AGRICULTURE AND LAND STEWARDSHIP DEPARTMENT[21]

Regulatory Analysis

Notice of Intended Action to be published: Iowa Administrative Code 21—Chapter 45
"Pesticides"

Iowa Code section(s) or chapter(s) authorizing rulemaking: 206

State or federal law(s) implemented by the rulemaking: Iowa Code chapter 206 and the federal Insecticide, Rodenticide and Fungicide Act (7 U.S.C. §136), sections 26 and 27

Public Hearing

A public hearing at which persons may present their views orally or in writing will be held as follows:

October 10, 2024 8:30 a.m.	Conference Room 2N Wallace State Office Building Des Moines, Iowa

Public Comment

Any interested person may submit written or oral comments concerning this Regulatory Analysis. Written or oral comments in response to this Regulatory Analysis must be received by the Department of Agriculture and Land Stewardship no later than 4:30 p.m. on the date of the public hearing. Comments should be directed to:

Colin Tadlock
Iowa Department of Agriculture and Land Stewardship
Wallace State Office Building
502 East 9th Street
Des Moines, Iowa 50319
Phone: 515.281.7808
Email: colin.tadlock@iowaagriculture.gov

Purpose and Summary

Proposed Chapter 45 regulates the sale and safe usage of pesticides in the state of Iowa. Much of the chapter implements Iowa's Pesticide State Plan with the Environmental Protection Agency (EPA) to incorporate federal rules and regulations in order to maintain the State Pesticide Program. The chapter also does the following:

- Implements Iowa's Groundwater Protection Act (1987).
- Meets procedures under the federal Insecticide, Rodenticide and Fungicide Act (7 U.S.C. §136), sections 26 and 27, which grants Iowa primary enforcement responsibility for pesticide use/misuse violations (40 CFR Part 171).
- Demonstrates that Iowa:
  - Adopted adequate use laws;
  - Adopted adequate procedures for implementing those laws; and
  - Agreed to keep such records and make such reports as the EPA Administrator may require by regulation.
- Provides compliance support with the 1990 Farm Bill and private pesticide applicator recordkeeping requirements.
- Implements programmatic compliance support and inspection of federal worker protection standards and farmworker protection rules (40 CFR Part 170).

- Implements programmatic compliance support of endangered species risk mitigation (16 U.S.C. §35).
- Meets requirements under the federal Pesticide Container and Containment rules (40 CFR Parts 152, 156, and 165, amended 2009).

Analysis of Impact

1. Persons affected by the proposed rulemaking:

- Classes of persons that will bear the costs of the proposed rulemaking:

Commercial applicators are the primary entity that may experience additional costs under the proposed rulemaking due to the updated supervision requirements where additional applicators may need to be present.

Additionally, civil penalties may be assessed on all applicators who are in violation of the Iowa Code or these rules, whereas previously, this was limited to only commercial applicators.

- Classes of persons that will benefit from the proposed rulemaking:

The citizens of the state of Iowa will benefit from the safe and effective usage of pesticides.

2. Impact of the proposed rulemaking, economic or otherwise, including the nature and amount of all the different kinds of costs that would be incurred:

- Quantitative description of impact:

The Iowa certification program allows flexibility to meet Iowa applicator needs while maintaining protocols and standards that ensure safe usage and sale of pesticides. Iowa currently leads the region (which includes Iowa, Kansas, Missouri, and Nebraska) in the number of certified applicators (31 percent are based in Iowa). This equates to a higher count of individual applicators certified in Iowa compared to other states in the region (+7,000). Figures are based on EPA 2021 reports. Iowa's applicator counts as of December 31, 2022, included 14,988 certified commercial applicators and 17,328 certified private applicators.

The Iowa enforcement program implements procedures to report and investigate a pesticide accident, incident, or loss. Department staff gather information by providing notification of inspection, conducting interviews, obtaining statements, reviewing application records and pesticide labels, taking photographs, and making on-site assessments. The information gathered helps document whether a violation of state or federal pesticide law, or both, occurred. Upon the completion of an investigation, the enforcement program follows procedures for reviewing case files for violations of Iowa Code chapter 206 and assessing and collecting civil penalties. The pesticide use/misuse enforcement program conducted 548 total investigations/inspections in SFY 2022. These included routine and for-cause activities such as use/misuse investigations, pesticide establishment inspections, marketplace inspections, certified applicator recordkeeping inspections, and restricted use pesticide dealer inspections. There were a total of 87 advisory notices/advisory warning letters issued, 25 civil penalties initiated, 1 license/certification suspended, 2 licenses/certifications conditioned or modified, 166 letters of warning issued, 7 cases forwarded to the EPA, and 124 other actions taken.

- Qualitative description of impact:

The EPA approved the Department's State Plan on July 27, 2023, which puts forth primary enforcement responsibility for pesticide use/misuse violations and ensures that the certification of pesticide applicators in Iowa meets federal requirements for sale and use of restricted use pesticides. The EPA provides funding to the Department through a partnership grant to support pesticide enforcement, certification, worker protection, endangered species, and water quality programs. The public benefits include 1) an Iowa-specific certification program that allows applicators to meet federal standards for restricted use pesticide sale and distribution, 2) an Iowa pesticide use/misuse enforcement response program for ensuring environmental health and public safety, and 3) consumer protection for labeling and sale/distribution of registered pesticide products.

3. Costs to the State:

- Implementation and enforcement costs borne by the agency or any other agency:

For applicator testing, there would be a cost of $30,000 to $50,000 per manual for development; however, there are no plans for development at this time. The Department currently relies on the free national manual.

For applicator training, there would be a cost of $15,000 to $20,000 per category for development; however, there are no plans to make updates at this time.

The EPA provides annual funding through a partnership grant to Iowa. This covers approximately 40 to 45 percent of funding for the program.

The State of Iowa General Fund covers remaining costs, including a portion from pesticide fee collection.

- Anticipated effect on state revenues:

None.

4. Comparison of the costs and benefits of the proposed rulemaking to the costs and benefits of inaction:

If there is inaction by the Department, pesticide applicators in Iowa would need to seek certification from the EPA to legally apply restricted use pesticides. The EPA has indicated that it does not have the staffing or program capacity to certify state pesticide applicators. Costs of inaction would include a time delay of applicator certification and the loss of the pesticide applicator workforce in agriculture and the turf/ornamental industry, professional pest management services, and other industries utilizing pesticide applicators (30,000+ workers in Iowa). The volume/cost of enforcement efforts would increase due to applicator failure to meet pesticide use compliance requirements and an increase in civil penalties.

5. Determination whether less costly methods or less intrusive methods exist for achieving the purpose of the proposed rulemaking:

None. Under the federal Insecticide, Rodenticide and Fungicide Act, the EPA would either administer the program or grant primary enforcement responsibility to the state.

6. Alternative methods considered by the agency:

- Description of any alternative methods that were seriously considered by the agency:

Inaction and returning the enforcement responsibility for the program to the EPA was considered.

- Reasons why alternative methods were rejected in favor of the proposed rulemaking:

The method was rejected due to the costs of applicator failure to meet pesticide use compliance requirements and the issuance of civil penalties due to the lack of certification and meeting educational requirements.

Stakeholders were in support of the Department maintaining the pesticide applicator certification program, as opposed to returning to the EPA.

The EPA has indicated to the Department that it does not have the staffing or program capacity to certify state pesticide applicators.

Small Business Impact

If the rulemaking will have a substantial impact on small business, include a discussion of whether it would be feasible and practicable to do any of the following to reduce the impact of the rulemaking on small business:

- Establish less stringent compliance or reporting requirements in the rulemaking for small business.
- Establish less stringent schedules or deadlines in the rulemaking for compliance or reporting requirements for small business.
- Consolidate or simplify the rulemaking's compliance or reporting requirements for small business.
- Establish performance standards to replace design or operational standards in the rulemaking for small business.

- Exempt small business from any or all requirements of the rulemaking.

If legal and feasible, how does the rulemaking use a method discussed above to reduce the substantial impact on small business?

The Department continues to offer free pesticide applicator testing across the state as staffing will allow. These free exams provide an opportunity for individuals, including those in small business, to hold no additional costs for taking updated pesticide applicator exams.

Text of Proposed Rulemaking

ITEM 1. Rescind 21—Chapter 45 and adopt the following **new** chapter in lieu thereof:

CHAPTER 45
PESTICIDES

DIVISION I

21—45.1(206) Definitions and standards.

45.1(1) The following definitions are hereby adopted.

"Aerial applicator" means a licensed commercial applicator, certified in category #11, Aerial Application, who applies pesticides by using aircraft in compliance with Federal Aviation Administration regulations under Title 14 CFR Part 137 (1-1-08 Edition).

"Aerial applicator consultant" means a person who is a resident of Iowa and holds a valid applicator certification in category #11, Aerial Application, and either an Iowa commercial applicator license or pesticide dealer license, who coordinates the commercial application of pesticides by aerial applicators.

"Certified handler" means a person employed by a licensed commercial applicator, noncommercial applicator, public applicator, or pesticide dealer who handles pesticides in other than unopened containers for the purposes of preparing, mixing or loading pesticides for application by another person, repackaging bulk pesticides or disposing of pesticide-related wastes from these activities.

"Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from the plant with or without causing abscission.

"Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

"Fungi" means all nonchlorophyll-bearing thallophytes, that is, all noncholorophyll-bearing plants of a lower order than mosses and liverworts, as for example, rusts, smuts, mildews, molds, yeasts and bacteria except those on or in living man or other animals.

"Fungicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungi.

"Herbicide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed or undesirable plant.

"Immediate family member" means a spouse, parents, stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. "First cousin" means the child of a parent's sibling, i.e., the child of an aunt or uncle.

"Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class Insecta, comprising six-legged, usually winged forms, as for example, beetles, bugs, bees, flies and to other allied classes of arthropods whose members are wingless and usually have more than six legs, as for example, spiders, mites, ticks, centipedes and wood lice.

"Insecticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects and related forms that may be present in any environment whatsoever.

"Nematocide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes or subterranean pests.

"Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform or saclike bodies covered with cuticle and inhabiting soil, water, plants or plant parts; may also be called nemas or eelworms.

"Noncertified applicator" means a person who is not certified in accordance with this chapter to use restricted use pesticides in the category appropriate to the type of application being conducted, but who is using restricted use pesticides under the direct supervision of a person certified as a commercial, noncommercial, public, or private applicator, within the first 21 days of initial employment.

"Nonchemical pest control device" means any instrument or contrivance, other than a firearm or trap, intended or purported to be a primary pest control device or a pest control aid for repelling insects or rodents without the use of chemicals through utilization of electromagnetic, sound, ultrasonic, subsonic, cosmic, geotechnical or other similar wave technology.

"Noncommercial applicator" means any person who applies restricted use pesticides on lands or property owned, rented or leased by the applicator or the applicator's employer. This definition shall not apply to private applicators using restricted use pesticides in the production of agricultural commodities.

"Resident of Iowa," for purposes of subrule 45.22(14), means a person who meets the following qualifications:

1. The person is an owner or employee of a corporation, association, partnership, company, or firm that maintains a physical place of business located within Iowa.
2. Agricultural aircraft owned and operated by the person are registered with the Iowa department of transportation.

"Rodent" means any animal of the order Rodentia, including, but not limited to, rats, mice, rabbits, gophers, prairie dogs and squirrels.

"Rodenticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating rodents or any other vertebrate animal that the secretary shall designate to be a pest.

"Sensitive crop registry" means the sensitive crop registry designated by the department, which may include but is not limited to the FieldWatch™, Inc. program.

"Use of a pesticide contrary to its labeling" means to use any registered pesticide in a manner not permitted by the labeling provided that the phrase shall not include:

1. Applying a pesticide for agricultural or horticultural purposes only at any dosage, concentration or frequency less than that specified on the labeling.
2. Applying a pesticide for agricultural or horticultural purposes only against any target pest not specified on the labeling if the application is to the crop, animal or site specified on the labeling unless the labeling specifically states that the pesticide may be used only for the pests specified on the labeling.
3. Employing any method of application not prohibited by the labeling for agricultural or horticultural purposes only.
4. Mixing pesticides or mixing pesticide with a fertilizer when such mixture is not prohibited by the labeling for agricultural or horticultural purposes only.

"Weed" means any plant that grows where not wanted.

"Wood-destroying insect" means subterranean termites, carpenter ants, and powder-post beetles.

45.1(2) Additional definitions and standards that are consistent and applicable to the Iowa pesticide Act shall be those established by the Association of American Pesticide Control Officials.

This rule is intended to implement Iowa Code sections 206.5 and 206.6.

21—45.2(206) Methods of analysis. The current methods of analysis of the Association of Official Analytical Chemists of North America shall be adopted as the official methods insofar as they are applicable, and such other methods shall be used as may be necessary to determine whether the product complies with the law.

21—45.3(206) Registration required. No person shall distribute, give, sell or offer to sell any pesticide that has not been registered with the department of agriculture and land stewardship.

45.3(1) *Registration fees.* All pesticides distributed for sale in the state of Iowa shall be registered pursuant to Iowa Code section 206.12. The registration period shall be January 1 through December 31 of each year. A registration fee shall be paid for each brand and grade of pesticide. Each registrant shall submit an application for registration on forms approved by the secretary of agriculture. The registration fee for each product shall be submitted with the application for registration. Application for new or initial registrations of pesticide products shall be accompanied by the minimum registration fee.

45.3(2) *Exemption from minimum fee.* A manufacturer or registrant of a pesticide product may file a request for an exemption to the minimum product registration fee and the secretary may grant an exemption to the minimum registration fee for a period not to exceed one year provided that at least one of the following conditions is met:

a. The application is for pesticide product renewal registration; and the total annual sales in Iowa are less than $20,000; and no similar pesticides are registered in the state. A similar pesticide shall be of similar composition and labeled for a similar use pattern provided that the applicant submits a signed affidavit reflecting gross annual sales in Iowa of the pesticide produced for the previous year.

b. The pesticide product is formulated or comprised of naturally occurring substances, including but not limited to plant or animal derivatives or microorganisms, and has an oral LD50 toxicity of 5000 milligrams per kilogram or greater.

c. Pesticides registered under the authority of Section 18 of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) for emergency, crisis or public health quarantine situations, when the secretary of agriculture initiates the application.

d. Pesticides registered under the authority of Section 24(c) of FIFRA when the secretary of agriculture initiates the application.

45.3(3) *Penalty for nonregistered pesticides.*

a. Any pesticide distributed in Iowa that is not registered in the state shall be subject to Stop Sale, Use or Removal Order. A penalty shall be assessed the registrant equal to 25 percent of the registration fee due to the department. Upon receipt of the required registration fee due and the required penalty, the pesticide product may be released for sale in Iowa for the effective registration period.

b. A manufacturer or registrant shall not be subject to penalties for nonregistered discontinued pesticide products if adequate proof can be provided to the department indicating that all distributors and retailers handling a discontinued pesticide product were properly notified.

45.3(4) *Discontinued pesticides.* Discontinued pesticide product registrations shall be renewed for a minimum of two years after the product is discontinued; and the pesticide product registration renewal application shall identify discontinued products. Any registrant that discontinues registration of a pesticide product shall accept the return of any product in its original unbroken container that remains in the channels of trade after the registration expires. This subrule shall not apply to registered custom blended pesticide products.

45.3(5) *Registration renewal grace period.* The registration period shall be January 1 through December 31 of each year. However, a registrant shall be granted a grace period of three months ending on the last day of March of each year for registration renewal. A registrant shall be assessed a late fee equaling 25 percent of the registration fees due by the registrant for a registration renewal

received on or after the first day of April of each year. Application for registration renewal shall be made on forms prescribed by the secretary and certified by the registrant.

This rule is intended to implement Iowa Code section 206.12.

21—45.4(206) Registration of products. One exact copy of the labeling of each proposed product shall be submitted with the application. Also, there shall be submitted an ingredient statement, which shall comply with the provisions of 21—45.13(206) herein, the proposed directions for use of the product, and a list of the specific pests that the product to be sold is intended to control, if such information is not contained in the labeling. Other pertinent information concerning ingredients and physical properties of the product shall also be included on request by the secretary.

21—45.5(206) Registration, general application of. A registration of a pesticide is held to apply to the product even though manufactured at or shipped from other than the registered address. When a product has been registered by a manufacturer or jobber, no registration shall be required of other sellers of the product so registered, provided shipments or deliveries thereof are in the manufacturer's or registrant's original unopened and properly labeled container.

21—45.6(206) Revocation, suspension or denial of registration.

45.6(1) Any of the following causes is sufficient to justify revocation or suspension of registration or denial of application of renewal of an expired/expiring registration of a pesticide:

a. If the labeling bears any statement, design or graphic representation relative thereto, or to its ingredients, that is false or misleading in any particular;

b. If the product is found to be an imitation of, or illegally offered for sale under the name of another pesticide;

c. If the labeling bears reference to Iowa registration number;

d. If the labeling accompanying the pesticide does not contain directions for use that are necessary and, if complied with, adequate for the protection of the public;

e. If the label does not contain a warning or caution statement that may be necessary and, if complied with, adequate to prevent injury to humans and other vertebrate animals;

f. If the label does not bear an ingredient statement on that part of the immediate container and on the outside container or wrapper, if there be one, through which the ingredient statement on the immediate container cannot be clearly read under customary conditions of purchase. Provided, however, the secretary may permit the ingredient statement to appear prominently on some other part of the container, if the size or form of the container makes it impracticable to place it on the part of the retail package that is displayed;

g. If any word, statement or other information required to appear on the label or labeling is omitted or not prominently placed thereon and in such terms as to render it likely to be read and understood under customary conditions of purchase and use;

h. If an insecticide, nematocide, antibiotic, bactericide, fungicide or herbicide is found to be injurious to humans or other useful vertebrate animals or to vegetation (except weeds), to which it is applied or to the person applying such pesticide when used as directed or in accordance with commonly recognized safe practice; or if a plant regulator, defoliant or desiccant when used as directed is found to be injurious to humans or other vertebrate animals or vegetation to which it is applied, or to the person applying such pesticide; provided, however, that physical or physiological effect on plants or parts thereof shall not be deemed to be injurious, when this is the purpose for which the plant regulator, defoliant or desiccant was applied in accordance with label claims and recommendations;

i. If the pesticide is misbranded; or

j. If the registrant has been guilty of fraudulent and deceptive practices in the evasion or attempted evasion of the Iowa pesticide Act or any rules promulgated thereunder; provided, however,

that no registration shall be revoked until the registrant shall have been given an opportunity for a hearing by the secretary.

45.6(2) Special local need registrations and permits.

a. State registration of pesticides pursuant to Section 24(c) of FIFRA as amended by Public Law 92-516 October 21, 1972, Public Law 94-140 November 28, 1975, and Public Law 95-396 September 30, 1978, or any special use permit issued pursuant to revisions of FIFRA as amended by Public Law 92-516 October 21, 1972, Public Law 94-140 November 28, 1975, and Public Law 95-396 September 30, 1978, or the Pesticide Control Act, Iowa Code chapter 206, may be denied, amended or revoked when the secretary has made a determination as follows: that such action is necessary to prevent unreasonable adverse effects to humans or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide; or that special local need that necessitated the registration or permit no longer exists. Expiration of 24(c) registrations and all special use permits shall be governed by Iowa Code section 206.12.

b. "Special local need" means a pest problem (existing or likely to occur within a state) that cannot be effectively controlled because:

(1) There is no pesticide product registered by EPA for such use; or

(2) There is no EPA-registered pesticide product that, under the conditions of use within the state, would be as safe or as efficacious for such use within the terms and conditions of EPA registration; or

(3) An appropriate EPA-registered pesticide product is not available.

This rule is intended to implement Iowa Code sections 206.9, 206.11, and 206.12, along with the cooperative enforcement program entered into between the state of Iowa and EPA pursuant to Sec. 24(c) of FIFRA, amended as of September 30, 1978.

21—45.7(206) Changes in labeling or ingredient statement. Changes in the labeling or ingredient statement in registered pesticides shall be submitted in advance to the secretary for approval. The registrant must describe the exact change desired and proposed effective date and such other pertinent information that justify such changes. After the effective date of a change in labeling or ingredient statement the product shall be marketed only under the new claims or ingredient statement, except that a reasonable time may be allowed by the secretary for disposal of properly labeled stocks of the old product. Changes in the composition shall not be allowed if such changes would result in a lowering of the product's value as a pesticide.

21—45.8(206) Label requirements. Each package of pesticide sold separately shall bear a complete label. The label shall contain the name, brand or trademark of the product; name and address of the manufacturer, registrant or person for whom manufactured; directions for use that are necessary and if complied with, adequate for protection of the public; statement of net content in terms of weight or measure in general use; and an ingredient statement. The label of every pesticide, if necessary to prevent injury to humans, other animals and useful vegetation, must contain a warning or caution statement, in nontechnical language based on the hazard involved in the use of the pesticide. In addition, any pesticide highly toxic to humans shall be labeled with a skull and crossbones and with the word "poison" prominently in red on a background of distinctly contrasting color; the first-aid antidote for the poison shall be given and instructions for safe disposal of containers.

NOTE: Products subject to deterioration may bear on their label a statement such as "not to be sold or used after....date...." The use of such a statement, however, in no way relieves the manufacturer of the responsibility for label claims.

21—45.9(206) Directions for use—when necessary. Directions for use are required whenever they are necessary for the protection of the public. The public includes not only users of pesticides but also those who handle them or may be affected by their use, handling, or storage. Directions for use are considered necessary in the case of most small retail containers that go into the hands of users, and in the case of larger containers with the following exception: directions may be omitted if the pesticide is

to be used by manufacturers in their regular manufacturing processes, provided the label clearly shows that the product is intended for use only in manufacturing processes and bears an ingredient statement giving the name and percentage of each of the active ingredients.

21—45.10(206) Other claims. No claim shall be made for products in any written, printed or graphic matter accompanying the product at any time that differ in substance from written representations made in connection with registration.

21—45.11(206) Name of product. The name of the product shall appear on the labeling so as not to emphasize any one ingredient or otherwise be misleading. It shall not be arranged on the label in such a manner as to be confused with other terms, trade names or legends.

21—45.12(206) Brand names, duplication of, or infringement on. A brand name is distinctive with reference to the material to which it applies and the registration of a pesticide under the same brand name by two or more manufacturers or shippers should be denied or refused. This principle applies also to the registration of brand names so similar in character as to be likely to be confused by the purchaser. In the event the same name or a closely similar one is offered by another manufacturer, the secretary may decline the said name a second time, for registration unless required to do so by an order of court.

21—45.13(206) Ingredient statement.

45.13(1) *Location of ingredient statement.* The ingredient statement must appear on that part of the label displayed under customary conditions of purchase except in cases where the secretary determines that, due to the size or form of the container, a statement on that portion of the label is impractical, and permits such statement to appear on another side or panel of the label. When so permitted, the ingredient statement must be in larger type and more prominent than would otherwise be possible. The ingredient statement must run parallel with other printed matter on the panel of the label on which it appears and must be on a clear contrasting background not obscured or crowded.

45.13(2) *Names of ingredients.* The well-known common name of the ingredient must be given or, if the ingredient has no common name, the correct chemical name. If there is no common name and the chemical composition is unknown or complex, the secretary may permit the use of a new or coined name that the secretary finds to be appropriate for the information and protection of the user. If the use of a new or coined name is permitted, the secretary may prescribe the terms under which it may be used. A trademark or trade name cannot be used as the name of an ingredient except when it has become a common name.

45.13(3) *Percentages of ingredients.* Percentages of ingredients shall be determined by weight and the sum of the percentages of the ingredients shall be one hundred. Sliding scale forms of ingredient statements shall not be used.

45.13(4) *Designation of ingredients.*

a. Active ingredients and inert ingredients shall be so designated, and the term "inert ingredient" shall appear in the same size type and be equally as prominent as the term "active ingredients."

b. If the name but not the percentage of each active ingredient is given, the names of the active and inert ingredients shall respectively be shown in the descending order of the percentage of each present in each classification and the name of each ingredient shall be given equal prominence.

45.13(5) *Active ingredient content.* As long as a pesticide is subject to the Act the percentages of active ingredients declared in the ingredient statement shall be the percentages of such ingredients in the pesticide.

21—45.14(206) Net contents. Each package of pesticide shall show the net weight or measure of content, either stenciled or printed on the package or container, or on a tag attached thereto. Indefinite statements of content such as ". . . . oz. when packed" shall not be used. Statements of liquid measure, or of specific gravity or density of liquid preparations, or expression of composition in terms of

pounds per gallon shall be made on the basis of 68°F (20°C) except when other basis has been established through trade custom.

21—45.15(206) Coloration of highly toxic materials. The white powder pesticides hereinafter named shall be colored or discolored in accordance with this rule. Provided, however, that any such white powder pesticide that is intended solely for use by a textile manufacturer or commercial laundry, cleaner or dyer as a moth-proofing agent, that would not be suitable for such use if colored and that will not come into the hands of the public except when incorporated into a fabric, shall not be required to be so colored or discolored in accordance with this rule. The hues, values and chromas specified are those contained in the Munsell Book of Color, Munsell Color Company, 10 East Franklin Street, Baltimore, Maryland.

45.15(1) The coloring agent must produce a uniformly colored product not subject to change in color beyond the minimum requirements during ordinary conditions of marketing and storage and must not cause the product to become less effective or cause damage when used as directed or in accordance with commonly recognized safe practice.

45.15(2) Standard lead arsenate, basic lead arsenate, calcium arsenate, magnesium arsenate, zinc arsenate, zinc arsenite and barium fluosilicate shall be colored any hue, except the yellow-reds and yellows, having a value of not more than eight or a chroma of not less than four or shall be discolored to a neutral lightness value not over seven.

45.15(3) Sodium fluoride and sodium fluosilicate shall be colored blue or green having a value of not more than eight and a chroma of not less than four or shall be discolored to a neutral lightness value not over seven.

45.15(4) Other white powder pesticides may be required to be colored or discolored after investigation and public hearing.

45.15(5) The secretary may permit other hues to be used for any particular purpose if the prescribed hues are not feasible for such purposes, and if such action will not be injurious to the public.

45.15(6) The coloration requirements above shall apply to the materials named therein and not to nonhighly toxic mixtures consisting of other ingredients with highly toxic materials.

This rule is intended to implement Iowa Code section 206.11.

21—45.16(206) Illegal acts. All pesticides, whether registered or not, sold or offered for sale shall comply with the provisions of section 206.11(1) of the Iowa pesticide Act.

The secretary shall examine pesticides from time to time, and if it appears at any time that a pesticide fails to comply with any provision of the Iowa pesticide Act, notice may be given to the manufacturer or seller thereof and an opportunity to present views either orally or in writing about the alleged violation. If it then appears that the provisions of this Act have been violated, a statement of the facts may be sent to the county attorney in the county in which the violation occurred for the purpose of instituting criminal proceedings.

21—45.17(206) Guarantee of pesticide.

45.17(1) Any manufacturer or distributor or other person residing in the United States may furnish to any person to whom it sells a pesticide a guarantee that the pesticide was lawfully registered at the time of sale and delivery to such person, and that the pesticide complies with all the requirements of the Act and rules herein.

45.17(2) No reference to or suggestion that a guarantee of registration has been given shall be made in the labeling of any pesticide.

21—45.18(206) Shipments for experimental use. A pesticide shipped or delivered for experimental use shall not be considered a violation of section 206.11(1) of the Iowa pesticide Act.

45.18(1) When the pesticide is shipped or delivered for experimental use under the supervision of any federal or state agency authorized by law to conduct research.

45.18(2) By others if the pesticide is not sold and if the container thereof is plainly and conspicuously marked "For Experimental Use Only—Not To Be Sold".

45.18(3) Or provided that a written permit has been obtained from the secretary either specific or general subject to such restrictions or conditions as may be set forth in the permit. The application for such a permit shall contain such information as may be required by the secretary; and in addition the proposed labeling thereon shall bear (1) the prominent statement "For Experimental Use Only" on the container label; (2) a caution or warning statement that may be necessary and if complied with adequate for the protection of those who may handle or be exposed to the experimental products; (3) the name and address of the applicant; (4) the name or designation of the formulation; (5) if the pesticide is to be sold, the statement of the names and percentages of the principal active ingredients in the product.

45.18(4) A pesticide intended for experimental use shall not be offered for general sale by a retailer or others, or advertised for general sale.

21—45.19(206) Enforcement.

45.19(1) Collection of samples. Samples of pesticides and devices shall be collected by an official investigator or by any employee of the state who has been duly designated by the secretary, by entry into any place during reasonable business hours.

45.19(2) Nonchemical pest control devices. Manufacturers or their representatives intending to sell or lease a nonchemical pest control device in the state shall submit efficacy and safety data to the department of agriculture and land stewardship prior to the sale or lease. This requirement may include the furnishing of specimen devices or samples. The department or the department's designee shall examine or test the device as may be necessary to ascertain the reliability, efficacy and safety data of the device and actual or potential adverse effects of the device upon human health and safety. The costs of conducting the examination or test shall be borne by the manufacturer or the manufacturer's representative.

45.19(3) Notice of apparent violation. If from an examination or analysis a pesticide appears to be in noncompliance with the Iowa pesticide Act, a written stop sale, use or removal notice will be initiated by the secretary or the secretary's duly appointed authority. The notice shall state the manner in which the product fails to meet the requirements of the Act and the regulations and that the recipient shall be given an opportunity to offer such written explanation as the recipient may desire.

45.19(4) Any person may obtain an opportunity to present relevant arguments or comments by submitting a written request within 20 days from the date of mailing of the notice.

45.19(5) The secretary may suspend an applicator's license, permit or certification pending inquiry and, after opportunity for a hearing, may deny, suspend, revoke or modify any provision of any license, permit or certification issued under the Act, upon receipt of information from the environmental protection agency that the applicator has been convicted under the criminal provision of Section 14(b) of FIFRA or has been assessed a civil penalty under Section 14(a) of FIFRA.

21—45.20(206) Hazardous rodenticides. Before the rodenticides sodium fluoracetate (1080), thallium sulfate, and phosphorous pastes are to be used by any federal, state, county, municipal, or public officers, or their deputies, employees, or agents, in their official duties in pest control; or licensed pest control operators for use in their service work; the applicator shall notify the department of agriculture and land stewardship prior to use, of (1) the location or site where the rodenticide is to be used; (2) the date the application is to be made; and (3) the amount of hazardous rodenticide to be used. At the time of notification the licensee must give assurance that the certified applicator understands the hazards of the product, the standard operating procedures as provided by the manufacturer, and, assure the department that the certified applicator will comply with all label precautions. Failure to comply with this rule may result in the suspension or revocation of the applicator's license.

21—45.21(206) Highly toxic. A pesticide that falls within any of the following categories when tested on laboratory animals (mice, rats and rabbits) is highly toxic to humans within the meaning of these principles:

45.21(1) *Oral toxicity.* Those that produce death within 14 days in half or more than half the animals of any species at a dosage of 50 milligrams at a single dose, or less, per kilogram of body weight when administered orally to ten or more such animals of each species.

45.21(2) *Toxicity on inhalation.* Those that produce death within 14 days in half or more than half of the animals of any species at a dosage of 200 parts or less by volume of the gas or vapor per million parts by volume of air when administered by continuous inhalation for one hour or less to ten or more animals of each species, provided such concentration is likely to be encountered by humans when the pesticide is used in any reasonably foreseeable manner.

45.21(3) *Toxicity by skin absorption.* Those that produce death within 14 days in half or more than half of the animals (rabbits only) tested at a dosage of 200 milligrams or less per kilogram of body weight when administered by continuous contact with the bare skin for 24 hours or less to ten or more animals.

45.21(4) *Designation as highly toxic.* Provided, however, that the secretary may exempt any pesticide that meets the above standard but that is not in fact highly toxic to humans, from these principles with respect to pesticides highly toxic to humans, and may after a hearing designate as highly toxic to humans any pesticide which experience has shown to be so in fact.

45.21(5) *Human data.* If the secretary finds, after opportunity for hearing that available data on human experience with any pesticide indicates a toxicity greater than that indicated from the above described tests on animals, the human data shall take precedence and if that protection of the public health so requires, the secretary shall declare such pesticide to be highly toxic to humans for the purposes of this Act and the regulations thereunder.

21—45.22(206) License and certification standards for pesticide applicators. No person shall engage in the business of applying pesticides to the land or property of another at any time without being licensed and certified by the secretary. No person shall apply any restricted use pesticide without first complying with certification standards or unless the application is made under the direct supervision of a certified applicator as specified in this chapter.

45.22(1) *License for commercial, noncommercial and public applicators.* Before a license is issued, each commercial, noncommercial and public applicator shall demonstrate competence by qualifying for a commercial, noncommercial and public applicator's license by successfully completing the appropriate certification examinations administered by the secretary to demonstrate knowledge regarding the potential for pesticides contaminating groundwater aquifers and proper pesticide handling practices that will aid in preventing the contamination of groundwater aquifers, calibration, integrated pest management, recognition of common pests to be controlled, timing and methods of application, interpretation of label and labeling information, safety precautions and preharvest or reentry restrictions, specific procedures to be used in disposing of pesticides and containers, and related legal responsibility under the classifications for which such applicant is to be licensed.

a. Examination scores for individuals not completing certification requirements or paying the required fees shall be maintained on file as valid test scores for a maximum of one year following the date each examination was successfully completed.

b. Certification categories that are added to an individual's current certification shall expire on the same date the individual's current certification card expires.

45.22(2) *Certification of commercial, noncommercial and public applicators.*

a. Initial certification. To be initially certified as a commercial, noncommercial or public applicator, a person shall demonstrate a fundamental knowledge of the minimum state and federal standards of competency for commercial applicators by passing an examination administered by the department. The examination must cover subjects relating to the safe handling, application and storage

of pesticides; the correct calibration of equipment used for the application of pesticides; the effects of pesticides upon groundwater; and subjects related to the minimum standards of competency for commercial applicators outlined in 40 CFR 171.101 and 171.103 as revised March 3, 2017.

b. A person who employs noncommercial applicators shall apply for a noncommercial applicator's license; and all noncommercial applicators shall be certified by successfully completing the appropriate examinations for the type of restricted use pesticide applications being made and shall be required to pay the certification fee of $75 for a three-year certification for each employee certified. Noncommercial applicators shall be subject to the $25 annual license fee. The provisions of Iowa Code section 206.13 relating to licenses and requirements for their insurance shall not apply to a noncommercial applicator, providing that the noncommercial applicator:

(1) Is a full-time employee of a privately held entity.

(2) Shall not publicly claim to be a commercial pesticide applicator nor engage in the business of applying pesticides other than as an employee of a company on company property.

c. Separate examinations shall be taken and passed for each category or subcategory in which the commercial, noncommercial or public applicator intends to become certified. A person must demonstrate practical knowledge and meet the competency standards outlined to be certified in each category or subcategory. The category descriptions and competency standards include:

(1) Agricultural pest control. Includes persons who use or supervise the use of pesticides to control pests in crops grown where the ultimate uses of the many commodities may be food or feed products, or both, and include other industrial or manufacturing uses, or both, of agricultural commodities. Persons who use or supervise the use of pesticides directly on animals or areas or places on or in which animals are confined are included. Agricultural pest control is comprised of five subcategories:

1. Agricultural weed control. Includes persons using or supervising the use of pesticides to control plant pests in the production of agricultural crops, including but not limited to feed, small grains, or both; corn; soybeans; forage; grasslands; and pasture.

2. Agricultural insect control. Includes persons using or supervising the use of pesticides to control insect pests in the production of agricultural crops, including but not limited to feed, small grains, or both; corn; soybeans; forage; grasslands; and pasture.

3. Agricultural crop disease control. Includes persons using or supervising the use of pesticides to control plant diseases in the production of agricultural crops, including but not limited to feed, small grains, or both corn; soybeans; forage; grasslands; and pasture.

4. Agricultural fruit and vegetable control. Includes persons using or supervising the use of pesticides to control plant, insect, or disease pests in the production of food for human consumption, including but not limited to vegetables, small fruits, tree fruits, and nuts.

5. Animal pest control. Includes persons using or supervising use of pesticides directly on animals in the production of an agricultural commodity including but not limited to beef cattle, dairy cattle, swine, sheep, horses, goats, poultry, or any other livestock, or areas or places on or in which animals are confined.

(2) Forest pest control. Includes persons using or supervising the use of pesticides in forests, forest nurseries, and forest seed production areas. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(2).

(3) Ornamental and turf pest control. Includes persons who use or supervise the use of pesticides to control pests in the maintenance and production of ornamental plants and turf grass, including in and around structures. Ornamental and turf pest control is comprised of four subcategories:

1. Ornamental and turf pest control. Includes persons using or supervising the use of pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and turf grass, including in and around structures (except greenhouses), plant nurseries, golf courses, athletic fields, public or private grounds, turf farms, or similar areas.

2. Turf pest control. Includes persons using or supervising the use of pesticides to control pests only in the maintenance and production of turf grasses, including in and around structures (except

greenhouses or other enclosed, climate-controlled environments), plant nurseries, golf courses, athletic fields, public or private grounds, turf farms, or similar areas.

3. Ornamental pest control. Includes persons using or supervising the use of pesticides to control pests in the maintenance and production of ornamental trees, shrubs, flowers, and other ornamental plants, except turf, in areas other than a greenhouse or other enclosed, climate-controlled environment.

4. Greenhouse pest control. Includes persons using or supervising the use of pesticides in the production and maintenance of ornamental trees, shrubs, or any other plants in a greenhouse setting and also in any other indoor, controlled environment.

(4) Seed treatment. Includes persons using or supervising the use of pesticides to seeds. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(4).

(5) Aquatic pest control. Includes persons using or supervising the use of pesticides to standing or running water to control aquatic pests, excluding applicators engaged in public health-related activities. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(5).

(6) Right-of-way pest control. Includes persons using or supervising the use of pesticides in the maintenance of public roads, electric power lines, pipelines, railroad rights-of-way, industrial site weed control, fence lines, structural perimeters, or other similar areas to control unwanted vegetation. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(6).

(7) Industrial, institutional, and structural pest control. Includes persons who use or supervise the use of pesticides in, on, or around the following: food handling establishments, packing houses, food processing facilities, human dwellings, institutions, industrial establishments, and any other structures and adjacent areas, public or private, for the protection of stored, processed, or manufactured products. Industrial, institutional, and structural pest control is comprised of six subcategories:

1. General and household pest control. Includes persons using or supervising the use of pesticides, except fumigants, for general and household pest control in human dwellings, including indoor areas normally frequented or inhabited by humans, such as but not limited to schools, hospitals, institutions, dining facilities, food dispensing and food handling establishments, food manufacturers and processors, industrial establishments, warehouses, and any other structures and adjacent areas, public or private. This subcategory also covers the protection of stored, processed, or manufactured products from insects and similar organisms, pest birds, or vertebrate pests.

2. Termite control. Includes persons conducting wood-destroying insect inspections for the purpose of issuing a wood-destroying insect report for real estate transactions and real estate refinance transactions or for treatment or supervision of treatment for control or prevention of wood-destroying insect infestations.

3. Non-soil fumigation. Includes persons using or supervising use of pesticides in a gaseous form that are classified as fumigants to control pests in anything other than soil. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(14).

4. Community insect control. Includes persons using or supervising the use of pesticides to control flies or mosquitoes in a community or public health program. Public applicators as defined by Iowa Code section 206.2(23) who apply or supervise the use of pesticides to control pests in a public health program are required to be certified in the public health pest control category.

5. Wood preservatives. Includes persons using or supervising the use of wood-preserving pesticides to control or protect against wood-destroying organisms.

6. Antifouling paints. Includes persons using or supervising use of tributyltin (TBT) paints for the purpose of inhibiting the growth of aquatic plant and animal organisms on submerged marine structures and on the hulls of boats and ships.

(8) Public health pest control. Includes persons using or supervising the use of pesticides in any designated public health program for the management and control of pests, vertebrate or invertebrate, that may have medical or public health importance or both. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(8).

(9) Regulatory pest control. Includes state, federal, or other governmental employees who use or supervise the use of pesticides in the control of pests as part of official regulatory responsibilities. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(9).

(10) Demonstration and research pest control. Includes persons who demonstrate to the public the proper use and techniques of application or persons who research the use of pesticides and in doing so use or supervise the use of pesticides. Individuals certified in demonstration and research pest control are also required to be certified in another category that is specific to the particular type of pesticide being employed for the particular project. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(10).

(11) Aerial application. Includes persons who use any aircraft to apply pesticides to control plant, insects or similar organisms; plant diseases in the production of agricultural commodities; food for human consumption, including but not limited to vegetables, small fruits, tree fruits and nuts, feed or small grains, corn, soybeans, forage, grasslands, and pasture; or a combination thereof.

(12) Soil fumigation. Includes persons using or supervising the use of gaseous pesticides in soil. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.103(d)(13).

d. Commercial applicator minimum age. A commercial applicator must be at least 18 years old.

45.22(3) *Certification of private applicators.*

a. Initial certification. To be initially certified as a private applicator, a person shall demonstrate a fundamental knowledge of the minimum state and federal standards of competency for private applicators by passing an examination administered by the department and submitting a $15 certification fee. The examination shall cover subjects related to the minimum standards of competency for private applicators outlined in 40 CFR 171.105 as revised March 6, 2017. A private applicator shall pay a certification fee of $15 for a period not to exceed three years.

b. Renewal of private applicator certification. A private applicator's certification shall be renewed upon evidence that the applicator has paid the required certification fee and has successfully completed an instructional course consisting of either an examination or continuing instructional courses as prescribed by the department. A private applicator shall pass an examination each third year following initial certification or may elect to attend two hours of approved continuing instructional courses each year during the renewal period. A private applicator failing to complete the required two hours of approved instruction for each year during the renewal period following initial certification or recertification shall be required to pass an examination prior to recertification.

c. A private applicator who purchases or applies a soil or non-soil fumigant that is classified as a restricted use pesticide shall pass an examination prescribed by the department for initial certification in the private fumigation category in addition to the examination required for initial private certification. To be certified in this category, a person shall demonstrate practical knowledge and competency as outlined in 40 CFR 171.105(d) and 40 CFR 171.105(e). Upon successfully completing the required private fumigation examination the private applicator's certification credentials shall be so designated. The fumigation category designation shall remain valid until the private applicator's certification expires. To renew the fumigation category certification a private applicator may elect to complete an instructional course consisting of either an examination or instructional course as prescribed by the department in addition to the examination or instruction required for private certification.

d. A private applicator must be at least 18 years old.

45.22(4) *Renewal of license classification and certification.*

a. Each commercial, noncommercial and public applicator's license classification shall expire annually on December 31 and shall be renewed upon payment of the required license fee provided that all of the applicant's personnel who apply pesticides are certified commercial, noncommercial or public applicators and are certified in the appropriate classifications covering their pesticide application activities.

b. Each commercial, noncommercial and public applicator's certification shall expire December 31 of the third year of the three-year certification and shall be renewed by the department upon receipt of evidence that the applicator has paid the required certification fee and has completed an instructional course consisting of either an examination or continuing instructional courses as prescribed by the department. A commercial, noncommercial or public applicator shall pass an examination each third year following initial certification or may elect to attend two hours of approved continuing instructional courses each year during the renewal period. A commercial, noncommercial or public applicator seeking recertification by attending continuing instructional courses shall attend courses approved for each certification category in which the person is seeking recertification. A two-hour continuing instructional course may be approved for more than one certification category. A commercial, noncommercial or public applicator failing to complete the required two hours of approved instruction for each year during the renewal period shall be required to pass an examination prior to recertification.

c. Any person who attempts to misrepresent anyone or attempts to use unauthorized assistance in passing any examination shall be denied the privilege of taking any examination for the period of one year.

d. The secretary may revise certification periods for pesticide applicators with certification fees adjusted to reflect an equivalent certification fee based on fees currently established in order to provide a more uniform distribution of pesticide applicator certification renewal dates.

45.22(5) *Certification renewal periods for commercial, noncommercial, public and private applicators.*

a. Renewal periods for commercial, noncommercial, and public applicators. The renewal period is the time within which the commercial, noncommercial, public and private applicators have to renew their certification by either completing the required certification examination or instructional courses and pay the required certification fee. Except as provided in paragraph 45.22(5)*"c,"* the renewal period for commercial, noncommercial and public applicators shall begin on the date a person has completed the required certification examination or instructional courses and paid the required certification fee. The renewal period shall end on December 31 of the third calendar year of the certification cycle.

b. The renewal period for private applicators. The renewal period for a private applicator shall begin on the date a person has completed the required certification examination or instructional courses and paid the required certification fee. The renewal period shall end on April 15 of the calendar year following the certification expiration date.

c. The renewal period for a person completing initial certification requirements on October 1 or any time thereafter during a calendar year shall begin on January 1 of the following calendar year.

d. Except as provided in paragraphs 45.22(5)*"a," "b,"* and *"c,"* continuing instruction credits from a previous year in a certification renewal period shall not be accepted nor shall credits accumulated be accepted for use in a future year in a certification renewal period.

45.22(6) *Report of licensee.*

a. A commercial, noncommercial or public applicator applying for recertification without retesting shall file a report on a form provided by the department certifying that the required continuing instructional courses have been completed.

b. The licensee shall maintain a file of the certificates of completion required under subrule 45.52(4) for each employee recertifying by attending continuing instruction courses. The file shall contain the certificates of completion for the period covering the previous certification period and current certification period for each employee receiving continuing instruction courses.

c. An employee who transfers to a new employer shall, upon request, be provided copies of the certificates of completion on file with the previous employer for filing with a new employer.

d. Files containing certificates of completion shall be open for inspection upon request by the department.

45.22(7) *Direct supervision of noncertified applicators.* Certified applicators whose activities indicate a supervisory role in the use of restricted use pesticides by noncertified applicators must demonstrate a practical knowledge of federal and state supervisory requirements, including any requirements on the product label and labeling, regarding the use of restricted use pesticides.

a. A noncertified applicator must be at least 18 years old to apply a restricted use pesticide.

b. A noncertified applicator may use restricted use pesticides to property owned or rented by a private applicator that is an immediate family member if the uncertified applicator works under the direct supervision and instruction and control of a certified private applicator.

c. A noncertified applicator cannot use a restricted use pesticide as a fumigant or through aerial application.

d. A noncertified applicator cannot use a restricted use pesticide that contains sodium cyanide or sodium fluoroacetate.

e. The noncertified applicator must have been instructed within the last 12 months in the safe operation of any equipment for use in mixing, loading, transferring, or applying pesticides.

f. The noncertified applicator must meet qualification requirements under 40 CFR 171.201(c).

g. The supervising certified applicator must be certified in each category applicable to the supervised pesticide use.

45.22(8) *Certified handler.*

a. Each person employed by a licensed commercial applicator, noncommercial applicator, public applicator, or pesticide dealer who handles pesticides in other than unopened containers for the purposes of preparing, mixing or loading pesticides for application by another person, repackaging bulk pesticides or disposing of pesticide-related wastes from these activities shall become certified by taking and passing an examination as prescribed by the secretary.

b. A certified handler shall demonstrate a fundamental knowledge of the potential for pesticides contaminating groundwater aquifers or surface waters and proper handling practices that will aid in preventing the contamination of groundwater aquifers or surface waters, adverse effects on the environment and any other personal or public hazards associated with the use of pesticides by passing a fundamental examination administered by the secretary covering interpretation of label and labeling information, mixing and application of pesticides in accordance with label instructions including proper concentration of pesticides to be used and local environmental situations that shall be considered during handling of pesticides to avoid contamination, specific procedures to be used in disposing of pesticides and containers, recognition of poisoning symptoms, procedures to follow in case of a pesticide accident, safe handling of pesticides and the effects on groundwater and surface water, the proper use of personal safety equipment and related legal responsibilities.

c. A certified handler's certification shall expire December 31 of the third year of the three-year certification and shall be renewed by the secretary upon receipt of evidence that the applicator has passed a written examination similar and equal to that required to obtain initial certification and has paid the required certification fee. A 21-day grace period from the day of initial employment shall be allowed to meet the certification requirements.

d. A certified handler employed by a licensed applicator shall work under the direct supervision of a certified commercial, noncommercial or public applicator employed by the same firm or agency. "Under direct supervision" shall not require the physical presence of the supervising certified applicator in reference to agricultural crop general use pesticide applications if the supervisor is immediately available if and when needed.

e. A certified handler may apply restricted use pesticides as a noncertified applicator if the requirements for direct supervision of noncertified applicators in subrule 45.22(7) are met.

f. A certified handler shall not act in the capacity of a supervisor of other certified handlers or certified applicators.

45.22(9) *Temporary exemption from certification.* A commercial, noncommercial, public or private applicator need not be certified to apply general use pesticides for a period of 21 days from the date of initial employment if the commercial, noncommercial, public or private applicator is under the direct supervision of a certified applicator. "Under the direct supervision of" means the application of a pesticide is made by a competent person acting under the instructions and control of a certified applicator who is physically present by being in sight or hearing distance of the supervised person.

a. Temporary exemption for certification for agricultural applicators. A commercial applicator who applies pesticides to agricultural land may elect to be exempt from the certification requirements for a commercial applicator for a period of 21 days from the date of initial employment if the applicator meets the requirements of a private applicator. A private applicator who applies restricted use pesticides to agricultural land and elects to take advantage of the exemption as provided for in Iowa Code section 206.5 shall work under the direct supervision of a certified commercial applicator and meet the requirements for direct supervision of noncertified applicators in subrule 45.22(7).

b. Employees of food processing and distribution establishments. An employee of a food processing and distribution establishment is exempt from the certification requirements of Iowa Code section 206.5, provided the following conditions are met:

(1) The employer has at least one person holding a supervisory position who is a certified applicator.

(2) The employer provides a program approved by the department for training, testing and certification of personnel who apply, as an incidental part of their duties, any restricted use pesticide on property owned or rented by the employer.

(3) The exempt employee does not apply restricted use pesticides.

(4) The exempt employee applies general use pesticides under the direct supervision of a certified applicator. "Under direct supervision" shall not require the physical presence of the supervising certified applicator if the supervising applicator is immediately available if and when needed.

(5) The supervising certified applicator must be certified in each category applicable to the supervised pesticide use.

45.22(10) *License application—contents.* Each license application submitted pursuant to Iowa Code section 206.6 shall include a complete list of all employees who may apply pesticides. Any changes regarding the status of the employees named on the application or new employees shall be reported immediately to the pesticide section of the department of agriculture and land stewardship.

45.22(11) *Exemption from certification.* An employee of a public agency who applies pesticides that are classified for general use and that are in ready-to-use formulations shall be exempt from the certification requirements of Iowa Code chapter 206 provided that the application of pesticides is an incidental part of the person's duties.

45.22(12) *Pesticide use on private golf courses.* Employees of private golf courses who apply pesticides shall comply with the same requirements for employees applying pesticides for public golf courses including, but not limited to, certification and notification requirements.

45.22(13) *Transition to recertification by instruction.* Recertification may be accomplished by successful completion of the required written examination every third year or completion of an approved two-hour instructional course each year of the renewal period.

a. Private applicator recertification. A private applicator may apply for recertification by providing evidence of completion of an approved two-hour instructional course for each year during the preceding three-year renewal period. A private applicator failing to meet the required annual two-hour instruction requirement for recertification during the three-year certification renewal period shall apply for recertification by providing evidence of satisfactorily completing an examination. Applications for recertification shall be submitted with a $15 certification fee.

b. Commercial, noncommercial, and public applicator recertification. A commercial, noncommercial or public applicator may apply for recertification by providing evidence of completion of an approved two-hour instructional course in each of the three calendar years preceding the expiration date. Applications for recertification shall be submitted with the appropriate certification fee.

45.22(14) *Requirements for commercial aerial applicator and aerial applicator consultant.*

a. Commercial aerial applicator license. The licensed aerial applicator applying pesticides to agricultural land shall operate in Iowa in consultation with an aerial applicator consultant. The application form for a commercial aerial applicator license shall be provided by the pesticide bureau. The completed application form, together with supporting documentation, will verify compliance with Iowa Code chapter 206 and the rules of this chapter. An aerial applicator license may be issued when the applicant has provided the name and license number of the aerial applicator consultant and other required information on the application form, passed the required certification examinations, and paid the commercial applicator license and certification fees in compliance with Iowa Code sections 206.5 and 206.6.

b. Aerial applicator consultant duties. An aerial applicator consultant shall:

(1) Complete requirements for category #11 aerial applicator certification and either a commercial pesticide applicator license or pesticide dealer license.

(2) Register with the pesticide bureau on forms provided by the pesticide bureau.

(3) Meet with each aerial applicator under the consultant's consultation prior to application of pesticides and verify compliance with Iowa's pesticide rules, the requirements of the Federal Aviation Administration, and the requirements of the Iowa department of transportation using a checklist provided by the pesticide bureau. A copy of the completed checklist shall be maintained on file for three years with the aerial applicator consultant.

(4) Provide detailed aerial maps for the intended application location that clearly depict field boundaries, roads, dwellings, adjacent fields, water bodies, and other pertinent information, as well as county, township and section and latitude/longitude if available.

(5) Maintain daily communication with the aerial applicator when pesticide applications are performed with a minimum of one meeting in person each day to emphasize safe pesticide application and handling procedures.

(6) Maintain daily oversight of pesticide handlers who supply or mix pesticides for the aerial applicator under the consultant's consultation to ensure required personal protection equipment is utilized.

(7) Provide information to the aerial applicator regarding sensitive areas listed on the department's sensitive crop registry and arrange for proper protection of registered apiaries. The aerial applicator consultant shall identify nearby sensitive areas including the location of endangered species as identified by the U.S. Environmental Protection Agency (EPA) and listed on the pesticide bureau's website, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application that may be occupied by people, including farmworkers.

(8) Provide instructions for proper emergency response procedures for the aerial applicator and pesticide handlers in the case of a pesticide spill or accident. Require that while in the air all pilots have an electronic communication device capable of communicating with a consultant.

(9) Provide information immediately upon request to regulatory officials regarding the identification of a pesticide applied to an area of concern and the name and license number of the applicator working under the consultant's consultation.

(10) Notify the aerial applicator in person and in writing upon termination of consultation services. The aerial applicator shall notify the pesticide bureau when the aerial applicator begins working with a new aerial applicator consultant.

c. Procedures for aerial application. The aerial applicator consultant shall provide the licensed aerial applicator the following:

(1) Name and telephone number where the consultant may be reached during hours of operation.

(2) Name and address or location of the property where the pesticide will be applied including detailed maps of fields that clearly depict the field boundaries, roads, dwellings, adjacent fields, water bodies, and other pertinent information, as well as county, township and section and latitude/longitude if available.

(3) Name of the pesticide(s) to be applied and copies of each label along with instructions necessary to comply with Iowa's pesticide rules. The aerial applicator consultant shall verify that the aerial applicator has read and understands the label instructions.

(4) Maps of the intended location for each pesticide application reviewed and approved by the aerial applicator consultant. The aerial applicator consultant shall provide information to the aerial applicator regarding sensitive areas listed on the department's sensitive crop registry and shall arrange for proper safety precautions to protect registered apiaries.

(5) The identification of nearby sensitive areas including the location of endangered species as identified by EPA and listed on the pesticide bureau's website, water bodies in or adjoining the field of application, roads adjoining the field of application, and places adjoining the field of application that may be occupied by people, including farmworkers.

d. Responsibility. The aerial applicator is responsible for applying pesticides in compliance with label directions and Iowa's pesticide rules. The aerial applicator consultant supplying a pesticide for application by the aerial applicator is responsible for handling and mixing the pesticides according to label directions and Iowa's pesticide rules.

e. Aerial applicator certification and continuing instruction. An aerial applicator and aerial applicator consultant shall pass an examination for initial certification. An aerial applicator from a state with an approved reciprocal certification agreement will be eligible for reciprocal certification. Each certified aerial applicator and aerial applicator consultant shall participate in a program of continuing instruction that shall consist of either an examination or educational program approved by the department. The continuing instruction program shall include information regarding the safe application and handling of pesticides and responsible operation of aircraft spray equipment.

45.22(15) *Recordkeeping requirements for supervisions of noncertified applicators by certified commercial applicators.* Commercial applicators shall maintain records of noncertified applicator qualifications for two years from the date of the restricted use pesticide application and shall furnish copies to the secretary upon request in writing. Records of each transaction shall include the following information:

a. Name of the noncertified applicator and signature.

b. The certified applicator's certification number on the document evidencing that person's certification, the state or other governmental unit that issued the document, and the expiration date of the certification.

This rule is intended to implement Iowa Code sections 206.2, 206.4, 206.5, 206.6, 206.7, and 206.31.

21—45.23(206) Sale or possession of thallium. No person shall sell or possess any thallium or thallium compound except federal, state, county, municipal officers or their deputies for use in their official duties in pest control; research or chemical laboratories in their respective fields; regularly licensed pest control operators for use in their own service work; properly registered ant, mole and rodent poisons containing thallium expressed as metallic not more than one percent; wholesalers or jobbers of pesticides for sale to the aforementioned persons; or for export.

21—45.24(206) Warning, caution and antidote statements. In order to promote uniformity between the requirements of the Iowa pesticide Act and requirements of the several states and the federal government, Iowa Code section 206.21 of the Iowa pesticide Act provides for the adoption of rules and regulations in conformity with those prescribed by the United States department of agriculture. Warning, caution and antidote statements required to appear on labels of pesticides under the Iowa pesticide Act shall conform to the warning, caution and antidote statements required under

interpretation 18 and revisions thereof of the regulations for the enforcement of FIFRA, which interpretation 18 and revisions thereof are hereby incorporated into this rule by this reference and made a part hereof.

21—45.25(206) Declaration of pests. The secretary declares the following to be pests:

1. Any insect, rodent, nematode, fungus, weed, or
2. Any form of plant and animal life, virus, or other microorganism, except viruses or other microorganisms on or in living man or other living animals, that exists under circumstances that make it unduly injurious to plants, man, domestic animals, other useful vertebrates, useful invertebrates, or other articles or substances.

21—45.26(206) Recordkeeping requirements. Commercial applicators and retail dealers shall maintain records with respect to application of pesticides for a period of three years from the date of application of the pesticides to which the records refer and shall furnish copies to the secretary upon request in writing.

45.26(1) *Retail dealers—sales to certified applicators.* Each restricted use pesticide retail dealer shall maintain at each individual dealership records of each transaction where a restricted use pesticide is made available for use by that dealership to a certified applicator. Record of each transaction shall include the following information:

a. Name and address of the residence or principal place of business of each person to whom the pesticide was made available for use.

b. The certification number on the document evidencing that person's certification, the state (or other governmental unit) that issued the document, the expiration date of the certification and the categories in which the applicator is certified, if appropriate.

c. The product name, EPA registration number granted under Section 24(c) of FIFRA (if any) on the label of the pesticide.

d. The quantity of the pesticide made available for use in the transaction.

e. The date of the transaction.

45.26(2) *Sales to uncertified persons.* No dealership may make a restricted use pesticide available to an uncertified person unless the dealer or dealership can document that the restricted use pesticide will be used by a certified applicator and the dealer or dealership maintains the records required in this subrule. Each restricted use pesticide retail dealer shall maintain records at each individual dealership of each transaction where a restricted use pesticide was made available to an uncertified person for use by a certified applicator. Records of each transaction shall be maintained for a period of 36 months after the date of the transaction and shall include the following information:

a. The name and address of the residence or principal place of business of the uncertified person to whom the restricted use pesticide is made available for use by a certified applicator.

b. The name and address of the residence or principal place of business of the certified applicator who will use the restricted use pesticide.

c. The certified applicator's certification number, the state (or other governmental unit) that issued the certification document, the expiration date of the certification and the categories in which the applicator is certified, if appropriate.

d. The product name, EPA registration number and the state special local need registration number granted under Section 24(c) of FIFRA (if any) on the label of the pesticide.

e. The quantity of the pesticide made available for use in the transaction.

f. The date of the transaction.

45.26(3) *Commercial applicators.* Every commercial applicator shall make, or cause to have made, office records of all application activities on each pesticide applied. Records for application activities involving more than one licensed commercial applicator or billed through a licensed pesticide dealer shall be maintained by each licensee. Each set of records shall include the following:

a. The name and license number of the licensee.

b. The name and address of the landowner or customer.

c. Address of the place of application of restricted use pesticide.

d. Date of pesticide application.

e. Trade name and EPA registration number of the pesticide product used.

f. The quantity of pesticide product used, the concentration or rate of application, and the size of the treatment area.

g. If applicable, the temperature and the direction and estimated velocity of wind at time of application to any outdoor area.

h. Use of "restricted use" pesticide to include the crop, commodity, stored product or site to which the pesticide was applied.

i. Time pesticide application begins and ends.

j. The name and certification number of the certified applicator who made or supervised the application.

k. If applicable, the name of any noncertified applicator(s) who made the application under direct supervision as required under subrule 45.22(15).

This rule is intended to implement Iowa Code sections 206.11(3) and 206.15.

21—45.27(206) Use of high volatile esters. The use of high volatile esters formulations of 2,4-D and 2,4,5-T, the alcohol fraction of which contains five or fewer carbons, shall be prohibited in the counties of Harrison, Mills, Lee, Muscatine and that part of Pottawattamie county west of Range 41 West of the 5th P.M. to become effective upon filing.

21—45.28(206) Emergency single purchase of restricted use pesticide. The department shall issue a temporary certificate to private applicators for a single purchase of restricted use pesticides in situations declared to be an emergency by the department, upon receipt of the following completed and signed affidavit. No person shall use a restricted use pesticide without first complying with the requirements for applicator certification outlined in subrule 45.22(7).

21—45.28(206) EMERGENCY SALE OF A RESTRICTED USE PESTICIDE BY A PRIVATE APPLICATOR

Emergency Single Purchase of Restricted Use Pesticide—Affidavit.

The Label which I have read, indicates:

Brand name of pesticide: _____

Federal Registration Number: _____

Name of Active Ingredient(s): _____

Percentage of Active Ingredient(s): _____

If the pesticide product is to be mixed with a carrier, show the amount of pesticide product per gallon of tank mix:

_____

Application rate per acre: _____

Name pest to be controlled: _____

At what stage of development is the pest most easily controlled:

_____

State degree of hazard (signal word): _____

Describe safety equipment required: _____

What is the recommended antidote for this product: _____

List environmental precaution shown on label: _____

Length of time until re-entry, if given: _____

Preharvest interval days required: _____

Describe method of container disposal: _____

I wish to make purchase of this pesticide on (date)_____

and I hereby swear under penalty of perjury that I understand the above label information and warnings.

_____

(name of private applicator)

This rule is intended to implement Iowa Code sections 206.4 and 206.5.

21—45.29(206) Application of general use pesticide by nonlicensed commercial applicator. A person may apply a general use pesticide without satisfying the licensing requirements of Iowa Code chapter 206, upon presenting evidence to the secretary of applying the pesticide under the direct supervision of a licensed commercial applicator or a public applicator.

21—45.30(206) Restricted use pesticides classified. Pesticide products containing active ingredients classified as restricted use are limited to use by or under the direct supervision of a certified applicator. In addition to any pesticide product containing active ingredients classified as restricted use by the department, a pesticide product containing active ingredients classified as restricted use shall include any pesticide product classified as restricted use by the EPA under the FIFRA, 3 U.S.C. section 136a(d), as amended to October 9, 2007, or 40 C.F.R. §152.164(c), as amended to June 19, 1995.

This rule is intended to implement Iowa Code section 206.20.

21—45.31(206) Application of pesticides toxic to bees.

45.31(1) Owners of apiaries, in order to protect their bees from pesticide applications, shall register the location of their apiaries with the state apiarist. Registration shall be on forms provided by the department. The registration expires December 31 each year and may be renewed the following year.

45.31(2) Between 8 a.m. and 6 p.m., a commercial applicator shall not apply to blooming crops pesticides labeled as toxic to bees when the commercial applicator is located within one mile of a registered apiary. A commercial applicator shall be responsible for maintaining the one-mile distance from apiaries that are registered and listed on the sensitive crop registry on the first day of each month.

This rule is intended to implement Iowa Code sections 206.6(5)*"a"*(3) and 206.19(2).

21—45.32(206) Use of DDT and DDD. Pesticides containing dichloro diphenyl trichloroethane (DDT) or dichloro diphenyl dichloroethane (DDD) shall not be distributed, sold or used except for control of pests of public health importance and pests subject to state or federal quarantines where applications of pesticides are made under the direct supervision of public health officials or state or federal quarantine officials.

21—45.33(206) Use of inorganic arsenic.

45.33(1) *Home use.* Formulations of inorganic arsenic containing more than one percent arsenic (expressed as elemental arsenic) shall not be distributed or sold for use as a pesticide in or around the home for the purpose of preventing, destroying or repelling any weed, rodent, insect or other pests.

45.33(2) *Other uses.* Formulations of inorganic arsenic shall not be distributed or sold for use as a pesticide for the purpose of preventing, destroying or repelling any weed, rodent, insect or other pests, unless there are no acceptable alternative methods of control available, as determined by the department. Where no acceptable alternative methods of control are available, and an inorganic arsenic formulation is approved for use by the department, such approval shall include specific conditions designed to protect the applicator, as well as the public health and welfare; and a permit must be secured by the user from the department prior to the application or use of the product.

This rule is intended to implement Iowa Code sections 206.19, 206.20 and 206.23.

21—45.34(206) Use of heptachlor. Pesticides containing heptachlor shall not be distributed, sold or used for the purposes of preventing, destroying or repelling mosquitoes or flies.

This rule is intended to implement Iowa Code sections 206.19, 206.20 and 206.23.

21—45.35(206) Use of lindane. Formulations of pesticides containing lindane or crystalline lindane shall not be distributed, sold or used when the lindane is prepared, identified, packaged or advertised to be vaporized through the use of thermal vaporizing devices.

This rule is intended to implement Iowa Code sections 206.19, 206.20 and 206.23.

21—45.36(206) Reports of livestock poisoning. Any person practicing veterinary medicine under the provisions of Iowa Code chapter 169 encountering a case of poisoning, or suspected poisoning, of domestic livestock through injury from contact with, exposure to, or ingestion of any biological or chemical agent or compound, shall immediately report by telephone or telegraph such poisoning to the head of the veterinary diagnostic laboratory of Iowa state university of science and technology, who shall immediately notify the state veterinarian of any such reports. Reports made pursuant to this rule shall be confirmed in writing as provided in subrule 45.36(2).

45.36(1) *Verbal report.* The verbal report of a case of such poisoning shall provide information on as many of the items listed in subrule 45.36(2) as available data allows.

45.36(2) *Written report.* The written report of a case of such poisoning shall be submitted within 48 hours, with one copy to the department and one copy to the veterinary diagnostic laboratory, and shall contain the following information on forms provided by the veterinary diagnostic laboratory or the department:

a. Location of incident.
b. Time and date of incident.
c. Number and type of livestock affected.
d. Poison agent, known or suspected.
e. Location of source of poisoning.
f. Type and degree of poisoning.
g. Name, mailing address and telephone number of livestock owner.
h. Whether release of poisoning agent is continuing.
i. Whether poisoning agent is on land or in water.
j. Any other information that may assist in evaluation of the incident.
k. Name and address of reporting veterinarian.

45.36(3) *Subsequent findings.* All subsequent findings and diagnostic results shall be submitted as soon as they become available.

This rule is intended to implement Iowa Code sections 206.19, 206.20 and 206.23.

21—45.37(206) Approval of use of inorganic arsenic formulation. There are two stages in obtaining approval for the use of an inorganic arsenic formulation pursuant to rule 21—45.33(206). First, the advisory committee must approve the use of the formulation in the state for a particular pest. Then, each individual desiring to use the approved formulation must secure a permit from the department. The required procedure is set out in this rule.

45.37(1) *Who may apply.* Any person may apply for approval for the use of an inorganic arsenic formulation to control a specific pest or pests pursuant to rule 21–45.33(206).

45.37(2) *Form of application.* All such applications shall be made in writing, signed by the applicant, and shall specify:

a. Common name or scientific name of pest or pests to be controlled with the formulation,
b. Crops that the pest or pests endanger,
c. Chemical name of inorganic arsenic formulation for which approval is requested,
d. Why there are no acceptable alternative methods of controlling the pests available,
e. Rate of application needed for control,
f. Number of applications needed annually for control,
g. Name, address and telephone number of the applicant.

45.37(3) *Hearings, when held.*

a. Applications for approval shall be considered at public hearings by the advisory committee.

b. The committee shall grant, modify, or deny the request for approval within 72 hours of the conclusion of the hearing.

45.37(4) *Conditions of approval.* Approvals shall be valid until revoked by the department.

a. In its approval, the committee shall specify:

(1) The inorganic arsenic formulation to be used.

(2) The pests for which it may be used.

(3) The crops on which it may be used.

(4) The maximum number of applications to be made annually, and

(5) Information to be submitted to the department following use of the formulation.

b. The committee shall also specify the conditions designed to protect the public health and welfare as conditions for the issuance of a permit by the department. Such conditions shall include, but not be limited to:

(1) That the permit applicant has sustained or will likely sustain damage from the pest for which control is approved,

(2) Topographical requirements to ensure minimal runoff into waters of the state,

(3) Minimum separation distance of area to be treated from waters of the state,

(4) Minimum distance of area to be treated from property not under control of applicant,

(5) Grass or other plant cover to prevent erosion on slopes to which the formulation is applied.

45.37(5) *Permits.* After an application for approval is granted, any person may use the formulation approved, provided that a permit is obtained from the department. The department and the committee shall review at least annually its approvals of uses of inorganic arsenic formulations and shall revoke an approval whenever it finds an acceptable alternative method of control is available.

This rule is intended to implement Iowa Code sections 206.19, 206.20 and 206.23.

21—45.38 to **45.44** Reserved.

21—45.45(206) Ethylene dibromide (EDB) residue levels in food. The following is the maximum allowable residue levels of Ethylene dibromide (EDB) for each of the three primary tiers of grain products:

45.45(1) For raw grain, the level should not exceed 900 parts per billion.

45.45(2) Intermediate level products—flour, various mixes for preparing baked goods, soft cereals and other products that would normally require cooking or baking before eating—the level should not exceed 150 parts per billion.

45.45(3) For ready-to-eat products—cold cereals, snack foods, bread and all baked goods—the level should not exceed 30 parts per billion.

45.45(4) For baby food, zero (0) tolerance—no acceptable level of EDB is permissible.

45.45(5) For fruit, the level should not exceed 250 parts per billion tolerance for the total fruit and should not exceed 30 parts per billion in the edible portion of the fruit.

This rule is intended to implement Iowa Code sections 189.17, 190.2 and 206.21.

21—45.46(206) Use of pesticide Command 6EC. The pesticide Command 6EC Herbicide EPA Reg. No. 279-3054 (active ingredient: 2-(2-Chlorophenyl) methyl-4, 4-dimethyl-3-isoxazolidinone . . . 64.3%) or any identically formulated compound shall be soil incorporated immediately following application. The method of application shall be limited to ground equipment.

21—45.47(206) Reporting of pesticide sales. Commercial pesticide applicators, pesticide dealers, pesticide manufacturers and pesticide distributors with the exception of manufacturers or distributors that distribute pesticides for resale purposes only shall submit annual reports to the Iowa department of agriculture and land stewardship by October 1 of each year on forms approved by the secretary of agriculture except that pesticide manufacturers or pesticide distributors that distribute pesticides only for resale purposes shall not be required to submit a report. The reports shall include information related to the gross dollar amount for all pesticides sold at retail for use in this state. The reports shall

also list the individual label name, EPA registration number and the gross dollar amount of each pesticide sold at retail for which gross retail sales are $3,000 or more.

This rule is intended to implement Iowa Code sections 206.6, 206.8 and 206.12.

21—45.48(206) Dealer license fees. A dealer license fee for a dealer with less than $100,000 in gross retail pesticide sales shall be $10 if the annual gross retail sales are less than $10,000; $25 if the annual gross retail sales are $10,000 or more but less than $25,000; $50 if the annual gross retail sales are $25,000 or more but less than $50,000; $75 if the annual gross retail sales are $50,000 or more but less than $75,000; and $100 if the annual gross retail sales are $75,000 or more but less than $100,000. The annual dealer license fee for a dealer with $100,000 or more in gross retail pesticide sales shall be based on one-tenth of one percent of the gross annual sales of all pesticides sold the previous fiscal year. The fiscal year shall begin July 1 and end June 30 of the following year.

45.48(1) A pesticide dealer license expires on June 30 of each year. However, a three-month grace period shall be allowed for renewal of pesticide dealer licenses. A late fee of $25 is imposed on a dealer with less than $100,000 in gross retail pesticide sales, and a late fee of 5 percent of the license fee due based on the gross pesticide retail sales shall be imposed upon the licensure of a pesticide dealer with $100,000 or more in gross retail pesticide sales. The application for renewal shall be considered complete once the required fees and reports have been submitted to the department.

45.48(2) The annual license fee for manufacturers or distributors distributing pesticides for resale purposes only shall be $25. License fees required by this rule shall be due July 1 of each year.

This rule is intended to implement Iowa Code sections 206.6, 206.8 and 206.12.

21—45.49(206) Pesticide use recommendations. Persons making pesticide use recommendations shall be familiar with the safe and proper use of each pesticide for which recommendations are made and shall not make any recommendations that are contrary to label instructions. The employer or licensee shall be responsible for all pesticide use recommendations made by their employees that are contrary to label instructions.

This rule is intended to implement Iowa Code sections 206.2, 206.4, 206.5, 206.6, 206.7 and 206.31.

21—45.50(206) Notification requirements for urban pesticide applications. All commercial or public applicators who apply pesticides within urban areas in municipalities shall post or affix notification signs at the start of the application and for at least 24 hours following the application or longer if required by the reentry directions on the pesticide label(s). The requirements of this rule shall not apply to the application of pesticides within a structure or within six feet of the outside perimeter of a structure and to pesticide applications made by the homeowner or tenant to their property.

For purposes of enforcement of this rule the term "municipality" shall include any city or developed residential area in the state. The term "urban" shall mean any area within or belonging to a city or developed residential area.

45.50(1) *Residential lawns.*

a. Notification signs shall project at least 12 inches above the top of the grass line or 18 inches to the top of the signs.

b. The notification sign shall be posted on a lawn or yard between two feet and five feet from the sidewalk or street. Residences that have unfenced or open backyards shall be posted within two feet to five feet from the back lot line.

c. When landscaping or other obstructions prohibit compliance with the minimum distances specified, the notification signs shall be posted in a manner that is reasonably within the intent of this subrule.

45.50(2) *Golf courses.* Signs including posters or placards shall be posted in a conspicuous manner near the first tee of each nine-hole course. The sign shall be constructed of a weather-resistant material and be a minimum size of 8½ inches by 11 inches. The lettering shall not be less than ½ inch.

The sign shall read "Pesticides are periodically applied to the golf course. If desired, you may contact your golf course superintendent or person in charge for further information." The sign shall be displayed prior to the application of any pesticide on the golf course and left in place for at least 24 hours following any pesticide application. Where pesticide labeling requires specific notification or reentry restrictions, the applicator shall comply with the label instructions.

45.50(3) *Parks, playgrounds and athletic fields.* For parks, athletic fields, playgrounds or other similar recreational property, the notification signs shall be posted immediately adjacent to areas within the property where pesticides have been applied and at or near the entrances to the property where pesticides have been applied. The notification signs shall be placed in a conspicuous manner to provide a reasonable notification to the public.

45.50(4) *Public rights-of-way.*

a. Notice of the application of pesticides to public rights-of-way of highways, roads, streets, alleys, sidewalks and recreational trails within the corporate limits of municipalities shall be posted in a manner that provides reasonable notice to the occupants of properties immediately adjacent to the area being treated. A minimum of two signs shall be posted to denote the beginning and the end of the area being treated. Within developed residential zones, at least one sign shall be posted at the beginning and one at the end of each block. Signs shall be placed in a manner to be readable from the adjacent property.

b. Public rights-of-way bordered by a chain link fence, noise wall or other structures or enclosures that bar pedestrian access shall be exempt from the posting requirement.

c. The licensed pesticide applicator performing the application shall make pesticide application schedules and other community right-to-know information available to the public upon request at the applicator's place of business during regular business hours.

d. The notification signs used for posting public rights-of-way shall consist of a weather-resistant poster or placard measuring at least 10 inches by 12 inches with lettering measuring a minimum of 1 inch. Notification signs shall project at least 2 feet above the top of the grass line or 3 feet to the top of the signs. The words "This area chemically treated. Keep off" shall be used for posting public rights-of-way.

45.50(5) *Public pest control programs.* Pesticides applied for or by any municipality for the control or abatement of pests related to public health programs such as mosquitoes or other pest control programs shall be exempt from posting requirements provided that the intended dates, time and locations are announced to the public in a conspicuous manner at least 24 hours prior to the application. The announcement shall be made on a major radio station, TV station, newspaper or any other means of mass communication that would normally reach the residents of that city or developed residential area.

45.50(6) *Notification signs.*

a. The notification signs shall be of a material that is rain-resistant for at least a 24-hour period and shall not be removed by the applicator for at least 24 hours from the time pesticides are applied or longer if required by the label of the pesticide applied. Each property owner, tenant, agent or person in charge of the property shall be provided with instructions that the notification sign is required to remain in place for a minimum of 24 hours following the pesticide application. When the labeling of the pesticide(s) applied requires a reentry restriction more than 24 hours, the sign shall be left in place for the specified period restricting reentry. After the required posting period has elapsed, all notification signs should be removed by either a representative of the business, organization, entity or person making said application or the owner, agent, person in charge of the property, or their representative, to which the pesticide was applied.

b. As a minimum, unless otherwise specified, the following information shall be printed on the notification sign in contrasting colors and block letters:

(1) The name and telephone number of the business, organization, entity or person applying the pesticide; and

(2) The words: "This area chemically treated. Keep off. Do not remove sign for twenty-four hours." As an alternative, a universally accepted symbol and text approved by the secretary that is recognized as having the same meaning or intent as specified in this paragraph may be used. When the labeling of the pesticide(s) applied requires a longer reentry restriction it shall be so stated on the notification sign.

The lettering for notification signs used for posting residential, commercial or public lawns or gardens or other similar areas shall measure at least three-eighths inch. The lettering for notification signs used for right-of-way areas required to be posted shall measure at least one inch.

c. The notification sign used for posting residential, commercial or public lawns or gardens or other similar areas shall consist of a sign or placard measuring at least four inches by five inches with letters measuring a minimum of three-eighths inch.

d. The label and other information normally associated with the use of the pesticide(s) being applied to any urban area that is required to be posted shall be provided to any individual upon request.

e. A commercial or public applicator who applies a pesticide with labeling that requires further maintenance after application shall provide the homeowner or agent in charge of property with a copy of the complete label of the pesticide(s) applied if requested and instructions on proper maintenance procedures.

f. Officials of the municipalities affected by this rule shall cooperate with the department in enforcing the requirements of this rule and shall report any infractions to the department.

45.50(7) *Prenotification registry.* In lieu of the requirement for public notification as specified in subrule 45.50(5), a municipality may maintain a registry of persons requesting to receive notification prior to pesticide applications and provide notification to those individuals at least 24 hours prior to a pesticide application made adjacent to their property.

a. A municipality may also choose to make arrangements with those persons upon request to refrain from applying pesticides to adjacent properties in lieu of prenotification.

b. The registry shall be updated annually and contain at least the name, address, and telephone number where occupant may be reached during normal business hours. The registry shall be made available upon request to licensed commercial and public pesticide applicators.

45.50(8) *Prior notification of pesticide application to lawns, parks, playgrounds and athletic fields located in urban areas.*

a. An occupant of a property adjoining property where pesticides are applied by a commercial or public applicator may receive prior notification of a pesticide application by personally contacting the applicator in writing in a timely manner and providing the following information:

(1) Name and address of occupant.

(2) A telephone number of a location where occupant may be contacted during normal business hours and evening hours.

(3) Address of each property that adjoins occupant's property.

b. The applicator receiving a written request for prior notification shall provide notice at least the calendar day before a scheduled application to property adjoining the occupant's property. The notice may be made in writing, in person or by telephone and shall disclose the date and approximate time of day for the scheduled application. If the notice to the occupant is in a form other than writing the applicator shall document that notice was given and maintain a record of that notice at its place of business.

c. When an applicator is not successful in contacting an occupant of an adjoining property as provided in paragraph 45.50(8)*"b,"* the applicator shall, at least the calendar day before a scheduled application, leave a written notice at the residence of the person requesting prior notification indicating the date and approximate time of day for the scheduled application.

d. A request for prior notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier.

45.50(9) *Prior notification of pesticide application to golf courses.*

a. An occupant of a property adjoining a golf course may receive prior notice of an application by contacting the golf course superintendent or other responsible person in a timely manner and providing the following information:

(1) Name and address of occupant.

(2) Telephone number of a location where the occupant may be contacted during normal business hours and evening hours.

b. A golf course representative receiving a request for prior notification shall provide notice at least the day before the scheduled application. The notice may be made in writing, in person or by telephone and shall disclose the date and approximate time of day for the scheduled application.

c. When a golf course representative is not successful in contacting an occupant of an adjoining property the day before a scheduled application, the representative shall leave a written notice at the residence of the person requesting prior notification that shall disclose the date and approximate time of day for the scheduled application.

d. A request for prior notification shall expire on December 31 of each year, or the date when the occupant no longer occupies the property, whichever is earlier.

This rule is intended to implement Iowa Code section 206.19 and 1995 Iowa Acts, Senate File 256.

21—45.51(206) Restrictions on the distribution and use of pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine.

45.51(1) Atrazine is the common name for the pesticide chemical 2-chloro-4-ethylamino-6-isopropylamino-1,3,5 triazine.

45.51(2) All pesticides containing the active ingredient atrazine or any combination of active ingredients including atrazine distributed for sale or use in Iowa shall be classified as restricted use pesticides. All pesticides containing the active ingredient atrazine shall be restricted for retail sale to and use by certified pesticide applicators only.

45.51(3) A pesticide dealer selling a pesticide containing the active ingredient atrazine shall file an annual report listing the full trade name of the pesticide product, EPA registration number and total volume in gallons or pounds of product sold. This report shall be included with the annual report required under rule 21—45.47(206).

45.51(4) Atrazine use limitations.

a. The application rate for the actual active ingredient atrazine shall be limited to three pounds or less actual active ingredient per acre per calendar year with the exception where further restrictions on the maximum allowable application rates of the active ingredient atrazine apply.

b. Pesticides or any other substance containing the active ingredient atrazine shall not be applied within 50 feet of a sinkhole (outer edge of slope), well, cistern, lake, water impoundment or other similar areas. This includes, but is not limited to, abandoned wells, agricultural drainage wells and drainage well surface inlets and drinking water wells.

c. Pesticides, or any other substance containing the active ingredient atrazine unless handled in the original unopened container shall not be mixed, loaded or repackaged within 100 feet of any well, cistern, sinkhole (outer edge of slope), streambed, lake, water impoundment or other similar areas. This includes, but is not limited to, any well, whether in use or abandoned, including agricultural drainage wells and drainage well inlets. This paragraph shall not apply where pesticides are handled in compliance with the secondary containment of pesticide mixing and loading sites as specified in 21—Chapter 44.

d. Atrazine mixing, loading, and equipment cleanout shall be carried out in a manner that meets the secondary containment requirements in 21—Chapter 44 or in the field of application provided all other restrictions are followed regarding the application of atrazine or rinsates containing atrazine to labeled use areas. Equipment and container wash waters shall be applied to labeled use areas or used as part of dilution makeup water and applied to labeled use areas in accordance with the label instructions and any other restrictions that may apply.

e. The following areas shall be designated as pesticide management areas regarding the application of pesticides containing the active ingredient atrazine. The application of atrazine shall be limited to no more than one and one-half pounds of the actual active ingredient atrazine per acre per calendar year in the following designated areas:

(1) All of Allamakee, Clayton, Dubuque, Floyd, Humboldt, Jackson and Winneshiek counties.

(2) All areas within the townships of the following counties:

COUNTIES	TOWNSHIPS
Black Hawk	Poyner
Bremer	Douglas, Fredericka, Jackson, Jefferson, Lafayette, Polk, Washington
Butler	Bennezette, Butler, Coldwater, Dayton, Fremont, Pittsford
Cerro Gordo	Owen, Portland
Chickasaw	Bradford, Chickasaw, Deerfield
Clinton	Elk River, Hampshire
Delaware	Bremen, Colony, Delhi, Elk, Milo, North Fork, Oneida, South Fork, Union
Fayette	Auburn, Clermont, Dover, Eden, Fairfield, Illyria, Pleasant Valley, Union, Westfield, Windsor
Howard	Albion, Chester, Forest City, New Oregon, Vernon Springs
Jones	Castle Grove, Clay, Hale, Lovell, Oxford, Richland, Washington and Wyoming
Kossuth	Sherman
Linn	Marion
Mitchell	Burr Oak, Cedar, Liberty, Mitchell, Newberg, Osage, Otranto, Rock, Saint Ansgar, Union, West Lincoln
Pocahontas	Garfield
Worth	Barton, Kensett
Wright	Grant, Lincoln, Wall Lake

f. Persons conducting research with atrazine shall be exempt from the use limitations described in this rule provided that such research is under the supervision of a federal or state agency or educational institution authorized to conduct research and are properly certified.

45.51(5) Best management practices. The department of agriculture and land stewardship and the Iowa State University extension service shall jointly develop and implement a set of best management practices (BMPs) and a targeted education program aimed at preventing further contamination of groundwater with atrazine. The pesticide applicator certification training and testing programs shall include information related to the atrazine BMPs.

45.51(6) As new information becomes available, changes in atrazine use or management shall be reevaluated periodically.

This rule is intended to implement Iowa Code sections 206.19, 206.20, and 206.21.

21—45.52(206) Continuing instructional courses for pesticide applicator recertification. A certified private, commercial, noncommercial or public applicator may elect to renew the pesticide applicator certification by attending two hours of approved continuing instructional courses each year during the renewal period as specified in subrule 45.22(5) in lieu of passing an examination.

45.52(1) *Requirements for continuing instructional courses.*

a. An approved continuing instruction course for pesticide applicator recertification shall include, as a minimum, information on safe handling, application and storage of pesticides; the correct calibration of equipment used for the application of pesticides; effects of pesticides upon groundwater; and the federal standards for pesticide applicator certification outlined in 40 CFR 171.105 as revised

March 6, 2017, for private applicators or 40 CFR 171.101 and 40 CFR 171.103 revised as of March 6, 2017, for commercial applicators.

b. Instructional courses and materials for recertification shall be developed or approved by the department in cooperation with the Iowa cooperative extension service in agriculture and home economics of Iowa state university of science and technology. The instructional course content shall be selected to cover the minimum standards outlined in paragraph 45.52(1)*"a"* and presented in two-hour blocks in three consecutive calendar years.

c. The instructional courses may be conducted by the department, Iowa state university cooperative extension service, or other persons interested in the application of pesticides as qualified under paragraph 45.52(2)*"b."*

d. An instructional course offered by a college, university, industry association or other organization may be approved for continuing instruction credit provided the instructional course meets the minimum standards for certification specified in paragraph 45.52(1)*"a."*

e. Courses for approved continuing instruction are not intended for the sale of products or services.

f. An approved instructional course shall designate the certification categories that are eligible for continuing instruction credit. A two-hour program may qualify for more than one certification category. No credit shall be approved for persons not certified in the corresponding categories.

45.52(2) *Provider approval.* Provider means the person, industry association or other organization providing continuing instructional courses for pesticide applicator recertification. No course for continuing instruction credit shall be approved unless the provider has first registered with the department.

a. Provider shall register with the department by providing the following information on forms as provided by the department:

(1) Name and address of provider or sponsoring organization.

(2) Name and telephone number of the contact person.

(3) Names and qualifications of instructors.

(4) Verification that provider has acquired adequate audiovisual or other necessary equipment and facilities conducive to a learning environment.

(5) Verification that all instructors are qualified as provided in these rules.

(6) Verification that a current authorized representative of the provider has completed a "train the trainer" course sponsored by the department in cooperation with Iowa state university cooperative extension service.

b. Instructor qualifications. A qualified instructor shall meet the following minimum requirements:

(1) Be current, knowledgeable and skillful in the subject matter.

(2) As a minimum the equivalent of a four-year degree or experience in teaching in the specialized area within three years preceding the offering or one year of work experience in the specialized area within three years preceding the offering.

(3) Be knowledgeable of the current state and federal pesticide laws and regulations.

(4) Upon receipt of the required information and satisfactory verification that the provider and instructors have met the requirements as outlined in paragraphs 45.52(2)*"a"* and *"b,"* the department shall assign the provider a registration approval number for each qualified instructor.

c. A person who is the instructor of an approved continuing instructional course is entitled to the same credit as a participant completing the subject but may receive such credit only once in a calendar year, regardless of the number of times the person instructs the instructional course.

45.52(3) *Course approval.*

a. Any person, industry association or other organization intending to provide an instructional course for continuing instruction credit shall submit an application to the department for approval. Requests received later than 30 days prior to the date the instructional course is scheduled shall be disapproved.

b. The following information shall be furnished on the request for approval of a continuing instruction course:

(1) Name and address of provider or sponsoring organization.

(2) Name and telephone number of the contact person for the provider.

(3) Course title.

(4) Whether the course is new, a repeat course, or a revised course.

(5) Course number, if the course is repeat or revised.

(6) Date(s) course shall be offered.

(7) Location(s) where course shall be offered.

(8) For a new or revised course, an outline of the course including a schedule of times when subjects shall be presented. The topics covered in the course shall be listed individually. Under each separate topic, a summary of the instruction given and the material covered must be included.

(9) Names of instructors.

(10) Number of credit hours requested.

(11) Signature of the contact person.

c. Any material changes in the instructional course as submitted to the department on the request form and attachments shall automatically void the approval.

d. A copy of all course materials shall be provided upon request by the department.

e. A provider shall be notified indicating approval or disapproval. Approved courses shall be assigned a course number.

45.52(4) *Certificate of completion.*

a. The department shall adopt a standard certificate of completion form and provide the form to each registered provider. The form shall include the applicator's name, name of employer when applicable, course number, date and location of the course, the category or categories the course has been approved for and the signature of the course instructor.

b. Once a course is approved, the provider shall furnish a certificate of completion to each person who satisfactorily completes such a course. The certificate shall be signed by the course instructor. Providers shall also maintain a list of all persons who attend courses offered by providers for continuing instruction for at least three years from the end of the year in which the courses are offered. The list shall identify each participant by name, address and employer when applicable.

45.52(5) *Provider's responsibility.*

a. A provider of an approved course is responsible for both the attendance of the participants and their attention. During the approved instructional course, if the provider finds that a participant is reading unrelated materials, sleeping, talking excessively with a neighbor or is otherwise disruptive or inattentive, the provider may refuse to grant the participant any credit for attendance.

b. A provider may require participants to preregister for an approved course. In the event a provider cancels an approved course, the provider shall notify each individual registered for the course in a timely manner but not less than three business days prior, except as specified, to the scheduled date of the course.

c. A provider who cancels a course that did not require participants to preregister shall notify prospective participants in a timely manner. Notification for cancellation may be accomplished by a similar means of communication as the original notification of the course availability or any other generally accepted means of reaching the expected target participants.

d. Minimum lead time for participant notification of canceled courses shall be waived when courses are canceled because of emergency conditions such as extreme weather conditions, acts of God, military actions, or any other circumstance that is deemed to be an emergency condition. Providers shall attempt to notify prospective participants by public service announcements via radio or television broadcasts that may provide this service.

e. A provider shall notify the pesticide bureau of the department in a timely manner prior to the cancellation of an approved course. Initial notice of cancellation may be made by telephone; however, cancellations made by telephone shall be followed by written verification.

f. Provider records. The provider shall maintain a list of all persons who attend courses offered by them for continuing instruction credit for at least three years from the end of the year in which the courses are offered. The record system shall provide for secure storage and retrieval of individual attendance and information regarding each instructional course offering. The provider's record of continuing instruction credits granted shall be available within two weeks upon request from individual participants or from the department.

g. If the provider is not the instructor, the provider shall inform the instructor of the instructor's responsibilities as provided in this subrule.

45.52(6) *Enforcement—providers.*

a. The department may, upon finding any one or more of the following, revoke or suspend a provider's registration after an opportunity for hearing:

(1) Advertising that a course is approved, prior to approval;

(2) Presenting material not approved as provided in subrule 45.52(1) during the time of an approved course;

(3) Failing to present a course for the total time period specified in the request form submitted to the department;

(4) Distributing certificates of completion before the course has been completed;

(5) Refusing to issue certificates of completion to any participant who satisfactorily completes an approved course, except when paragraph 45.52(5)*"a"* applies;

(6) Failing to notify course registrants of a cancellation pursuant to paragraphs 45.52(5)*"b"* and *"c"*; or

(7) Utilizing instructors who are not qualified as provided in these rules.

b. The department may suspend or revoke a provider's registration after notice and opportunity for hearing pursuant to 21—Chapter 2.

c. In addition, the department may require any one or more of the following upon a finding of a violation of paragraph 45.52(6)*"a."*

(1) Upon receipt of an application to reregister, provide evidence that all violations have been cured;

(2) Withdraw the possibility of course approvals of courses sponsored by such provider for a set period of time or indefinitely; or

(3) Any other disciplinary action permitted by statute.

This rule is intended to implement Iowa Code section 206.5.

DIVISION II

21—45.53 to **45.99** Reserved.

DIVISION III
CIVIL PENALTIES

This division sets forth the policies and procedures for establishing, accessing, and collecting civil penalties against pesticide applicators for violations of Iowa Code chapter 206 or rules promulgated pursuant to Iowa Code chapter 206. Iowa Code section 206.19(5) authorizes the assessment of civil penalties against applicators for violations of Iowa Code chapter 206 or rules promulgated pursuant to Iowa Code chapter 206.

21—45.100(206) Definitions. Where used in these rules:

"Contested case hearing" means an evidentiary hearing pursuant to Iowa Code chapter 17A.

"Department" means the pesticide bureau of the department of agriculture and land stewardship.

"Informal settlement" means an agreement between representatives of the department and a commercial applicator providing for sanctions for a violation of Iowa Code chapter 206 or the department's rules but does not include a contested case hearing.

21—45.101(206) Civil penalties—establishment, assessment, and collection. Pesticide applicators who violate provisions of Iowa Code chapter 206 or rules promulgated pursuant to Iowa Code chapter 206 may be subject to civil penalties. This rule outlines the criteria and procedures for establishing, assessing, and collecting civil penalties.

45.101(1) *Criteria.* In evaluating a violation to determine which cases may be appropriate for administrative assessment of penalties, and in determining the amount of penalty, or for purposes of assessing civil penalties, the department shall consider all of the following factors:

a. Willfulness or recklessness of the violation.

b. Actual or potential danger of injury to the public health, safety, or damage to the environment caused by the violation.

c. Actual or potential cost of the injury or damage caused by the violation to the public health or safety or to the environment.

d. Actual and potential cost incurred by the department in enforcing the provisions of Iowa Code chapter 206 and rules adopted pursuant to this chapter against the violator.

e. Remedial action taken by the pesticide applicator.

f. Previous history of noncompliance by the pesticide applicator being assessed the civil penalty.

g. Competency standards for commercial and private applicators as in subrules 45.22(2) and 45.22(3).

45.101(2) *Notice and hearing.* The department may seek assessment of a civil penalty by serving a complaint upon the pesticide applicator. The complaint shall include a statement of the time, place and nature of the hearing, a statement of the legal authority and jurisdiction under which the hearing will be held, a reference to the statute or rules involved, and a statement of the matters asserted. The complaint may be served on the pesticide applicator by personal service or by certified mail, return receipt requested. A person subject to a civil penalty may submit an appeal to the department. The appeal shall be referred to an administrative law judge for hearing as a contested case pursuant to Iowa Code chapter 17A. This subrule does not apply to a license revocation proceeding. The department's procedures for informal settlement also apply.

45.101(3) *Administrative order.* Upon finding that a pesticide applicator has violated Iowa Code chapter 206 or rules adopted pursuant to this chapter, an administrative order shall be issued assessing the civil penalty. The order shall recite the facts, the legal requirements that have been violated, the rationale for the assessment of the civil penalty and the date of issuance.

45.101(4) *Amount of penalty.* The civil penalty imposed on a pesticide applicator shall not exceed $500 per violation of Iowa Code chapter 206 or to the rules promulgated pursuant to Iowa Code chapter 206. Each day a pesticide applicator is in violation following receipt of written notification of such violation from the department may be considered a separate violation.

45.101(5) *Payment.* The penalty shall be paid within 30 days of the date the order assessing the civil penalty becomes final. Failure to pay the civil penalty within three months of the date the order becomes final shall be grounds for suspension or revocation of the pesticide applicator's license or certification. The department may request that the attorney general institute judicial proceedings to recover an unpaid civil penalty.

45.101(6) *Informal settlement.* These rules do not apply to any settlement reached between the pesticide applicator and the department prior to the initiation of a contested case proceeding. The department shall notify the applicator that it has found a probable violation with a proposed penalty and provide the applicator an opportunity to attend an informal settlement conference. The department and the applicator may attend an informal settlement conference and reach an agreement about the assessment of a civil penalty or other disciplinary action against the applicator.

These rules are intended to implement Iowa Code section 206.23A.