

Wisconsin Department of Agriculture, Trade and Consumer Protection

Regulatory Flexibility Analysis

Rule Subject: Pesticide Use and Control

Adm. Code Reference: ATCP 29

Rules Clearinghouse No.:

DATCP Docket No.

Rule Summary

Rule changes are needed to update alignment of Wisconsin Administrative Code Chapter ATCP 29 (ATCP 29) to revisions within Title 40 of the U.S. Code of Federal Regulations, Part 171 (40 CFR Part 171). The United States Environmental Protection Agency (EPA) regulates pesticides nationwide, including certification of competency of pesticide applicators under 40 CFR Part 171. The Department maintains primacy providing certification and licensing of pesticide applicators under ATCP 29 in a co-regulatory relationship with the EPA. To maintain primacy, DATCP must address specific areas where 40 CFR Part 171 and ATCP 29 are no longer aligned.

This rule is proposing all of the following:

- Update pesticide categories/category descriptions for commercial and private applicators
- Update minimum age requirements to get certified for commercial and private applicators
- Update pesticide core standards descriptions for commercial and private applicators
- Update recordkeeping requirements for commercial applicators
- Update recordkeeping requirements for Restricted Use Dealers

Small Businesses Affected

Small businesses impacted by this rule change include commercial pesticide application businesses and Dealers and Distributors of Restricted Use Pesticides. Minor additional recordkeeping requirements will result in a small impact to these businesses. These impacts primarily come from increased recordkeeping requirement elements for commercial pesticide application records (adding a requirement to record certification number) and additional recordkeeping elements for records of sales of restricted use pesticides.

Estimated implementation costs are expected to range from negligible to a maximum of \$1,150 per small business. This range was determined using the EPA's figure of \$46 per applicator from their Economic Analysis for this Federal Rule and the maximum number of employees (25) to meet the small business definition under s. 227.485 (2) (c), Stats.

Small businesses in the aquatic application industry or the mosquito control industry may have a net gain from this rule due to the benefits from splitting the combined Aquatic and Mosquito certification category into separate categories.

Currently, Wisconsin does not have a minimum age requirement in order to become a certified pesticide applicator. However, an applicator must be at least 16 years old to obtain an Individual Commercial Applicators license. [40 CFR Part 171](#) requires a minimum age of 18 to obtain pesticide applicator certification. From 2015 to 2024 the Department certified an average of 28.8 individuals per year who were under the age of 18 at the time of their certification as private or commercial pesticide applicators. Very few individuals pursue pesticide applicator certification prior to being 18 years old due to insurance coverage for commercial businesses. A small number of private applicators under the age of 18 will be impacted by no longer being able to become certified to apply restricted use pesticides.

Reporting, Bookkeeping and other Procedures

The proposed rule contains additional reporting requirements for commercial applicators and restricted use pesticide dealers. This would require changes of electronic and paper forms that those businesses use. The proposed rule would add four additional elements to existing recordkeeping requirements for Restricted Use Dealer records:

- The certification expiration date
- The certification categories relevant to the pesticide sold.
- The state, tribe, or federal agency that issued the certification.
- Any applicable emergency exemption and state special local need registration numbers.

The proposed rule would also add one additional element to existing recordkeeping requirements for commercial applicator records:

- The certification number of the individual making the pesticide application.

Professional Skills Required

The proposed rule does not require any new professional skills from small businesses.

Accommodation for Small Business

No accommodation for small business will be necessary for the proposed rule.

Conclusion

This rule will not have a significant adverse effect on “small business,” and is not subject to the delayed “small business” effective date provided in s. 227.22(2) (e), Stats.

Dated this 9th day of September 2025.

STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

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