

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 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 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 which 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.