

Chapter ATCP 29

PESTICIDE USE AND CONTROL

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Note: Chapter Ag 29 was renumbered ch. ATCP 29 under s. 13.93 (2m) (b) 1, Stats., Register, April, 1993, No. 448.

Note: See chapters NR 80 and 107, Wis. Adm. Code for pesticide rules of the department of natural resources. See also chapters NR 600 to 685, Wis. Adm. Code, pertaining to disposal of hazardous wastes.

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

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

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

(4) "Automatic low pressure drain valve" means a self-activating device which is designed and constructed to drain the water supply pipeline in a chemigation system if water pressure falls or the water supply pump ceases operation.

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

(7) "Catch basin" means all structures or containers used to provide the containment capacity required to contain or hold liquids at a site where pesticides are transferred from one container to another. The term may include spill containment surfaces, sumps and above ground storage containers.

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

(9) "Check valve" means a device designed and constructed to close a water supply pipeline, pesticide injection line, or other conduit in a chemigation system and to prevent reverse flow in that line.

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

(11) "Chemigation system" means a device or system which mixes pesticides with irrigation water drawn from any source, and which applies the pesticides with the irrigation water during irrigation.

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

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

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

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

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

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

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

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

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

(18) "Directs the use" means to select a pesticide for use by another person or to instruct or control the application of a pesticide by another person and to be available if and when needed during that application. "Directs the use" may, but does not necessarily, mean to be physically present at the time and place a pesticide is being applied.

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

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

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

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

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

(24) "Flush time" means the time needed under normal operating conditions to completely fill an irrigation system with water so that all outlets are discharging water.

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

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

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

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

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

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

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

(27) "Injection unit" means a chemical metering pump or device that withdraws pesticide from a supply tank and injects the pesticide into irrigation water during chemigation.

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

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

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

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

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

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

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

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

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

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

(38) "Pesticide overspray" means the application of pesticide onto property beyond the boundaries of the target area to be treated, by the failure to control the direct flow or application of pesticide from the application equipment, under surrounding conditions of use and application, so as to confine the pesticide to the target area.

(39) "Pesticide product" means a pesticide, all of the containers of which in commerce are labeled with a unique combination of all of the following:

(a) The brand name of the pesticide.

(b) The pesticide registration number assigned to the pesticide under the federal act.

(c) The name of the pesticide labeler.

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

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

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

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

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

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

(47) "Reduced pressure principle backflow preventer" means a backflow prevention device consisting of 2 independently acting check valves, spring-loaded to a closed position and separated by an intermediate chamber in which there is an automatic relief vented to the atmosphere, spring-loaded to the open position.

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

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

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

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

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

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

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

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

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

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

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

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

Note: Additional definitions are found in s. 94.67, Stats.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. (5) to (12) to be (6) to (13); cr. (6) 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, 1976, No. 236, eff. 9-1-76; r. (3) and (4), renum. (1), (2), (5) through (13) and Ag 29.15 (1) (a) through (j), (l) through (t) to be (26), (1), (25), (10), (32), (11), (37), (12), (21) through (23), (2) through (9), (13), (14), (17), (18), (20), (27) through (31) and (40), am. (1) to (3), (5), (6), (10), (11), (13), (20) to (23), (25), (28), (31), (32) and (37), cr. (15), (16), (19), (24), (33) to (36), (38), (39) and (41), Register, March, 1982, No. 315, eff. 4-1-82; r. (33), renum. (1) to (32) and (34) to (41) to be (17), (1), (2), (6), (8), (12), (15), (16), (14), (13), (20), (19), (21), (22), (25), (29), (31) to (36), (38) to (41), (44) to (46), (48), (50) to (58) and (60) and am. (8), (12), (13), (39) and (45), cr. (3) to (5), (7), (9) to (11), (18), (23), (24), (26) to (28), (30), (37), (42), (43), (47), (49) and (59), Register, April, 1990, No. 412, eff. 5-1-90; emerg. cr. (11m), eff. 9-9-91; cr. (11m), Register, October, 1991, No. 430, eff. 11-1-91; r. (49), Register, December, 1992, No. 444, eff. 1-1-93; renum. (50) to (60) to be (49) to (59) under s. 13.93 (2m) (b) 1, Stats., Register, December, 1992, No. 444; r. (5), Register, August, 1994, No. 464, eff. 9-1-94.

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

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

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

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

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

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

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

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

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

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

- (a) DDT.
- (b) DDE (TDD).
- (c) Endrin.
- (d) Cadmium.
- (e) Thallium sulfate.
- (f) Aldrin.
- (g) Chlordane.
- (h) Dieldrin.
- (i) Heptachlor
- (j) 2,4,5-Trichlorophenoxyacetic acid (2,4,5-T).
- (k) 2-(2,4,5-Trichlorophenoxy) propionic acid (silvex).
- (l) Dinoseb.

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

History: Cr. Register, March, 1982, No. 315, eff. 4-1-82; r. and recr. (1) (0, cr. (1) (g) to (l), Register, April, 1990, No. 412, eff. 5-1-90.

ATCP 29.04 Pesticides for use by special permit only. (1) PERMIT REQUIREMENTS. (a) The following pesticides may

be used or purchased for use in Wisconsin only under a special permit from the department as provided in this section, except for emergency use under permit as provided in s. ATCP 29.06, or experimental use under permit as provided in s. ATCP 29.07:

1. Sodium fluoroacetate (1080).

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

3. Any pesticide used for the control of insects or rodents in public sewers, except when used by a commercial applicator trained or certified in public health pest control under s. ATCP 29.16 (13), and acting in the course of his or her employment.

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

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

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

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

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

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

(e) Any other information required by the department.

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

days after a complete license application is received by the department.

(2) **RECORDKEEPING.** (a) *General.* Distributors and retail dealers of pesticides, whether or not subject to licensing under s. 94.685, Stats., shall keep records of the amounts and kinds of pesticides sold.

(b) *Restricted-use pesticides.* Distributors and retail dealers of restricted-use pesticides shall maintain a record of each sale or distribution of a restricted-use pesticide. Records shall include all of the following:

1. The date of sale or distribution.
2. The name and address of the purchaser.
3. The purchaser's applicator certification number under s. ATCP 29.159 or 29.162, or the purchaser's license number under sub. (1) if the purchaser is a distributor or retail dealer of restricted-use pesticides, or the purchaser's commercial application business license number under s. 94.703, Stats., if the pesticide is delivered to a commercial application business.
4. The name and address of the person to whom the pesticide was delivered if other than the purchaser.
5. The brand name of the pesticide.
6. The name of the pesticide manufacturer or the federal environmental protection agency registration number of the pesticide.
7. The quantity of the pesticide sold or distributed.

(c) *Records kept for 2 years; inspection and copying.* Records under pars. (a) and (b) shall be kept for 2 years after the date of sale or distribution, and shall be made available to the department for inspection and copying upon request.

(3) **REPORTING.** Not later than October 30 of each year, every distributor and retail dealer of restricted-use pesticides shall report to the department both of the following, on report forms provided by the department:

- (a) The name and address of each person from whom the distributor or retail dealer received any pesticide during the preceding 12-month period ending September 30.
- (b) The amount of each pesticide which that dealer or distributor distributed to end users for use in Wisconsin during the preceding 12-month period ending September 30.

Note: Forms may be obtained from the Department of Agriculture, Trade & Consumer Protection, Agricultural Resource Management Division, P.O. Box 8911, Madison, WI 53708.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.07 to be Ag 29.08, Register, April, 1972, No. 196, eff. 5-1-72; am. (1), Register, May, 1973, No. 209, eff. 6-1-73; renum. from Ag 29.08 to be Ag 29.06, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.06 and am., Register, March, 1982, No. 315, eff. 4-1-82; am. (3), Register, December, 1985, No. 360, eff. 1-1-86; r. and recr. Register, April, 1990, No. 412, eff. 5-1-90; cr. (3), Register, August, No. 464, eff. 9-1-94.

ATCP 29.11 Commercial applicators; license; recordkeeping. (1) **COMMERCIAL APPLICATION BUSINESS; LICENSE.** (a) No commercial application business may operate in this state without a license issued by the department under s. 94.703, Stats. A commercial application business shall pay a basic annual license fee of \$125. If a commercial

application business operates from more than one business location, as defined under par. (b), that commercial application business shall identify each additional business location on its license application and shall pay a supplementary license fee of \$125 for each additional business location, including each new business location added during the license year. The department shall grant or deny a license application within 30 business days after the department receives a complete license application.

(b) A business location under par. (a) includes any of the following sites, regardless of whether the commercial application business owns that site:

1. A site from which a commercial application business operates on a regular basis as a commercial applicator for hire, including any site at which a commercial application business regularly takes orders for pesticide applications. A business location under par. (a) does not include a motorized vehicle from which a commercial application business takes orders by means of a mobile telephone.
2. A site at which a commercial application business mixes or loads at least 1,500 lbs. of pesticide active ingredient during a license year, excluding an active ingredient that is applied at or immediately adjacent to the mixing or loading site. If a commercial application business mixes or loads a combined total of at least 1,500 lbs. of pesticide active ingredient at 2 or more sites that are within 0.5 mile of each other, those sites shall constitute a single business location.

Note: See ss. 94.67 (3m) and 94.703, Stats. A natural person who operates a commercial application business as a sole proprietor, and who is also an individual commercial applicator, must be licensed both under this subsection and under sub. (2). If 2 or more commercial application businesses operate from the same business location (e.g., if 2 or more aerial application businesses mix and load pesticides at the same airfield), each of those commercial application businesses must identify and pay a license fee for that business location.

(2) **INDIVIDUAL COMMERCIAL APPLICATOR; LICENSE.** (a) *Requirement.* Except as provided under par. (b), no person may act as an individual commercial applicator in this state without a license issued by the department under s. 94.704, Stats. A person who mixes or loads pesticides, or who directs the mixing and loading of pesticides, into pesticide application equipment or nurse tanks for application by an individual commercial applicator is considered an individual commercial applicator subject to licensing under this paragraph. The department shall grant or deny a license application within 30 business days after a complete application is received by the department. No license may be issued to a person who is under 16 years of age.

(b) *Exemptions.* No license is required under par. (a) for:

1. A physician licensed to practice in this state who applies a pesticide solely in the course of a medical treatment.
2. A veterinarian who demonstrates evidence of continuing education and competence in the use of pesticides and is applying a pesticide solely in the course of a veterinary treatment.
3. A laboratory researcher who applies a pesticide solely in the laboratory, as part of a bona fide laboratory research project.

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4. A person performing janitorial, cleaning or sanitizing services if the person uses no pesticides other than sanitizers, disinfectants and germicides.

5. A private applicator who applies pesticides as a commercial applicator solely on an occasional or incidental basis. This exemption does not apply if the private applicator does any of the following:

a. Applies a restricted-use pesticide without being certified as a private applicator.

b. Applies a pesticide as a commercial applicator for any purpose other than to produce an agricultural commodity.

c. Applies pesticides for other persons as a commercial applicator to more than 500 acres of land during any license year.

d. Applies pesticides for other persons as a commercial applicator on more than 3 separate occasions or applications during any license year.

6. A person who holds a valid temporary commercial applicator trainee registration under s. ATCP 29.161.

(3) **COMMERCIAL APPLICATORS; RECORDKEEPING.** (a) *Requirement.* Every commercial applicator, whether or not subject to licensing under sub. (1) or (2), shall keep a record of every pesticide application, except that no record is required for applications of germicides, sanitizers and disinfectants. The record shall be completed on the day of the pesticide application, and shall include all of the following:

1. The name of the individual who applied the pesticide.

2. The name and address of the person for whom the pesticide was applied, if other than the commercial applicator.

3. The location of the site where the pesticide was applied.

4. The pest or pests against which the pesticide was applied.

5. The date and time of application.

6. The brand name of the pesticide applied.

7. The name of the pesticide manufacturer, or the federal environmental protection agency registration number of the pesticide.

8. The rate of application or amount of the pesticide applied, and the total area treated.

9. The specific types of crops, commodities, plants, animals, structures, equipment, materials or sites treated.

10. The location, if other than a licensed business location, at which the pesticide was loaded into the application equipment or nurse tank. This requirement does not apply to applications made with prepackaged retail containers or to applications utilizing application equipment with a total capacity of 5 gallons or less of liquid pesticide or 50 pounds or less of dry pesticide.

(b) *Records kept for 2 years; inspection and copying.* The record of a pesticide application under par. (a) shall be kept for 2 years after the application date, and shall be Register, August, 1994, No. 464

made available to the department for inspection and copying upon request.

History: Renum. from Ag 29.15 (7) and am., Register, March, 1982, No. 315, eff. 4-1-82; am. (1) (intro.), Register, August, 1982, No. 320, eff. 9-1-82; r. and recr. Register, April, 1990, No. 412, eff. 5-1-90; r. and recr. (1), Register, August, 1994, No. 464, eff. 9-1-94.

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

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

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

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

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

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

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

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from gP 29.08 to be Ag 29.09, Register, April, 1972, No. 196, eff. 5-1-72; renum. from Ag 29.09 to Ag 29.07, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.07 and am. (2) to (6), Register, March, 1982, No. 315, eff. 4-1-82.

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

(2) Pesticides labeled with the precautionary signal words, "POISON", "DANGER" or "WARNING", and pack-

aged in glass or non-rigid containers, or in containers the caps, lids or dispensing devices of which are not equipped with a protective seal or covering, shall be displayed at a height of not less than 42 inches above the floor or otherwise protected to assure they are out of the reach of children.

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

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

(5) No person may sell a pesticide for uses other than those specifically set forth on the original product label, or supplemental labeling supplied by the manufacturer or

registrant for new registered uses and furnished to the purchaser at the time of sale.

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

(7) No pesticide dealer, distributor or commercial applicator for hire may make any false or misleading verbal or written claim of safety for a pesticide.

History: Cr. Register, October, 1970, No. 178, eff. 11-1-70; renum. from Ag 29.09 to be Ag 29.10, Register, April, 1972, No. 196, eff. 5-1-72; cr. (6) Register, May, 1973, No. 209, eff. 6-1-73; renum. from Ag 29.10 to be Ag 29.08, Register, August, 1975, No. 236, eff. 9-1-75; renum. from Ag 29.08 and am. (2), (4), to (6), Register, March, 1982, No. 315, eff. 4-1-82; cr. (7), Register, April, 1990, No. 412, eff. 5-1-90.

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

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