competency related
9 to aerial applications, including the principles and practices of
10 aerial pest control, potential health and environmental hazards
11 related to aerial applications, prevention of pesticide overspray
12 and drift, and requirements under s. ATCP 29.53.

13 (2) CHEMIGATION APPLICATOR; SUPPLEMENTARY CERTIFICATION.

14 (a) The department may certify an individual to make pesticide
15 applications, for which that applicator is certified as a
16 commercial or private applicator under s. ATCP 29.26 or 29.27, by
17 means of chemigation.

18 (b) To be certified as a chemigation applicator, an
19 individual shall demonstrate practical knowledge and competency
20 related to all of the following:

21 (a) Proper chemigation procedures.

22 (b) Chemigation equipment, including calibration and
23 operation.

24 (c) Potential health and environmental hazards related to
25 chemigation.

26 (d) Requirements under s. ATCP 29.54.

1 (3) SOIL FUMIGATION BY COMMERCIAL APPLICATOR; SUPPLEMENTARY
2 CERTIFICATION. (a) The department may certify an individual
3 commercial applicator to make pesticide applications, for which
4 that individual is certified under s. ATCP 29.26, by means of
5 soil fumigation. To be certified as a soil fumigator, an
6 individual commercial applicator shall demonstrate practical
7 knowledge and competency related to all of the following:

8 (a) Pests that may be treated by soil fumigation.

9 (b) Factors that may affect the need for and appropriate
10 use of soil fumigation.

11 (c) Pesticides used as soil fumigants.

12 (d) Health and environmental hazards related to soil
13 fumigation.

14 (e) Proper soil fumigation methods, including restricted
15 entry intervals, proper use of safety apparatus, and other
16 safeguards to protect human health and the environment.

17 (f) Worker safety.

18 (g) State and federal regulations related to soil fumigant
19 pesticides and their use.

20 (4) FUMIGATION BY PRIVATE APPLICATOR; SUPPLEMENTARY
21 CERTIFICATION. The department may certify a private applicator
22 to make fumigation applications to soil, spaces or commodities if
23 all of the following apply:

24 (a) The private applicator is certified under s. ATCP
25 29.27.

26 (b) The private applicator demonstrates practical knowledge

1 and competency related to all of the following:

- 2 1. Pests that may be treated by fumigation.
- 3 2. Factors that may affect the need for and appropriate use
4 of fumigation.
- 5 3. Pesticides applied by means of fumigation.
- 6 4. Health and environmental hazards related to fumigation.
- 7 5. Proper fumigation methods, including restricted entry
8 intervals, proper use of safety apparatus, and other safeguards
9 to protect human health and the environment.
- 10 6. Worker safety.
- 11 7. State and federal regulations related to fumigant
12 pesticides and their use.

13 (5) CERTIFICATION PROCEDURE; COMMERCIAL APPLICATORS. A
14 commercial applicator certified under s. ATCP 29.26 may apply for
15 supplementary certification under this section according to the
16 procedure specified under s. ATCP 29.26(9). To be certified
17 under sub. (1), (2) or (3), the applicant shall score at least 70
18 percent on a written, closed-book examination administered by the
19 department. An individual who fails an examination may be
20 retested according to the procedure described in s. ATCP
21 29.26(8). If necessary, the department may require the
22 individual to pass a field or operational examination in addition
23 to a written examination.

24 (6) CERTIFICATION PROCEDURE; PRIVATE APPLICATORS. A
25 private applicator certified under s. ATCP 29.27 may apply for
26 supplementary certification under this section by contacting the

1 university of Wisconsin-extension agent, in the county where the
2 private applicator resides. To be certified under sub. (1), (2)
3 or (4), the private applicator shall do both of the following:

4 (a) Complete self-study training using materials provided
5 by the university of Wisconsin-extension.

6 (b) Demonstrate practical knowledge and competency by
7 scoring at least 70 percent on an open-book examination
8 administered by the training provider. The examination may
9 include a field or operational examination. An individual who
10 fails an examination may be retested.

11 **ATCP 29.30 GENERAL CERTIFICATION STANDARDS.** In order to be
12 certified under s. ATCP 29.26, 29.27 or 29.28, an individual
13 shall do all of the following:

14 (1) PESTICIDE LABELS. Demonstrate all of the following:

15 (a) Knowledge related to the general format and terminology
16 used on pesticide labels.

17 (b) Ability to understand instructions, warnings, terms,
18 symbols and other information commonly appearing on pesticide
19 labels.

20 (c) Knowledge of pesticide use classifications.

21 (d) Knowledge that pesticide use inconsistent with labeling
22 is prohibited.

23 (2) PESTICIDE HAZARDS; GENERAL. Demonstrate practical
24 knowledge and competency related to all of the following:

25 (a) Pesticide toxicity.

26 (b) Common hazards to persons, property and the

1 environment.

2 (3) HUMAN HEALTH HAZARDS AND RESPONSES. Demonstrate
3 practical knowledge and competency related to all of the
4 following:

5 (a) Pesticide exposure and health risks related to
6 different types of pesticides and pesticide applications.

7 (b) Common exposure routes by which pesticides may reach or
8 enter an organism.

9 (c) Common types and causes of pesticide accidents.

10 (d) Safety measures to prevent or minimize human exposure.

11 (e) Worker protection, including the use of protective
12 equipment.

13 (f) Symptoms of pesticide poisoning.

14 (g) First aid and other procedures to be followed in case
15 of pesticide exposure.

16 (4) ENVIRONMENT. Demonstrate practical knowledge related
17 to all of the following:

18 (a) Potential environmental hazards related to pesticide
19 use or misuse, including hazards to surface water, groundwater,
20 nontarget organisms and endangered species.

21 (b) How environmental hazards may be affected by factors
22 such as weather, terrain, drainage patterns, soil types,
23 hydrogeologic conditions, and the nature of surrounding
24 biological communities.

25 (5) PESTS. Demonstrate practical knowledge and competency
26 related to all of the following unless the individual is

1 certified only as a pesticide mixer and loader under s. ATCP

2 29.28:

3 (a) Identification of relevant pests.

4 (b) Common features of pest organisms.

5 (c) Characteristic damage caused by pest organisms.

6 (d) Pest development and biology as it may be relevant to
7 problem identification and control.

8 (e) Factors affecting the need for and appropriate use of
9 pesticides to control pests.

10 (6) PESTICIDES. Demonstrate practical knowledge and
11 competency related to all the following:

12 (a) Pesticide types and formulations.

13 (b) The compatibility, synergism, persistence and toxicity
14 of different pesticide formulations.

15 (c) Potential hazards associated with the use of different
16 pesticides.

17 (d) Factors influencing pesticide effectiveness and pest
18 resistance to pesticides.

19 (e) The mixing and dilution of pesticides.

20 (7) EQUIPMENT. Demonstrate practical knowledge and
21 competency related to the types of equipment used to apply
22 pesticides, including the advantages and limitations of each type
23 of equipment, the use and maintenance of equipment, and the
24 calibration of equipment.

25 (8) PESTICIDE MIXING AND LOADING. Demonstrate practical
26 knowledge and competency related to all of the following:

- 1 (a) Mixing and loading instructions.
- 2 (b) Proper mixing and loading procedures.
- 3 (c) Mixing and loading equipment and facilities.
- 4 (d) Spill prevention and spill response procedures.
- 5 (e) Worker safety, including use of protective safety
- 6 equipment.

7 (9) PESTICIDE APPLICATION. Demonstrate practical knowledge
8 and competency related to all the following unless the individual
9 is certified only as a pesticide mixer and loader under s. ATCP
10 29.28:

- 11 (a) The methods or procedures used to apply different
- 12 pesticides and pesticide formulations.
- 13 (b) Factors affecting the choice of application method or
- 14 application rate.
- 15 (c) The relationship between pesticide discharge, pesticide
- 16 placement and proper use of pesticides.
- 17 (d) Unnecessary use and misuse of pesticides.
- 18 (e) Prevention of overspray and drift.

19 (10) PESTICIDE HANDLING, STORAGE, TRANSPORTATION AND
20 DISPOSAL. Demonstrate practical knowledge and competency related
21 to all of the following:

- 22 (a) Proper equipment, facilities and procedures for
- 23 handling, storing, transporting and disposing of pesticides.
- 24 (b) Proper procedures for rinsing and disposing of
- 25 pesticide containers.
- 26 (c) Proper spill prevention and spill response procedures.

1 (d) Safeguards to prevent or minimize hazards to persons,
2 property and the environment.

3 (e) Worker protection, including use of protective
4 equipment.

5 (11) PESTICIDE REGULATIONS. Demonstrate knowledge of
6 relevant state and federal pesticide regulations including:

7 (a) The federal act.

8 (b) Sections 94.67 to 94.71, Stats.

9 (c) This chapter, chs. ATCP 30, 31 and 33, and ch. NR 80.

10 **ATCP 29.31 COMMERCIAL APPLICATORS; CERTIFICATION**

11 **CATEGORIES.** The department may certify an individual as a
12 commercial applicator, under s. ATCP 29.26, in any of the
13 following categories:

14 (1) FIELD AND VEGETABLE CROP PEST CONTROL. (a) Category
15 description. This category includes individuals who use or
16 direct the use of pesticides to control pests affecting
17 agricultural field and vegetable crops, or to control pests on
18 noncrop agricultural lands.

19 (b) Certification requirements. To be certified in this
20 category, an individual shall demonstrate practical knowledge and
21 competency related to all of the following:

22 1. Agricultural crops and noncrop agricultural land uses,
23 and key pests that may affect them.

24 2. Pesticides that may be used to control relevant pests,
25 and factors that may affect the need for and appropriate use of
26 those pesticides.

1 3. Potential health and environmental hazards related to
2 the use of pesticides in this category, including hazards related
3 to surface water and groundwater.

4 4. Appropriate procedures for mixing, loading, applying and
5 disposing of pesticides, to prevent or minimize pesticide-related
6 hazards.

7 5. The safe use of pesticide-treated crops for food or
8 feed, including required pre-harvest intervals.

9 6. Worker safety, notice, posting and restricted entry
10 interval requirements.

11 7. Hazards to treated plants and nontarget organisms,
12 including phytotoxicity.

13 8. Pesticide overspray and drift, and how to avoid them.

14 9. Public and community relations issues related to
15 pesticide applications.

16 (2) FRUIT CROP PEST CONTROL. (a) Category description.

17 This category includes individuals who use or direct the use of
18 pesticides to control pests affecting the production of
19 agricultural fruit crops, including small fruits, tree fruits and
20 nuts.

21 (b) Certification requirements. To be certified in this
22 category, an individual shall demonstrate practical knowledge and
23 competency related to all of the following:

24 1. Common agricultural fruit crops grown in this state, and
25 the pests that affect them.

26 2. Pesticides that may be used to control relevant pests,

1 and factors that may affect the need for and appropriate use of
2 those pesticides.

3 3. Potential health and environmental hazards related to
4 pesticide use in this category, including hazards related to
5 surface water and groundwater.

6 4. Appropriate procedures for mixing, loading, applying and
7 disposing of pesticides, to prevent or minimize pesticide-related
8 hazards.

9 5. The safe use of pesticide-treated fruit crops for food
10 or feed, including required pre-harvest intervals.

11 6. Worker safety, notice, posting and restricted entry
12 interval requirements.

13 7. Hazards to treated plants and nontarget organisms,
14 including phytotoxicity.

15 8. Pesticide overspray and drift, and how to avoid them.

16 9. Public and community relations issues related to
17 pesticide applications.

18 (3) LIVESTOCK AND POULTRY PEST CONTROL. (a) Category
19 description. This category includes individuals who use or

20 direct the use of pesticides to do either of the following:

21 1. Control pests on agricultural animals such as livestock,
22 poultry or horses.

23 2. Control pests other than birds and rodents in places,
24 other than human habitations, where agricultural animals are
25 confined.

26 (b) Certification requirements. To be certified in this

1 category, an individual shall demonstrate practical knowledge and
2 competency related to all of the following:

3 1. Common agricultural animals, and the pests that affect
4 them.

5 2. Pesticides that may be used to control relevant pests,
6 and factors that may affect the need for and appropriate use of
7 those pesticides.

8 3. Potential adverse health effects on animals and humans.

9 4. Potential adverse effects on food and other uses of
10 animals or their products.

11 5. Appropriate procedures for preparing, applying and
12 disposing of pesticides, to prevent or minimize pesticide-related
13 hazards.

14 (4) FOREST PEST CONTROL. (a) Category description. This
15 category includes individuals who use or direct the use of
16 pesticides to control pests in forests, forest nurseries,
17 Christmas tree plantations and tree seed producing areas.

18 (b) Certification requirements. To be certified in this
19 category, an individual shall demonstrate practical knowledge and
20 competency related to all of the following:

21 1. Forests, forest nurseries, Christmas tree plantations
22 and tree seed production in this state, and pests that may affect
23 them.

24 2. Pesticides that may be used to control relevant pests.

25 3. Factors, including pest population dynamics and cycles,
26 that may affect the need for and appropriate use of pesticides.

1 4. Appropriate procedures for mixing, loading, applying and
2 disposing of pesticides, to prevent or minimize pesticide-related
3 hazards.

4 5. Potential adverse effects on treated plants and plant
5 products.

6 6. Potential adverse effects on nontarget organisms.

7 7. Potential health and environmental hazards, including
8 hazards to aquatic habitats and wildlife.

9 8. Pesticide overspray and drift, and how to avoid them.

10 9. Applicable laws, including s. 26.30, Stats., and ch. NR
11 35, pertaining to forest pest control.

12 10. Public and community relations issues related to
13 pesticide applications.

14 (5) TURF AND LANDSCAPE PEST CONTROL. (a) Category

15 description. This category includes individuals who use or
16 direct the use of pesticides to control pests affecting turf or
17 landscape.

18 (b) Certification requirements. To be certified in this
19 category, an individual shall demonstrate practical knowledge and
20 competency related to all of the following:

21 1. Production and maintenance of turf and landscape in this
22 state.

23 2. Common pests affecting turf and landscape.

24 3. Pesticides that may be used to control relevant pests,
25 and factors that may affect the need for and appropriate use of
26 those pesticides.

1 4. Appropriate procedures for mixing, loading, applying and
2 disposing of pesticides, to prevent or minimize pesticide-related
3 hazards.

4 5. Worker safety, notice, posting and restricted entry
5 interval requirements.

6 6. Potential health and environmental hazards, including
7 hazards related to surface water and groundwater.

8 7. Hazards to treated plants and nontarget organisms,
9 including phytotoxicity.

10 8. Pesticide overspray and drift, and how to avoid them.

11 9. Public and community relations issues related to
12 pesticide applications.

13 (6) GREENHOUSE AND NURSERY PEST CONTROL. (a) Category
14 description. This category includes individuals who use or
15 direct the use of pesticides to control pests affecting
16 greenhouse or nursery plants.

17 (b) Certification requirements. To be certified in this
18 category, an individual shall demonstrate practical knowledge and
19 competency related to all of the following:

- 20 1. Production of greenhouse and nursery plants.
- 21 2. Common pests affecting greenhouse and nursery plants.
- 22 3. Pesticides that may be used to control relevant pests,
23 and factors that may affect the need for and appropriate use of
24 those pesticides.
- 25 4. Appropriate procedures for mixing, loading, applying and
26 disposing of pesticides, to prevent or minimize pesticide-related

1 hazards.

2 5. Worker safety, notice, posting and restricted entry
3 interval requirements.

4 6. Potential health and environmental hazards.

5 7. Hazards to treated plants and nontarget organisms,
6 including phytotoxicity.

7 (7) SEED TREATMENT PEST CONTROL. (a) Category
8 description. This category includes individuals who use or
9 direct the use of pesticides, other than in planter box
10 treatments, to control pests on seeds used for planting or
11 propagation.

12 (b) Certification requirements. To be certified in this
13 category, an individual shall demonstrate practical knowledge and
14 competency related to all of the following:

- 15 1. Seeds and the pests that may affect them.
- 16 2. Pesticides that may be used to control relevant seed
17 pests, and factors that may affect the need for and appropriate
18 use of those pesticides.
- 19 3. Potential health and environmental hazards related to
20 pesticide applications, including hazards related to handling,
21 sorting, mixing, using and disposing of pesticide-treated seed.
- 22 4. Appropriate procedures for preparing, applying and
23 disposing of pesticides, including procedures for handling,
24 sorting, mixing, using and disposing of pesticide-treated seed,
25 to prevent or minimize pesticide-related hazards.
- 26 5. Factors, such as seed coloration carriers and surface

1 active agents, that may affect pesticide efficacy or seed
2 germination.

3 6. Worker safety, notice, posting and restricted entry
4 interval requirements.

5 (8) AQUATIC AND MOSQUITO PEST CONTROL. (a) Category
6 description. This category includes individuals who do either of
7 the following:

8 1. Use or direct the use of any pesticide in standing or
9 running surface water, or below the high water mark, to control
10 pests.

11 2. Use or direct the use of any pesticide to control
12 mosquitoes in water or on land.

13 (b) Certification requirements. To be certified in this
14 category, an individual shall demonstrate practical knowledge and
15 competency related to all of the following:

16 1. Pests in aquatic environments.

17 2. Pesticides that may be used to control relevant aquatic
18 pests, and factors that may affect the need for and appropriate
19 use of those pesticides.

20 3. Potential health and environmental effects of pesticide
21 applications, including potential downstream effects, secondary
22 effects and effects on nontarget organisms.

23 4. Proper procedures for mixing, loading, applying and
24 disposing of pesticides, to prevent or minimize pesticide-related
25 hazards. This includes limited area application principles.

26 5. Applicable regulations including ss. 29.62 and 144.025,

1 Stats., and ch. NR 107.

2 6. Public and community relations issues related to aquatic
3 pesticide applications.

4 (9) ANTIFOULING PAINT APPLICATIONS. (a) Category
5 description. This category includes individuals who use or
6 direct the use of anti-fouling paint pesticides to preserve and
7 protect boat hulls, buoys, and other materials against damage
8 from marine plants and animals such as barnacles, algae and tube
9 worms.

10 (b) Certification requirements. To be certified in this
11 category, an individual shall demonstrate practical knowledge and
12 competency related to all of the following:

13 1. The pests against which antifouling paints are commonly
14 used.

15 2. Antifouling paints, and factors that may affect the need
16 for and appropriate use of antifouling paints.

17 3. Potential health and environmental hazards related to
18 antifouling paints.

19 4. Proper procedures for mixing, loading, applying and
20 disposing of antifouling paints, to prevent or minimize hazards
21 related to those paints.

22 (10) RIGHT-OF-WAY PEST CONTROL. (a) Category description.
23 This category includes individuals who use or direct the use of
24 pesticides to maintain lands used for electric power lines,
25 pipelines, railways, public roads or similar purposes.

26 (b) Certification requirements. To be certified in this

1 category, an individual shall demonstrate practical knowledge and
2 competency related to all of the following:

3 1. The variety of environments that may be affected by
4 right-of-way pesticide applications.

5 2. Recognition of common pests controlled by right-of-way
6 pesticide applications.

7 3. Pesticides that may be used to control relevant pests,
8 and factors that may affect the need for and appropriate use of
9 those pesticides.

10 4. Potential health and environmental hazards, including
11 hazards related to surface water and groundwater.

12 5. Hazards to treated plants and nontarget organisms,
13 including phytotoxicity.

14 6. Appropriate procedures for mixing, loading, applying and
15 disposing of pesticides, to prevent or minimize pesticide-related
16 hazards.

17 7. Notice, posting and restricted entry interval
18 requirements.

19 8. Pesticide overspray and drift, and how to avoid them.

20 9. Public and community relations issues related to
21 pesticide applications.

22 (11) INDUSTRIAL, INSTITUTIONAL, STRUCTURAL, AND
23 HEALTH-RELATED PEST CONTROL; GENERAL. (a) Category description.

24 This category includes individuals, other than those included in
25 categories (12) to (15), who use or direct the use of pesticides
26 for any of the following purposes:

- 1 1. To protect stored, processed or manufactured products.
- 2 2. To control pests in or around food handling
- 3 establishments, human dwellings, schools, institutions,
- 4 industrial establishments, warehouses, grain elevators or like
- 5 facilities, or the areas immediately adjacent to those
- 6 facilities. It includes individuals making perimeter barrier
- 7 treatments, within 10 feet of a building or structure, to prevent
- 8 or discourage pests from entering that building or structure. It
- 9 also includes individuals making spot or direct applications to
- 10 landscapes to control structural, household or nuisance pests
- 11 such as ants, fleas, wasps, bees and hornets. It does not
- 12 include individuals making applications under sub. (5) to control
- 13 pests of turf or ornamentals; nor does it include individuals
- 14 making applications under sub. (8) to control mosquitoes.

15 NOTE: Landscape applications, other than perimeter barrier
16 treatments within 10 feet of a building or structure,
17 must comply with s. ATCP 29.56.

- 18 3. To control, as part of a public health program, pests
- 19 other than mosquitoes that have public health or medical
- 20 importance.
- 21

22 (b) Certification requirements. To be certified in this

23 category, an individual shall demonstrate practical knowledge and

24 competency related to all of the following:

- 25 1. Pests that have public health or medical importance.
- 26 2. Pesticides that may be used to control relevant pests,
- 27 and factors that may affect the need for and appropriate use of
- 28 those pesticides.

1 3. Potential health and environmental hazards related to
2 the use of pesticides in this category.

3 4. Appropriate procedures for mixing, loading, applying and
4 disposing of pesticides, to prevent or minimize pesticide-related
5 hazards.

6 (12) FUMIGATION; SPACES AND COMMODITIES. (a) Category
7 description. This category includes individuals who use or
8 direct the use of fumigant pesticides to control pests in
9 industrial, institutional or structural settings, or for health-
10 related purposes. It includes individuals who apply fumigants by
11 means of general, spot, tarpaulin, chamber, vehicle or in-transit
12 fumigation, or who aerate or ventilate fumigated spaces. It does
13 not include individuals who use or direct the use of soil
14 fumigants.

15 (b) Certification requirements. To be certified in this
16 category, an individual shall demonstrate practical knowledge and
17 competency related to all of the following:

18 1. Pests that are subject to control by fumigation,
19 including pest biology.

20 2. Fumigants that may be used to control relevant pests.

21 3. Factors that may determine the need for, or appropriate
22 use of, a fumigant.

23 4. Potential health and environmental hazards related to
24 fumigants.

25 5. Appropriate procedures for mixing, loading, applying and
26 disposing of fumigants, to prevent or minimize fumigant-related

1 hazards.

2 6. Fumigation equipment.

3 7. Worker safety, notice, posting and restricted entry
4 interval requirements.

5 (13) SEWER ROOT CONTROL. (a) Category description. This
6 category includes individuals who use or direct the use of metam
7 sodium or other fumigants to control root growth in sewers.

8 (b) Certification requirements. To be certified in this
9 category, an individual shall demonstrate practical knowledge and
10 competency related to all of the following:

11 1. The use of metam sodium and other fumigants to control
12 root growth in sewers.

13 2. Factors that may determine the need for, or appropriate
14 use of, a sewer fumigant.

15 3. Potential health and environmental hazards related to
16 sewer fumigants.

17 4. Appropriate procedures for mixing, loading, applying and
18 disposing of sewer fumigants, to prevent or minimize fumigant-
19 related hazards.

20 5. Fumigation equipment.

21 6. Worker safety, notice, posting and restricted entry
22 interval requirements.

23 (14) TERMITE CONTROL. (a) Category description. This
24 category includes individuals who use or direct the use of
25 pesticides to prevent or control termites.

26 (b) Certification requirements. To be certified in this

1 category, an individual shall demonstrate practical knowledge and
2 competency related to all of the following:

- 3 1. Termites, including termite biology.
- 4 2. Pesticides that may be used to control termites, and
5 factors that may affect the need for and appropriate use of those
6 pesticides.
- 7 3. Potential health and environmental hazards related to
8 termite control.
- 9 4. Key factors affecting the nature and severity of health
10 and environmental hazards related to termite control.
- 11 5. Appropriate procedures for mixing, loading, applying and
12 disposing of pesticides, to prevent or minimize pesticide-related
13 hazards.

14 (15) WOOD PRESERVATION. (a) Category description. This
15 category includes individuals, other than those identified under
16 sub. (9), who use or direct the use of pesticides for wood
17 treatment to preserve and protect wood or wood-based materials
18 against damage from insects, fungi, surface molds and mildew,
19 marine crustaceans, shipworms and other pests.

20 (b) Certification requirements. To be certified in this
21 category, an individual shall demonstrate practical knowledge and
22 competency related to all of the following:

- 23 1. Wood species and wood structure.
- 24 2. Wood destroying pests and their biology.
- 25 3. Wood preservatives that may be used to prevent or
26 control damage caused by wood destroying pests.

1 4. Factors that may affect the need for and appropriate use
2 of wood preservatives.

3 5. Potential health and environmental hazards related to
4 the use of wood preservatives.

5 6. Appropriate procedures for mixing, loading, applying and
6 disposing of wood preservatives, to prevent or minimize related
7 hazards.

8 (16) COMPANION ANIMAL PEST CONTROL. (a) Category
9 description. This category includes individuals who use or
10 direct the use of pesticides to do either of the following:

11 1. Control pests on companion animals, such as dogs or
12 cats.

13 2. Control pests in places, other than human habitations,
14 where companion animals are confined.

15 (b) Certification requirements. To be certified in this
16 category, an individual shall demonstrate practical knowledge and
17 competency related to all of the following:

18 1. Common companion animals and household pets, and the
19 pests that affect them.

20 2. Pesticides that may be used to control relevant pests,
21 and factors that may affect the need for and appropriate use of
22 those pesticides.

23 3. Potential toxic or adverse health effects on animals or
24 humans.

25 4. Appropriate procedures for preparing, applying and
26 disposing of pesticides, to prevent or minimize pesticide-related

1 hazards.

2 ATCP 29.32 TRAINEE REGISTRATION. (1) GENERAL. An

3 employer licensed under s. ATCP 29.20 may register an employee as
4 a trainee if that employer is training that employee for
5 licensing under s. ATCP 29.25 and certification under s. ATCP
6 29.26 or 29.28. A registered trainee may, without being licensed
7 or certified, temporarily engage in activities for which a
8 license and certification are normally required if those
9 activities are reasonably necessary for the training. A trainee
10 registration takes effect when properly filed with the
11 department, and expires 30 days after it is filed.

12 (2) RESTRICTIONS ON TRAINEE USE OF PESTICIDES. A trainee
13 registration under sub. (1) does not authorize the trainee to do
14 any of the following:

15 (a) Use any pesticide except under the direct on-site
16 supervision of an individual who is licensed under s. ATCP 29.25
17 and certified under s. ATCP 29.26 or 29.28 to perform the
18 functions for which the trainee is being trained.

19 (b) Direct the use of pesticides.

20 (c) Engage in any category of pesticide use which is not
21 identified in the trainee registration.

22 (d) Use any restricted-use pesticide.

23 (e) Engage in aquatic pest control under s. ATCP 29.31(8).

24 (f) Use any soil fumigant, or apply any pesticide by
25 aircraft or chemigation.

26 (3) ELIGIBILITY LIMITS. (a) No employer may register a

1 trainee more than once in the same category.

2 (b) No trainee may be registered under sub. (1) to do any
3 of the following:

4 1. Use any pesticide in any certification category under s.
5 ATCP 29.31 in which that trainee has failed to renew a prior
6 certification.

7 2. Mix or load pesticides if the trainee has failed to
8 renew any prior certification under s. ATCP 29.26 or 29.28.

9 (4) REGISTRATION PROCEDURE. An employer shall file a
10 trainee registration under sub. (1) on a form provided by the
11 department. The completed registration form shall include all of
12 the following:

13 (a) The trainee's name, home address and telephone number.

14 (b) The employer's name, business address and telephone
15 number.

16 (c) The name, license number and certification number of
17 each individual who will supervise the trainee under sub. (2) (a).

18 (d) The brand name and federal environmental protection
19 agency registration number of each pesticide that the trainee may
20 use during the training period.

21 (e) The categories under s. ATCP 29.31 in which the trainee
22 will use pesticides during the training period.

23 (f) A declaration stating all the following:

24 1. That the employer is preparing the trainee for licensing
25 under s. ATCP 29.25 and certification under s. ATCP 29.26 or
26 29.28.

1 2. That the employer assumes complete responsibility for
2 the trainee's use of pesticides during the training period.

3 3. That the training will comply with the restrictions
4 under sub. (2).

5 4. That the trainee is at least 16 years old.

6 5. That the trainee can understand and follow oral
7 instructions.

8 6. That the trainee can read and comprehend written
9 instructions, including pesticide labels and labeling.

10 7. That the trainee can carry out assignments and
11 instructions in a responsible manner.

12 8. That the trainee is capable of using pesticides as a
13 trainee, under direct on-site supervision.

14 (g) The dated signatures of all the following persons:

15 1. The trainee.

16 2. Each individual identified under par. (c).

17 3. The employer or a responsible officer of the employer.

18 (h) Other relevant information reasonably required by the
19 department.

20 (5) COPY TO TRAINEE. An employer filing a trainee
21 registration form under sub. (4) shall provide a true copy of
22 that registration form to the trainee. The trainee shall carry
23 the registration form when engaged in any activity for which
24 licensing or certification would be required under ss. ATCP
25 29.25, 29.26 or 29.28 if the individual were not registered as a
26 trainee.

1 (6) SUMMARY SUSPENSION OR REVOCATION. The department may
2 by written notice, without prior notice or hearing, summarily
3 suspend or revoke a trainee registration if the department finds
4 a violation of this section, or determines that any information
5 in the registration is false.

6 **ATCP 29.33 APPLICATOR RECORDS.** (1) INDIVIDUAL COMMERCIAL
7 APPLICATORS. An individual who is required to be licensed as a
8 commercial applicator under s. ATCP 29.25 shall make a record of
9 each pesticide application for which that license is required.
10 The individual shall make the record on the day of the
11 application. The individual shall keep the record for at least 2
12 years unless the individual is employed by a commercial
13 application business that keeps the record under s. ATCP 29.21.

14 NOTE: Under s. ATCP 30.31(5), an individual must keep a
15 record of atrazine applications for at least 3 years.
16

17 (2) PRIVATE APPLICATORS. An individual agricultural
18 producer who applies a restricted-use pesticide as a private
19 applicator shall make a record of that application. The
20 individual shall keep the record for at least 2 years.

21 (3) RECORD CONTENTS. A pesticide application record under
22 this section shall include all of the following:

23 (a) The first and last name of the individual making the
24 pesticide application.

25 (b) The name and address of the customer, if any, for whom
26 the pesticide was applied.

27 (c) The crop, commodity or site to which the pesticide was
28 applied.

1 (d) The specific location of the pesticide application
2 site.

3 (e) The month, day, year and approximate starting and
4 ending time of the pesticide application.

5 (f) The brand name or product name or common chemical name,
6 and the federal environmental protection agency registration
7 number, of each pesticide applied.

8 (g) At least one of the following:

9 1. The concentration and total quantity of each pesticide
10 applied.

11 2. The amount of pesticide product applied per unit area
12 and the total area treated.

13 (h) Each location, other than a business location licensed
14 under s. ATCP 29.20, at which the pesticide was mixed or loaded.
15 Mixing and loading sites need not be identified if the pesticide
16 is applied directly from a prepackaged retail container, or is
17 applied with application equipment having a total capacity of not
18 more than 5 gallons of liquid pesticide or 50 pounds dry
19 pesticide.

20 (4) RECORDS AVAILABLE FOR INSPECTION AND COPYING. Records
21 kept under this section shall be made available to the department
22 for inspection and copying upon request.

1 SUBCHAPTER VII

2 STORING, TRANSPORTING AND SELLING PESTICIDES

3 ATCP 29.40 STORING AND TRANSPORTING PESTICIDES. (1)

4 REQUIREMENTS. Persons storing or transporting pesticides shall
5 do all of the following:

6 (a) Store and transport pesticides according to label
7 directions, in a manner that avoids reasonably foreseeable and
8 reasonably preventable hazards to persons, property and the
9 environment.

10 (b) Store bulk pesticides according to ch. ATCP 33.

11 (c) Secure pesticides and pesticide containers against
12 access by children, the general public, domestic animals and wild
13 animals.

14 (d) Keep pesticides adequately separated from food, feed
15 and other products so that pesticides will not contaminate or be
16 mistaken for those products.

17 (e) Thoroughly clean pesticide residues from storage areas
18 and transport vehicles before reusing those storage areas or
19 transport vehicles for other purposes.

20 (f) Protect pesticide containers and labels from reasonably
21 foreseeable damage or destruction.

22 (g) Inspect pesticide containers when those containers are
23 removed from their outer shipping containers, to ensure that the
24 pesticide containers are intact and properly sealed, and that
25 pesticide labels are intact and fully legible.

26 (2) PROHIBITIONS. No person may do any of the following:

1 (a) Store or transport a pesticide in a manner inconsistent
2 with the pesticide label.

3 (b) Store or transport a pesticide in a visibly broken,
4 defective or improperly sealed container unless that container is
5 enclosed in another suitable container which effectively prevents
6 foreseeable spillage.

7 ATCP 29.41 SELLING PESTICIDES. (1) GENERAL. No person
8 may do any of the following:

9 (a) Sell any pesticide that is not properly registered and
10 labeled according to subchapter II.

11 (b) Sell a pesticide if any part of the pesticide label is
12 absent or illegible.

13 (c) Sell a pesticide in a manner inconsistent with the
14 pesticide label.

15 (d) Sell a pesticide in a visibly broken, defective or
16 improperly sealed container.

17 (e) Sell a pesticide for a use which is not specifically
18 identified on the pesticide label or, in the case of an
19 additional registered use, on supplemental labeling which the
20 seller receives from the pesticide manufacturer or registrant and
21 provides to the purchaser at the time of sale.

22 (f) Make any false, deceptive or misleading representation
23 in connection with the sale or offer of a pesticide.

24 (g) Continue to sell any pesticide after its registration
25 expires or is canceled, or after the department orders the
26 pesticide removed from sale for any reason.

1 (2) RETAIL SALES. (a) No person may sell, at retail, any
2 substance with instructions for using that substance to formulate
3 a pesticide unless that substance is registered as a pesticide
4 under s. ATCP 29.05.

5 (b) Pesticides bearing the precautionary signal words
6 "POISON", "DANGER" or "WARNING", when displayed at retail, shall
7 be protected from access by children. A retail display complies
8 with this paragraph if any of the following applies:

9 1. The pesticides are kept at least 42 inches above the
10 floor.

11 2. The pesticides are packaged in nonbreakable tamper-
12 resistant containers.

13 (c) Pesticides displayed at retail shall be adequately
14 separated from food, feed and other products so they will not
15 contaminate or be mistaken for those products.

16 (3) RETAIL SALES OF LANDSCAPE PESTICIDES. No person may
17 sell at retail, to any person other than a certified commercial
18 applicator, any landscape pesticide as defined in s. ATCP
19 29.56(1)(f) unless that person displays all of the following
20 items at the point of sale and offers them to the buyer at no
21 additional charge at the time of sale:

22 (a) Warning signs containing the information shown in
23 Appendix F. Each warning sign shall be all of the following:

24 1. At least 4 inches by 5 inches in size.

25 2. Professionally printed in red lettering, on a white
26 background, according to the format shown in Appendix F. A

1 warning sign may contain supplementary information beyond that
2 shown in Appendix F if the information is consistent with and
3 does not detract from that shown in Appendix F.

4 3. Constructed so that it remains clearly legible for at
5 least 72 hours after it is posted, despite reasonably foreseeable
6 adverse weather conditions.

7 (b) Pesticide information sheets which are identical to
8 that shown in Appendix G.

9 NOTE: See also subch. IV related to pesticide dealers and
10 distributors.
11

1 SUBCHAPTER VIII

2 PESTICIDE HANDLING, DISPOSAL AND SPILLS

3 ATCP 29.45 PESTICIDE MIXING AND LOADING; SPILL CONTAINMENT.

4 (1) SPILL CONTAINMENT REQUIRED. Except as provided under sub.
5 (2), no person may mix or load a pesticide at any of the
6 following sites unless the mixing or loading operation is
7 conducted over a spill containment surface that complies with
8 this section:

9 (a) A site located within 100 feet of any well or surface
10 water.

11 (b) A site, or a group of jointly owned or operated sites
12 located within 1/2 mile of each other, at which a total of more
13 than 1,500 pounds of dry or liquid pesticide active ingredients
14 are mixed or loaded in any calendar year. Pesticide active
15 ingredients under this paragraph include those contained in
16 pesticide-fertilizer mixtures.

17 (2) EXEMPTIONS. Subsection (1) does not apply to any of
18 the following:

19 (a) Applying a pesticide to the waters of the state,
20 according to ch. NR 107, in order to manage or control aquatic
21 organisms.

22 (b) Mixing or loading a pesticide into application
23 equipment having a total capacity of 5 gallons or less of liquid
24 pesticide, or 50 pounds or less of nonliquid pesticide.

25 (c) Mixing or loading a pesticide at a site that is at or
26 immediately adjacent to the pesticide application site and at

1 least 100 feet from any well or surface water.

2 (3) SPILL CONTAINMENT SURFACE; GENERAL. A spill
3 containment surface under sub. (1) shall comply with all of the
4 following:

5 (a) It shall be designed to catch and contain all
6 reasonably foreseeable spills of pesticides mixed or loaded over
7 that spill containment surface.

8 (b) It shall be made of asphalt, concrete or other
9 nonabsorbent materials approved by the department, and shall be
10 strong enough to withstand all foreseeable loading conditions.

11 NOTE: The department will maintain a list of approved
12 paving and lining materials for various pesticide
13 compounds, and will provide the current list to
14 interested persons upon request. Additional materials
15 may be approved and added to this list if the person
16 requesting approval provides the department with
17 information demonstrating the adequacy of the materials
18 under intended conditions of use. Persons seeking
19 approval should provide information related to chemical
20 compatibility, permeability, physical characteristics
21 and durability. A tarpaulin may be used as a spill
22 containment surface for nonliquid pesticides if it
23 complies with this subsection.
24

25 (c) It shall extend beneath the pesticide load-out
26 conveyor, if any, unless the load-out conveyor is fully enclosed
27 within a housing that is adequate to contain all spillage from
28 the conveyor.

29 (4) SPILL CONTAINMENT SURFACE; LIQUID PESTICIDES. (a) The
30 spill containment surface under sub. (1) shall meet all of the
31 following requirements if any liquid pesticide is mixed or loaded
32 over that surface:

33 1. It shall be curbed or sloped to contain spillage, and to

1 prevent liquids from adjacent surfaces from flowing onto it.

2 2. It shall form or drain into a liquid-tight catch basin
3 that meets the capacity requirements under sub. (5).

4 (b) A tarpaulin may not be used as a spill containment
5 surface for liquid pesticides.

6 (c) A pesticide mixed with a liquid carrier is considered a
7 liquid pesticide under this subsection. The impregnation of a
8 nonliquid fertilizer with a liquid pesticide does not constitute
9 the mixing or loading of a liquid pesticide under this
10 subsection.

11 (5) CATCH BASIN. (a) Except as provided under par. (b),
12 the catch basin under sub. (4)(a)2. shall have an available
13 capacity of at least 1,500 gallons. To attain this required
14 capacity, the catch basin may include a sump equipped with an
15 automatically activated pump that transfers liquids to an
16 above-ground container.

17 (b) If no pesticide is transferred to or from a container
18 larger than 1,000 gallons, the available capacity of the catch
19 basin under sub. (4)(a)2. shall be at least 125 percent of the
20 capacity of the largest container loaded or unloaded at the site.
21 A container under this paragraph includes a container carried on
22 pesticide application equipment.

23 (6) RECOVERY OF DISCHARGES. Pesticides spilled or
24 intentionally released onto a spill containment surface under
25 sub. (1) shall be promptly recovered from the spill containment
26 surface or from the catch basin to which it drains.

1 ATCP 29.46 MIXING OR LOADING NEAR SURFACE WATERS. (1)

2 PROHIBITIONS. Except as provided under sub. (2), no person may
3 do any of the following:

4 (a) Immerse any pesticide application equipment, mix tank
5 or nurse tank in the waters of the state.

6 (b) Fill any pesticide application equipment, mix tank or
7 nurse tank from the waters of the state.

8 (c) Clean or fill any pesticide application equipment, mix
9 tank or nurse tank near the surface waters of the state, or near
10 any well site, if pesticide spillage or overflow may contaminate
11 waters of the state.

12 (2) EXEMPTIONS. Subsection (1) does not prohibit any of
13 the following:

14 (a) Filling pesticide application equipment, or a mix or
15 nurse tank, from a well or discharge outlet that is fully
16 protected against backflow and backsiphonage under s. COMM 82.41.
17 The air gap from the supply outlet to the equipment being filled
18 shall be at least twice the effective opening of the supply
19 outlet, but not less than one inch.

20 (b) Filling or cleaning pesticide application equipment, or
21 a mix or nurse tank, over a spill containment surface that
22 complies with s. ATCP 29.45.

23 (c) Applying a pesticide by means of chemigation that
24 complies with s. ATCP 29.54.

25 (d) Filling a water supply tank from surface waters if the
26 water supply tank is used only to carry water. If the vehicle

1 carrying the water supply tank also carries a pesticide
2 container, the pesticide container must remain at least 8 feet
3 from the surface water while the water supply tank is being
4 filled.

5 (e) Making an aquatic pesticide application according to
6 ch. NR 107, or filling a water supply tank from surface waters
7 for that application.

8 **ATCP 29.47 DISPOSAL OF PESTICIDES AND PESTICIDE CONTAINERS.**

9 (1) GENERAL. No person may dispose of any pesticide or
10 pesticide container, or hold any pesticide or pesticide container
11 for disposal, in a manner that is inconsistent with label
12 directions, that risks contaminating the waters of the state, or
13 that creates a hazard to persons, property or the environment.

14 (2) REUSE PROHIBITED. No person may reuse a pesticide
15 container for any purpose. This subsection does not prohibit any
16 of the following:

17 (a) Recycling a container for scrap in compliance with
18 applicable law.

19 (b) Reusing, in compliance with label directions, a
20 pesticide container that is designed to be reused.

21 (c) Returning a pesticide container to a pesticide
22 manufacturer or seller who has agreed to receive that container.

23 (d) Temporarily reusing a pesticide container to hold the
24 same pesticide recovered from a leaking or damaged pesticide
25 container.

1 ATCP 29.48 PESTICIDE SPILLS.

2 (1) CLEANUP. In order to
3 minimize hazards to persons, property and the environment, a
4 person who spills a pesticide shall immediately take appropriate
5 measures to contain the spill, recover the spilled pesticide, and
6 clean surfaces exposed to the spilled pesticide.

7 (2) REPORTING. A person who spills a pesticide shall
8 immediately notify the department of natural resources as
9 required by s. 292.11, Stats.

10 NOTE: The spill hotline for the department of natural
11 resources is 1-800-943-0003. Ch. NR 706 specifies
12 reportable spill amounts for all agricultural chemicals
13 including pesticides. The department of agriculture,
14 trade and consumer protection administers an
15 agricultural chemical cleanup program under s. 94.73,
16 Stats., and ch. ATCP 35, and can reimburse certain
17 cleanup costs. You may contact the department's spill
18 response coordinator by calling 608-224-4500.

19 (3) STORING SPILLED PESTICIDE AND RINSATE. No spilled
20 pesticides or spilled materials containing pesticides may be
21 stored below ground level. Pesticide spills or rinsate stored in
22 containers having a capacity of more than 55 gallons of liquid or
23 100 pounds of dry material shall be stored in compliance with ch.
24 ATCP 33.

1 Subchapter IX

2 PESTICIDE USE

3 ATCP 29.50 PESTICIDE USE; GENERAL. (1) NEGLIGENCE USE.

4 No person may do any of the following:

5 (a) Use or direct the use of a pesticide in a negligent
6 manner, or in a manner inconsistent with the pesticide label.

7 (b) Use or direct the use of a pesticide for a purpose for
8 which the pesticide is not registered or labeled under subch. II.

9 (2) OVERSPRAY AND DRIFT. (a) No person may use or direct
10 the use of a pesticide in a manner that results in pesticide
11 overspray or significant pesticide drift. This paragraph does
12 not apply to mosquito control applications, made by or under the
13 direction of a governmental entity for public health purposes,
14 that use proper mosquito control application methods.

15 NOTE: See definitions of "pesticide drift" and "pesticide
16 overspray" under ss. ATCP 29.01(29) and (30).
17

18 (b) The application of pesticide outside the target
19 application site is presumed to be the result of pesticide drift
20 unless there is evidence of pesticide overspray.

21 (c) Pesticide drift is significant, under par. (a), if
22 there is credible evidence that it has moved outside the target
23 application site in any of the following amounts:

24 1. Amounts that cause actual harm to persons, property or
25 the environment.

26 2. Amounts that could potentially harm persons, property or
27 the environment under any reasonably foreseeable circumstances,
28 regardless of whether an actual exposure or harm has occurred.

1 3. Amounts that are readily visible.

2 (3) PREHARVEST INTERVAL. (a) No person may harvest an
3 agricultural commodity from a pesticide application site during
4 the preharvest interval specified for that commodity on the
5 pesticide label.

6 (b) No person controlling a pesticide application site may
7 direct or permit an agricultural commodity to be harvested from
8 that site in violation of par. (a).

9 (4) CONTAMINATING WATERS OF THE STATE. (a) Except as
10 provided under par. (b) or (c), no person may do either of the
11 following:

12 1. Cause a pesticide to enter the waters of the state,
13 either directly or through a sewer system.

14 2. Use a pesticide in any manner which the user knows or
15 should know will result in contamination of the waters of the
16 state.

17 (b) Paragraph (a) does not apply to any of the following:

18 1. The use of germicides, sanitizers, disinfectants,
19 algaecides or slimicides according to label directions.

20 2. Fish management, mosquito abatement or other water
21 applications made under the supervision or rules of the
22 department of natural resources.

23 NOTE: See ch. NR 107.

24 3. The application of pesticides according to label
25 directions to control roots, insects or rodents in sewers.

26 (c) The incidental application of pesticides to temporary

1 rain puddles on target application sites.

2 (d) Unforeseeable leaching or runoff of a pesticide applied
3 according to label directions.

4 (5) DEFECTIVE APPLICATION EQUIPMENT. (a) Except as
5 provided under par. (b), no person may use, furnish, lease or
6 sell pesticide application equipment that is clogged, unclean,
7 leaking or in disrepair, or that cannot be properly calibrated to
8 apply pesticides at the rate specified on the pesticide label.

9 (b) Paragraph (a) does not prohibit the sale of pesticide
10 application equipment that is clogged, unclean, leaking or in
11 disrepair, or that cannot be properly calibrated, if the seller
12 discloses those defective conditions to the buyer in writing
13 prior to sale.

14 (6) EMPLOYER OR CONTRACTOR. No person may direct, compel
15 or coerce that person's employee or contract agent to do either
16 of the following:

17 (a) Violate ss. 94.67 to 94.71, Stats., or this chapter.

18 (b) Use any pesticide in a manner which that person has
19 reason to believe is likely to result in a violation of ss. 94.67
20 to 94.71, Stats., or this chapter.

21 NOTE: Nothing in this chapter limits the civil or criminal
22 liability of an employer or contractor for the acts or
23 omissions of an employee or contract agent if the
24 employer or contractor may be held jointly liable with
25 the employee or agent under this chapter or other
26 applicable law.

27
28 **ATCP 29.51 ADVANCE NOTICE OF PESTICIDE APPLICATIONS.** (1)

29 PESTICIDES HIGHLY TOXIC TO BEES. (a) At least 24 hours before a
30 pesticide labeled "Highly Toxic to Bees" or containing the active

1 ingredient methomyl is applied to any site, the person who owns
2 or controls that application site shall notify each beekeeper who
3 has made a request under par. (b) during the same calendar year.

4 (b) A beekeeper who owns a honeybee colony located within
5 1 1/2 miles of a pesticide application site under par. (a) may
6 request notice of pesticide applications under par. (a). The
7 beekeeper shall make the request in writing to a person who owns
8 or controls the application site. The request shall include the
9 beekeeper's name, address and telephone number, if any, and the
10 specific location of each of the beekeeper's bee yards.

11 (c) A notice under par. (a) may be written or oral. The
12 notice shall include the intended date and time of application,
13 the brand or common name of the pesticide to be applied, and the
14 location of the application site. If the application date
15 changes after the notice is issued, the person who owns or
16 controls the application site shall issue a corrected notice as
17 soon as reasonably possible before the application occurs.

18 (d) Paragraph (a) does not apply to an emergency
19 application needed to control a sudden pest outbreak if, because
20 of the emergency circumstances, there is not enough time for
21 notice under par. (a). The person who owns or controls the
22 application site shall give notice under par. (a) as soon as
23 reasonably possible before or after the emergency application.
24 The notice shall include a brief explanation of the circumstances
25 constituting the emergency.

26 (e) Any person may give a notice under par. (a) on behalf

1 of the person who owns or controls the application site.

2 (2) AERIAL APPLICATIONS. An individual may request advance
3 notice of aerial pesticide applications to land immediately
4 adjacent to that individual's residence, as provided under s.
5 ATCP 29.53(2).

6 (3) RESIDENTIAL APPLICATIONS. A person hired by a customer
7 to make a residential pesticide application shall offer that
8 customer pre-application information as provided under s. ATCP
9 29.55(2).

10 (4) LANDSCAPE APPLICATIONS. (a) A person hired by a
11 customer to make a landscape application shall offer that
12 customer pre-application information as provided under s. ATCP
13 29.56(2).

14 (b) An individual may register, under s. ATCP 29.56(7), to
15 receive advance notice of commercial landscape applications to
16 land immediately adjacent to that individual's residence.

17 (5) APPLICATIONS AFFECTING AGRICULTURAL WORKERS. Persons
18 employing agricultural workers, or applying pesticides to places
19 where agricultural workers are employed, shall give prior notice
20 of pesticide applications as required by s. ATCP 29.61.

21 NOTE: See also s. ATCP 29.22.

22 **ATCP 29.52 WARNING SIGNS AT APPLICATION SITES.** (1)

23 AGRICULTURAL PESTICIDE APPLICATIONS; WARNING TO PUBLIC. (a) A
24 responsible person under par. (b) shall post warning signs at a
25 site where a dual notice agricultural pesticide is applied for
26 agricultural purposes if that site is located within 300 feet of

1 a residence, migrant labor camp, school, playground, day care
2 facility, health care facility, commercial or industrial
3 facility, public recreation area, or other nonagricultural area
4 except a public road, where individuals are likely to be present
5 during the restricted entry interval specified on the pesticide
6 label. The warning signs shall comply with sub. (8).

7 NOTE: See definition of "dual notice agricultural
8 pesticide" in ss. ATCP 29.01(17) and 29.60(9). This
9 subsection applies to all persons applying "dual
10 notice" agricultural pesticides for agricultural
11 purposes -- not just agricultural employers. The
12 warning notices are intended to protect both the
13 general public and agricultural workers.
14

15 (b) The following persons are individually and jointly
16 responsible for posting warning signs under par. (a):

- 17 1. The person who operates or controls the premises at
18 which the pesticide is applied.
- 19 2. The pesticide applicator.
- 20 3. The pesticide applicator's employer, if any.

21 NOTE: The persons identified under par. (b) may contract
22 between themselves to post warning signs under par.
23 (a), but any or all of them may be held liable if the
24 warning signs are not properly posted.
25

26 (2) AGRICULTURAL PESTICIDE APPLICATIONS; WARNING TO
27 WORKERS. An agricultural employer shall post worker protection
28 warning signs as required under s. ATCP 29.62.

29 (3) NONAGRICULTURAL PESTICIDE APPLICATIONS; RESTRICTED
30 ENTRY INTERVALS. (a) A responsible person under par. (b) shall
31 post warning signs at a pesticide application site, other than a
32 site under sub. (1), if the pesticide label prescribes a
33 restricted entry interval for that pesticide application. The

1 warning signs shall comply with sub. (8).

2 NOTE: A label which merely directs individuals to stay off
3 the treated area until the pesticide dries does not
4 prescribe a "restricted entry interval" for purposes of
5 sub. (3).
6

7 (b) The following persons are individually and jointly
8 responsible for posting warning signs under par. (a):

9 1. The person who operates or controls the premises at
10 which the pesticide is applied.

11 2. The pesticide applicator.

12 3. The pesticide applicator's employer, if any.

13 NOTE: The persons identified under par. (b) may contract
14 between themselves to post warning signs under par.
15 (a), but any or all of them may be held liable if the
16 warning signs are not properly posted.
17

18 (4) CHEMIGATION APPLICATIONS. A person operating a
19 chemigation system shall post warning signs at the chemigation
20 application site as required under s. ATCP 29.54(17).

21 (5) RESIDENTIAL APPLICATIONS. A person making a
22 residential application shall give notice to residents as
23 required under s. ATCP 29.55(3) and (4).

24 NOTE: A person making a residential application must also
25 post warning signs under sub. (3) if the pesticide
26 label prescribes a restricted entry interval.
27

28 (6) LANDSCAPE APPLICATIONS. A person making a landscape
29 application shall post warning signs at the application site as
30 required under s. ATCP 29.56(3).

31 (7) STORED SEED TREATED WITH PESTICIDE. A person who
32 stores pesticide-treated seed in bulk shall post warning signs at
33 the seed storage facility as required under s. ATCP 29.57(4). In

1 this subsection, "pesticide-treated seed" means seed intended for
2 planting or propagation that is treated with a pesticide for the
3 purpose of providing post-planting protection to the seed or
4 seedling.

5 (8) WARNING SIGNS. Except as provided under sub. (9),
6 warning signs under subs. (1) and (3) shall comply with all of
7 the following:

8 (a) Each warning sign shall be at least 8 1/2 inches by 11
9 inches.

10 (b) The form and content of each warning sign shall be
11 identical to that shown in Appendix D. A warning sign may
12 contain supplementary information, beyond that shown in
13 Appendix D, if the information is consistent with and does not
14 detract from that shown in Appendix D.

15 (c) Each warning sign shall be constructed to resist
16 deterioration and remain legible throughout the required posting
17 period.

18 (d) Warning signs shall be posted before the pesticide
19 application begins, and shall remain posted for the duration of
20 any restricted entry interval specified on the pesticide label.
21 Warning signs may remain posted indefinitely.

22 (e) Warning signs shall be posted at the following
23 locations:

- 24 1. At normal points of access to the application site.
- 25 2. At 1/4 mile intervals along those borders of an outdoor
26 application site that lie within 300 feet of a residence, migrant

1 labor camp, school, playground, day care facility, health care
2 facility, commercial or industrial facility, public recreation
3 area, or other nonagricultural area except a public road, where
4 individuals are likely to be present during the restricted entry
5 interval specified on the pesticide label. An application site
6 bordering an area identified under this subdivision for less than
7 1/2 mile shall be posted with at least one sign.

8 (9) ALTERNATIVE WARNING SIGNS. (a) A worker protection
9 warning sign under s. ATCP 29.62 may be used in place of a
10 standard warning sign under sub. (8). A worker protection
11 warning sign shall be removed or covered not more than 3 days
12 after the restricted entry interval expires unless the sign
13 continues to be required for another pesticide application at the
14 same site.

15 (b) If a pesticide application site, such as a potted plant
16 or greenhouse bench top, is too small to accommodate standard
17 warning signs under sub. (8), it may be posted with smaller
18 warning signs that are at least 4 inches by 5 inches. The
19 warning signs shall be clearly posted on each side of the
20 application site at intervals of not more than 25 feet. An
21 individual treated plant may be posted with a single sign. The
22 content and format of the smaller signs shall correspond to the
23 content and format of the standard signs under sub. (8).

24 (c) If the pesticide label requires a warning sign which is
25 different from the warning sign under sub. (8), the warning sign
26 specified on the pesticide label shall be used in place of the

1 warning sign under sub. (8).

2 ATCP 29.53 AERIAL APPLICATIONS. (1) AIRCRAFT. Aircraft
3 used to apply pesticides shall comply with, and be operated
4 according to, applicable regulations of the federal aviation
5 administration and the Wisconsin department of transportation.

6 NOTE: See certification requirements for aerial applicators
7 under ss. ATCP 29.26, 29.27 and 29.29.
8

9 (2) PRIOR NOTICE OF APPLICATION. (a) At least 24 hours
10 before an aerial pesticide application occurs, the person who
11 owns or controls the application site shall notify each adjacent
12 resident from whom that person has received a written request
13 under par. (b) during the same calendar year. Notice is not
14 required if the application site is more than 1/4 mile from the
15 adjacent parcel on which the requester resides.

16 (b) An individual residing on a parcel of land may request
17 advance notice of aerial pesticide applications to any
18 immediately adjacent parcel. Parcels are immediately adjacent if
19 they are directly contiguous, are separated only by a road,
20 railway, or utility right-of-way, or are separated only by a
21 government-owned land corridor or waterway having a width of not
22 more than 66 feet.

23 (c) A request under par. (b) shall be made in writing to
24 the person who owns or controls the application site. The
25 request shall include the requester's name, mailing address,
26 property location, and telephone number if any. If residents of
27 a migrant labor camp as defined under s. 103.90(3), Stats., are
28 entitled to request notice under par. (b), the camp operator

1 shall annually request notice on their behalf and shall promptly
2 communicate to them any notice received.

3 (d) A notice under par. (a) may be written or oral. The
4 notice shall include the intended date and time of application,
5 the brand or common name of the pesticide to be applied, and the
6 location of the application site. If the application date
7 changes after the notice is issued, the person who owns or
8 controls the application site shall issue a corrected notice as
9 soon as reasonably possible before the application occurs.

10 (e) Paragraph (a) does not apply to an emergency aerial
11 application needed to control a sudden pest outbreak if, because
12 of the emergency circumstances, there is inadequate time for
13 notice under par. (a). The person who owns or controls the
14 application site shall give notice under par. (a) as soon as
15 reasonably possible before or after the emergency application.
16 The notice shall include a brief explanation of the circumstances
17 constituting the emergency.

18 (f) Any person may give a notice under par. (a) on behalf
19 of the person who owns or controls the application site.

20 **ATCP 29.54 CHEMIGATION.** (1) DEFINITIONS. In this
21 section:

22 (a) "Automatic low pressure drain valve" means a
23 self-activating device which is designed and constructed to drain
24 the water supply pipeline in a chemigation system if water
25 pressure falls or the water supply pump ceases operation.

26 (b) "Calibrate" means to measure and adjust the dispersal

1 or output of equipment to control the rate of pesticide
2 dispersal, and the droplet or particle size of pesticides
3 dispersed by that equipment.

4 (c) "Check valve" means a device designed and constructed
5 to close a water supply pipeline, pesticide injection line, or
6 other conduit in a chemigation system and to prevent reverse flow
7 in that line.

8 (d) "Chemigation" means the application of pesticides using
9 a chemigation system.

10 (e) "Chemigation system" means a device or system which
11 mixes pesticides with irrigation water drawn from any source, and
12 which applies the pesticides with the irrigation water.

13 "Chemigation system" includes all of the components of the
14 system. "Chemigation system" does not include any of the
15 following:

- 16 1. A hand-held or hose-end sprayer.
- 17 2. A device or system used only to apply residential lawn
18 and garden pesticides.
- 19 3. A device or system used only to inject pesticides
20 directly into plants.
- 21 4. A device or system used only to apply pesticides
22 directly to the roots of ornamental trees and shrubs.

23 (f) "Flush time" means the time needed under normal
24 operating conditions to completely fill an irrigation system with
25 water so that all outlets are discharging water.

26 (g) "Injection unit" means a chemical metering pump or

1 device that withdraws pesticide from a supply tank and injects
2 the pesticide into irrigation water during chemigation.

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

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

8 (k) "Reduced pressure principle backflow preventer" means a
9 backflow prevention device consisting of 2 independently acting
10 check valves, spring-loaded to a closed position and separated by
11 an intermediate chamber in which there is an automatic relief
12 that is vented to the atmosphere and spring-loaded to the open
13 position.

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

18 (2) GENERAL REQUIREMENTS. (a) A person operating a
19 chemigation system shall comply with this section.

20 (b) Except as provided under sub. (18), a chemigation
21 system shall be designed and constructed according to this
22 section.

23 (c) A chemigation system shall be designed, constructed,
24 operated and maintained to do all of the following:

- 25 1. Comply with the manufacturer's specifications.
- 26 2. Prevent pesticides used in the system from contaminating

1 the waters of the state.

2 3. Prevent unreasonable hazards to persons, property and
3 the environment.

4 NOTE: See also ss. NR 812.38 and COMM 82.41.

5
6 (3) CHEMIGATION WATER SUPPLY. No chemigation system may
7 draw water directly from a potable water supply. A chemigation
8 system may draw water from a pond or reservoir to which water has
9 been pumped from a potable water supply, provided that there is
10 an unobstructed vertical air gap between the potable water supply
11 outlet and the flood level of the pond or reservoir. The air gap
12 shall be at least 2 feet, or at least twice the diameter of the
13 effective opening of the water supply outlet, whichever is
14 greater.

15 (4) CHEMIGATION SYSTEM; CONSTRUCTION MATERIALS. (a) A
16 chemigation system shall be resistant to corrosion, puncture and
17 cracking.

18 (b) Every chemigation system component that may come into
19 contact with pesticides shall be chemically compatible with every
20 pesticide used in the system. Before using any pesticide in a
21 chemigation system, the user shall obtain a written confirmation
22 of chemical compatibility from the system manufacturer or the
23 pesticide manufacturer. The user shall keep the written
24 confirmation on file, and shall make it available to the
25 department for inspection and copying upon request.

26 (5) PESTICIDE INJECTED INTO CHEMIGATION SYSTEM. (a) No
27 pesticide may be injected into a chemigation system unless the

1 pesticide is labeled for application by chemigation.

2 (b) No pesticide may be injected into a chemigation system
3 contrary to or inconsistent with label directions.

4 (c) Every chemigation system shall be properly calibrated
5 to apply the pesticide at the application rate specified on the
6 pesticide label.

7 (d) The point at which pesticides are injected into a
8 chemigation system shall be located downstream from all devices
9 required under subs. (7) to (10).

10 (6) PESTICIDE SUPPLY TANK. No container used to hold
11 pesticides for injection into a chemigation system may be located
12 less than 8 feet horizontally from any water supply, including
13 any well head or surface water source. The pesticide container,
14 pesticide injection unit and all connections between the
15 pesticide container and injection unit shall be located within
16 secondary containment that complies with s. ATCP 33.04.

17 (7) PREVENTING BACKFLOW. A chemigation system shall comply
18 with the following requirements unless the system draws
19 nonpotable water from a privately-owned watertight container or
20 impoundment that is protected by an air gap under sub. (3):

21 (a) A reduced pressure principle backflow preventer shall
22 be installed in every chemigation system, except as provided
23 under pars. (b) to (d). The reduced pressure principle backflow
24 preventer shall be all of the following:

- 25 1. In compliance with ASSE Standard 1013-80.
- 26 2. Installed according to the manufacturer's specifications.

1 in the water supply pipeline between the supply pump discharge
2 and the point at which pesticides are injected.

3 3. Maintained in fully operational condition.

4 4. Tested annually by a tester who is currently listed with
5 the department of commerce as a backflow tester.

6 5. Protected so that it does not freeze.

7 NOTE: ASSE Standard 1013-80, published by the American
8 society of sanitary engineers, is on file with the
9 secretary of state, the revisor of statutes and the
10 department. The department can provide a list, by
11 manufacturer and model, of reduced pressure principle
12 backflow preventers which comply with ASSE Standard
13 1013-80. The department of commerce can provide a list
14 of persons qualified to test reduced pressure principle
15 backflow preventers.

16
17 (b) A barometric loop may be installed in a chemigation
18 system, in place of a reduced pressure principle backflow
19 preventer under par. (a), if the chemigation system is not
20 subject to back pressure. The barometric loop shall extend to an
21 elevation at least 35 feet above the highest outlet in the
22 chemigation system. The loop shall be installed in the water
23 supply pipeline between the supply pump discharge and the point
24 at which pesticides are injected.

25 (c) Two check valves may be installed in a chemigation
26 system, in place of a reduced pressure principle backflow
27 preventer under par. (a), if the chemigation system draws from
28 surface waters. The check valves shall be connected in series,
29 and shall be installed in the water supply pipeline between the
30 supply pump discharge and the point at which pesticides are
31 injected. Each check valve shall comply with par. (e), and shall

1 be preceded by a vacuum relief valve under par. (g) and an
2 automatic low pressure drain valve under par. (h).

3 (d) A check valve followed by a gooseneck loop may be
4 installed in a chemigation system, in place of a reduced pressure
5 principle backflow preventer under par. (a), if all of the
6 following conditions are met:

7 1. The chemigation system draws water from surface waters
8 that are higher in elevation than the surface being chemigated.

9 2. The check valve complies with par. (e), and is preceded
10 by an automatic low pressure drain valve under par. (h).

11 3. The gooseneck loop complies with par. (f).

12 (e) A check valve under par. (c) or (d) shall be all of the
13 following:

14 1. Quick-closing by spring action.

15 2. Certified for compliance with underwriters' laboratory
16 (UL) standard 312.

17 NOTE: To obtain a current list of approved check valves, by
18 manufacturer and model, contact the department of
19 agriculture, trade and consumer protection,
20 agricultural resource management division, at P.O. box
21 8911, Madison, WI 53708-8911. UL Standard 312,
22 published by underwriters' laboratory, is on file with
23 the secretary of state, the revisor of statutes and the
24 department.
25

26 (f) A gooseneck loop under par. (d) shall be constructed
27 and installed so that all of the following conditions are met:

28 1. The irrigation pump is located at a higher elevation
29 than the water source.

30 2. The bottom of the pipe at the apex of the gooseneck loop
31 is at least 24 inches higher in elevation than the highest outlet

1 in the chemigation system.

2 3. The pesticide injection port is located downstream from
3 the gooseneck loop at a point at least 6 inches lower in
4 elevation than the bottom of the pipe at the apex of the loop.

5 4. A vacuum relief valve under par. (g) is installed in the
6 top of the pipe at the apex of the gooseneck loop.

7 (g) Each vacuum relief valve under par. (c) or (f)4. shall
8 be installed on top of the horizontal water supply pipeline on
9 the supply side of the check valve. The diameter of the vacuum
10 relief valve orifice shall be at least 3/4 inch if the water
11 supply pipe has a nominal inside diameter of 4 inches or less; at
12 least one inch if the pipe diameter is 5 to 8 inches; and at
13 least 2 inches if the pipe diameter is 10 to 12 inches.

14 (h) Each automatic low pressure drain valve under par. (c)
15 or (d)2. shall be installed on the bottom of the horizontal water
16 supply pipeline on the supply side of the check valve. The
17 automatic low pressure drain valve shall have a minimum orifice
18 diameter of 3/4 inch. The valve shall not extend upward beyond
19 the inside surface of the bottom of the water supply pipeline.
20 The drain outlet shall be located above grade at a distance of at
21 least 2 inches or twice the diameter of the drain outlet,
22 whichever is greater. The drain outlet shall be installed and
23 located so that, when draining occurs, the drained liquid will
24 flow away from any nearby wellhead or surface water.

25 (8) FLOW INTERRUPTER; PESTICIDE SUPPLY LINE. In every
26 chemigation system, a flow interrupter shall be installed in the

1 pesticide supply line between the pesticide injection unit and
2 the pesticide supply tank. The flow interrupter shall be
3 designed to stop the flow through the pesticide supply line if
4 the pesticide injection unit stops operating. The flow
5 interrupter may consist of a normally closed, solenoid-operated
6 valve or similar device which forms part of the interlock system
7 under sub. (11).

8 (9) FLOW SENSOR; INJECTION LINE. In every chemigation
9 system, a flow sensor or pressure switch shall be installed at or
10 near the outlet of the injection pump on the injection line. The
11 flow sensor or pressure switch shall be installed so that, if the
12 injection line fails for any reason, the flow sensor or pressure
13 switch will shut off the injection pump.

14 (10) CHECK VALVE; PESTICIDE INJECTION LINE. In every
15 chemigation system, a check valve shall be installed in the
16 pesticide injection line between the pesticide injection unit and
17 the point at which pesticides are injected into the irrigation
18 water. The check valve shall be spring loaded and have a minimum
19 opening or cracking pressure of 10 pounds per square inch.

20 (11) INTERLOCK BETWEEN WATER PUMP AND PESTICIDE INJECTION
21 UNIT. In every chemigation system, there shall be a mechanical
22 or electrical interlock between the water supply pump and the
23 pesticide injection unit. If the flow of water is interrupted,
24 the interlock shall immediately shut off the pesticide injection
25 unit.

26 (12) WATER PRESSURE FAILURE; AUTOMATIC SHUT-OFF. In every

1 chemigation system, a low pressure switch shall be installed in
2 the water supply pipeline. The switch shall be effectively
3 designed and installed to shut off power to the irrigation system
4 if water pressure decreases to the point that the pesticide
5 application no longer complies with the pesticide label
6 directions.

7 (13) PURGING A CHEMIGATION SYSTEM. After pesticide
8 injection is completed, water shall be pumped through a
9 chemigation system for at least the flush time of the irrigation
10 system.

11 (14) CHEMIGATION OPERATING PLAN; CONTENTS. A chemigation
12 system shall be operated according to a written operating plan
13 that describes all of the following:

14 (a) Sensitive nontarget areas that may be subject to
15 overspray or drift from the chemigation system. Sensitive
16 nontarget areas include all of the following:

- 17 1. Surface water.
- 18 2. Wetlands.
- 19 3. Public roads within 100 feet of the application site.
- 20 4. Residences, migrant labor camps, schools, playgrounds,
21 day care facilities, health care facilities, commercial or
22 industrial facilities, public recreation areas or other areas,
23 located within 300 feet of the application site, at which
24 individuals are likely to be present during the chemigation
25 application.

26 (b) Effective methods for preventing overspray and drift,

1 including all of the following:

2 1. Effective methods for monitoring wind speed and
3 direction.

4 2. Effective methods for disabling sprinkler heads or end
5 guns, when necessary.

6 (c) Effective methods to prevent backflow from the
7 chemigation system.

8 (d) Effective methods to ensure that the chemigation system
9 is properly calibrated at all times.

10 (e) Effective methods to monitor chemigation operations and
11 ensure that the chemigation system is functioning properly.

12 Monitoring shall include personal observation under sub. (16).

13 (f) The flush time for the chemigation system.

14 (g) Safety procedures and required safety equipment for
15 persons who operate, repair or monitor the chemigation system.

16 (15) CHEMIGATION OPERATING PLAN; LOCATION AND AVAILABILITY.

17 When a chemigation system is operating, the chemigation operating
18 plan under sub. (14) shall be kept at the chemigation site or in
19 the custody of the individual who is operating the chemigation
20 system. A person who owns or operates a chemigation system shall
21 also keep a copy of the plan at that person's business office or
22 residence. A person having custody of a plan shall make it
23 available to the department for inspection and copying upon
24 request.

25 (16) OBSERVING CHEMIGATION OPERATIONS. An individual
26 operating a chemigation system shall be present at the

1 chemigation site at all times when chemigation overspray or drift
2 may affect sensitive nontarget areas under sub. (14) (a). For
3 other chemigation operations, the individual shall be present at
4 least hourly. An individual is not present unless the individual
5 can effectively monitor whether the chemigation system is
6 properly functioning, whether it is properly calibrated, whether
7 it is causing pesticide overspray or drift, and whether it is
8 creating an unreasonable hazard to persons, property or the
9 environment. If a pesticide label imposes additional observation
10 requirements, the operator of the chemigation system shall comply
11 with those requirements.

12 (17) WARNING SIGNS. (a) A person operating a chemigation
13 system shall post warning signs at the chemigation application
14 site if any of the following apply:

15 1. Any portion of the application site is located within
16 100 feet of a public road.

17 2. Any portion of the application site is located within
18 300 feet of a residence, migrant labor camp, school, playground,
19 day care facility, health care facility, commercial or industrial
20 facility, public recreation area, or other area where individuals
21 are likely to be present during the operation of the chemigation
22 system.

23 NOTE: A chemigation application site must also be posted in
24 compliance with s. ATCP 29.52.

25 (b) Warning signs under par. (a) shall comply with all of
26 the following:
27

28 1. Warning signs shall be posted before chemigation begins,

1 and shall remain posted until chemigation is completed and
2 treated surfaces have dried. All warning signs shall be intact
3 and fully legible throughout the required posting period.
4 Warning signs may remain posted indefinitely if they are intact
5 and fully legible during all required posting periods.

6 2. Warning signs shall be posted at regular intervals along
7 the border between the application site and any road or area
8 identified under par. (a), and at normal points of access to the
9 application site. At least one warning sign shall be posted for
10 each 1/4 mile of border. At least one warning sign shall be
11 posted at each application site identified under par. (a).

12 3. The form and content of each warning sign shall be
13 identical to that shown in Appendix E. A warning sign may
14 contain supplementary information, beyond that shown in
15 Appendix E, if the information is consistent with and does not
16 detract from that shown in Appendix E.

17 (18) ALTERNATIVE CHEMIGATION SYSTEM. (a) The department
18 may issue a permit authorizing an alternative chemigation system
19 that does not comply with this section if the alternative
20 chemigation system provides equal or greater protection to the
21 waters of the state, and complies with other applicable state and
22 federal laws.

23 (b) A person applying for a permit under par. (a) shall
24 apply in writing, and shall include all relevant information and
25 design specifications required by the department. The department
26 shall grant or deny a permit within 45 days after receiving a

1 complete application.

2 **ATCP 29.55 COMMERCIAL APPLICATIONS TO RESIDENTIAL**
3 **STRUCTURES.** (1) DEFINITIONS. In this section:

4 (a) "Common area" means an area in a residential structure
5 that is accessible to residents but is not part of any individual
6 dwelling unit.

7 (b) "Dwelling unit" means that portion of a residential
8 structure that is used, or designed for use, as a residence by a
9 household.

10 (c) "Resident" means any person residing in a residential
11 structure.

12 (d) "Residential application" means the application of a
13 pesticide, other than a germicide, sanitizer or disinfectant, to
14 a residential structure. "Residential application" does not
15 include an individual's application of a pesticide to a dwelling
16 unit in which that individual resides, provided that the
17 individual does not apply the pesticide to other dwelling units
18 or common areas in the residential structure.

19 (e) "Residential structure" means a structure used wholly
20 or in part as a human residence, and includes all facilities and
21 furnishings pertaining to that structure. Residential structure
22 includes a residential structure occupied on a rental basis, and
23 also includes a mobile home. Residential structure does not
24 include any of the following:

25 1. A hotel, motel or similar premises occupied on a
26 transient basis.

1 2. A hospital, nursing home or similar facility occupied by
2 persons receiving medical care or related services.

3 3. A prison, jail or other place of detention.

4 (f) "Restricted entry interval" has the meaning given in s.
5 ATCP 29.01(36).

6 (2) INFORMATION TO CUSTOMER. A person hired by a customer
7 to make a residential application shall provide that customer
8 with all of the following:

9 (a) A written notice offering to provide pre-application
10 information under par. (b). The person shall make the offer
11 before making the first residential application for the customer,
12 and shall repeat the offer at least annually if there is a
13 continuing contract for more than one year.

14 NOTE: See Appendix A for an example of a written offer of
15 information under par. (a). Nothing in this section
16 authorizes a commercial applicator to make a
17 residential application which the customer has not
18 affirmatively authorized.

19
20 (b) The following pre-application information, in writing,
21 if requested by the customer:

22 1. The brand name, product name or common chemical name of
23 each pesticide that may be applied.

24 2. A copy of the pesticide label for each pesticide that
25 may be applied.

26 3. The date on which the pesticide application will be
27 made. The date may be communicated orally, rather than in
28 writing, if the requester agrees to oral notification.

29 4. The name, business address and telephone number of a

1 person who can provide further information about the pesticide
2 application.

3 (c) The information required under s. ATCP 29.22. This
4 information shall be provided within the time period specified
5 under s. ATCP 29.22.

6 (3) NOTICE TO RESIDENTS. (a) A person making a
7 residential application shall provide the following information
8 in writing to residents at the time of the application:

9 1. The name and address of the person making the
10 application, and a telephone number at which residents can obtain
11 further information about the application.

12 NOTE: The name and address under subd. 1 may be the name
13 and address of the business entity making the
14 residential application.

15
16 2. The first and last name of each individual making the
17 application and, if the application is one for which the
18 individual must be licensed under s. ATCP 29.25, the individual's
19 license number.

20 3. The brand name, product name or common chemical name of
21 the pesticide applied.

22 4. The concentration and total quantity of each pesticide
23 applied, or the amount of pesticide product applied per unit area
24 and the total area treated.

25 5. Any pertinent post-application precautions stated on the
26 pesticide label. If the pesticide label prescribes a restricted
27 entry interval, the person making the residential application
28 shall also post a warning sign under s. ATCP 29.52 at each

1 entrance to each treated area.

2 6. The month, day, year and approximate starting and ending
3 time of the pesticide application.

4 7. Notice that a copy of the pesticide label is available
5 upon request. The person making the residential application
6 shall provide a copy of the pesticide label to each resident who
7 requests a copy, but may first require the requester to pay
8 reasonable copying and postage costs if the requester is not the
9 customer who contracted for the application.

10 (b) A person making a residential application in any
11 dwelling unit shall leave the information under par. (a) with an
12 adult resident of that dwelling unit, or shall prominently post
13 the information at the entrance to that dwelling unit.

14 (c) A person making a residential application to any common
15 area within a residential structure shall provide the information
16 under par. (a) by posting clearly legible notices in common
17 entryways or other conspicuous locations so that all residents
18 are likely to see the notices.

19 NOTE: A person making a residential application must comply
20 with sub. (3) regardless of whether the application is
21 a contract application. For example, a landlord making
22 a residential application to the landlord's own rental
23 units must provide information to tenants residing in
24 those units.
25

26 (4) RESTRICTED ENTRY INTERVAL; WARNING SIGNS. If a person
27 makes a residential application of a pesticide whose label
28 prescribes a restricted entry interval, that person shall post a
29 warning sign at each entrance to the treated area. Each warning
30 sign shall be at least 8 1/2 inches by 11 inches. The form and

1 content of each warning sign shall be identical to that shown in
2 Appendix D. The person making the residential application shall
3 post the warning sign before the application begins, and shall
4 not remove it until the restricted entry interval expires.

5 NOTE: A person making a residential application must comply
6 with sub. (4) regardless of whether the application is
7 a contract application. For example, a landlord making
8 a residential application to the landlord's own rental
9 units must post warning signs under sub. (4) if the
10 pesticide label prescribes a restricted entry interval.
11 See also s. ATCP 29.52(3) which provides that landlords
12 and contract applicators are individually and jointly
13 responsible for posting warning signs.
14

15 **ATCP 29.56 LANDSCAPE APPLICATIONS.** (1) DEFINITIONS. In

16 this section:

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

19 (b) "Cemetery grounds manager" means the person responsible
20 for on-site management of cemetery grounds.

21 (c) "Golf course superintendent" means the person
22 responsible for on-site management of a golf course.

23 (d) "Landscape" means turf, ornamental and mulched areas,
24 and areas being prepared for those purposes, that are located in
25 or around residential premises, public or commercial facilities,
26 parks, workplaces, care facilities, recreational areas and public
27 lands. "Landscape" does not include utility or transportation
28 right-of-way areas, greenhouses, nurseries, or areas used for
29 agricultural production, forest production or commercial turf
30 production.

31 (e) "Landscape application" means the application of a

1 pesticide to a landscape. "Landscape application" does not
2 include any of the following:

3 1. Pesticide applications for any of the purposes
4 identified in s. ATCP 29.31(4) or (14).

5 2. A perimeter barrier application made on or within 10
6 feet of a building or structure to prevent or discourage pests
7 from entering that building or structure.

8 3. Mosquito control applications made by a government
9 entity for public health purposes.

10 4. Pesticide applications made by the department or its
11 agent pursuant to s. 94.02, Stats., or ch. ATCP 21.

12 (f) "Landscape pesticide" means a pesticide that is labeled
13 for use on a landscape.

14 (g) "Ornamental" has the meaning given in s. ATCP
15 29.01(25).

16 (h) "Restricted entry interval" has the meaning given in s.
17 ATCP 29.01(35).

18 (i) "Treated landscape" means that portion of a landscape
19 to which a pesticide is applied.

20 (2) INFORMATION TO CUSTOMER. A person hired by a customer
21 to make a landscape application shall provide that customer with
22 all of the following in writing:

23 (a) An offer to provide pre-application information under
24 par. (b). The person shall make the offer before making the
25 first landscape application for the customer, and shall repeat
26 the offer at least annually if there is a continuing contract for

1 more than one year.

2 NOTE: See Appendix A for an example of a written notice
3 under par. (a). Nothing in this section authorizes a
4 commercial applicator to make a landscape application
5 which the customer has not affirmatively authorized.
6

7 (b) The following pre-application information, if
8 requested:

9 1. The brand name, product name or common chemical name of
10 each pesticide that may be applied.

11 2. A copy of the pesticide label for each pesticide that
12 may be applied.

13 3. The date on which the landscape application will be
14 made. The person making the application may communicate the
15 application date orally, rather than in writing, if the requester
16 agrees to oral notification.

17 4. The name, business address and telephone number of a
18 person who can provide further information about the pesticide
19 application.

20 (c) The information required under s. ATCP 29.22. The
21 person making the application shall provide this information to
22 the customer when the application is completed.

23 (3) WARNING SIGNS POSTED. (a) Except as provided under
24 par. (c), a person shall post warning signs at a landscape
25 application site before making a landscape application to that
26 site. Warning signs shall comply with subs. (4) and (5).

27 (b) No person may remove a warning sign posted under par.
28 (a) until sunset of the day following the landscape application,
29 or until sunset of the day on which the restricted entry interval

1 on the pesticide label expires, whichever is later. This
2 paragraph does not require a person to remove warning signs.

3 (c) Paragraph (a) does not apply to any of the following:

4 1. An individual making a landscape application to
5 residential premises occupied only by that individual's
6 household.

7 2. Golf course applications that are exempt under sub. (9).

8 3. Cemetery applications that are exempt under sub. (10).

9 (4) WARNING SIGNS; FORM AND CONTENTS. Each warning sign
10 under sub. (3) shall comply with all of the following:

11 (a) It shall be at least 4 inches by 5 inches, and shall be
12 attached to a stable supporting device.

13 (b) It shall contain the information shown in Appendix B.
14 The information shall be professionally printed with red
15 lettering on a white background, according to the format shown in
16 Appendix B, except that sign removal dates may be entered by
17 hand. A warning sign may contain supplementary information
18 beyond that shown in Appendix B if the information is consistent
19 with and does not detract from that shown in Appendix B.

20 (c) It shall be constructed and posted so that it remains
21 clearly legible for at least 72 hours after it is posted, despite
22 reasonably foreseeable adverse weather conditions.

23 (5) WARNING SIGNS; WHERE POSTED. At least one of the
24 warning signs required under sub. (3) shall be clearly visible
25 from each point at which there is significant potential for human
26 access to the treated area:

1 NOTE: For example, warning signs should be posted so as to
2 be clearly visible from potential access points
3 including roads, sidewalks, driveways, doorways, alleys
4 and adjacent yards unless a fence, wall, hedge or
5 similar feature effectively prevents human access to
6 the treated area from that direction.
7

8 (6) INFORMATION PROVIDED UPON REQUEST. (a) A person
9 making a landscape application shall offer the following
10 information to any person who requests information about that
11 landscape application:

12 1. The complete name and address of the person making the
13 landscape application.

14 NOTE: This may be the name and address of the business
15 entity that makes the application.
16

17 2. The brand name, product name or common chemical name of
18 each pesticide applied, and the EPA registration number of that
19 pesticide.

20 3. The concentration and total quantity of each pesticide
21 applied, or the amount of each pesticide product applied per unit
22 area and the total area treated.

23 4. The date and approximate time of application.

24 5. All post-application precautions stated on the pesticide
25 label.

26 6. A copy of the pesticide label for each pesticide
27 applied.

28 (b) If a requester asks for any of the information under
29 par. (a), the person making the landscape application shall
30 promptly provide that information to the requester. The
31 information may be provided orally or in writing except that a

1 copy of the pesticide label, if requested, shall be provided in
2 writing. The person making the landscape application may require
3 the requester to pay reasonable copying and postage costs before
4 providing a copy of a pesticide label if the requester is not the
5 customer who contracted for the application.

6 (7) REGISTRY OF INDIVIDUALS REQUESTING ADVANCE NOTICE OF
7 LANDSCAPE APPLICATIONS. (a) The department shall compile an
8 annual registry of individuals requesting advance notice of
9 landscape applications to parcels of land identified in the
10 registry. An annual registry takes effect on March 15 of each
11 year, and expires on March 14 of the following year.

12 NOTE: The department will distribute registries by March 1.
13

14 (b) An individual who registers under par. (c) may request
15 advance notice of landscape applications, other than applications
16 for which that individual has contracted, to any parcels on the
17 block where that individual resides or on any blocks immediately
18 adjacent to that block.

19 NOTE: If a landlord contracts for landscape applications to
20 a rental property, tenants on that property may
21 register to receive advance notice of those
22 applications.
23

24 (c) An individual shall register with the department by
25 February 1 of each year to be included in the registry that takes
26 effect on March 15 of that year. An individual shall register on
27 a form provided by the department. The registration form shall
28 include all of the following information which shall be included
29 in the registry under par. (a):

30 1. The individual's complete name, street address, and

1 mailing address if different from street address.

2 2. A telephone number where the individual may be
3 contacted.

4 3. The street address of each parcel under par. (b) for
5 which the individual requests advance notice of landscape
6 applications.

7 4. Other information which the department reasonably
8 requires to administer this section.

9 NOTE: Individuals may obtain registration forms and submit
10 registrations to the following address:

11 Department of Agriculture, Trade and Consumer
12 Protection
13 Division of Agricultural Resource Management
14 Landscape Application Registry
15 P.O. Box 8911
16 Madison, Wisconsin 53708-8911
17

18
19 Individuals may also obtain registration forms by
20 calling the department at 608-224-5296.

21
22 A registration complies with the filing deadline under
23 par. (c) if the registration form is postmarked or
24 delivered to the department by February 1. The
25 department may accept registrations filed after
26 February 1 for inclusion in the March 15 registry, but
27 is not required to do so.
28

29 (d) The department shall provide a free copy of the annual
30 registry under par. (a) to all of the following:

31 1. Each license holder under s. ATCP 29.20 that employs
32 individuals licensed and certified under ss. ATCP 29.25 and 29.26
33 to make landscape applications. If a person is licensed under s.
34 ATCP 29.20 by March 1, the department shall provide that person
35 with a free copy of the registry by March 1.

36 2. Each individual, licensed and certified under ss. ATCP

1 29.25 and 29.26 to make landscape applications, who requests a
2 copy of the registry.

3 NOTE: The department may compile supplementary registries
4 for distribution after March 1.
5

6 (8) ADVANCE NOTICE TO REGISTERED INDIVIDUALS. (a) Before
7 making any landscape application, a person required to be
8 licensed under s. ATCP 29.20 shall give at least 12 hours advance
9 notice to every individual who is currently registered to receive
10 notice of that application under sub. (7).

11 NOTE: An applicator may voluntarily give notice to an
12 individual who is included in a supplementary registry,
13 but is not required to do so unless the individual has
14 registered the same parcel in the primary registry
15 under sub. (7).
16

17 (b) A person may give advance notice under par. (a) by
18 telephone, or may mail or deliver notice to the requester's
19 address as listed in the registry. Notice, if given by mail,
20 shall be postmarked at least 2 business days before the person
21 makes the landscape application. A notice shall include all of
22 the following:

23 1. The complete name, business address, and telephone
24 number of the person making the application.

25 NOTE: The name, address and telephone number may be those
26 of the business entity making the application.
27

28 2. The address of the landscape to be treated.

29 3. The scheduled date of application.

30 4. The brand name, product name or common chemical name of
31 each pesticide that may be applied.

32 (c) If a landscape application date is changed after the

1 person making the application gives notice under par. (a), that
2 person shall give a revised notice to each individual previously
3 notified. The revised notice shall comply with par. (b).

4 (9) LANDSCAPE APPLICATIONS TO GOLF COURSES: (a)

5 Subsection (3) does not apply to a golf course application of a
6 pesticide whose label prescribes no restricted entry interval,
7 provided that a permanent warning sign is conspicuously posted at
8 each of the following locations:

9 1. At or near the place where golfers register to play the
10 course.

11 2. At or near the first tee of every 9 holes.

12 3. At every point on the golf course boundary at which the
13 non-golfing public is permitted to enter the golf course by means
14 of a road, sidewalk, path or other established thoroughfare.

15 (b) A permanent warning sign under par. (a) shall comply
16 with all of the following requirements:

17 1. It shall be clearly legible at all times.

18 2. It shall be at least 12 inches by 12 inches.

19 3. It shall contain the following statement, in red letters
20 not less than 1/2 inch high on a white background:

21 **"PESTICIDES ARE PERIODICALLY APPLIED TO THIS GOLF COURSE.**
22 **YOU MAY CONTACT THE GOLF COURSE SUPERINTENDENT FOR FURTHER**
23 **INFORMATION."**

24 (c) If any person asks a golf course superintendent for
25 information about pesticide applications to a golf course, the
26 superintendent shall notify that person that the following
27 information is available, and shall provide the information in
28

1 writing upon request:

2 1. A general description of the types and amounts of
3 pesticides commonly applied to the golf course.

4 2. An identification of pesticide applications made to the
5 golf course within the last week prior to the request, including
6 the common chemical or brand names of the pesticides applied and
7 the areas to which those pesticides were applied.

8 3. A copy of the pesticide label related to each pesticide
9 application under subd. 2, if any. The superintendent may
10 require the requester to pay reasonable copying and postage costs
11 before providing the label.

12 (10) LANDSCAPE APPLICATIONS TO CEMETERIES. (a) Subsection
13 (3) does not apply to a cemetery application of a pesticide whose
14 label prescribes no restricted entry interval, provided that a
15 permanent warning sign is conspicuously posted at each
16 established entrance to the cemetery.

17 (b) A permanent warning sign under par. (a) shall comply
18 with all of the following requirements:

- 19 1. It shall be clearly legible at all times.
20 2. It shall be at least 12 inches by 12 inches.
21 3. It shall contain the following statement, in red letters
22 not less than 1/2 inch high on a white background:

23 **"PESTICIDES ARE PERIODICALLY APPLIED TO THIS CEMETERY. YOU**
24 **MAY CONTACT THE CEMETERY GROUNDS MANAGER FOR FURTHER**
25 **INFORMATION."**

26 (c) If any person asks a cemetery grounds manager for
27 information about pesticide applications to a cemetery, the
28

1 grounds manager shall notify that person that the following
2 information is available, and shall provide the information in
3 writing upon request:

4 1. A general description of the types and amounts of
5 pesticides commonly applied to the cemetery.

6 2. An identification of pesticide applications made to the
7 cemetery within the last week prior to the request, including the
8 common chemical or brand names of the pesticides applied and the
9 areas to which those pesticides were applied.

10 3. A copy of the pesticide label related to any pesticide
11 application under subd. 2. The grounds manager may require the
12 requester to pay reasonable copying and postage costs before
13 providing the label.

14 ATCP 29.57 SEED APPLICATIONS. (1) DEFINITION. In this
15 section, "pesticide-treated seed" means seed, intended for
16 planting or propagation, that is treated with a pesticide for the
17 purpose of providing post-planting protection to the seed or
18 seedling.

19 (2) PLANTING PESTICIDE-TREATED SEED. Pesticide-treated
20 seeds shall be incorporated into the soil when planted to prevent
21 access by birds and other animals. This requirement does not
22 apply to seed that is normally planted on the soil surface and
23 poses no significant risk to birds or other animals.

24 (3) PESTICIDE-TREATED SEED; PROHIBITED USES. No person may
25 do any of the following:

26 (a) Use pesticide-treated seed for food, feed or oil, or

1 mix it with food, feed or oil.

2 (b) Expose pesticide-treated seed to access by birds or
3 other animals.

4 (4) WARNING SIGNS POSTED ON SEED STORAGE BINS. (a) A
5 person who stores pesticide-treated seed in bulk shall post a
6 warning sign on every bin or storage area where that seed is
7 stored. This paragraph does not apply to seed, stored on the
8 property of an agricultural producer, that is not intended for
9 sale.

10 (b) A warning sign under par. (a) shall remain posted as
11 long as the pesticide-treated seed remains in storage. The
12 warning sign shall be at least 8 1/2 inches by 11 inches, and
13 shall conspicuously disclose the following statement or its
14 equivalent:

15 **"DANGER. THE SEED IN THIS STORAGE AREA HAS BEEN TREATED WITH**
16 **THE PESTICIDE [name of pesticide] ON [date]."**

17
18 (5) SEED DISPOSAL. Pesticide-treated seed shall be
19 disposed of in a manner that does not pose a risk to persons,
20 property or the environment.

21

1 (7) "Crop advisor" means any individual who assesses pest
2 numbers or damage, pesticide distribution, or the status or
3 requirements of agricultural plants.

4 (8) "Direct the use of a pesticide" has the meaning given
5 in s. ATCP 29.01(14).

6 (9) "Dual notice agricultural pesticide" means an
7 agricultural pesticide whose label requires agricultural
8 employers to do both of the following:

9 (a) Post application sites with worker protection warning
10 signs.

11 (b) Give workers oral notice of applications.

12 (10) "Early entry" means the entry of agricultural workers
13 into an area treated with an agricultural pesticide, for the
14 purpose of performing hand labor, before the restricted entry
15 interval has expired.

16 (11) "Hand labor" means any agricultural activity,
17 performed by hand or with hand tools, that causes a worker to
18 have substantial contact with surfaces such as plants, plant
19 parts, or soil that may contain pesticide residues. "Hand labor"
20 includes activities such as harvesting, detasseling, thinning,
21 weeding, topping, planting, removing suckers, pruning, debudding,
22 roguing, and packing produce into containers in the field. "Hand
23 labor" does not include operating, moving or repairing
24 irrigation, watering or frost protection equipment; acting as a
25 crop advisor; or performing similar activities which do not
26 entail substantial contact with surfaces that may contain

1 pesticide residues.

2 (12) "Handler" means an individual who does any of the
3 following:

4 (a) Mixes or loads an agricultural pesticide.

5 (b) Uses an agricultural pesticide.

6 (c) Acts as a flagger to mark the pesticide application
7 pathway during an agricultural pesticide application.

8 (d) Cleans, adjusts, handles or repairs those parts of
9 pesticide mixing, loading or application equipment that may
10 contain agricultural pesticide residues.

11 (e) Assists with the application of agricultural pesticides
12 in any manner which could expose that person to pesticides.

13 (f) Enters a greenhouse or other enclosed area during or
14 after an agricultural pesticide application, and before the
15 inhalation exposure level specified on the pesticide label and
16 the ventilation criteria specified by 40 CFR 170.110(c)(3) or the
17 pesticide label have been met, in order to operate ventilation
18 equipment, adjust or remove covers used in fumigation, or monitor
19 air quality.

20 (g) Enters an outdoor area treated with a soil fumigant in
21 order to adjust or remove soil coverings such as tarpaulins.

22 (h) Performs tasks as a crop advisor at an agricultural
23 pesticide application site during or after a pesticide
24 application, and before any of the following have occurred:

25 1. The inhalation exposure level specified on the pesticide
26 label is met.

1 2. The ventilation criteria specified by 40 CFR
2 170.110(c) (3) or the pesticide label are met.

3 3. The restricted entry interval specified on the pesticide
4 label has expired.

5 (13) "Mix or load" a pesticide has the meaning given in s.
6 ATCP 29.01(23).

7 (14) "Restricted entry interval" has the meaning given in
8 s. ATCP 29.01(36).

9 (15) "Substantial economic loss" means a loss in
10 profitability which is greater than that which could occur as a
11 result of normal annual fluctuations in crop yield or quality.

12 (16) "Use" a pesticide has the meaning given in s. ATCP
13 29.01(42).

14 ATCP 29.61 WORKER PROTECTION; GENERAL. The following
15 persons shall comply with federal worker protection standards
16 under 40 CFR 170:

- 17 (1) An agricultural employer.
18 (2) A person who employs one or more handlers.
19 (3) A person who uses or directs the use of an agricultural
20 pesticide as an independent contractor for hire.

21 NOTE: Some federal requirements under 40 CFR 170 are stated
22 in full on the pesticide label, while others are merely
23 referenced. The department will provide a free summary
24 of the federal rules upon request, and will also
25 provide in-depth compliance manuals at cost. To obtain
26 summary materials or in-depth manuals, contact the
27 department at the following address or call the
28 department at (608) 224-4539:
29
30

1 Department of Agriculture, Trade and Consumer
2 Protection
3 Division of Agricultural Resource Management
4 Worker Protection Program
5 P.O. Box 8911
6 Madison, WI 53708-8911
7

8 Under the federal rules, persons employing agricultural
9 workers and pesticide handlers must do all of the
10 following (there are some exceptions):
11

- 12 ● Post pesticide safety information at a central
13 location accessible to workers and handlers.
14 Posting must include:
 - 15 * An EPA pesticide safety poster.
 - 16 * The name, address and telephone number of the
17 nearest emergency medical facility.
 - 18 * Information related to applications of
19 agricultural pesticides at the employer's
20 establishment, including the pesticide
21 applied, and the time and location of the
22 application.
23
- 24 ● Assure that workers and handlers receive approved
25 pesticide safety training before they begin work
26 and at least once every 5 years.
- 27 ● Establish a decontamination site at every
28 pesticide mixing and loading site, at every site
29 where pesticide handlers remove personal
30 protective equipment, and within 1/4 mile of all
31 agricultural workers and handlers.
- 32 ● When a worker or handler is poisoned or injured by
33 a pesticide, provide prompt transportation to an
34 emergency medical facility. The employer must
35 provide the victim and emergency medical personnel
36 with pesticide label information and information
37 about the pesticide exposure.
38
39
40
41

42 Under the federal rules, a commercial applicator hired
43 to apply pesticides at an agricultural establishment
44 where agricultural workers are employed must notify the
45 agricultural employer before making the application.
46 Notice must identify all of the following:
47

- 48 ● The area to be treated.
- 49 ● The intended date and time of application.
- 50 ● The pesticide to be applied.
- 51 ● The restricted entry interval following
52 application.

- 1 ● Applicable requirements for oral warnings and
- 2 treated area posting.
- 3 ● Other worker protection requirements identified on
- 4 the pesticide label.
- 5

6 Under the federal rules, an operator of an agricultural
7 establishment who hires a commercial applicator to make
8 a pesticide application must notify the applicator of
9 other pesticide applications that may affect the
10 applicator's employees while they are on the premises.

11 Under the federal rules, agricultural employers must do
12 all of the following (there are some exceptions):

- 13 ● Restrict worker access to pesticide application
- 14 sites until restricted entry intervals have
- 15 expired.
- 16 ● Prior to each pesticide application, orally warn
- 17 workers who may come within 1/4 mile of the
- 18 application site or post warning signs at
- 19 entrances to the application site. Labels on more
- 20 hazardous pesticides require "dual notice" to
- 21 workers, including both oral warnings and posting.
- 22
- 23
- 24
- 25

26 Under the federal rules, persons who employ
27 agricultural pesticide handlers must do all of the
28 following:

- 29 ● Make sure that no pesticide is applied so as to
- 30 contact, either directly or through drift, any
- 31 person other than a trained and protected handler.
- 32
- 33 ● Make sure that persons handling pesticides labeled
- 34 with a skull and crossbones are monitored visually
- 35 or by voice contact at least once every 2 hours.
- 36
- 37 ● Make sure that any handler working in a fumigated
- 38 greenhouse is in continuous visual or voice
- 39 contact with another handler.
- 40
- 41 ● Make sure that each handler has read or has been
- 42 informed of the information on the label of each
- 43 pesticide handled.
- 44
- 45 ● Make sure that product labeling is accessible to
- 46 handlers while they are engaged in handling
- 47 activities.
- 48
- 49 ● Make sure that each handler is instructed in the
- 50 safe operation of handling equipment.
- 51
- 52

- 1 ● Make sure that all handling equipment is inspected
2 and in good operating condition prior to each use.
3
- 4 ● Do all of the following when a pesticide label
5 requires personal protective equipment for
6 handlers:
7
 - 8 * Provide the equipment to each handler.
 - 9 * Make sure that the equipment is inspected and
10 repaired prior to each use.
 - 11 * Properly clean, maintain and store the
12 equipment. The handler employer must make
13 sure that respirator filters, cartridges and
14 canisters are replaced as often as required.
 - 15 * Make sure that each handler wears the
16 equipment and uses it correctly.
 - 17 * Provide each handler with a clean place to
18 put on and remove personal protective
19 equipment, and store it when not in use.
 - 20 * Take action, if necessary, to prevent heat-
21 related illness which may occur while
22 equipment is being worn.
 - 23 * Provide soap, towels and water to each
24 handler removing equipment at the end of a
25 handling activity.
 - 26 * Prohibit handlers from wearing home or taking
27 home equipment worn for handling activities.
 - 28 * Properly dispose of equipment that cannot be
29 properly cleaned or maintained.
 - 30 * Inform persons who clean or launder equipment
31 that the equipment may be contaminated with
32 harmful pesticides, and instruct them on how
33 to avoid contamination and clean equipment
34 correctly.
 - 35
 - 36

36 ATCP 29.62 WORKER PROTECTION WARNING SIGNS. (1) WARNING

37 SIGNS REQUIRED. An agricultural employer shall post worker
38 protection warning signs at pesticide application sites as
39 required under 40 CFR 170. Except as provided under sub. (2) or
40 by the federal environmental protection agency, each warning sign
41 shall comply with all of the following requirements:

42 (a) It shall be at least 14 inches by 16 inches.

43 (b) Its form and content shall be identical to that shown
44 in Appendix C.

1 (c) It shall be constructed to resist deterioration, and
2 shall remain legible throughout the required posting period.

3 (d) It shall be posted not more than 24 hours before the
4 pesticide application is scheduled to begin.

5 (e) It shall remain posted for the duration of any
6 restricted entry interval specified on the pesticide label.

7 (f) It shall be removed or covered not more than 3 days
8 after the restricted entry interval expires unless it is required
9 for another pesticide application.

10 (2) SMALL APPLICATION SITES. If a pesticide application
11 site, such as a potted plant or greenhouse bench top, is too
12 small to accommodate standard warning signs under sub. (1), it
13 may be posted with smaller warning signs that are at least 4
14 inches by 5 inches. The warning signs shall be clearly posted on
15 each side of the application site at intervals of not more than
16 25 feet. An individual treated plant may be posted with a single
17 sign. A sign under this subsection shall comply with sub. (1)(b)
18 to (f).

19 **ATCP 29.63 AGRICULTURAL EMERGENCIES; EARLY ENTRY BY**
20 **WORKERS.** (1) EMERGENCY CONDITIONS. An agricultural employer
21 may have agricultural workers enter an area treated with an
22 agricultural pesticide before the restricted entry interval has
23 expired if all of the following apply:

24 (a) The early entry is necessary to prevent or mitigate the
25 effects of an agricultural emergency.

26 (b) The early entry complies with applicable worker

1 protection standards under 40 CFR 170.112.

2 (c) The agricultural workers entering the treated area have
3 been trained in compliance with 40 CFR 170.130.

4 (d) The agricultural employer files a written report with
5 the department under sub. (2) within 72 hours after the early
6 entry occurs. The department may require an agricultural
7 employer to file additional information with the department, as
8 necessary.

9 NOTE: ATCP 29.61 incorporates federal rules that prohibit
10 agricultural workers from reentering a treated area
11 during a restricted entry interval except in an
12 "agricultural emergency." Subsection (1) serves as a
13 "declaration of emergency" for purposes of 40 CFR
14 170.112(d)(2)(i). If all of the conditions under sub.
15 (1) are met, no further "declaration" by the department
16 is needed in order to permit the early entry of
17 agricultural workers into a treated area.

18
19 (2) REPORT FILED BY AGRICULTURAL EMPLOYER. An agricultural
20 employer shall file a report under sub. (1)(d) in writing, and
21 shall include all of the following:

22 (a) The complete name, mailing address and telephone number
23 of the agricultural employer.

24 NOTE: The name under par. (a) may be that of a business
25 entity.

26
27 (b) The date and location of the early entry.

28 (c) A description of the agricultural emergency which
29 necessitated the early entry.

30 (d) The brand name, EPA registration number and restricted
31 entry interval for each pesticide applied to the treated area.

32 (e) The number of agricultural workers involved in the
33 early entry.

1 NOTE: An agricultural employer filing a report under sub.
2 (2) should file that report at the following address:

3
4 Department of Agriculture, Trade and Consumer
5 Protection
6 Agricultural Resource Management Division
7 Worker Protection Program
8 P.O. Box 8911
9 Madison, Wisconsin 53708-8911

10
11 **ATCP 29.64 TRAINING HANDLERS.** (1) TRAINING REQUIRED.

12 Every person who employs a handler shall ensure that the handler
13 is trained as required by 40 CFR 170.230 before the handler
14 engages in any handler activity.

15 (2) TRAINER QUALIFICATIONS. An individual who trains
16 handlers under sub. (1) shall be at least one of the following:

17 (a) Currently certified as a pesticide applicator by the
18 department.

19 (b) Currently certified as a pesticide applicator in
20 another state, pursuant to an applicator certification program
21 approved by the federal environmental protection agency.

22 (c) Employed by the university of Wisconsin-extension to
23 train pesticide applicators.

24 (d) A graduate of a worker protection train-the-handler
25 program approved by the department or the federal environmental
26 protection agency.

27 **ATCP 29.65 TRAINING AGRICULTURAL WORKERS.** (1) TRAINING
28 REQUIRED. An agricultural employer may not require or permit any
29 agricultural worker, other than a worker trained as required
30 under 40 CFR 170.130, to enter any area that has been subject to
31 a restricted entry interval during the previous 30 days.

1 (2) TRAINER QUALIFICATIONS. An individual who trains
2 agricultural workers under par. (a) shall be at least one of the
3 following:

4 (a) Currently certified by the department as a pesticide
5 applicator under s. ATCP 29.26 or 29.27.

6 (b) Currently certified by another state as a pesticide
7 applicator, pursuant to an applicator certification program
8 approved by the federal environmental protection agency.

9 (c) Employed by the university of Wisconsin-extension to
10 train pesticide applicators.

11 (d) A graduate of a worker protection train-the-handler or
12 train-the-worker program approved by the department or the
13 federal environmental protection agency.

14 (e) Trained as a pesticide handler under 40 CFR 170.230.

15 ATCP 29.66 TRAINING RECORDS. (1) EMPLOYER RECORDS. A
16 person who employs agricultural workers or handlers shall keep
17 current pesticide training records for each agricultural worker
18 or handler employed. The employer shall keep each employee's
19 records for at least one year after that individual's employment
20 ends. The records shall include all of the following:

21 (a) The first name, last name and permanent home address of
22 the agricultural worker or handler.

23 (b) The date or dates on which the agricultural worker or
24 handler received training required under s. ATCP 29.64 or 29.65.

25 (c) A signed statement by the agricultural worker or
26 handler confirming that the worker or handler received the

1 training required under s. ATCP 29.64 or 29.65 on the dates
2 indicated.

3 (2) TRAINER RECORDS. A person who trains agricultural
4 workers or handlers under s. ATCP 29.64 or 29.65 shall keep a
5 training record for each individual trained. The training record
6 shall include all of the information required under sub. (1).
7 The trainer shall keep the training record for at least 5 years
8 after the training is given.

1 SUBCHAPTER XI

2 SPECIAL REGISTRATIONS AND USE AUTHORIZATIONS

3 ATCP 29.70 EMERGENCY USE PERMITS. (1) AUTHORITY AND

4 SCOPE. The department may issue an emergency use permit
5 authorizing the purchase, sale, distribution and use of a
6 pesticide for a purpose not otherwise permitted under this
7 chapter or ch. ATCP 30, if that use is necessary in an emergency
8 to control a serious disease or pest infestation. The department
9 may not issue an emergency use permit for any of the following:

10 (a) A pesticide use that is not authorized under the
11 federal act.

12 (b) The use of DDT or its isomers or metabolites.

13 NOTE: The department may issue permits, under s. 134.67,
14 Stats., for the use of DDT, its isomers or metabolites.
15 See s. ATCP 30.19 related to emergency use permits for
16 bat control.

17
18 (2) PERMIT APPLICATION. An application for an emergency
19 use permit under sub. (1) shall be in writing, and shall include
20 all of the following:

21 (a) The complete name and address of the applicant,
22 including the complete name and address of the pesticide
23 applicator if different from the applicant.

24 (b) A detailed description of the nature and scope of the
25 emergency warranting the pesticide use, including information on
26 the target pest.

27 (c) A description of the purpose for which the pesticide
28 will be used.

29 (d) A detailed description of the potential benefits,

1 adverse effects and hazards which may result from the use of the
2 pesticide.

3 (e) A description and analysis of feasible alternative
4 pesticides and control measures that could be utilized to control
5 the pest.

6 (f) The composition and formulation of the pesticide.

7 (g) The source from which the pesticide is to be purchased
8 or shipped.

9 (h) The amount of pesticide to be used.

10 (i) The site of the pesticide application.

11 (j) The method of pesticide application and any special
12 precautions that will be taken in the use and disposal of the
13 pesticide.

14 (k) Any additional information required by the department.

15 (3) ACTION ON PERMIT APPLICATION. The department shall
16 grant or deny a permit application under sub. (2) within 20
17 business days after the department receives a complete
18 application.

19 (4) ISSUING A PERMIT. The department may issue an
20 emergency use permit under sub. (1), based on a complete
21 application under sub. (2), if the department finds all of the
22 following:

23 (a) The emergency use is necessary to prevent a serious
24 risk to persons, property or the environment.

25 (b) The benefits from the proposed emergency use outweigh
26 the potential risks which that use may pose to persons, property

1 and the environment.

2 (c) There are no effective alternative control measures.

3 NOTE: The department must prepare an environmental
4 assessment on each permit issued under this subsection.
5 See ch. ATCP 3, Wis. Adm. Code.
6

7 (6) PERMIT CONDITIONS. (a) The department may impose
8 conditions on an emergency use permit to protect persons,
9 property and the environment. These may include any of the
10 following:

11 1. Time limits.

12 2. Conditions related to the amount of pesticide used, the
13 location and size of the application site, the method of
14 application, and the disposal of pesticide containers and unused
15 pesticides.

16 3. Conditions related to the training and qualifications of
17 persons applying the pesticide.

18 4. Other conditions which the department considers
19 appropriate.

20 (7) SUSPENDING OR REVOKING A PERMIT. The department may
21 summarily suspend or revoke an emergency use permit if the
22 department finds any of the following:

23 (a) Information contained in the permit application is
24 false or misleading.

25 (b) Permit conditions or limitations have been violated.

26 (c) The pesticide use poses an unreasonable risk to
27 persons, property or the environment.

28 ATCP 29.71 EXPERIMENTAL USE PERMITS. (1) AUTHORIZATION.

1 The department may issue an experimental use permit authorizing
2 the sale, purchase, shipment and use of a pesticide, other than
3 DDT and its isomers and metabolites, for experimental purposes
4 not otherwise permitted under ss. 94.67 through 94.71, Stats., or
5 this chapter. The department may not issue a permit for any
6 purpose that is prohibited under the federal act. The department
7 may issue a permit to any of the following persons:

8 (a) A person who needs the permit to acquire experimental
9 data in this state in order to register a pesticide or pesticide
10 use under the federal act or s. ATCP 29.72.

11 (b) A person, other than a pesticide seller or a seller's
12 promotional agent, who needs the permit to perform bona fide
13 scientific research in this state.

14 (2) PERMIT APPLICATION. A person seeking an experimental
15 use permit under sub. (1) shall apply to the department in
16 writing. The application shall include all of the following:

17 (a) The applicant's complete name and address.

18 (b) The complete name and address of each person who will
19 be shipping the pesticide, and the address from which each
20 shipment will originate.

21 (c) The complete name and address of each person who will
22 receive a pesticide shipment in this state.

23 (d) The complete name and address of each individual who
24 will use or direct the use of the pesticide.

25 (e) The complete name and address of each person on whose
26 property the pesticide will be used.

1 (f) A detailed description of the proposed experimental
2 use, including all of the following:

- 3 1. The purpose of the experimental use.
- 4 2. The amount of pesticide to be used.
- 5 3. The target organisms against which the experimental use
6 will be directed.
- 7 4. The type of plants, animals or site to be treated.
- 8 5. The location, nature and size of the site to be treated,
9 and the nature of the surrounding environment.
- 10 6. The dates or time periods on or within which the
11 pesticide will be used.
- 12 7. The methods by which the pesticide will be applied or
13 used.

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

16 (h) A detailed description of the pesticide, including all
17 of the following:

- 18 1. The pesticide's chemical composition and formulation
19 type, including the chemical name and percentage by weight of
20 each active and inert ingredient.
- 21 2. Relevant chemical and physical properties of the
22 pesticide.
- 23 3. Methods used to analyze the pesticide formulation and
24 identify pesticide residues.
- 25 4. Available information on pesticide toxicity, including
26 oral, dermal and inhalation toxicity, lethal concentrations in

1 the aquatic environment, chronic toxicity hazards, and symptoms
2 of toxicity in persons, plants and animals.

3 5. Available information on the rate of decline of
4 pesticide residues in target and nontarget organisms, raw
5 agricultural commodities, food, feed and the environment.

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

8 (i) A description of precautions that will be taken in
9 connection with the experimental use to prevent hazards to
10 persons, property and the environment.

11 (j) Either of the following if the experimental use may
12 cause pesticide residues to occur in raw agricultural
13 commodities, food or feed:

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

20 2. Certification that no raw agricultural commodities, food
21 or feed involved in the experimental use will be consumed by
22 humans or other animals, except laboratory or experimental
23 animals not used for food or feed.

24 (k) A copy of any permit which the federal environmental
25 protection agency has issued for the experimental use under the
26 federal act.

1 (L) Proposed labeling for the experimental use pesticide.

2 (m) Other relevant information required by the department.

3 (3) ACTION ON PERMIT APPLICATION. The department shall
4 grant or deny a permit application under sub. (2) within 60
5 business days after the department receives a complete
6 application.

7 (4) ISSUING A PERMIT. The department may issue a permit
8 under sub. (1), based on a complete application under sub. (2),
9 if the department finds all of the following:

10 (a) The experimental use is one for which a permit may be
11 issued under sub. (1).

12 (b) The permit applicant qualifies under sub. (1).

13 (c) The persons conducting the experimental use are
14 qualified by training or experience to do so.

15 (d) The experimental use presents no significant hazard to
16 persons, property or the environment, and includes adequate
17 controls and safeguards.

18 NOTE: The department must prepare an environmental
19 assessment on each permit issued under this subsection.
20 See ch. ATCP 3, Wis. Adm. Code.

21
22 (4) PERMIT CONDITIONS. The department may impose
23 conditions on permits issued under sub. (1). Permit conditions
24 may include limits on the amount of pesticide used, the method of
25 use, the size and location of application sites, and the disposal
26 of unused pesticides and pesticide containers.

27 (5) PERMIT EXPIRATION. A permit under sub. (1) expires on
28 a date set by the department. The expiration date shall

1 correspond to the expiration date set by the federal
2 environmental protection agency on any corresponding federal
3 permit. If no federal permit is required, the department shall
4 set an expiration date which is no more than 2 years from the
5 date on which the department issues the permit.

6 (6) PERMIT RENEWAL OR AMENDMENT. A person holding a permit
7 under sub. (1) may apply to have that permit renewed or amended.
8 The application shall comply with sub. (2). The department shall
9 act on the application as if it were an application for a new
10 permit.

11 (7) PERMIT SUSPENSION OR REVOCATION. The department may
12 summarily suspend or revoke an experimental use permit if the
13 department finds any of the following:

14 (a) Information contained in the permit application is
15 false or misleading.

16 (b) Permit conditions or limitations have been violated.

17 (c) The pesticide use poses an unreasonable risk to
18 persons, property or the environment.

19 (8) PESTICIDE LABELING. No person may ship or use a
20 pesticide under an experimental use permit unless the pesticide
21 is labeled with all of the following:

22 (a) The prominent statements **"FOR EXPERIMENTAL USE ONLY"**
23 and **"NOT FOR RESALE."**

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

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

- 1 (d) The net contents of the pesticide container.
- 2 (e) A complete ingredient statement.
- 3 (f) Appropriate warning or cautionary statements.
- 4 (g) A restricted entry interval, if appropriate.
- 5 (h) Directions and conditions for use of the pesticide.
- 6 (i) Other labeling required by the department.

7 (9) REPORTS. (a) The department may require the holder of
8 an experimental use permit under sub. (1) to file periodic
9 reports related to the shipment or use of pesticides under that
10 permit. These may include reports related to any of the
11 following:

- 12 1. The amounts of pesticide shipped and used.
- 13 2. Shipment and delivery dates and locations.
- 14 3. Dates and locations of pesticide use.
- 15 4. Experimental findings.
- 16 5. Disposal of unused pesticide and pesticide containers.
- 17 6. Disposal of treated agricultural commodities, food or
18 feed.
- 19 7. Other information related to the experimental use.

20 (b) A permit holder shall immediately report to the
21 department any observed adverse effects of the experimental use
22 on persons, property or the environment.

23 (10) EXEMPTIONS. (a) The following entities may conduct
24 preliminary screening tests under par. (b) without an
25 experimental use permit under sub. (1):

- 26 1. A state or federal agency.

1 2. An accredited college or university.

2 3. A pesticide registrant.

3 (b) The following tests are considered preliminary
4 screening tests under par. (a) if they are solely designed to
5 determine whether a substance has value as a pesticide for
6 specific purposes:

7 1. Laboratory or greenhouse tests.

8 2. Field tests, other than field tests of microorganisms
9 produced or modified by recombinant DNA techniques, conducted on
10 test plots owned by the testing entity. No individual test plot
11 may exceed 1/2 acre, nor may the combined area of all the test
12 plots exceed 5 acres.

13 3. Tests for which the federal environmental protection
14 agency issues an experimental use permit. The testing entity
15 shall provide the department with a copy of the federal permit
16 and shall notify the department of the test locations before
17 conducting the tests.

18 (c) No raw agricultural commodities, food or feed involved
19 in a screening test under par. (b) may be consumed by humans or
20 other animals, except laboratory or experimental animals which
21 are used in the test and are not used for food or feed. The
22 agricultural commodities, food and feed shall be disposed of in a
23 manner that minimizes exposure to human beings and the
24 environment.

25 (d) The exemption under par. (a) does not apply to a
26 pesticide or pesticide use which is specifically prohibited under

1 this chapter, or for which a federal registration has been
2 denied, suspended or canceled.

3 ATCP 29.72 SPECIAL LOCAL NEEDS REGISTRATIONS. (1)

4 AUTHORITY. The department may register either of the following
5 if the registration is necessary to meet a special local need in
6 the state:

7 (a) A pesticide product which is not registered under the
8 federal act. The registration shall specify the uses for which
9 the pesticide product is registered.

10 (b) A new use for a pesticide product that is currently
11 registered under par. (a).

12 (2) EFFECT OF REGISTRATION. Registration under sub. (1)
13 has the same effect in this state as registration under the
14 federal act unless the federal environmental protection agency
15 disapproves the registration.

16 (3) REGISTRATION STANDARDS. The department may register a
17 pesticide product or use under sub. (1) if the department finds
18 all of the following:

19 (a) Registration is necessary to meet a special local need
20 in this state. A special local need is a current or imminent
21 pest problem in this state that cannot be adequately controlled
22 by the use of any available federally-registered pesticide
23 product. The department may find that a pest problem existing on
24 a nationwide or multi-state regional basis is not a special local
25 need.

26 (b) There are insufficient alternative pesticides or pest

1 control methods to meet the special local need.

2 (c) The pesticide product is effective, for the uses
3 registered under sub. (1), when used according to label
4 directions. The department's finding under this paragraph does
5 not constitute a warranty by the department.

6 (d) The pesticide label complies with this chapter and the
7 federal act, and warrants that the product is effective for the
8 uses registered under sub. (1).

9 (e) The pesticide product will not be distributed for
10 further manufacturing, reformulation or repackaging.

11 (f) The pesticide product, if registered for use on raw
12 agricultural commodities, food or feed, is covered by necessary
13 residue tolerances, exemptions and clearances under the federal
14 act and the federal food, drug and cosmetic act as amended (21
15 USC 301 et seq.).

16 (g) The pesticide product, when used according to label
17 directions for the purposes registered under sub. (1), will not
18 have unreasonable adverse effects on persons, property or the
19 environment.

20 (h) The federal environmental protection agency has not
21 denied, disapproved, canceled or suspended any registration of
22 the pesticide product under the federal act. If the federal
23 environmental protection agency has denied, disapproved, canceled
24 or suspended the registration of the product for any use, the
25 department may not register any other use of that product without
26 approval from the federal environmental protection agency.

1 (i) The pesticide product complies with all applicable
2 packaging, coloration and labeling provisions under this chapter,
3 ss. 94.67 to 94.71, Stats., and the federal act.

4 (j) The benefits derived from pesticide product uses
5 registered under sub. (1) will exceed the adverse effects on
6 persons, property and the environment.

7 (k) The pesticide product is currently registered under the
8 federal act, or is formulated from ingredients which are all
9 found in other federally registered pesticide products.

10 NOTE: The department must prepare an environmental
11 assessment on each permit issued under this subsection.
12 See ch. ATCP 3, Wis. Adm. Code.

13
14 (4) APPLYING FOR REGISTRATION. A person licensed under s.
15 ATCP 29.10 may apply for a special local needs registration under
16 sub. (1). The application shall be made in writing and shall
17 include all of the following:

18 (a) The applicant's name, address and license number under
19 s. ATCP 29.10. If the applicant is not yet licensed under s.
20 ATCP 29.10, the applicant shall also submit a license application
21 under that section.

22 (b) A fee of \$250.

23 (c) A complete description of the special local need
24 justifying the registration.

25 (d) The name of the pesticide product.

26 (e) The registration number of the pesticide product or, if
27 the product is not currently registered under the federal act,
28 the complete product formula.

1 (f) A copy of the proposed pesticide product label.

2 (g) Valid scientific evidence demonstrating that the
3 product is effective for the proposed use.

4 (h) Evidence showing that alternative pesticides and pest
5 control methods are not adequate to meet the special local need.

6 (i) A description and analysis of the benefits to be
7 derived from the proposed pesticide use.

8 (j) A description and analysis of potential adverse effects
9 to persons, property and the environment which may result from
10 the proposed pesticide use.

11 (k) Evidence demonstrating that the pesticide product will
12 not have unreasonable adverse effects on persons, property or the
13 environment when used according to label directions.

14 (l) An analysis demonstrating that the benefits to be
15 derived from the proposed pesticide use exceed the potential
16 adverse effects.

17 (m) Other relevant information required by the department.

18 (5) ACTION ON APPLICATION. The department shall grant or
19 deny an application under sub. (4) within 180 business days after
20 the department receives a complete application.

21 (6) REGISTRATION EXPIRES. A special local needs
22 registration under sub. (1) expires on a date specified by the
23 department in the registration. The expiration date shall be not
24 more than 5 years after the date on which the department issues
25 the registration.

26 (7) REGISTRATION RENEWAL OR AMENDMENT. A registrant under

1 sub. (1) may apply to have that registration renewed or amended.
2 The application shall comply with sub. (4). The department shall
3 act on the application as if it were an application for a new
4 registration. If a registration is amended during a registration
5 period, the amendment expires at the end of that registration
6 period. A registration may be renewed for a period of up to 5
7 years.

8 (8) LABELING. A pesticide product registered for one or
9 more uses under sub. (1) shall be labeled in compliance with s.
10 ATPC 29.06. The product label shall also include all of the
11 following:

12 (a) A statement indicating that the registration under sub.
13 (1) applies only in Wisconsin.

14 (b) The registration number assigned by the department.

15 (c) The expiration date of state registration.

16 (d) Other labeling required by the department.

17 (9) REGISTRATION CONDITIONS. The department may restrict a
18 registered use under sub. (1) to certified applicators, and may
19 attach other conditions to the registration of a pesticide
20 product or use under sub. (1). The department shall restrict a
21 use to certified applicators if any of the following apply:

22 (a) The pesticide product is similar in composition to a
23 federally registered product for which similar uses are
24 restricted to certified applicators. Pesticide products are
25 similar in composition if they have the same active ingredients
26 and are in the same toxicity category. Pesticide uses are

1 similar if they have substantially equivalent purposes and the
2 same precautionary labeling.

3 (b) The use would be restricted to certified applicators
4 under the federal act.

5 (c) The restriction is justified in order to prevent
6 unreasonable hazards to persons, property or the environment.

7 (10) SUSPENSION OR REVOCATION. The department may
8 summarily suspend or revoke a registration under sub. (1) if the
9 department finds any of the following:

10 (a) Information contained in the registration application
11 is false or misleading.

12 (b) Registration conditions have been violated.

13 (c) A registered use poses an unreasonable risk to persons,
14 property or the environment.

15 (d) The special local need no longer exists.

16 (e) The registration is suspended or disapproved by the
17 federal environmental protection agency.

18

CHAPTER ATCP 29 APPENDIX A

This is an example of a notice that complies with s. ATCP 29.55(2) and 29.56(2):

NOTICE TO CUSTOMER

Before we apply any pesticides to your property, we will provide you with any of the following information that you request:

- The common chemical or brand name of each pesticide that may be applied.
- A copy of the pesticide label for each pesticide that may be applied. The label will tell you the pesticide active ingredient, use directions and safety precautions.
- Each date on which pesticides will be applied.
- A contact name, address and telephone number where you can obtain further information about the pesticide application.

If you want this information in writing, we will provide it free of charge before we make the application. Whether or not you ask for this pre-application information, we will provide you with the following information when we complete the application:

- The name, license number and certification number of the individual who made or directly supervised the application.
- The name and location of the pesticide application.
- The target pest or pests.
- The chemical name, brand name and EPA registration number of each pesticide applied.
- The amount of pesticide applied.
- The date and time of the pesticide application.
- Any post-application precautions which you should observe.
- A free copy of the pesticide label (if requested).

We will notify residents of pesticide applications to living areas, and will post warning signs for lawncare applications, as required by law.

**CHAPTER ATCP 29
APPENDIX B**

A warning sign under s. ATCP 29.56(4) shall contain the following information, printed in the following format:



- Lettering for "Pesticide Application" and "Please Keep Off" -- 36 pt. minimum type size
- Lettering for other words -- 9 pt. minimum type size
- Symbol -- 2 inch minimum diameter

**CHAPTER ATCP 29
APPENDIX C**

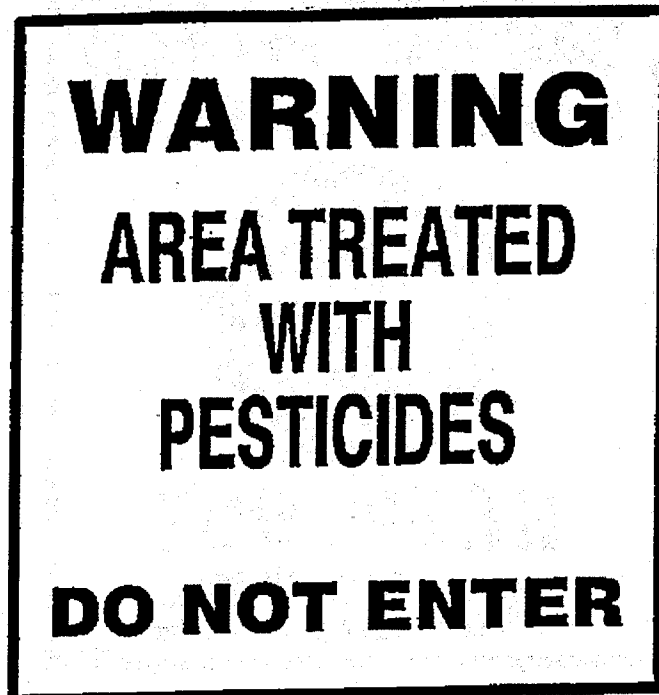
A worker protection warning sign under s. ATCP 29.62 shall contain the following information in the following format:



- All letters shall be at least 1 inch high.
- Red circle placed near center of sign shall contain:
 - Upraised hand on left. Hand height shall be twice that of the smallest letter.
 - Stern face on right. Face shall be slightly smaller than hand.
- Background color shall contrast with red.
- Letter printing shall contrast with the background color.
- Printing within the circle shall contrast with red.

**CHAPTER ATCP 29
APPENDIX D**

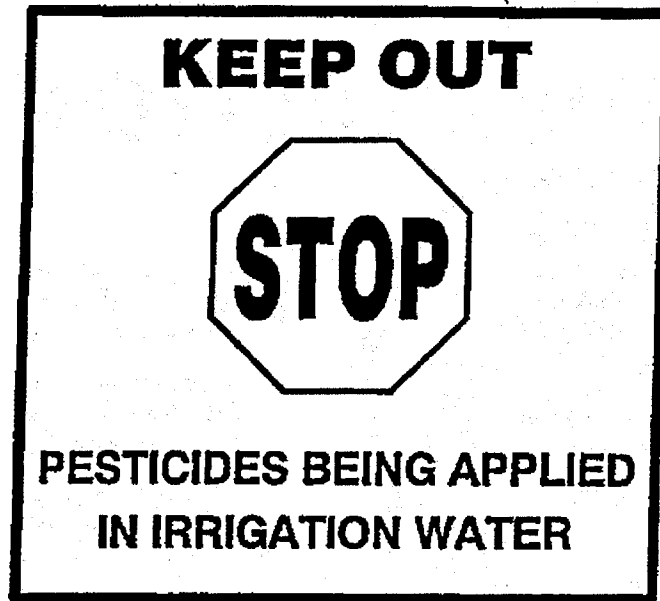
A warning sign under s. ATCP 29.52(8) shall contain the following information in the following format:



- All letters shall be at least 1 inch high.
- Letter printing shall contrast with the background color.
- The words "DO NOT ENTER" may be replaced with "NO TRESPASSING" or "KEEP OUT."
- Other words may be added to the sign if they do not detract from or contradict the required words.

**CHAPTER ATCP 29
APPENDIX E**

A chemigation warning sign under s. ATCP 29.54(17) shall contain the following information in the following format:



- All letters shall be at least 2 1/2 inches high.
- Letter printing shall contrast with the background color.
- The octagonal stop sign symbol shall be at least 8 inches in diameter.
- Other words may be added to the sign if they do not detract from or contradict the required words.

**CHAPTER ATCP 29
APPENDIX F**

Warning signs provided by a retail seller of landscape pesticides under s. ATCP 29.41(3)(a) shall contain the following information in the following format:



- All lettering -- 36 pt. minimum type size
- Symbol -- 2 inch minimum diameter

CHAPTER ATCP 29 APPENDIX G

A pesticide information sheet provided by a retail seller of landscape pesticides under s. ATCP 29.41(3)(b) shall contain the following information, printed verbatim:

PESTICIDE INFORMATION SHEET

BEFORE YOU USE A PESTICIDE:

- **Read the pesticide label. It is a violation of state and federal law to use a pesticide contrary to label directions.**
- **Is the pesticide labeled for the use you intend? If not, don't use it.**
- **What type of protective clothing or equipment is required?**
- **What type of application equipment is needed?**
- **Are weather conditions right for the pesticide application?**
- **Buy only the amount of pesticide you need. Pesticides stored for a long time may be less effective, and may pose an environmental or safety hazard.**
- **Mix only as much pesticide solution as you need. It is better to underestimate than overestimate.**

WHEN USING A PESTICIDE:

- **Wear all protective clothing and equipment required by the label.**
 - **At a minimum, wear a long sleeve shirt, long pants, socks and shoes.**
 - **Do not wear clothing made of cotton or leather. It may absorb pesticides and be difficult to clean.**
- **Do not apply on windy or rainy days when pesticides may drift or be washed from the application site. Stand up wind when mixing and applying pesticides.**
- **Keep children and pets away from the treated area. Keep them away for the time shown on the pesticide label.**
- **Do not apply pesticides at more than the label rate.**

AFTER USING A PESTICIDE:

- **Wash your hands with soap and water immediately. Shower as soon as possible.**
- **Wash all clothing. Wash it separately from other household laundry. Use a heavy duty detergent and hot water.**
- **If you apply pesticides to a food crop, wait for the time required on the pesticide label before harvesting the crop.**
- **Keep pesticide measuring tools separate from household and kitchen tools.**
- **Store pesticides in their original containers. Do not store dilute pesticide solutions in unmarked containers.**
- **Keep pesticides away from food, feed, seed and fertilizer, and out of the reach of children and pets.**
- **Dispose of empty pesticide containers according to label directions.**

WARNING SIGNS AT APPLICATION SITES:

- **Commercial pesticide applicators must post warning signs at landscape application sites.**
- **Homeowners who make their own landscape applications are not required to post warning signs, but are encouraged to do so.**
 - **You may obtain warning signs from the pesticide retailer.**
 - **It is a good idea to post at least one sign on each side of the application site, and at common entry points (near sidewalks, driveways, etc.).**

FOR MORE INFORMATION:

- **You can get more pesticide information from your county extension agent.**
- **You can get information about pesticide laws by calling the Wisconsin Department of Agriculture, Trade and Consumer Protection at (608) 224-LAWN.**

1 (6) "Person" means an individual, corporation, partnership,
2 cooperative association, limited liability company, trust or
3 other organization or entity. "Person" includes a county or
4 local government entity, but does not include a state or federal
5 government entity.

6 (7) "Pesticide" has the meaning given in s. 94.67(25),
7 Stats., and includes a pesticide-fertilizer mixture.

8 (8) "Sell" means to sell, offer for sale, display for sale
9 or hold for sale in this state.

10 (9) "Use" a pesticide means to mix or load a pesticide,
11 apply a pesticide, or engage in any of the following activities
12 which is related to the mixing, loading or application of a
13 pesticide:

14 (a) Activities which the pesticide label requires of the
15 mixer, loader or applicator.

16 (b) Handling an open pesticide container, other than an
17 empty container that has been triple-rinsed or cleaned according
18 to the pesticide label.

19 (c) Cleaning or rinsing an open pesticide container,
20 pesticide application equipment, or a mix or nurse tank.

21 (d) Disposing of a pesticide or pesticide rinsate.

22 (e) Aerating or ventilating spaces treated with a fumigant
23 pesticide.

24

1 (c) The purchase, sale or use of pesticides other than DDT,
2 or the isomers or metabolites of DDT, for bona fide laboratory
3 research or as laboratory standards or educational exhibits.
4

1 SUBCHAPTER III

2 PESTICIDES REQUIRING SPECIAL USE PERMIT

3 ATCP 30.10 PESTICIDES REQUIRING SPECIAL USE PERMIT. (1)

4 PERMIT REQUIRED. Except as provided under sub. (2), no person
5 may purchase or use any of the following pesticides without a
6 written permit from the department:

7 (a) Sodium fluoroacetate (1080).

8 (b) Strychnine, including products containing strychnine
9 sold or purchased for use as pesticides.

10 (c) Any pesticide used to control insects or rodents in
11 public sewers, except when used by a commercial applicator
12 certified under s. ATCP 29.31(11).

13 (2) EXEMPTIONS. Subsection (1) does not apply to any of
14 the following:

15 (a) Use authorized by an emergency permit under s. ATCP
16 29.70 or an experimental use permit under s. ATCP 29.71.

17 (b) The purchase, sale or use of a pesticide for bona fide
18 laboratory research, or as a bona fide laboratory standard or
19 educational exhibit.

20 (3) PERMIT APPLICATION. To obtain a permit under sub. (1),
21 a person shall apply on a form provided by the department. In an
22 emergency, the department may accept an oral application which
23 the applicant confirms in writing within 48 hours. An
24 application shall include all of the following:

25 (a) The applicant's name and address.

26 (b) The name and address of each individual applicator who

1 will apply the pesticide in the name of the applicant.

2 (c) The name and formulation of the pesticide for which the
3 applicant seeks a permit.

4 (d) The proposed use of the pesticide, including purpose,
5 location and quantity.

6 (e) The special circumstances that justify the purchase and
7 use of the pesticide.

8 (f) Any special controls or precautions that will apply.

9 (g) Any information required under sub. (7) (b) if the
10 applicant is applying to purchase or use sodium flubroacetate
11 (1080).

12 (h) Other relevant information required by the department.

13 (4) ACTION ON PERMIT APPLICATION. The department shall
14 grant or deny a permit application within 60 business days after
15 the applicant files a complete application with the department.

16 (5) ISSUING A PERMIT. The department may issue a permit
17 under sub. (1) if the department finds that the pesticide use is
18 justified by special circumstances, that there is no effective
19 alternative to the pesticide use, and that the proposed use does
20 not pose an unreasonable risk to persons, property or the
21 environment.

22 NOTE: The department must prepare an environmental
23 assessment on each permit issued under this subsection.
24 See ch. ATCP 3, Wis. Adm. Code.
25

26 (6) PERMIT CONDITIONS. The department may impose permit
27 conditions which it considers appropriate. No person may use a
28 pesticide contrary to the conditions which the department

1 specifies.

2 (7) SODIUM FLUOROACETATE (1080) PERMIT. (a) No permit
3 under sub. (1) may authorize the purchase or use of sodium
4 fluoroacetate (1080) for any purpose other than the control of
5 rats or mice by a commercial applicator who is licensed under s.
6 ATCP 29.25 and certified for that purpose under s. ATCP 29.26.

7 (b) An application for a sodium fluoroacetate (1080) permit
8 shall include all of the following information:

- 9 1. The nature of the application site and surrounding area.
- 10 2. The types of wild animals frequenting the site, if any.
- 11 3. The form in which the sodium fluoroacetate (1080) will
12 be used, including the type of bait used.
- 13 4. The method of application.
- 14 5. The method for disposing of rat or mouse carcasses.

15 (c) The following conditions apply to all permits under
16 this section or s. ATCP 29.70 authorizing the use of sodium
17 fluoroacetate (1080):

18 1. The application site shall be secured against entry by
19 nontarget animals, and by persons other than the pesticide
20 applicator.

21 2. The applicator shall apply the pesticide so that the
22 application site is not contaminated. The applicator shall
23 remove all unconsumed pesticide before the application site is
24 reopened for access by other persons or nontarget animals.

25 3. An applicator making an outdoor application shall use a
26 tamper-proof bait box that precludes any hazard to humans or

1 nontarget animals.

2 4. The applicator shall promptly remove all rats and mice
3 killed by the pesticide, to prevent access by humans or other
4 animals. The applicator shall dispose of the carcasses in a
5 landfill licensed by the department of natural resources s.
6 289.31, Stats.

7 5. The applicator shall keep records of the application for
8 at least 2 years, and shall make those records available to the
9 department for inspection and copying upon request. Records
10 shall include the date and time of application, the site at which
11 the pesticide was used, the form in which the pesticide was used,
12 the method of application, and the site used for carcass
13 disposal.

14 (8) STRYCHNINE PERMITS. No permit under sub. (1) may
15 authorize the purchase or use of strychnine for any but the
16 following purposes:

17 (a) Registered uses below ground.

18 (b) Registered uses to control rats or mice.

19 (9) SODIUM FLUOROACETATE OR STRYCHNINE SALES. (a) No
20 person may sell sodium fluoroacetate (1080) or strychnine to any
21 person who does not have a permit under sub. (1).

22 (b) A person selling sodium fluoroacetate (1080) or
23 strychnine shall keep all of the following records related to
24 each sale:

25 1. All of the records required under s. ATCP 29.15(8).

26 2. The purchaser's permit number under sub. (1).

1 (c) A person selling sodium fluoroacetate (1080) or
2 strychnine shall keep the records required under par. (b) for at
3 least 2 years, and shall make those records available to the
4 department for inspection and copying upon request.

5 (d) No person holding a permit under sub. (1) may resell or
6 distribute a pesticide identified under sub. (1) to any person
7 not covered by that permit.

8

1 2. The signal words "DANGER-POISON."

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

4 NOTE: Milk samples treated with potassium dichromate are
5 classified as hazardous waste under chs. NR 600 to 685.
6 Disposal must comply with those chapters.

7
8 (3) LINDANE. Lindane (gamma isomer of benzene
9 hexachloride) may be used only according to the label for the
10 following purposes:

11 1. Treating animals, other than dairy or lactating animals,
12 for mange and lice.

13 2. Treating sheep for fleeceworms.

14 3. Spot treating animals, other than dairy or lactating
15 animals, to protect flesh and flesh wounds against insect
16 infestation.

17 4. Treating seeds.

18 5. Treating yard and non-commercial garden ornamentals.

19 6. Treating Christmas trees in tree plantations to control
20 pine root collar weevil, pales weevil and pine root tip weevil.

21 7. Treating white pine Christmas trees and spruce Christmas
22 trees in tree plantations to control white pine weevil.

23 (4) MERCURY. Mercury may be used only to control winter
24 turf disease on golf tees and greens.

25 (5) DAMINOZIDE. Daminozide may be used only to treat
26 ornamental plants that are not used for food production.

27

1 SUBCHAPTER V

2 PESTICIDES USED TO CONTROL BATS

3 ATCP 30.19 PESTICIDES USED TO CONTROL BATS. (1)

4 PROHIBITION. No person may sell, distribute or use any pesticide,
5 other than naphthalene, for the purpose of killing, injuring,
6 repelling or affecting the behavior of bats unless that person
7 has an emergency use permit from the department under sub. (2).

8 (2) EMERGENCY USE PERMIT. The department may issue a
9 permit, under s. 94.708(4), Stats., authorizing the emergency use
10 of a pesticide other than naphthalene on a bat colony if a rabies
11 outbreak or other condition in that bat colony threatens the
12 health or welfare of any person. The department shall issue the
13 emergency use permits according to the procedure specified under
14 s. ATCP 29.70. The department may not issue a permit based
15 solely on a finding of a single rabid bat.

16 NOTE: See s. 94.708, Stats., which also restricts the
17 advertising and promotion of pesticides to control
18 bats.
19

1 SUBCHAPTER VI

2 METAM SODIUM PESTICIDES

3 ATCP 30.22 METAM SODIUM PESTICIDES; USE RESTRICTIONS. (1)

4 DEFINITIONS. In this section:

5 (a) "Chemigation" has the meaning given in s. ATCP
6 29.54(1)(d).

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

9 (c) "Metam sodium pesticide" means any soil fumigant or
10 other pesticide containing metam sodium.

11 (d) "Public building" has the meaning given under s.
12 101.01(12), Stats., but does not include a residential structure.

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

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

25 (2) APPLICATOR CERTIFICATION. (a) No individual may apply
26 a metam sodium pesticide unless that individual is one of the

1 following:

2 1. Licensed and certified as a commercial applicator under
3 s. ATCP 29.25 and 29.26. The individual shall be certified as a
4 commercial applicator in the appropriate use category or
5 categories under s. ATCP 29.31.

6 2. Certified to make that application as a private
7 applicator under s. ATCP 29.27.

8 3. Applying the pesticide solely for household purposes
9 around that individual's residence.

10 (b) No individual may apply a metam sodium pesticide by
11 means of chemigation unless that individual is certified under s.
12 ATCP 29.29(2).

13 (c) No individual may apply a metam sodium pesticide by
14 means of soil fumigation unless that individual is certified
15 under s. ATCP 29.29(3) or (4).

16 (3) AGRICULTURAL APPLICATION SITES. No person may apply a
17 metam sodium pesticide for any agricultural purpose within 1/4
18 mile of any of the following:

19 (a) A hospital, nursing home, jail or prison.

20 (b) A school that will be in session during the application
21 or within 48 hours after the application is completed.

22 (4) AGRICULTURAL APPLICATION METHODS. (a) A person who
23 applies a metam sodium pesticide for an agricultural purpose
24 shall cover the application site with a tarp or other impermeable
25 barrier, as prescribed by the pesticide label, immediately after
26 that person applies the pesticide to the soil surface or

1 incorporates it into the soil by discing or tilling.

2 (b) Paragraph (a) does not apply to any of the following:

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

5 2. A chemigation application complying with sub. (5).

6 (c) No person may apply a metam sodium pesticide for any
7 agricultural purpose by means of knife rig injection when the
8 soil temperature is greater than 75 degrees Fahrenheit measured
9 at a depth of 5 to 6 inches.

10 (5) CHEMIGATION. A chemigation application of a metam
11 sodium pesticide shall comply with s. ATP 29.54 and all of the
12 following:

13 (a) The person making the application shall provide 72
14 hours advance written notice of the application to the county
15 public health agency and to every individual or household
16 residing within 1/4 mile of the chemigation application site. If
17 an individual or household resides in a residential structure
18 other than a one-family or two-family dwelling, written notice to
19 the manager of the residential structure constitutes notice to
20 that individual or household under this paragraph. Notice under
21 this paragraph shall include all of the following:

22 1. The location of the application site.

23 2. The earliest possible date and time when application
24 will begin.

25 3. The brand name of the metam sodium pesticide that will
26 be applied.

1 4. Notice that eye irritation is an early symptom of metam
2 sodium exposure, and that eye irritation may be alleviated by
3 leaving the affected area.

4 5. Notice that a resident may obtain the pre-application
5 information under par. (b) if that resident requests the
6 information at least 24 hours before the application is scheduled
7 to occur.

8 6. The name, address and telephone number of an individual
9 who will provide further information upon request, including
10 pre-application information under par. (b).

11 (b) If a resident requests pre-application information
12 under par. (a)5, the person making the application shall provide
13 the following written information to the requester before making
14 the application:

15 1. A copy of the metam sodium pesticide label.

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

21 NOTE: The department will provide a free copy of the
22 information under subd. 2 to a person making a metam
23 sodium pesticide application. To obtain a copy, you
24 may contact the department at the following address:
25

26 Department of Agriculture Trade and Consumer Protection
27 Division of Agricultural Resource Management
28 Bureau of Agrichemical Management
29 P.O. Box 8911
30 Madison, WI 53708-8911.
31
32

1 3. The date on which the pesticide will be applied. With
2 the prior consent of the requesting resident, the person making
3 the application may give the application date orally, rather than
4 in writing.

5 (c) An individual certified under s. ATCP 29.29(2) shall be
6 present at the chemigation site at all times during the
7 chemigation application.

8 (d) No metam sodium pesticide may be applied by chemigation
9 if the air temperature at the application site exceeds 80 degrees
10 Fahrenheit.

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

14 (f) No metam sodium pesticide may be applied by chemigation
15 if a local weather forecast indicates that more than 3/4 of an
16 inch of rainfall may occur in the area of the application site
17 within 6 hours following application.

18 (6) MONITORING AND REPORTING. (a) Whenever a metam sodium
19 pesticide is applied for agricultural purposes, a qualified
20 applicator under sub. (2) shall inspect the application site 4 to
21 6 hours after the application is completed, and 9 to 12 hours
22 after the application is completed.

23 (b) An applicator making an inspection under par. (a) shall
24 do all of the following as part of that inspection:

25 1. Check the treated area and surrounding areas for
26 volatilized gas odors resulting from the application.

1 2. Carefully monitor all locations where gases have
2 volatilized.

3 3. Initiate follow-up action under this subsection, if
4 required.

5 4. Use proper safety equipment and precautions.

6 (c) If any person making a metam sodium pesticide
7 application has reason to believe that gas volatilization from
8 the application may result in significant pesticide drift under
9 s. ATCP 29.50(2), that person shall immediately do all of the
10 following:

11 1. Irrigate the application site with 1/4 inch to 1/2 inch
12 of water if it is possible to do so.

13 2. Notify the department.

14 3. Notify the division of emergency government if it
15 appears that a residential structure or public building may be
16 exposed to significant pesticide drift under s. ATCP 29.50(2).
17 Notice shall include the location of the application site and the
18 affected residential structure or public building.

19 NOTE: The telephone number for the division of emergency
20 government is (608) 266-3232. The telephone number for
21 the department is (608) 224-4500.
22

23 (7) RECORDKEEPING REQUIREMENTS. (a) A person applying a
24 metam sodium pesticide shall keep all of the following records:

25 1. Applicable records required under s. ATCP 29.21 or
26 29.33.

27 2. The time of each inspection under sub. (4), the results
28 of the inspection, and any actions taken under sub. (4) as a

1 result of the inspection.

2 3. The soil temperature at the time of application if the
3 application is made by knife rig injection or chemigation. The
4 soil temperature shall be measured 5 to 6 inches below the soil
5 surface.

6 (b) A person shall retain records under par. (a) for at
7 least 2 years, and shall make them available to the department
8 for inspection and copying upon request.

9 **SECTION 8.** Chapter ATCP 30 subch. VII(title), inserted
10 after s. ATCP 30.22, is created to read:

11 **SUBCHAPTER VII**

12 **ALDICARB PESTICIDES**

13 **SECTION 9.** Chapter ATCP 30 subch. VIII(title), inserted
14 after s. ATCP 30.24, is created to read:

15 **SUBCHAPTER VIII**

16 **ATRAZINE PESTICIDES**

17 **SECTION 10.** ATCP 80.30(4)(note) is amended to read:

18 NOTE: Potassium dichromate is available in tablets
19 containing 40 mg. of active ingredient per tablet. The
20 use of these tablets at the rate of one tablet per 2
21 fl. oz. of milk in a completed composite sample is
22 equivalent to the concentration specified under par.
23 (f). Labeling requirements and limitations on the
24 disposal of milk samples preserved with potassium
25 dichromate are contained in s. ATCP 30.15(2)(b).
26
27

