

Chapter Ag 29

PESTICIDE USE AND CONTROL

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Note: See Wis. Adm. Code chapter NR 80 for pesticide rules of the department of natural resources.

Ag 29.01 Definitions. (1) "Pesticide review board" means the board created under s. 15.195 (1), Stats.

(2) "Department" means the state of Wisconsin department of agriculture.

(3) "Limited use pesticide" means a pesticide, the unrestricted or uncontrolled use of which may create such a serious hazard to persons or property, or the environment, that it may be registered, purchased, sold or used only as provided in these rules.

(4) "Experimental use pesticide" is a pesticide in any stage of testing or development, except screening for pesticidal activity, and includes pesticides registered for certain uses but under testing or development for use other than those for which registered. The screening for pesticidal activity exception is limited to the testing of chemicals, prior to use for experimental purposes, in test plots of less than ¼ acre per test to ascertain biological effect on specific pests, hosts or sites.

(5) "Pesticide registration" means the registration of pesticides with the department under s. 94.68, Stats.

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

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

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

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

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

(11) "Pesticide" is as defined in s. 94.67, Stats., and for purposes of use, storage, transport, disposal and display under these rules, includes seeds, seed pieces and other plant parts treated with a pesticide.

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(12) "Pesticide drift" means the drifting or movement of pesticide particles by wind or air currents onto property beyond the boundaries of the immediate area treated with pesticides.

(13) "Pesticide overspray" means the direct application of pesticides in any form or in any manner onto property beyond the boundaries of the area treated with pesticides, by the failure to control the direct flow or application of pesticides and confine them to the immediate area to be treated.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. (5) to (12) to be (6) to (13); cr. (5) and am. (6) as renum. Register, April, 1972, No. 196, eff. 5-1-72; am. (13), Register, May, 1973, No. 209, eff. 6-1-73; r. (3) and (5), renum. (4) to be (3) and recr., renum. (6) to (13) to be (4) to (11) and cr. (12) and (13), Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.02 Limited use pesticides; classification; use restrictions.

(1) **CLASSIFICATION.** Pesticides included in this section are classified as limited use pesticides and, except for such uses as may be authorized under emergency or special permit control under subs. (2) and (3), or s. Ag 29.03, may be registered, purchased, sold or used only for limited purposes as provided under sub. (4). This does not apply to the registration, purchase, sale or use of limited use pesticides as laboratory standards or exhibits by educational institutions, or for research and experimental purposes other than in the research or experimental use of DDT and its isomers or metabolites for which a permit is required under s. 134.67, Stats.

(2) **LIMITED CATEGORY; EMERGENCY PERMIT REQUIRED.** The registration, purchase, sale and use of the following limited use pesticides is prohibited, except for use under emergency permit as provided in s. Ag 29.03, or in the case of DDT and its isomers and metabolites, emergency or experimental uses authorized by the pesticide review board under s. 134.67, Stats.:

(a) DDT (dichloro diphenyl trichloroethane).

(b) DDD (TDE) (dichloro diphenyl dichloroethane).

(c) Endrin (hexachloroepoxyoctahydro-endo-dimethanonaphthalene).

(d) Cadmium.

(e) Thallium sulfate.

(3) **SPECIAL PERMIT CATEGORY; SPECIAL PERMIT REQUIRED.** (a) The following limited use pesticides may be used or purchased for use only under a special department permit, as provided in this subsection:

1. Sodium Fluoroacetate (1080).

2. Strychnine or products containing strychnine sold or purchased for use as a pesticide.

3. Any pesticide used for the control of insects or rodents in public sewers, except when used by or under supervision of qualified government officials in the course of their employment, or qualified pest control operators.

(b) Requests for a special permit shall be submitted in writing, except in emergencies, and shall specify:

1. Name and address of applicant for permit, including name and address of applicator if different from applicant.
2. Name and formulation of pesticide for which permit is requested and purposes for which it will be used.
3. Where and when the pesticide is to be used and in what quantity.
4. Special controls or precautions which will be exercised in the use of the pesticide.
5. Any other information requested by the department concerning proposed use.

(c) No permit shall be effective unless received from the department in writing. Permits will be issued only when, in the judgment of the department, adequate controls can be established which will assure the pesticide can be used with relative safety and without undue hazard to the public. As a condition to the issuance of permits the department may require that the pesticide be used only by or under the direct and immediate supervision of government officials engaged in pest control work, commercial applicators, or other qualified personnel. No person shall use a pesticide for which a special permit is required without a permit in writing from the department or use such pesticide contrary to terms and conditions specified in the permit.

(d) 1. Special permits for the use of sodium fluoroacetate (1080) may be granted only for the control of rats or mice. Other uses of sodium fluoroacetate (1080) are prohibited except in public health emergencies under emergency permit as provided in s. Ag 29.03. Requests for emergency permits shall, in addition to data required under par. (b), include the following information:

a. Description of site (land fill, dump, banks of ditches or sidings, or other) and area surrounding the site (residential, open, farmland, or other).

b. Type of wildlife frequenting the site.

c. Type of bait or form in which the pesticide will be used.

d. Method of application.

e. Method of disposal of carcasses of rats or mice.

2. The following conditions shall apply to the use of sodium fluoroacetate (1080) under special or emergency permit:

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

b. In outdoor applications, the pesticide shall at all times be kept under cover or applied in such a manner as to prevent a hazard to humans or non-target animals, including birds or fish.

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c. Carcasses of rats and mice killed by the use of the pesticide shall be picked up immediately after being killed by the pesticide and disposed of by burying or burial.

d. Records of each use of the pesticide shall be maintained for a period of one year and made available for inspection by the department on request. Such records shall include a description or designation of the place or area at which the pesticide was used, the form in which it was used (type of bait, solid or liquid), method of application (placement of bait or bait containers), and disposition of carcasses.

(e) 1. No person shall openly display sodium fluoroacetate (1080), or strychnine or products containing strychnine for sale at any business location, or sell or offer to sell such products to any person who does not have a permit from the department. Persons selling such products shall maintain a record of each sale, to include the date of sale, the name and address of purchaser, the purchaser's permit number, and the quantity of each product sold. Such records shall be maintained for a period of 2 years and be made available to the department for inspection on request.

2. No permit holder purchasing sodium fluoroacetate (1080) or strychnine or products containing strychnine under a permit may resell or give them to persons who do not have a permit.

3. No permits may be issued for the purchase or use of strychnine or products containing strychnine for purposes other than those for which they have been registered, except under emergency permit.

(4) **SPECIFIC USE CATEGORY; USE FOR LIMITED PURPOSES.** The following limited use pesticides may be registered, sold and used only for the purposes specified in this subsection, except for research or experimental purposes, or emergency use under permit, as provided in these rules:

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

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

2. Seed treatment.

3. The treatment of tree roots at time of planting.

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

1. Treatment of trees for the control of pine root collar weevil, pine tip weevil and balsam gall midge, not to exceed $\frac{1}{4}$ pound per acre.

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

1. Structural pest control as provided under subsection (a) 1.

2. Seed treatment.

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

1. Structural pest control as provided under subsection (a) 1.

2. Seed treatment.

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

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

2. Seed treatment.

3. Yard and non-commercial garden ornamentals.

4. Household uses for which product is registered.

5. Medicinal use by physicians or persons acting under their direction.

(f) Chromium used in any pesticide formulation is limited to:

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

(g) Mercury used in any pesticide formulation is limited to:

1. Paint manufacturing processes.

2. Turf disease control on golf course tees and greens.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; am. intro. par. and cr. (4) to (7), Register, April, 1972, No. 196, eff. 5-1-72; r. and recr., Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.03 Emergency use permits. The department may authorize the registration, purchase, sale and use of limited use pesticides under emergency permit for purposes otherwise prohibited under these rules, when necessary in an emergency situation to control the outbreak or spread of plant or animal diseases or pest infestations which threaten substantial destruction of property or to control epidemic diseases of humans which can be controlled only by the use of limited use pesticides.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.04 to be Ag 29.05, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.05 to be Ag 29.03 and am.; Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.04 Experimental use pesticides. (1) PERMIT AND NOTICE REQUIREMENTS. (a) A manufacturer's or shipper's permit from the department is required for the sale of experimental use pesticides for testing or research and no person shall sell, purchase or use such pesticides until a permit has been issued.

(b) No permit shall be required for the distribution of experimental use pesticides furnished free of cost for testing or research but they shall not be shipped or distributed for experimental use without direct notification to the department at or prior to the time actual shipment or delivery is made to the user. Notification shall be submitted on forms prescribed by the department and shall include notice of the fact that certain experimental use pesticides are being shipped or delivered to a named user or users, and other information as the department requires. Such pesticides shall be conspicuously labeled "For Experimental Use Only—Not To Be Sold."

(c) Experimental use pesticides shipped or delivered for use by or under the supervision of any federal or state agency authorized by law

conduct research in the field of pesticides are exempt from permit or notice.

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

1. Name and address of the shipper and place or places from which the shipment will be made.

2. Proposed date of shipment or in the case of a general permit the shipping period for which a permit is requested, not to exceed one year.

3. The name and address of the person to whom shipment or delivery will be made and under whose supervision the experimental use program will be conducted. In the case of general permits under sub. (2) (b) such information shall be submitted on request.

4. A statement of composition applicable to individual pesticide materials or a group of closely allied formulations of pesticides for which a permit is requested.

5. A statement of the approximate quantity to be shipped.

6. Available data or information, or reference thereto, on the toxicity of the pesticide and precautions to be taken in its use.

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

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

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

(b) Permits are of 2 types, specific and general. Specific permits are issued for individual shipments of a single pesticide on a specific date to persons named in the permit application and must be secured prior to actual shipment or delivery to the intended experimental user. General permits are issued for multiple shipments of the same product over a given period of time to different experimental users.

(c) If a copy of a valid experimental permit issued under the provisions of the Federal Insecticide, Fungicide, and Rodenticide Act (7 USC 135-135k) is submitted with accepted labeling related thereto, the department may exempt the shipper from the requirements of subs. (2) (a) 6 to 9 inclusive.

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

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

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

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

(e) A pesticide for which an experimental use permit has been granted shall not be sold or offered for sale to the general public.

(4) **CANCELLATION OF PERMITS.** Permits for shipment of pesticides for experimental use may be cancelled at any time for any violation of this chapter.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.05 to be Ag 29.06, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.06 to be Ag 29.04, Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.05 Pesticide registration; filing of reports. As a condition of pesticide registration under s. 94.68, Stats., each registrant shall annually submit to the department a record of the quantities of each pesticide registered by him which he has sold or distributed within the state, including such other data as the department may request concerning pesticide uses. Such records shall be submitted by July 1 of each year for the preceding calendar year.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.06 to be Ag 29.07, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.07 to be Ag 29.05, Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.06 Registration of commercial applicators and sellers; reports. (1) Retail dealers of restricted use and use by permit only pesticides in Wisconsin shall register with the department, and upon request submit to the department records of the amounts and kinds of such pesticides sold during the preceding calendar year. Other retail dealers of pesticides shall upon request submit to the department records of the amounts and kinds of pesticides sold during the preceding calendar year.

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

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(3) Commercial applicators of pesticides in Wisconsin shall annually register with the department on or before April 15 of each year, and submit information of the amounts and kinds of pesticides used or sold as required by the department.

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

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.07 to be Ag 29.08 Register, April, 1972, No. 196, eff. 5-1-72; am. (1), Register, May, 1973, No. 209, eff. 6-1-73; renum. from Ag 29.08 to be Ag 29.06, Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.07 Storage of pesticides. (1) Pesticides shall be stored in accordance with temperature and moisture requirements and other precautionary storage instructions contained on the product label, and in a manner which will assure that original labels on the containers are protected from damage or destruction and kept in readable condition.

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

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

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

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

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

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

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.08 to be Ag 29.09, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.09 to Ag 29.07, Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.08 Sale and display of pesticides. (1) No pesticide shall be sold or displayed which is not labeled, or on which the label is illegible in any respect.

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

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

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

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

(6) No person shall sell or distribute any pesticide which is not registered with the department, or sell or distribute any poison at retail with instructions for its use in the formulation of a pesticide unless the poison is registered with the department as a pesticide.

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

Ag 29.09 Removal of pesticides from sale. (1) The department may by summary order direct the removal from sale of pesticides which are adulterated or misbranded, or held or offered for sale in violation of these rules. Notice of any removal order shall be given to the manufacturer, distributor or registrant whenever recall of the pesticide or other corrective action is appropriate, unless the removal order was served directly on them. The notice shall include the reasons for the order and such instructions as may be necessary to accomplish the recall or removal of such products from sale.

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

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

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

Ag 29.10 Application, use and disposal of pesticides. (1) No person shall use, store, transport or display pesticides contrary to label directions, or in a careless or reckless manner. Any use, storage, transporta-

tion, or display, including use resulting in pesticide overspray or drift, is careless or reckless if the person knows or ought to know it creates a risk, hazard, or probability of injury or damage to other persons or their property or wild animals other than those declared pests under s. Ag 29.11 and ch. NR 80, Wis. Adm. Code.

(2) No person shall apply to or cause a pesticide to enter waters of the state directly or through sewage systems. This does not apply to persons engaged in fish management or the treatment of waters under the supervision or rules of the department of natural resources, the use of use by permit only pesticides for the treatment of sewers for insect or rodent control by or under the supervision of qualified government officials or pest control operators, or under department permit, or to chemicals accepted and registered for use in root control in sewage lines or in the cleaning, sanitizing, algaciding, slimiciding, or disinfection of toilets, urinals, sewers, sinks, swimming pools, food processing equipment, dishes, utensils, hospital equipment, walls, floors, or other surfaces or materials in any building or area where such uses are necessary for the protection of persons, animals or property.

(3) No person shall fill pesticide spray equipment, including mix or nurse tanks, from any waters of the state, except public water supplies, farm ponds and wells, or clean any pesticide spray equipment in such waters. This does not prohibit the filling of tanks used for water supply only from waters of the state, provided no pesticide containers are carried on the tank vehicle. Pesticide spray equipment shall not be filled or cleaned adjacent to public surface waters where, because of the slope or other condition of the bank, spray materials could readily enter the water in case of overflow, leaks or other causes, or rising waters could reach the filling or cleaning area and become contaminated as a result of prior surface contamination or other reasons.

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

(5) No person shall apply a pesticide by aircraft unless the aircraft meets the requirements of and is operated according to the regulations of the federal aviation administration and the Wisconsin department of transportation.

(6) No person shall dispose of or hold pesticides or their containers for disposal contrary to directions on the label or in a manner which may contaminate waters of the state or create a hazard to persons or property, including fish or wildlife.

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

(8) Pesticides and their containers temporarily held at loading and spraying sites in connection with their use shall be secured or guarded in such a manner as to reasonably prevent access thereto by children, the general public or wildlife, or the contamination of waters of the state.

and cr. (8), Register, May, 1973, No. 209, eff. 6-1-73; renum. from Ag 29.12 to Ag 29.10, am. (1), Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.11 Declaration of pests. Under authority of ss. 94.67 (1) (a) and 94.69 (1), Stats., each of the following named forms of plant or animal life or viruses are declared to be a pest and subject to destruction or control by use of pesticides when present under circumstances where they may be injurious to plants, man, domestic animals, other useful vertebrates or invertebrates or other property:

- (1) Mammals, other than humans, including but not limited to dogs, cats, moles, bats, wild carnivores, and deer.
- (2) Birds, including but not limited to starlings, house sparrows, crows, pigeons, and redwing blackbirds.
- (3) Fishes, including but not limited to the jawless fishes such as the sea lamprey, and the bony fishes such as the carp.
- (4) Amphibians and reptiles, including but not limited to poisonous snakes.
- (5) Aquatic and terrestrial invertebrates, including but not limited to slugs, snails, and crayfish.
- (6) Roots and other plant parts growing where not wanted.
- (7) Viruses, other than those on or in living man or other animals.

History: Cr. Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.13 to be Ag 29.11, Register, August, 1975, No. 236, eff. 9-1-75.

Ag 29.15 Standards for certification of applicators of restricted-use pesticides. (1) **DEFINITIONS.** As used in this section:

- (a) "Accident" means an unexpected or undesirable event caused by the use or presence of a pesticide, adversely affecting persons or the environment.
- (b) "Agricultural commodity" means any plant or part of a plant, or animal or animal product, produced by a person primarily for sale, consumption, propagation or other use by humans or animals.
- (c) "Calibration of equipment" means the measurement of dispersal or output of application equipment, and the adjustment of such equipment to control the rate of dispersal and droplet or particle size of a pesticide dispersed by the equipment.
- (d) "Certified applicator" means a person certified by the department to use or supervise the use of restricted-use pesticides as a private or commercial applicator.
- (e) "Commercial applicator" means a person, whether or not a private applicator with respect to some uses, who uses or supervises the use of restricted-use pesticides for any purpose or on any property other than as a private applicator.
- (f) "Compatibility" means that property of a pesticide which permits it to be used or combined with another pesticide or chemical without undesirable results being caused by the combination.

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

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

(i) "Environment" includes water, air, land and all plants and persons and other animals living in or on the water, air, or land and the interrelationships which exist among them.

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

(k) "Hazard" means the probability that a given pesticide will have an adverse effect on persons or the environment.

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

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

(n) "Pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism, except viruses, bacteria or other micro-organisms on or in living persons or other living animals, declared to be a pest under the federal act or rules of the department.

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

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

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

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

(s) "Restricted-use pesticide" means a pesticide for which certain or all of its uses are classified as being for restricted use under the federal act.

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

(2) GENERAL STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS. Commercial applicators of restricted-use pesticides shall as a condition of certification demonstrate practical knowledge of the nature Register, July, 1981, No. 307

and safe use of pesticides and the principles and practices of pest control, and competency in the safe use, handling and application of pesticides. Practical knowledge and competency shall be determined on basis of written examination and, as appropriate, performance testing in general areas applicable to all commercial applicators as specified under this subsection as well as specific areas applicable to the various categories or subcategories of commercial application as provided in sub. (3). All commercial applicators shall demonstrate practical knowledge and competency in the following general areas:

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

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

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

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

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

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

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

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

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

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

(a) *Agricultural pest control.* 1. **Field And Vegetable Crop Pest Control.** a. This subcategory includes commercial applicators using or supervising the use of restricted-use pesticides to control pests in the production of agricultural field and vegetable crops, and on grasslands and noncrop agricultural lands.

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

2. **Fruit Crop Pest Control.** a. This subcategory includes commercial applicators using or supervising the use of restricted-use pesticides to control pests affecting the production of agricultural fruit crops, including small fruits, tree fruits and nuts.

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

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

b. Applicators applying pesticides to animals shall demonstrate practical knowledge of such animals and pests which may affect them, the

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

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

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

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

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

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

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

(e) *Aquatic pest control.* 1. This category includes commercial applicators using or supervising the use of any restricted-use pesticide ap-

plied to standing or running water to control pests, excluding applicators engaged in public health related activities under par. (h).

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

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

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

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

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

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

b. Applicators shall demonstrate a practical knowledge of a wide variety of pests and their life cycles; types of pesticides which may be used for their control; methods of fumigation application that avoid the contami-

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nation of food or other products or commodities, the damage and contamination of habitat, and the exposure of people and pets to fumigants. Applicators shall also demonstrate practical knowledge of safety apparatus, reentry times, and any other conditions necessary to ensure the safety of persons or property, non-target organisms, and the environment.

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

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

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

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

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

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

(j) *Demonstration and research pest control.* 1. This category includes individuals who demonstrate to the public the proper use and

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

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

(4) **AERIAL APPLICATORS.** (a) Commercial applicators applying or supervising the application of restricted-use pesticides by fixed or rotary wing aircraft shall, as a condition of certification, demonstrate by written examination practical knowledge of the nature and safe use and handling of pesticides, the principles and practices of aerial pest control, and the effects of aerial pest control on the environment. Applicators shall also demonstrate overall competency in the aerial application of pesticides to prevent drift and overspray.

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

(5) **STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS.** (a) *Standards of competency.* Private applicators of restricted-use pesticides shall, as a condition of certification, demonstrate competency in the safe use and application of restricted-use pesticides. Competency shall be determined on basis of a showing that they possess practical knowledge of the pest control problems and practices associated with agricultural operations; the proper use, storage, handling, and disposal of restricted-use pesticides and their containers; the legal liabilities and responsibilities of the private applicator; and state and federal laws and regulations applicable to the use and application of pesticides, including ss. 94.67 through 94.71, Stats., the federal act, and chs. Ag 29 and NR 80, Wis. Register, July, 1981, No. 307

Adm. Code. Private applicators shall also demonstrate practical knowledge of supervisory standards and requirements applicable to the direct supervision of competent noncertified applicators acting under their instructions and control. Practical knowledge shall also include the ability to:

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

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

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

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

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

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

1. Has the ability to understand and follow oral instructions and, except as otherwise provided in this subsection, read and comprehend written instructions including pesticide labels and labeling information;

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2. Is at least 16 years of age; and

3. To the satisfaction of the certified applicator under whose supervision the noncertified applicator will be acting, is capable of performing functions associated with the safe use and application of pesticides on basis of prior training or experience, and who can be expected to carry out assignments and instructions in a responsible manner.

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

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

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

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

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

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

(7) RECORD KEEPING FOR COMMERCIAL APPLICATORS. All commercial applicators of restricted-use pesticides shall keep a record for a period of 2 years of all applications of restricted-use pesticides. Records of pesti-Register, July, 1981, No. 307

cide applications shall be completed on the day pesticides are applied. Such records shall include:

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

(b) The location of the site where the pesticide was applied.

(c) The pest or pests against which the pesticide was applied.

(d) The time the pesticide was applied (month, day, year, hour of the day).

(e) The trade or common name of the pesticide applied, the manufacturer's name, and the E.P.A. (federal environmental protection agency) registration number.

(f) The amount of pesticide used and the total area treated.

(g) Specific types of crops, agricultural commodities, plants, animals, structures, equipment, materials, or sites treated.

(8) **CERTIFICATION CARDS.** (a) A certification card shall be issued by the department to a private or commercial applicator when the applicator has satisfied all the conditions required for certification. Such certification card shall be carried on the applicator's person while purchasing a restricted-use pesticide or engaging in any phase of the use and application of restricted-use pesticides.

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

(9) **STATUTORY AUTHORITY; SCOPE AND APPLICATION.** (a) This section is adopted under authority of s. 94.705 (2), Stats., and is applicable to all commercial and private applicators of restricted-use pesticides. It does not apply to persons conducting laboratory type research involving restricted-use pesticides, and physicians or veterinarians using or applying restricted-use pesticides as drugs or medications in the treatment of persons or animals during the course of their normal practice.

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

History: Cr. Register, August, 1978, No. 272, eff. 9-1-78.