



# RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/22/01)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Rule Making

(1) Date of adoption: 10/28/03

(2) Purpose: Update language, remove outdated sections, correct language and spelling errors, move and/or combine sections for clarity and accuracy, modify sections on phenoxy herbicides for clarification, add requirement for positive identification for purchase of restricted use pesticides, clarify recordkeeping requirements and modify pesticide licensing examination requirements to meet new legislation statutes.

(3) Citation of existing rules affected by this order:

Repealed:  
 Amended: WAC 16-228-1010 through 16-228-1590  
 Suspended:

(4) Statutory authority for adoption: RCW 17.21, RCW 15.58, RCW 34.05

Other Authority:

### PERMANENT RULE ONLY (Including Expedited Rule Making)

Adopted under notice filed as WSR 08-17-095 on 8/20/03 (date).  
 Describe any changes other than editing from proposed to adopted version: See attached

*JK 03-*

### EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?:

Yes  No If Yes, explain:

(6) Effective date of rule:

#### Permanent Rules

- 31 days after filing
- Other (specify) \_\_\_\_\_\*

#### Emergency Rules

- Immediately
- Later (specify) \_\_\_\_\_

\*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

Name (Type or Print)  
 Valoria Loveland

Signature  
*Valoria A. Loveland*

Title: Director Date: 10/28/03

### CODE REVISER USE ONLY

Stamp: OCT 28 2003  
 TIME: 8:33 AM  
 WSR: 03-22-029 PM

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.

**The number of sections adopted in order to comply with:**

<b>Federal statute:</b>	New	_____	Amended	_____	Repealed	_____
<b>Federal rules or standards:</b>	New	_____	Amended	_____	Repealed	_____
<b>Recently enacted state statutes:</b>	New	_____	Amended	<u>2</u>	Repealed	_____

**The number of sections adopted at the request of a nongovernmental entity:**

	New	_____	Amended	<u>1</u>	Repealed	_____
--	-----	-------	---------	----------	----------	-------

**The number of sections adopted in the agency's own initiative:**

	New	<u>2</u>	Amended	<u>45</u>	Repealed	_____
--	-----	----------	---------	-----------	----------	-------

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

	New	<u>2</u>	Amended	<u>45</u>	Repealed	_____
--	-----	----------	---------	-----------	----------	-------

**The number of sections adopted using:**

<b>Negotiated rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Pilot rule making:</b>	New	_____	Amended	_____	Repealed	_____
<b>Other alternative rule making:</b>	New	<u>2</u>	Amended	<u>45</u>	Repealed	_____

## Differences between the proposed and adopted rule:

- In WAC 16-228-1231(7) a positive identification for Restricted Use pesticide purchases will only be required if the purchaser is unknown to the dealer. The language addressing an annual positive identification when the dealer verifies the certified applicator's license number is retained.
- In WAC 16-228-1300(1)(h) crop or site information will be required to be listed by dealers only for the purchase of Restricted Use pesticides.
- In WAC 16-228-1520(1)(d) the word "Plane" is changed to "Aircraft."

AMENDATORY SECTION (Amending WSR 00-22-073, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1010** (~~(Definitions.)~~) What are the definitions that apply to this chapter? The definitions (~~(set forth)~~) in this section (~~(shall)~~) apply throughout this chapter, unless the context requires otherwise (~~(requires)~~):

(1) "Agricultural commodity" means any plant, or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

~~(2) ("Agricultural emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a pesticide treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss.~~

~~(3))~~ "Authorized agent" is any (~~(person)~~) individual who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

~~((4))~~ (3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated (~~(synthetic)~~) material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized (~~(persons)~~) individuals and nonpest domestic animals from gaining access to the bait. (~~(The cover shall be provided with a lock that can be unlocked only by a combination, key, special tool, or forced entry.)~~) Baits placed in industrial, commercial or other areas that are accessible to the public shall be contained in tamper resistant bait boxes. Fragile materials are unacceptable.

~~((5))~~ (4) "Bait station" may be any location where baits are placed to allow target pests to gain access to the bait.

~~((6))~~ (5) "Blossoming plants" means:

(a) When there are five or more open blooms per square yard on average in a given field; or

(b) When there are one or more open blooms per tree or vine in an orchard or vineyard; or

(c) When there are five or more open weed blooms per square yard on average for the area being measured for groundcover in orchards or vineyards, fence lines, ditch banks, or field, vineyard or orchard edges (~~(- PROVIDED that)~~). This definition shall not apply to plants that are not attractive to bees (e.g., lentils, (~~(white blossomed peas, second bloom of)~~) hops, peas (Pisum sp.), pears (second bloom) and potatoes (~~(and hops)~~)). For the purposes of this definition, "bloom" means a flower head, raceme or spike

with one or more open flowers.

((7)) (6) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

((8)) (7) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

((9)) (8) "Chemigation" means the application of any substance or combination of substances intended as a pesticide, plant or crop protectant or a system maintenance compound applied with irrigation water.

((10)) (9) A "complainant" is defined as a person who has requested an inspection of an area in which a pesticide violation is believed to have occurred.

~~((11) "Complete wood destroying organism inspection" means (a) an inspection of a structure for the purpose of determining (i) evidence of infestation(s), and (ii) damage, and (iii) conducive conditions, or (b) any wood destroying organism inspection which is conducted as the result of a telephone solicitation by an inspection firm or pest control business, even if the inspection would otherwise fall within the definition of a limited wood destroying organism inspection.~~

~~(12) "Conducive conditions" means those conditions which may lead to or enhance an infestation of wood destroying organisms.~~

((13)) (10) "Complete wood destroying organism inspection" means inspection for the purpose of determining evidence of infestation, damage, or conducive conditions as part of the transfer, exchange, or refinancing of any structure in Washington state. Complete wood destroying organism inspections must also include any wood destroying organism inspection that is conducted as the result of telephone solicitation by an inspector, pest control, or other business, even if the inspection would fall within the definition of a specific wood destroying organism inspection.

(11) "Controlled disposal site" means any place where solid or liquid waste is disposed of: Provided((7)) that the area has been designated as a disposal site for waste materials by the appropriate jurisdictional agency((:— Provided further, That)). The site ((is)) must be fenced, barricaded or otherwise enclosed or attended by some person in charge to ((facilitate)) control((→)) the access of domestic animals, pets, and unauthorized persons.

((14)) (12) "Department" means the Washington state department of agriculture.

((15)) (13) "Diluent" means a material, liquid or solid, serving to dilute the pesticide product to ((field strength)) the application rate for adequate coverage (such as water).

((16)) (14) "Director" means the director of the department or a duly authorized representative.

((17)) (15) "Dry pesticide" is any granular, pelleted, dust



or wettable powder pesticide.

~~((18))~~ (16) "EPA" means the United States Environmental Protection Agency.

~~((19))~~ (17) "EPA restricted use pesticide" means any pesticide ~~((with restricted uses as))~~ classified for restricted use by the administrator, EPA.

~~((20))~~ (18) "Fertilizer" as included in this ~~((order))~~ chapter means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

~~((21))~~ (19) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended (61 stat. 163, 7 U.S.C. Sec. 136 et seq.).

~~((22))~~ (20) "Floor level" ~~((is considered to be))~~ means the floor upon which people normally walk--not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

~~((23))~~ (21) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

~~((24))~~ (22) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

~~((25))~~ (23) "Highly toxic pesticide" for the purpose of this chapter, means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity Category I due to oral, inhalation or dermal toxicity.

~~((26))~~ (24) "Landscape application" means an application by a certified applicator of any EPA registered pesticide to any exterior landscape plants found around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by certified private applicators; (b) mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

~~((27))~~ "Limited wood destroying organism inspection" means the inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms.

~~((28))~~ (25) "Person" is defined as any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

~~((29))~~ (26) A "person aggrieved" by a violation is defined as a person who has reasonable grounds to believe that he or she

has been subjected to harm or an unreasonable risk by such a violation.

~~((30))~~ (27) "Pollen shedding corn" means that stage of growth when ten percent or more of the corn plants in any one quarter portion of the field are showing spike anthers.

~~((31))~~ (28) "Positive identification" means a photo identification document issued by a U.S. government agency or affiliated jurisdiction (states, tribes, territories). Acceptable photo identification documents are: A driver's license, a passport, a military ID card or an immigration green card. Exception: Nonphoto identification documents may be allowed for religious groups that prohibit members from having their picture taken. In this case, two forms of identification are required, one of which must be a government issued document with a signature (e.g., Social Security card). Other nonphoto identification must identify the holder by name and address (e.g., utility bill).

(29) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of ~~((a))~~ any ~~((EPA restricted use))~~ pesticide ~~((, or (b) any state))~~ classified by the EPA or the director as a restricted use pesticide ((restricted to use only by certified applicators by the director)) for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the private applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

~~((32))~~ (30) "Private-commercial applicator" means a certified applicator who uses or supervises the use of ~~((a))~~ any ~~((EPA restricted use))~~ pesticide ~~((, or (b) any))~~ classified by the EPA or the director as a restricted use pesticide ((restricted to use only by certified applicators)) for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

~~((33))~~ (31) "Specific wood destroying organism inspection" means an inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms prior to pest management activities.

(32) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW ~~((that are restricted to use only by certified applicators))~~.

~~((34))~~ "Substantial economic loss" means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

~~((35))~~ (33) "Structural pest inspector" means any individual who performs the service of conducting a complete wood destroying organism inspection or a specific wood destroying organism inspection.

(34) "Unreasonable adverse effects on the environment" means

any unreasonable risk to people or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

~~((36))~~ (35) "Waste pesticide" is any pesticide formulation which cannot be used according to label directions in Washington state because of cancellation or suspension of its federal or state registration, or deterioration of the product or its label, and any pesticide formulation whose active ingredients are not clearly identifiable because of label deterioration or because the pesticide is not stored in its original container.

~~((37))~~ "Wood destroying organisms" means those organisms including, but not limited to, subterranean termites, dampwood termites, carpenter ants, wood boring beetles of the family anobiidae (deathwatch beetle), and wood decay fungus (rot). Wood destroying organisms shall not include such organisms which occurred prior to the manufacturing or processing of the lumber, e.g., pocket rot.

~~(38)~~ "Wood destroying organism inspection" means the service of inspecting a building for the presence of wood destroying organism pests destructive to its structural components, and/or their damage, and/or conducive conditions. For purposes of these rules a wood destroying organism inspection shall be either a "complete wood destroying organism inspection" or a "limited wood destroying organism inspection.")

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1020 What are the rights of complainants((-))?** If an inspection is conducted by the department of an area in which a pesticide violation is believed to have occurred, a complainant shall:

(1) Be promptly provided by the department, with the department's decision, as set forth in the "notice of intent to assess civil penalty and/or deny, suspend, or revoke a license," or in any document issuing a warning or ~~((determining))~~ determination of no action((-)). The department will endeavor to provide notice concurrently with the department's service of ~~((such))~~ the document on the alleged violator.

(2) Be entitled, upon written request to the department, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to chapter 17.21 RCW: Provided((-)) that in any adjudicative proceeding under chapter 34.05 RCW the identity of complainant shall be disclosed to the alleged violator upon written request of the alleged violator.

(3) Be otherwise entitled to those rights of persons aggrieved



as set forth in WAC 16-228-1030 (~~(, if aggrieved,)~~) except that the complainant shall be provided, automatically without request, a copy of the final (~~order referred to therein~~) department decision.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1030 What are the rights of person aggrieved(~~(-)~~)?**

A person aggrieved shall:

(1) Be entitled to be notified promptly of any final action taken by the department (~~(pursuant to)~~) concerning an investigation under chapter 17.21 RCW(~~(7)~~). The department will provide notice (~~(concurrently with)~~) at the same time as a service of notice on the violator: Provided(~~(7)~~) that such person has made timely written application to the department requesting such notice. Written application to the department requesting such notice shall be received no later than the date of service of a final order.

(2) Within thirteen calendar days of the date of mailing of a final order to a person aggrieved, the person aggrieved may request in writing that the director reconsider the matter, shall specify in writing why (~~(said person)~~) they believe(~~(s)~~) the penalty decision is inappropriate, and (~~(shall)~~) the department will serve (~~(such)~~) the request on the violator.

(3) (~~(Upon reconsideration)~~) Following the request in writing, the director will reconsider the entire matter including any written statement submitted by any party, and may adjust the penalty decision set forth in the final order if the director finds that the penalty was inappropriate.

(4) If such person is aggrieved by the director's order on reconsiderations, within twenty calendar days of service of the order he or she may request in writing an adjudicative proceeding under chapter 34.05 RCW, shall specify in writing why (~~(the person)~~) he or she believes the penalty decision is inappropriate, and the department shall serve (~~(such)~~) the request on the alleged violator. The subject of such proceeding shall be limited to the appropriateness of the penalty decision of the director on reconsideration based on a review of the record as supplemented by any new evidence received by the presiding officer. The alleged violator shall be given notice and an opportunity to participate in the proceeding by the department. The proceeding shall be heard by a presiding officer who has not heard the adjudicative proceeding on the merits against the alleged violator. Chapter 34.05 RCW and chapter 16-08 WAC shall govern the conduct of such proceeding and any review (~~(thereon)~~).

(5) Upon the filing of any request for proceeding pursuant to subsection (2) of this section, any final order of the director shall be automatically stayed pending resolution of such request

and expiration of any time period for pursuing additional relief. The director shall provide written notice to the alleged violator of any such resolution, thereby reinstating the rights of the alleged violator to seek further relief.

AMENDATORY SECTION (Amending WSR 00-22-073, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1040** (~~((Investigative response time.))~~) How soon must the department respond to a complaint? Upon receipt of a verified report of loss as set forth in RCW 17.21.190 or alleged violation of chapters 17.21 or 15.58 RCW or the accompanying rules, the department shall initiate an investigation. Investigation of a complaint concerning immediate acute pesticide exposure to humans or animals shall be initiated immediately. Other complaint investigations shall be initiated no later than forty-eight hours after receipt of the verified report of loss.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1100** (~~((Statement of purpose--Penalty assignment.))~~) What is the basis for penalties? For the purpose of fair, uniform determination of penalty as set forth in WAC 16-228-1110 through 16-228-1150, the director hereby declares:

(1) Regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation(s); and

(2) Any regulatory action taken by the department against any person who violates the provisions of chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and

(3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

AMENDATORY SECTION (Amending WSR 01-01-058, filed 12/12/00, effective 1/12/01)

**WAC 16-228-1110** (~~((Definitions--Penalty assignment.))~~) What are the definitions specific to penalties? In addition to the

definitions set forth in RCW 17.21.020, 15.58.030, and WAC 16-228-1010, the following shall apply to WAC 16-228-1100 through 16-228-1150:

(1) "Adverse effect(s)" means that the alleged activity actually causes, or creates the possibility of damage, injury or public health threat, to humans, animals, plants, property or the environment. In those situations involving a wood destroying organism inspection, adverse effects exist when the inspection has been performed in a faulty, careless or negligent manner.

(2) "Level of violation" means that the alleged violation is a first, second, third, fourth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior incident(s) which resulted in a violation or violations within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior incident which resulted in a violation or violations within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(e) For purposes of calculating the level of violation, prior incidents will be measured from the date that a final order or stipulated order resolved the prior violation(s), and not from the date that the incident(s) occurred.

(3) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(4) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(5) "Violation" means commission of an act or acts prohibited by chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder.

(6) "Civil penalty" means a monetary penalty administratively issued by a regulatory agency for noncompliance with state or federal law, or rules. The term does not include any criminal penalty, damage assessment, wages, premiums, or taxes owed, or interest or late fees on any existing obligation.

(7) "Notice of Correction" means a document issued by the department that describes a condition or conduct that is not in compliance with chapter 15.58 or 17.21 RCW, or the rules adopted under the authority of chapter 15.58 or 17.21 RCW and is not subject to civil penalties as provided for in RCW 43.05.110. A notice of correction is not a formal enforcement action, is not subject to appeal and is a public record.

(8) "Notice of intent" means a document issued by the department that alleges specific violations of chapter 15.58 or 17.21 RCW, or any rules adopted under the authority of those

chapters. A notice of intent is a formal enforcement document issued with the intent to assess civil penalties to the alleged violator and/or to suspend, deny or revoke the alleged violator's pesticide license.

AMENDATORY SECTION (Amending WSR 01-01-058, filed 12/12/00, effective 1/12/01)

WAC 16-228-1115 (~~Application of RCW 43.05.100 and 43.05.110--Issuance of~~) When can the department issue a civil penalty without first issuing a notice of correction((?))? (1) Pursuant to RCW 43.05.100 a notice of correction may be issued by the department when they become aware of conditions and/or conduct that are not in compliance with the applicable laws and rules enforced by the department. The issuance of a notice of correction by the department shall not constitute a previous violation for purposes of WAC 16-228-1110(2), but may, at the discretion of the department, be considered as an aggravating factor for the purposes of WAC 16-228-1120(2).

(2) Prior to issuing a civil penalty for a violation of chapter 15.58 or 17.21 RCW, and the rules adopted under the authority of chapter 15.58 or 17.21 RCW the department shall comply with the requirements of RCW 43.05.110. RCW 43.05.110 provides that the department of agriculture may issue a civil penalty provided for by law without first issuing a notice of correction if: (1) The person has previously been subject to an enforcement action for the same or similar type of violation of the same statute or rule or has been given previous notice of the same or similar type of violation of the same statute or rule; or (2) compliance is not achieved by the date established by the department in a previously issued notice of correction, if the department has responded to any request for review of such date by reaffirming the original date or establishing a new date; (3) the violation has a probability of placing a person in danger of death or bodily harm, has a probability of causing more than minor environmental harm, or has a probability of causing physical damage to the property of another in an amount exceeding one thousand dollars; or (4) the violation was committed by a business that employed fifty or more employees on at least one day in each of the preceding twelve months.



**WAC 16-228-1120 (~~(Calculation of penalty.)~~) How are penalties calculated?** (1) Median penalty selection. In the disposition of administrative cases, the department shall use the penalty assignment schedule listed in WAC 16-228-1130 to determine appropriate penalties. The department shall calculate the appropriate penalty based on the level of violation and the adverse effect(s) or potential adverse effects at the time of the incident(s) giving rise to the violation. The median penalty shall be assessed unless a proportionate adjustment is warranted and/or there are aggravating or mitigating factors present. The median penalty as listed in WAC 16-228-1130 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation in the penalty assignment schedule table. The median penalty under the penalty assignment schedule may not be proportionately adjusted and/or mitigated to a level less than the minimum penalty listed for the violation.

(2) Proportionate adjustment of median penalty.

(a) The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action under certain circumstances(~~(f.f)~~). Such circumstances include situations where licensing action(s) as a deterrent are ineffective and include, but are not limited to:

(i) Violations by persons who are not licensed; and

(ii) Situations where the civil penalty assessed is not substantially equivalent to the violator's economic benefit derived from the violation.

(b) The department also reserves the right to proportionately decrease the civil penalty and increase the licensing action in circumstances that demonstrate the ineffectiveness of a civil penalty as a deterrent. Nothing shall prevent the department from proportionally adjusting a licensing action to a level greater than the maximum licensing action listed in the penalty assignment schedule.

(3) Aggravating factors. The department may consider circumstances enhancing the penalty based on the seriousness of the violation. Aggravating factors include, but are not limited to, the following:

(a) The number of separate alleged violations contained within a single notice of intent.

(b) The high magnitude of the harm, or potential harm, including quantity and/or degree, to humans, animals, plants, property or the environment caused by the violation(s).

(c) The similarity of the current alleged violation to previous violations committed within the last three years.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct.

(4) When the department determines that one or more aggravating factors are present, the department may assess the maximum penalty as listed within the level of violation or may, in

its discretion, increase the penalty to a level greater than the maximum penalty, including but not limited to revocation of the license.

(5) Mitigating factors. The department may consider circumstances reducing the penalty based upon the seriousness of the violation. Mitigating factors include but are not limited to, the following:

(a) Voluntary disclosure of a violation.

(b) The low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

(c) Voluntary taking of remedial measures that will result in increased public protection, or that will result in a decreased likelihood that the violation will be repeated.

(6) When the department determines that one or more mitigating factors are present, the department may assess the minimum penalty for the violation from the penalty schedule.

(7) The department considers each violation to be a separate and distinct event. When a person has committed multiple violations, the violations are cumulative for purposes of calculating the appropriate penalty. Penalties are added together.

(8) Violation(s) committed during the period when an individual's license is suspended or revoked shall be subject to the maximum civil penalty of seven thousand five hundred dollars and/or revocation of the license for a period of up to five years. Violation(s) committed by unlicensed individuals are subject to the provisions of this chapter, including the penalty provision.

AMENDATORY SECTION (Amending WSR 01-01-058, filed 12/12/00, effective 1/12/01)

**WAC 16-228-1125 (~~Revocation and denial of licenses--Actions against licenses only.~~) When can the department revoke or deny a license?**

(1) The department retains the sole discretion to determine when an individual license should be revoked rather than suspended. Revocation of a license shall be an option for the department in those circumstances where:

(a) The penalty schedule allows for revocation;

(b) One or more aggravating factors are present; and/or

(c) The duration of the licensure action exceeds six months.

In circumstances where the department determines revocation to be appropriate, the period of revocation shall be determined at the discretion of the department, but in no instance shall the revocation exceed five years.

(2) The department may deny an applicant a license when the applicant has committed a violation(s) of chapters 15.58 and 17.21 RCW and/or the rules adopted under those chapters. The duration of denial shall be determined based upon the penalty provisions of this chapter. In circumstances where the department determines

denial to be appropriate, the period of denial shall not exceed five years.

(3) Nothing shall prevent the department from denying an applicant a license when the applicant has an outstanding civil penalty owed to the department from a previous violation(s).

(4) The department may, at its discretion, suspend a license without also seeking a civil penalty. Such circumstances include, but are not limited to, those incidents where a civil penalty is not available as an appropriate penalty pursuant to RCW 43.05.110. The appropriate period of suspension shall be determined from the penalty schedule.

AMENDATORY SECTION (Amending WSR 01-01-058, filed 12/12/00, effective 1/12/01)

**WAC 16-228-1130 What is the penalty assignment schedule((-))?**  
 This assignment schedule shall be used for violations of chapter 17.21 or 15.58 RCW or chapter 16-228 WAC. (See WAC 16-228-1150 for other dispositions of alleged violations, including Notice of Corrections.)

LEVEL OF VIOLATION	ADVERSE EFFECTS NOT PROBABLE			ADVERSE EFFECTS PROBABLE		
	MINIMUM	MEDIAN	MAXIMUM	MINIMUM	MEDIAN	MAXIMUM
FIRST	\$200 and or 2 days license suspension	\$300 and or 3 days license suspension	\$500 and or 6 days license suspension	\$350 and or 5 days license suspension	\$450 and or 7 days license suspension	\$550 and or 9 days license suspension
SECOND	\$350 and or 3 days license suspension	\$500 and or 6 days license suspension	\$1000 and or 9 days license suspension	\$600 and 10 days license suspension denial or revocation	\$1300 and 20 days license suspension denial or revocation	\$2000 and 30 days license suspension denial or revocation
THIRD	\$700 and or 4 days license suspension	\$1000 and or 9 days license suspension	\$2000 and or 12 days license suspension	\$800 and 30 days license suspension denial or revocation	\$2400 and 40 days license suspension denial or revocation	\$4000 and 50 days license suspension denial or revocation
<del>FOURTH</del> <del>FOURTH</del> FOURTH OR MORE	\$900 and or 5 days license suspension denial or revocation	\$2000 and or 12 days license suspension denial or revocation	\$3000 and or 15 days license suspension denial or revocation	\$1000 and 50 days license suspension denial or revocation	\$4250 and 70 days license suspension denial or revocation	\$7500 and 90 days license suspension denial or revocation

AMENDATORY SECTION (Amending WSR 01-01-058, filed 12/12/00, effective 1/12/01)

**WAC 16-228-1150** What are the other dispositions of alleged violations((-)) that the department may choose? Nothing herein shall prevent the department from:

(1) Choosing not to pursue a civil penalty, license suspension or license revocation.

(2) Issuing a notice of correction in lieu of pursuing a civil penalty, license suspension or license revocation(~~(+)~~).

(3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

(4) Referring violations or alleged violations, to any federal, state or county authority with jurisdiction over the activities in question, including but not limited to the Environmental Protection Agency (EPA) and the Federal Aviation Administration (FAA).

AMENDATORY SECTION (Amending WSR 00-22-073, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1200** What are the restrictions on pesticide distribution, transportation, application, storage and disposal((-))? (1) No person shall handle, transport, store, display, apply, dispose of or distribute pesticides in such a manner as to endanger humans and their environment or to endanger food, feed, or any other product that may be transported, stored, displayed, or distributed with such pesticides. Toxicities of pesticides shall be considered in distribution, storage, handling, and merchandising practices.

(2) Highly toxic pesticides shall not be transported in the same compartment of the vehicle or other equipment together with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment shall be inspected by the owner or authorized agent for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the pesticides shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Vehicles or other equipment which have been contaminated shall not be returned to service until the contamination has been removed.

(3) Pesticide containers shall be secured during transit by use of side or end racks, bracing, chocks, tiedowns, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or



change in direction.

(4) Valves shall be tightly closed and manhole covers shall be secured on cargo (~~(or)~~), portable and permanent tanks used for transporting, storage and application of pesticides, whether tanks are full or empty.

(5) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or authorized agent is present to accept delivery of the pesticides and signs a delivery slip (~~(and)~~) or the pesticides are secured in a proper storage.

(7) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable cases, other human foods, animal feeds, or drugs, or in any manner that may result in contamination of food, feed, or clothing. Pesticides intended for sale or distribution shall only be stored and displayed within an enclosed area of a building or fence and shall not be displayed on sidewalks.

(8) Pesticide dealers shall not sell, offer for sale, or hold for sale highly toxic pesticides in the same department where food for human consumption is displayed or sold. The (~~(use of the)~~) same "checkstand" or food packaging area (~~(is prohibited)~~) may not be used for the distribution of highly toxic pesticides and food for human consumption.

(9) All pesticide incidents involving undesirable impacts on human health shall be reported to the Washington state department of health by the department.

(10) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner that would not contaminate the environment or cause injury to humans and/or animals. Pesticides with obscured, illegible or damaged labels shall not be displayed or offered for sale.

(11) No person shall distribute or sell any pesticide unless it is in the registrant's or the manufacturer's unbroken, immediate container and (~~(there)~~) the registered pesticide label is affixed to the container (~~(its registered pesticide label)~~).

(12) A user of a pesticide may distribute a properly labelled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

(13) The distribution and use of DDT and DDD shall be prohibited in this state except for uses allowed by the Environmental Protection Agency or the Center for Disease Control of the United States Department of Health and Human Services.

WAC 16-228-1220 What are the restrictions applying to any person holding, handling, using, or disposing of pesticides and their containers((-))? (1) Any person handling, applying, or disposing of pesticides or pesticide containers shall do so in such a manner to minimize hazard to commercially important pollinating insect species. Due care shall be taken to regulate the timing and technique of pesticide applications to or around blossoming plants and pollen shedding corn. The use or application of microencapsulated methyl parathion, either directly or through drift, shall be prohibited on all blossoming plants and on pollen shedding corn.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, ~~((including))~~ humans, desirable plants and animals, or wildlife((-)). Provided((-)) that a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection: ~~((Provided further, That))~~ Disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(3) No person shall pollute streams, lakes, and other water supplies in pesticide loading, mixing, and application. Adequate, functioning devices and procedures to prevent backsiphoning shall be used.

(4) ~~((None of the following))~~ No pesticides shall be applied by aircraft or airblast sprayers ~~((immediately))~~ to property abutting and adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments under conditions that may result in contamination of these establishments or their premises((-)

~~(a) Disulfoton (DiSystem) Liquid~~

~~(b) Parathion~~

~~(c) Phorate (Thimet) Liquid).~~

(5) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, ~~((including))~~ humans, desirable plants or animals.

(6) Requirements for unattended pesticides and their containers:

(a) Good generally accepted housekeeping practices shall be maintained for all pesticides and their containers.

(b) The provisions of (d) and (e) of this subsection and subsection (7) of this section shall not apply to empty pesticide containers when adequately decontaminated (e.g., a minimum of three successive rinsings); and shall not apply to categories 2, 3, and 4 pesticide formulations labeled for home and garden use only.

(c) For the purposes of (d) and (e) of this subsection and subsection (7) of this section, pesticides and their containers at

the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.

(d) Pesticides labeled with the signal word "danger/poison" and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (except (v) below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

(i) Closed vehicle.

(ii) Closed trailer.

(iii) Building or room or fenced area with a fence at least six feet high.

(iv) Foot locker or other container which can be locked.

(v) Unattended trucks or trailers which have solid sideracks and secured tailgate at least six feet above ground, ramp or platform level.

(vi) Bulk storage containers fifty gallons and larger with tight screw-type bungs and/or secured or locked valves.

(e) Pesticides labeled with the signal word "danger" when not accompanied by the signal word "poison," pesticides labeled with the signal word "warning" and pesticides labeled with the signal word "caution" and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in (d) of this subsection: Provided((7)) that metal containers, twenty-eight gallons and larger, with tight screw-type bungs and/or secured or locked valves (~~and sealed five gallon containers (requiring tool to unseal)~~) shall be considered secured storage.

(7) Requirements for posting of storage area for pesticides (~~{and their containers labeled with the signal words "danger/poison"}~~) and their containers labeled with the signal words "danger/poison":

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (or Pesticide or Chemical) Storage Area/Keep Out" in letters large enough to be legible at a distance of thirty feet.

(b) Warning signs shall be posted:

(i) On enclosures specified in subsection (6)(d) of this section, when such enclosures are unattended;

(ii) At each entrance or exit from a storage area and on each exterior wall, so that a sign is visible from any direction;

(iii) If the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each exterior wall of the structure within thirty feet of the pesticide storage area and from the main entrance to the larger structure: Provided((7)) that posting of the main entrance shall not be required, if a sign is visible from the entrance which clearly identifies the possibility that pesticides may be stored on the premises, (i.e., XYZ Pest Control or XYZ Wood Treatment, Inc.);

(8) No person shall disperse a pesticide or pesticide rinsate from any aircraft while in flight except over the target field and at the customary application height for that crop: Provided((7)) that emergency dumping shall not be considered a violation of this



section.

NEW SECTION

**WAC 16-228-1225 What are exceptions to label requirements?**

The term "to use any registered pesticide in a manner inconsistent with its labeling" means to use any registered pesticide in a manner not permitted by the labeling, except that the term shall not include:

(1) Applying a pesticide at any dosage, concentration or frequency less than that specified on the labeling unless the labeling specifically prohibits deviation from the specified dosage, concentration or frequency;

(2) Applying a pesticide 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 department or EPA has required that the labeling specifically state 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 unless the labeling specifically states that the product may only be applied only by the methods specified on the labeling, (chemigation applications are prohibited unless the label has chemigation use directions); and

(4) Mixing a pesticide or pesticides with a fertilizer when such mixture is not prohibited by the labeling.

AMENDATORY SECTION (Amending WSR 03-05-034, filed 2/11/03, effective 3/14/03)

**WAC 16-228-1231 What are state restricted use pesticides for distribution by licensed pesticide dealers and for use by certified applicators only((?)**

(1) Pesticides defined by the following categories or active ingredients are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or to their duly authorized agents. The certified applicator must have a valid certification, license or permit to use or purchase the kind and quantity of such pesticide sold or delivered. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.

(a) Any EPA restricted use pesticide.

(b) ~~((2, 4-D -- all dry formulations and all liquid amine or~~



~~salt formulations~~) All formulations, except for low volatile esters, of dicamba and phenoxy hormone-type herbicides (e.g., 2,4-D, MCPA, MCPP), distributed in quantities larger than one gallon (~~that are used~~) in counties located east of the crest of the Cascade Mountains.

(c) Low volatile ester formulations of dicamba and phenoxy hormone-type herbicides (e.g., 2,4-D, MCPA, MCPP) distributed in quantities of one gallon or larger in counties located east of the crest of the Cascade Mountains.

(d) Strychnine and its salts.

~~((d))~~ (e) Aquatic pesticides. All pesticides formulations labeled for application onto or into water to control pests on or in water except as provided in subsection (2) of this section.

~~((e))~~ (f) Pesticides containing the following active ingredients and their isomers are hereby declared state restricted use pesticides for the protection of groundwater.

atrazine  
bromacil  
dcpa  
disulfoton  
diuron  
hexazinone  
metolachlor  
metribuzin  
picloram  
prometon  
simazine  
tebuthiuron

(2) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses shall be exempt from the requirements of this section:

- (a) Swimming pools
- (b) Wholly impounded ornamental pools or fountains
- (c) Aquariums
- (d) Closed plumbing and sewage systems
- (e) Enclosed food processing systems
- (f) Air conditioners, humidifiers, and cooling towers
- (g) Industrial heat exchange, air washing and similar industrial systems
- (h) Disinfectants
- (i) Aquatic environments in states other than Washington
- (j) Animal pets
- (k) Use within wholly enclosed structures (with floors) or fumigation chambers.

Greenhouses are not considered as wholly enclosed structures for the purposes of this section

(1) Home and garden control of mosquito larvae.

(3) Products listed in subsection (1)~~((e))~~(f) of this section (~~and dry formulations of 2,4-D~~) which are labeled and intended only for Home & Garden use are exempt from the requirements of this section.

(4) Dry formulations of dicamba, 2,4-D, MCPA, MCPP and other

phenoxy hormone-type herbicides labeled and intended only for home and garden use or turf, are exempt from the requirements of this section.

(5) Distribution of pesticides bearing combined labeling of uses onto or into water plus ((~~non-aquatic~~)) nonaquatic general uses, may be made by licensed pesticide dealers to noncertified applicators if the dealer indicates on the sales slip or invoice that the purchaser of the pesticide agrees that it will not be applied into or onto water. If requested by the department, dealers shall furnish records on the sales of pesticides labeled for application onto or into water, whether sold for that use or not. Records shall include the name and address of the purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased. Records shall be kept for seven years from the date of distribution.

~~((5) Licensed pesticide dealers shall keep records of distribution of state restricted use pesticides for a period of seven years from the date of distribution. Records shall be furnished to the director immediately upon request. The records shall contain the following information:~~

- ~~(a) Name and address of certified applicator;~~
- ~~(b) Name of authorized agent (if applicable);~~
- ~~(c) Product name and EPA registration number;~~
- ~~(d) Quantity in pounds or gallons of the pesticide distributed;~~
- ~~(e) Date of distribution;~~
- ~~(f) Certified applicator's license number;~~
- ~~(g) Crop or site to which the pesticide will be applied.))~~

(6) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization by the certified applicator to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license number and positive identification of the authorized agent.

(7) Pesticide dealers must positively identify unknown purchasers of restricted use pesticides. Positive identification may be annually at the time of verification of the certified applicator's license number or for each individual purchase if the applicator is unknown to the dealer. Dealers must verify the identification of unknown purchasers of restricted use pesticides for telephone or electronic purchases either by fax (photo identification) or at the time of delivery.

NEW SECTION

**WAC 16-228-1238 What are the restrictions on application of ziram to Bosc pears?** All dry formulations (such as wettable powders or water dispersible granules) of ziram labeled for use on pears are hereby declared state restricted use pesticides because of dermal effects to persons exposed while working in Bosc pear orchards.

(1) Growers shall observe the Environmental Protection Agency restricted entry interval label requirements following any treatment with dry wettable formulations of ziram before entering or allowing persons to enter pear orchards without personal protective clothing.

(2) Any entry during the restricted entry interval shall follow chapter 16-233 WAC, Worker protection standards, regarding handler, farm worker safety, and early-entry handler requirements.

(3) Growers shall observe an additional fourteen days after an application before entering or allowing workers to enter Bosc pear orchards without personal protective clothing as defined below.

(4) For the purposes of this section, minimum personal protective clothing shall consist of: A long-sleeved shirt; long-legged pants; socks; and chemical resistant gloves.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1250 What are the restrictions on phenoxy herbicides ((restrictions-))?** (1) The distribution, use and application of all high volatile ester and dust formulations of phenoxy herbicides shall be prohibited throughout the state.

(2) In the areas under order, pesticide dealers shall make available to the purchaser a copy of the rules pertaining to the use of dicamba and/or phenoxy hormone-type herbicides, including 2,4-D and MCPA, in the area in which the material will be applied.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1260 What are the restrictions on the distribution of tributyltin((-)) products?** (1) The distribution for use in Washington state of paint, stain, paint additives, or similar products containing any chemical form of tributyltin for use in interiors of inhabited structures (i.e., residences, office buildings, institutions, recreational vehicles, and retail stores)

shall be prohibited: Provided((7)) that this section shall not apply to specialty products, such as tile grout additives or cooling tower biocides.

(2) No tributyltin-containing paint, stain, paint additives, or similar products as specified in subsection (1) of this section may be registered for distribution unless its label clearly indicates that it shall not be used on interior surfaces of inhabited structures or that it shall be used on exterior surfaces only.

AMENDATORY SECTION (Amending WSR 00-22-073, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1270 What are the restrictions on the use of pesticides on small seeded vegetable seed crops ((and)), seed alfalfa((-)) and seed clover?** (1) For purposes of pesticide registration, the following crops, when grown to produce seed specifically for crop reproduction purposes, are considered nonfood and nonfeed sites of pesticide use:

Common Name	Synonyms
alfalfa	
arugula	Mediterranean salad, rucola, roquette, Ghargir
beet	<u>garden and sugar</u>
<u>broccoli</u>	
broccoli raab	Rapani, Choy Sum, Chinese flowering cabbage
Brussels sprouts	
cabbage	
carrot	
cauliflower	
<u>Chinese cabbage (Bok Choy)</u>	<u>Pak Choi (Choy), Bok Choi (Choy), Taisai, celery mustard, spoon cabbage</u>
Chinese cabbage ( <u>napa</u> )	Pe-tsai
Chinese (( <del>kale</del> )) <u>broccoli</u>	Chinese (( <del>broccoli</del> )) <u>kale</u> , <u>Gailon</u>
((Chinese mustard	<u>Pak Choi (Choy), Bok Choi (Choy) Taisai, celery mustard, spoon cabbage</u> ))
clover	
collard	
coriander	cilantro
dill	
endive	<u>escarole</u>



Common Name	Synonyms
kale	bore kale
kohlrabi	
leek	
lettuce	
<u>mizuna</u>	
mustard (including Chinese and Indian)	
onion (bulb)	
onion (bunching)	
parsley	
parsnip	
radish (other than daikon)	
rape	
rutabaga	
spinach	
spinach mustard	
swiss chard	spinach beet
turnip	

(2) For the seed crops listed in subsection (1) of this section, the following conditions shall be met:

(a) All seed screenings shall be disposed of in such a way that they cannot be distributed or used for human food or animal feed. The seed conditioner shall keep records of screening disposal for three years from the date of disposal and shall furnish the records to the director (~~(forthwith)~~) immediately upon request. Conditioner disposal records shall consist of documentation (~~(from)~~) of on-farm disposal, disposal at a controlled dump site, incinerator, composter, or other equivalent disposal site and shall (~~(show)~~) include the lot numbers, amount of material disposed of, (~~(its)~~) the grower(s), and the date of disposal.

(b) No portion of the seed plant, including but not limited to green chop, hay, pellets, meal, whole seed, cracked seed, roots, bulbs, leaves and seed screenings may be used or distributed for food or feed purposes.

(c) All seed from the crops listed in subsection (1) of this section grown or conditioned in this state shall bear a tag or container label which forbids use of the seed for human consumption or animal feed.

(d) No seed from the crops listed in subsection (1) of this section grown or conditioned in this state may be distributed for human consumption or animal feed.

(3) Violation of any condition listed in subsection (2) of this section is declared to be a violation of chapters 17.21 and 15.58 RCW.

(4) Any seed crop certified under provisions of RCW 15.86.070, the Organic Food Products Act, shall be exempt from the requirements of this section.

AMENDATORY SECTION (Amending WSR 00-22-074, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1300** (~~(Distribution records.)~~) What are the recordkeeping requirements for pesticide dealers? (~~(1)~~)

Pesticide dealers shall keep and furnish records to the director immediately upon request on the distribution of any pesticide except those labeled only for home and garden. (~~These~~) Records shall be kept for a period of seven years from the date of distribution. General use distribution requests shall be limited to records necessary for investigations of suspected violations, damage complaints, inspections, monitoring distribution and use under provisions of special local needs registrations, emergency exemptions from federal registration and experimental use permits, and monitoring of any pesticide suspected of unreasonable adverse effects on the environment. The records shall contain the following information:

- ~~((a))~~ (1) Full name and address of purchaser;
- ~~((b))~~ (2) Full name and address of certified applicator (if different from ~~((a) above if applicable)~~) subsection (1) of this section for restricted use pesticides);
- ~~((c))~~ (3) Certified applicator's pesticide license number (for restricted use pesticides);
- (4) Full name of authorized agent (~~(if applicable)~~) for restricted use pesticides;
- ~~((d))~~ (5) Brand and specific pesticide name and(~~/or~~) EPA registration number;
- ~~((e))~~ (6) Number of pounds or gallons of the pesticide distributed;
- ~~((f))~~ (7) Date of distribution;
- ~~((g) Certified applicator number (if applicable);~~
- ~~((h))~~ (8) Crop and/or site to which pesticide will be applied (~~(if known)~~) for restricted use pesticides).

AMENDATORY SECTION (Amending WSR 00-22-074, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1320** (~~(Applicator requirements.)~~) What are the recordkeeping requirements for pesticide applicators? (1)

Certified applicators and all persons applying pesticides to more than one acre of agricultural land in a calendar year including public entities engaged in roadside spraying, and all persons making landscape applications of pesticides to types of property

listed in RCW 17.21.410 (1), (b), (c), (d) and (e) shall keep records for each application which shall include the following:

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

(b) The address or exact location of the land where the pesticide was applied. If the application is made to one acre or more of agricultural land, the field must be located on the map on the adopted form. Location of agricultural land shall be made using section, township and range, geographical positioning system coordinates, or by irrigation block and farm unit numbers.

(c) The year, month, day and start and stop time the pesticide was applied.

(d) The product name used on the registered label and the United States Environmental Protection Agency registration number, if applicable, of the pesticide which was applied.

(e) The direction from which the wind is blowing and estimated velocity of the wind in miles per hour (mph) and the temperature in degrees Fahrenheit at the time the pesticide was applied: Provided(~~(7)~~) that this subsection (e) shall not apply to applications of baits in bait stations ((and)), pesticide applications within structures and drip or subsurface irrigation applications. Wind and temperature readings shall be obtained in close proximity to the application site.

(f) The total amount of pesticide applied such as pounds, gallons, ounces, etc.

(g) The amount of pesticide applied per acre or one thousand square feet or other appropriate measure.

(i) For PCO classification or residential ornamental applications, the amount shall be recorded to the nearest ounce of product or to the nearest gallon of liquid spray per site.

(ii) Fumigation records shall include the pounds of gas released per one thousand cubic feet of space, the temperature, and the duration of the exposure period.

(h) The concentration of pesticide that was applied. Liquid applications may be recorded as, but are not limited to, amount of product per one hundred gallons of liquid spray, gallons per acre of output volume, ppm, percent product in tank mix (e.g., 1%). For chemigation applications record "inches of water applied" or other appropriate measure. ((Examples include, but are not limited to, the amount of formulation per one hundred gallons of water, percent formulation in the tank mix (i.e.) 1%, or gallons per acre of output volume.))

(i) The pests to be controlled (for PCO classification only).

(j) Specific crop or site to which pesticide was applied.

(k) Apparatus license plate number.

(l) The licensed applicator's full name, certified pesticide applicator license number, complete address, telephone number, and the full name and license number(s) if applicable of the individual or individuals making the application.

(m) The number of acres or other appropriate measure to which the pesticide was applied.

(2) Application records shall be completed and available to the department the same day the pesticides were applied.

(3) Application records shall be kept for a period of seven years from the date of the application of the pesticide to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records (~~forthwith~~) immediately by the licensee.

(4) Upon written request, the applicator shall provide the customer with a record of each application of pesticides to his/her land, for the current season, which shall contain the information listed in WAC 16-228-1320(1).

(5) Except as stated in subsection (6) of this section, the information required in subsection (1) of this section shall be provided upon request on the appropriate page of the pesticide record form (figures 1-8): Provided(~~(7)~~) that computerized records may be maintained as long as the records can be produced in the form and format prescribed by the department.

(6) The department may allow by written permit the information required in subsection (1) of this section to be kept in a different form and format than that described in figures 1-8: Provided(~~(7)~~) that the following criteria are met:

(a) The pesticide application (~~record keeping~~) recordkeeping system is computerized;

(b) The pesticide application (~~record keeping~~) recordkeeping system contains all the information required by subsection (1) of this section, and can be produced in a form and format acceptable to the department.

(7) All apparatus shall be kept in good repair and only that apparatus capable of performing all functions necessary to ensure proper and thorough application of pesticides shall be used. Apparatus shall be cleaned so that no residue remains which may cause injury to land, (~~including~~) humans, desirable plants and animals, from subsequent applications.

(8) On demand of the director, the applicator shall make immediately available for inspection the pesticides being applied and the apparatus used for the application: Provided(~~(7)~~) that this inspection is made at the site of application or where the apparatus is located.

(9) The applicator shall make available necessary safety equipment in proper working order and advise employees on its use to meet the safety requirements of the pesticide label.

(10) Maintain a uniform mixture at all times in operating apparatus when applying pesticides.

(11) All containers used for prepared mixtures, other than those in an apparatus, shall have a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.

((State of Washington Department of Agriculture Olympia, Washington 98504	<b>PESTICIDE APPLICATION RECORD (Version 1)</b> <b>NOTE:</b> This form must be completed same day as the application and it must be retained for 7 years (Ref: chapter 17.21 RCW)		
1- Date of Application - Year: .....	Month: .....	Day: .....	Time: .....
2- Name of person for whom the pesticide was applied: .....			
Firm Name (if applicable): .....			
Street Address: .....		City: .....	State: .....
		Zip: .....	
3- Licensed Applicator's Name (if different from #2 above): .....			License No.: .....
Firm Name (if applicable): .....			Fel No.: .....



Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

4. Name of person(s) who applied the pesticide (if different from #3 above): \_\_\_\_\_  
 \_\_\_\_\_ License No(s). If applicable: \_\_\_\_\_

5. Application Crop or Site: \_\_\_\_\_

6. Total Area Treated (acre, sq. ft., etc.): \_\_\_\_\_

7. Was this application made as a result of a WSDA Permit?  No  Yes (If yes, give Permit No.) # \_\_\_\_\_

8. Pesticide Information (please list all information for each pesticide in the tank mix):

a) Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied
			†	
			†	
			†	
			†	
			†	

9. Address or exact location of application. NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Wind direction and estimated velocity during the application: \_\_\_\_\_

11. Temperature during the application: \_\_\_\_\_

12. Apparatus license plate number (if applicable): \_\_\_\_\_

13.  Air  Ground  Chemigation

14. Miscellaneous information: \_\_\_\_\_

AGR 4226 (Rev. 4/00)

**Location of Application:** If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: \_\_\_\_\_ N

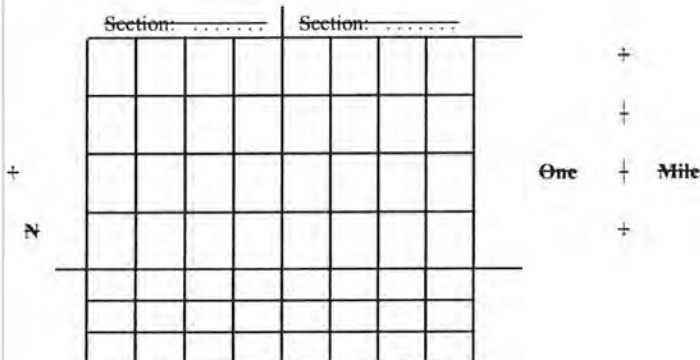
Range: E OR W (please indicate): \_\_\_\_\_

Section(s): \_\_\_\_\_

County: \_\_\_\_\_

**PLEASE NOTE:**

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



Section: .....	Section: .....
----------------	----------------

Miscellaneous Information:

AGR 4226 (Rev. 4/00) Pg. 2

State of Washington  
 Department of Agriculture  
 Olympia, Washington 98504

**PESTICIDE APPLICATION RECORD (Version 2)**

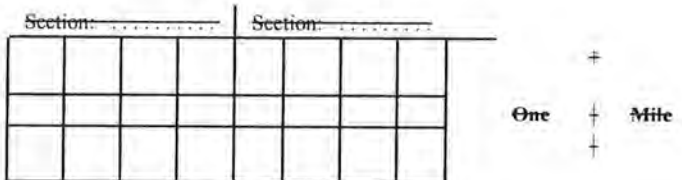
**NOTE:** Application information must be completed same day as the application and must be retained for seven years (Ref. chapter 17.21 RCW)

1. Name & Address of Person for Whom Pesticide was Applied				2. Applicator Name and Address (if different from #1)				
3. Address or exact location of application (NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form)				4. Misc. Info:				
5. Date and Time of Application	6. Crop or Site Treated <input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation	7. Acres Treated (or other measure)	8. PRODUCT NAME	9. EPA Registration Number	10. Amount of Product Applied		11. Concentration	12. Weather Conditions- Apparatus License-Plate No. and Name and License No. of person(s) who applied pesticide
					Rate per acre (or other measure)	Total Product Applied		

AGR 4226 (Rev. 4/00)

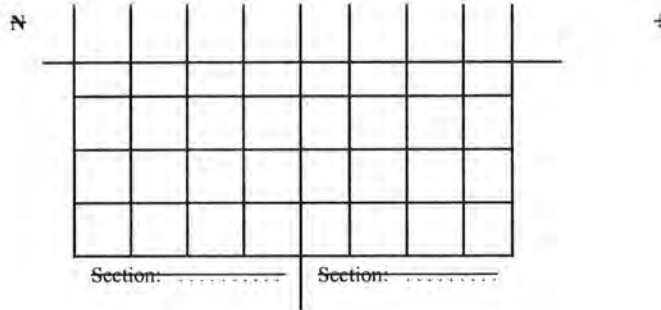
**Location of Application** (If the application covers more than one township or range, please indicate the township & range for the top-left section of the map only:

Township: ..... N  
 Range: E OR W (please indicate) ...  
 Section(s): .....  
 County: .....



**PLEASE NOTE:**

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



AGR 4236 Pg. 2

State of Washington  
Department of Agriculture  
Olympia, Washington 98504

**PESTICIDE APPLICATION RECORD (Version 3)**

**NOTE:** This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21 RCW)

- 1: Date of Application - Year: ..... Month: ..... Day(s): .....
- 2: Name of person for whom the pesticide was applied: .....  
Firm Name (if applicable): .....  
Street Address: ..... City: ..... State: ..... Zip: .....
- 3: Licensed Applicator's Name (if different from #2 above): ..... License No.: .....  
Firm Name (if applicable): ..... Tel. No.: .....  
Street Address: ..... City: ..... State: ..... Zip: .....
- 4:  Air  Ground  Chemigation
- 5: Application Crop or Site: .....
- 6: Total Area Treated (acre, sq. ft., etc.): .....
- 7: Was this application made as a result of a WSDA Permit?  No  Yes (If yes, give Permit No.) # .....
- 8: Pesticide Information (please list all information for each pesticide in the tank mix):

	<b>c) Total Amount of Pesticide Applied in Area Treated</b>	<b>d) Pesticide Applied/Acre (or other measure)</b>	<b>e) Concentration Applied</b>
<b>a) Product Name</b>	<b>b) EPA Reg. No.</b>		



9: Address *or exact location* of application. NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form:

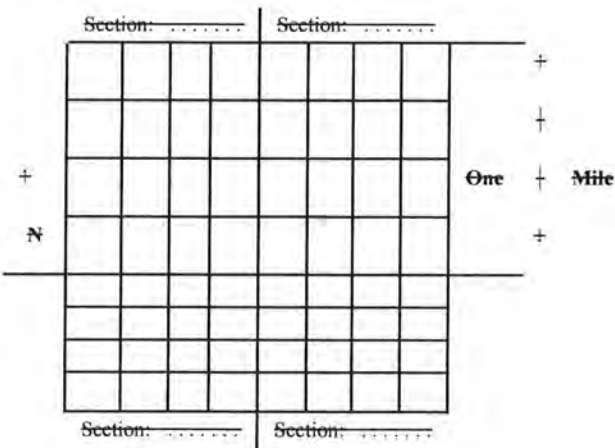
10: Date	11: Name of person(s) making the application	12: License No.	13: Apparatus Lic. Plate No.	14: Time		15: Acres Completed	16: Wind		17: Temp
				Start	Stop		Dir.	Vcl.	

AGR 4236 (Rev. 4/00)

10- Date	11- Name of person(s) making the application	12- License No.	13- Apparatus Lic. Plate No.	14- Time		15- Acres Completed	16- Wind		17- Temp
				Start	Stop		Dir.	Vel	

**Location of Application** (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: ..... N  
 Range: E OR W (please indicate): ..... +  
 Section(s): ..... N  
 County: .....



**PLEASE NOTE:**

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.

Miscellaneous Information:

AGR 4236 Pg. 2

State of Washington  
 Department of Agriculture  
 Olympia, Washington 98504

**PESTICIDE APPLICATION RECORD (Version 4)**  
**NOTE:** This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21-RCW)

A: Date of Application - Year: ..... Month: ..... Day: .....

B: Firm Name: ..... Telephone No.: .....  
 Commercial Applicator's Name: ..... License No.: .....

Street Address: ..... City: ..... State: ..... Zip: .....

C: Name of person(s) who applied the pesticide: .....

License No(s): .....

D: Pesticide Information (please list all information for each pesticide in the tank mix): .....



**Product Name**

**EPA Reg. No.**

**Concentration**  
Amount: (Lbs., Qts., etc.) of brand per 100  
gallons  
of tank mix. Amount and unit must be specified.

E: Application crop or site: ..... F: Apparatus License Plate No. ....

G: Record the following information for the specific conditions during each application:

CUSTOMER		AMOUNT APPLIED	AREA	TIME	TEMP	WIND
a) full name	(b) location of application - street address	(gals. of mix)	TREATED (sq. ft., etc.)	E	F°	DIR-VEL (mph)
1-a)						
b)						
2-a)						
b)						
3-a)						
b)						
4-a)						
b)						
5-a)						
b)						
6-a)						
b)						
7-a)						
b)						
8-a)						
b)						
9-a)						
b)						

AGR 4234 (Rev. 4/00)

**DAILY PESTICIDE APPLICATION RECORD (Version 5)**  
**For Commercial Pest Control Operators Only**

**NOTE:** This form must be completed same day as the application and retained for seven years (Ref: chapter 17.21 RCW)

A: FIRM NAME AND ADDRESS: ..... TELEPHONE NUMBER: .....

B: APPLICATOR NAME: ..... LICENSE NO. ....

C: PERSON MAKING APPLICATION: ..... LICENSE NO. ....

D: DATE: ..... E. APPARATUS LICENSE NO: .....

CUSTOMER	(a) EPA REG. NO. PRODUCT NAME(S)	(a) TIME	APPLICATION SITE	PESTICIDE
(a) FULL NAME	(b) CONCENTRATION	(IN/OUT)	(C&C, SPOT, VOID,	APPLIED/ACRE
(b) LOCATION OF APPLICATION	(c) TOTAL AMOUNT USED	(b) TEMP.	INJECTIONS, ETC.	OR OTHER
(c) TARGET PEST		(c) WIND DIR./		MEASURE
		VELOCITY		
1-a)				f
b)				f
c)				f
2-a)				f
b)				f
c)				f
3-a)				f

b) \_\_\_\_\_ /  
 c) \_\_\_\_\_ /  
 4-a) \_\_\_\_\_ /  
 b) \_\_\_\_\_ /  
 c) \_\_\_\_\_ /  
 5-a) \_\_\_\_\_ /  
 b) \_\_\_\_\_ /  
 c) \_\_\_\_\_ /  
 6-a) \_\_\_\_\_ /  
 b) \_\_\_\_\_ /  
 c) \_\_\_\_\_ /  
 7-a) \_\_\_\_\_ /  
 b) \_\_\_\_\_ /  
 c) \_\_\_\_\_ /

AGR 4237 (Rev. 4/00)      OPTIONAL: MILEAGE START      MILEAGE END}}))

State of Washington  
 Department of Agriculture  
 Olympia, Washington 98504

**PESTICIDE APPLICATION RECORD (Version 1)**

**NOTE:** This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21 RCW)

1. Date of Application - Year: \_\_\_\_\_ Month: \_\_\_\_\_ Day: \_\_\_\_\_ Start Time: \_\_\_\_\_  
 Stop Time: \_\_\_\_\_

2. Name of person for whom the pesticide was applied: \_\_\_\_\_  
 Firm Name (if applicable): \_\_\_\_\_  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

3. Licensed Applicator's Name (if different from #2 above): \_\_\_\_\_ License No.: \_\_\_\_\_  
 Firm Name (if applicable): \_\_\_\_\_ Tel No.: \_\_\_\_\_  
 Street Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

4. Name of person(s) who applied the pesticide (if different from #3 above): \_\_\_\_\_  
 License No(s). If applicable: \_\_\_\_\_

5. Application Crop or Site: \_\_\_\_\_

6. Total Area Treated (acre, sq. ft., etc.): \_\_\_\_\_

7. Was this application made as a result of a WSDA Permit?     No     Yes (If yes, give Permit No.) # \_\_\_\_\_

8. Pesticide Information (please list all information for each pesticide, including adjuvants (buffer, surfactant, etc.), in the tank mix):

a) Full Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied
			/	
			/	
			/	
			/	
			/	

9. Address **or exact location** of application. NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Wind direction and estimated velocity (mph) during the application: \_\_\_\_\_

11. Temperature during the application: \_\_\_\_\_

12. Apparatus license plate number (if applicable): \_\_\_\_\_

13.  Air       Ground       Chemigation

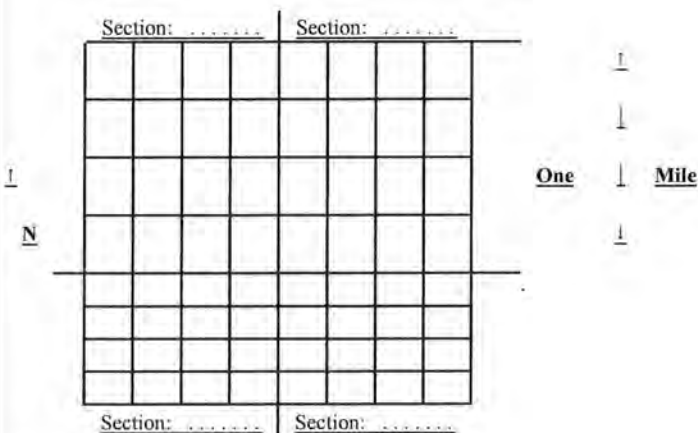
14. Miscellaneous Information: \_\_\_\_\_

**Location of Application:** If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: ..... N  
 Range: E OR W (please indicate:)  
 Section(s): .....  
 Block: ..... Farm Unit: .....  
 or GPS: .....  
 County: .....

**PLEASE NOTE:**

*The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.*



Miscellaneous Information:

**INSTRUCTIONS**

Pesticide Application Record (Version 1) AGR 4226 (Rev. 5/03)

1. Date may be spelled out or indicated numerically. Time must be indicated as start and stop times.
2. Include first and last name.
3. If the person's name is the same as No. 2, write "same" in the space for the licensed applicator's name and include the license number (if applicable) and telephone number.
4. Include first and last name(s).
5. Indicate type of land or site treated, not location. Examples: Wheat, apples, rights of way, lawn, trees and shrubs, crawl space, wall voids, etc.
6. May also be stated in terms such as linear feet, cubic feet, etc. (Specify the term to which the number refers.) If spot treatment, write spot treatment.

INSTRUCTIONS

7. If the application was made under permit, but no permit number was issued, indicate the date the permit was issued.

8.a) Brand name found on the pesticide label including adjuvants (buffer, surfactant, dye, etc.).

b) This number is found on the pesticide container label. If the material is being applied under a federal experimental use permit and no EPA Reg. No. exists, list the federal experimental use permit number. If the material is a spray adjuvant (buffer, spreader, sticker, etc.) write "adjuvant" in this space.

c) Indicate the amount of pesticide formulation (product) applied to the total area listed on line 6.

d) Other measures may include amount/sq. ft., amount/cu. ft., amount/linear ft., etc.

e) This may be listed in various ways, such as: Amount of product/100 gallons water, percent formulation in the tank mix (i.e., 1%), gallons per acre of output volume, ppm (or other measure), or inches of water applied (chemigation). Specify the term to which the number refers.

9. Agricultural land includes such areas as forest lands and range lands. It does not include transportation and utility rights of way.

10. Indicate the direction from which the wind is blowing. Measure wind velocity in mph. If the wind varies in direction and velocity during the application, indicate the range of variance (i.e., S-SW 3-7 mph). Wind readings shall be obtained in close proximity to the application site.

11. Indicate temperature in degrees Fahrenheit. (It may be indicated as the range encountered during application.) Temperature readings shall be obtained in close proximity to the application site.

12. This does not apply to private applicators or public agencies.

13. Check one.

14. Depth of application/inches of water (chemigation).

15. This space is available for any additional information you may wish to include.

Form AGR 4226 (Rev. 5/03) Pg. 2

State of Washington  
Department of Agriculture  
Olympia, Washington 98504

**PESTICIDE APPLICATION RECORD (Version 2)**

**NOTE:** Application information must be completed same day as the application and must be retained for seven years (Ref. chapter 17.21 RCW)

1. Name & Address of Person for Whom Pesticide was Applied	2. Applicator Name and Address (if different from # 1)
.....	.....
.....	.....
.....	Tel. No. .... Lic. No. ....



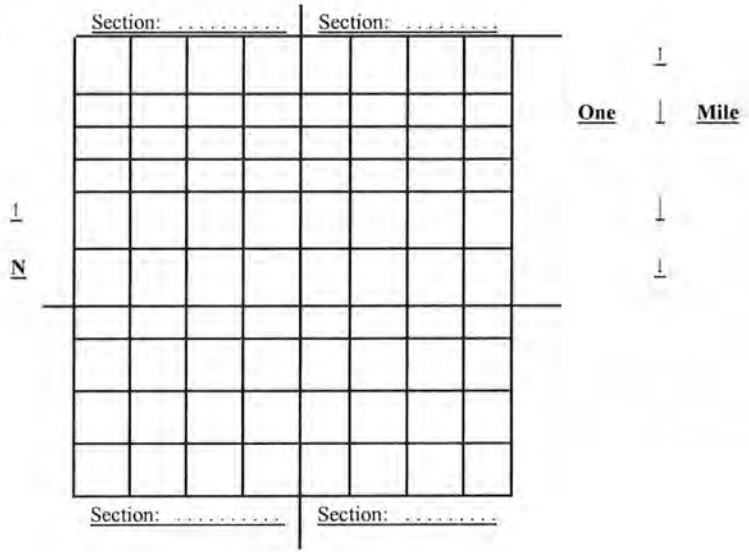
3. Full, complete address or exact location of application (NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form) 4. Misc. Info:

5. Date and Time of Application (Start and Stop)	6. Crop or Site Treated	7. Acres Treated (or other measure)	8. FULL PRODUCT NAME	9. EPA Registration Number	10. Amount of Product Applied		11. Concentration	12. Weather Conditions (wind direction, velocity, temperature). Apparatus License Plate No. and Name and License No. of person(s) who applied pesticide
					Rate per acre (or other measure)	Total Product Applied		
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							

AGR 4235 (Rev. 5/03)

**Location of Application** (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township: ..... N  
 Range: E OR W (please indicate) ..  
 Section(s): .....  
 Block: ..... Farm Unit: .....  
 or GPS: .....  
 County: ..... 1



**PLEASE NOTE:**  
 The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.

## INSTRUCTIONS

Pesticide Application Record (Version 2) AGR 4235  
(Rev. 5/03)

1. Include first and last name.

2. If the person's name is the same as No. 1, write "same" in the space for the licensed applicator's name and include the license number (if applicable) and telephone number.

3. Agricultural land includes such areas as forest lands and range lands. It does not include transportation and utility rights of way.

4. This space is available for any additional information you may wish to include.

5. Date may be spelled out or indicated numerically. Application start and stop times must be indicated.

6. Indicate type of land or site treated, not location. Examples: Wheat, apples, rights of way, lawn, trees and shrubs, crawl space, wall voids, etc.

7. May also be stated in terms such as linear feet, cubic feet, etc. (Specify the term to which the number refers.) If spot treatment, write spot treatment.

8. Brand name found on the pesticide label including adjuvants (buffer, surfactant, etc.).

9. This number is found on the pesticide container label. If the material is being applied under a federal experimental use permit and no EPA Reg. No. exists, list the federal experimental use permit number. If the material is a spray adjuvant (buffer, spreader, sticker, etc.) write "adjuvant" in this space.

10. Rate per acre: Other measures may include amount/sq. ft., amount/linear ft., etc. Specify the term to which the number refers. Total product applied is the total product applied between start and stop times.

11. This may be listed in various ways, such as: Amount of product/100 gallons water, percent formulation in the tank mix (i.e., 1%), gallons per acre of output volume, ppm (or other measure), or inches of water applied (chemigation). Specify the term to which the number refers.

12. Weather conditions must include the direction from which the wind is blowing, measure velocity in mph. If the wind varies in direction and velocity during the application, indicate the range of variance (i.e., S-SW 3-7 mph). Temperature must also be indicated in degrees Fahrenheit and may be listed as the range encountered during the application. Wind and temperature readings shall be obtained in close proximity to the application site.

The apparatus license plate number does not apply to private applicators or public agencies.

Include first and last name(s) of person(s) who applied the pesticide. Include license number(s) if applicable.

**PESTICIDE APPLICATION RECORD (Version 3)**

**NOTE:** This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21 RCW)

1. Date of Application - Year: ..... Month: ..... Day(s): .....
2. Name of person for whom the pesticide was applied: .....  
 Firm Name (if applicable): .....  
 Street Address: ..... City: ..... State: ..... Zip: .....
3. Licensed Applicator's Name (if different from #2 above): ..... License No.: .....  
 Firm Name (if applicable): ..... Tel. No.: .....  
 Street Address: ..... City: ..... State: ..... Zip: .....
4.  Air  Ground  Chemigation
5. Application Crop or Site: .....
6. Total Area Treated (acre, sq. ft., etc.) .....
7. Was this application made as a result of a WSDA Permit?  No  Yes (If yes, give Permit No.)# .....
8. Pesticide Information (list all information for each pesticide including adjuvants in the tank mix):

a) Full Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied	f) Depth of Application (Chemigation)
			/		
			/		
			/		
			/		
			/		

9. Address **or exact location** of application. NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time		15. Acres Completed	16. Wind		17. Temp
				Start	Stop		Dir.	Vel. (mph)	

AGR 4236 (Rev. 5/03)

10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time		15. Acres Completed	16. Wind		17. Temp
				Start	Stop		Dir.	Vel. (mph)	


**Location of Application** (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only.)

Township: ..... N

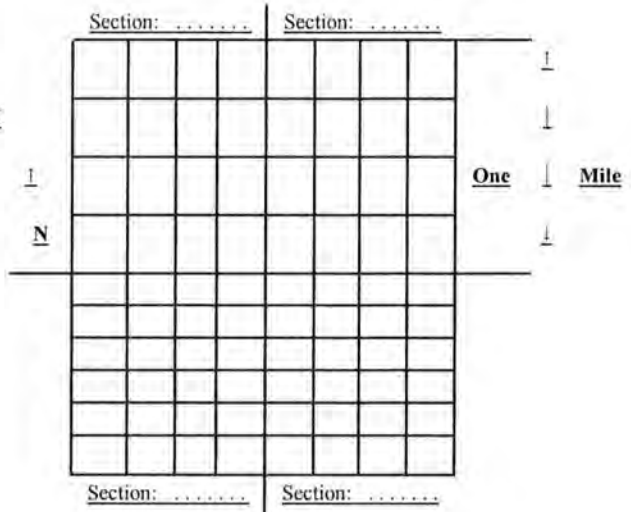
Range: E OR W (please indicate): .....

Section(s): .....

Block: ..... Farm Unit: .....

or GPS: .....

County: .....



**PLEASE NOTE:**

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.

Miscellaneous Information:

**INSTRUCTIONS**

Pesticide Application Record (Version 3) AGR 4236 (Rev. 5/03)

1. Date may be spelled out or indicated numerically.
2. Include first and last name.
3. If the person's name is the same as No. 2, write "same" in the space for the licensed applicator's name and include the license number (if applicable) and telephone number.
4. Check one.
5. Indicate type of land or site treated, not location. Examples: Wheat, apples, rights of way, lawn, trees and shrubs, crawl space, wall voids, etc.
6. May also be stated in terms such as linear feet or cubic feet. (Specify the term to which the number refers.) If spot treatment, write spot treatment.
7. If the application was made under permit, but no permit number was issued, indicate the date the permit was issued.
- 8.a) Brand name found on the pesticide label including adjuvants (buffer, surfactant, dye, etc.).



INSTRUCTIONS

b) This number is found on the pesticide container label. If the material is being applied under a federal experimental use permit and no EPA Reg. No. exists, list the federal experimental use permit number. If the material is a spray adjuvant (buffer, spreader, sticker, etc.) write "adjuvant" in this space.

c) Indicate the amount of pesticide formulation (product/adjuvant) applied to the total area listed on line 6.

d) Other measures may include amount/sq. ft., amount/cu. ft., amount/linear ft., etc.

e) This may be listed in various ways, such as: Amount of product/100 gallons water, percent formulation in the tank mix (i.e., 1%), gallons per acre of output volume, ppm (or other measure), or inches of water applied (chemigation). Specify the term to which the number refers.

f) Depth of application (chemigation).

9. Agricultural land includes such areas as forest lands and range lands. It does not include transportation and utility rights of way.

10. List the date of application.

11. Indicate first and last name(s).

12. List license number(s) if applicable.

13. This does not apply to private applicators or public agencies.

14. Application start and stop times must be indicated. Indicate a.m. or p.m.

15. The total of all entries in this column should equal the total listed on line 6.

16. Indicate the direction from which the wind is blowing. Measure wind velocity in mph. If the wind varies in direction and velocity during the application, indicate the range of variance (i.e., S-SW 3-7 mph). Wind readings shall be obtained in close proximity to the application site.

17. Indicate temperature in degrees Fahrenheit. (It may be indicated as the range encountered during the application.) Temperature readings shall be obtained in close proximity to the application site.

**PESTICIDE APPLICATION RECORD (Version 4)**

**NOTE:** This form must be completed same day as the application and it must be retained for 7 years (Ref. chapter 17.21 RCW)

State of Washington  
Department of Agriculture  
Olympia, Washington 98504

A. Date of Application - Year: ..... Month: ..... Day: .....  
B. Firm Name: ..... Telephone No.: .....  
Commercial Applicator's Name: ..... License No.: .....  
Street Address: ..... City: ..... State: ..... Zip: .....  
C. Name of person(s) who applied the pesticide: .....  
License No(s): .....

D. Pesticide Information (list all information for each pesticide including spray adjuvants (buffer, surfactant, dye, etc.) in the tank mix):

<u>Full Product Name</u>	<u>EPA Reg. No.</u>	<u>Concentration</u>
		<u>Amount: (Lbs., Qts., etc.) of brand per 100 gallons of tank mix. Amount and unit must be specified.</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____

E. Application crop or site: ..... F. Apparatus License Plate No. .....

G. Record the following information for the specific conditions during each application:

	<u>CUSTOMER</u> (a) full name (b) complete address	<u>AMOUNT APPLIED</u> (gals. of mix)	<u>AREA TREATED</u> (sq. ft., etc.)	<u>START AND STOP TIME</u>	<u>TEMP</u> F°	<u>WIND</u> DIR VEL (mph)
1. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
2. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
3. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
4. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
5. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
6. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
7. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
8. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____
9. a)	_____	_____	_____	_____	_____	_____
b)	_____	_____	_____	_____	_____	_____

AGR 4234 (Rev. 5/03)

**INSTRUCTIONS**

Pesticide Application Record (Version 4) AGR 4234 (Rev. 5/03)

This form may only be used for commercial residential ornamental and lawn applications. It may not be used to satisfy the application record requirements for agricultural employers.

- A. Date may be spelled out or indicated numerically.
- B. Include first and last name of the commercial applicator.
- C. Include first and last name(s).
- D. Product name: Brand name found on the pesticide label including adjuvants (buffer, surfactant, dye, etc.).
- E. Indicate type of land treated, not location. Examples: Rights of way, lawn, trees and shrubs, driveways, etc.
- F. List the number of the license plate affixed to the apparatus.

INSTRUCTIONS

G. Customer's name and application information should be listed on line A. Street address should be listed on line B, including city. Additional pages may be added for additional customers on the same day, so long as the information in A through F remains the same.

**DAILY PESTICIDE APPLICATION RECORD (Version 5)  
For Commercial Pest Control Operators Only**

**NOTE:** This form must be completed same day as the application and retained for seven years (Ref. chapter 17.21 RCW)

- A. FIRM NAME AND ADDRESS: ..... TELEPHONE NUMBER: .....
- B. APPLICATOR NAME: ..... LICENSE NO.: .....
- C. PERSON MAKING APPLICATION: ..... LICENSE NO.: .....
- D. DATE: ..... E. APPARATUS LICENSE NO.: .....

<u>CUSTOMER</u> <u>(a) FULL NAME</u> <u>(b) FULL ADDRESS OR LOCATION</u> <u>OF APPLICATION</u> <u>(c) TARGET PEST</u>	<u>(a) EPA REG. NO./FULL PRODUCT</u> <u>NAME(S)</u> <u>(b) CONCENTRATION</u> <u>(c) TOTAL AMOUNT USED</u>	<u>(a) TIME</u> <u>(IN/OUT)</u> <u>(b) TEMP.</u> <u>(c) WIND DIR./</u> <u>VELOCITY</u>	<u>APPLICATION SITE</u> <u>(C&amp;C, SPOT, VOID,</u> <u>INJECTIONS, ETC.)</u>	<u>PESTICIDE</u> <u>APPLIED/ACRE</u> <u>OR OTHER</u> <u>MEASURE</u>
1. a) _____ b) _____ c) _____	_____	_____	_____	/ _____
2. a) _____ b) _____ c) _____	_____	_____	_____	/ _____
3. a) _____ b) _____ c) _____	_____	_____	_____	/ _____
4. a) _____ b) _____ c) _____	_____	_____	_____	/ _____
5. a) _____ b) _____ c) _____	_____	_____	_____	/ _____
6. a) _____ b) _____ c) _____	_____	_____	_____	/ _____
7. a) _____ b) _____ c) _____	_____	_____	_____	/ _____

AGR 4237 (Rev. 5/03)      OPTIONAL: MILEAGE START      MILEAGE END

AMENDATORY SECTION (Amending WSR 00-22-074, filed 10/30/00, effective 11/30/00)

WAC 16-228-1322 What are the requirements for removal of landscape markers ((removal schedule.)) and notification of restricted entry? (1) The marker shall remain in place for a

minimum of twenty-four hours from the time the landscape application is originally posted as required by RCW 17.21.410.

(2) In the event the pesticide label requires a restricted entry interval greater than twenty-four hours, the certified applicator shall provide the property owner or tenant with the restricted entry interval times consistent with the label requirements. Markers shall remain in place consistent with the restricted entry interval times as required by the label.

(3) The property owner or tenant shall remove the marker of any landscape posted under the requirements of RCW 17.21.410 consistent with this schedule.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1330** (~~Compliance with federal~~) What are the pilot and aircraft requirements(-) for pesticide applicators?

(1) All pilots and aircraft, used for or engaged in the commercial application of pesticides shall comply fully with the appropriate rules and regulations of the Federal Aviation Administration.

(2) All applicants for an aerial applicators license shall comply with FAA certification requirements. The department may require a current copy of the FAA operating certificate prior to issuance of a license.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1370** What are the department requirements for a waste pesticide disposal(-) program? Under authority of chapter 15.58 RCW, the department may establish a waste pesticide disposal program for farmers, or other parties regulated under chapter 17.21 RCW or licensed under chapter 15.58 RCW.

(1) Upon review and determination that a pesticide is no longer useable, the department may declare a pesticide to be a "waste pesticide."

(2) The department may take possession of a waste pesticide with the owner's written consent for the purpose of disposal.

(3) For the purpose of waste pesticide disposal, the department may:

(a) Become identified as a hazardous waste generator;

(b) Enter into contracts or cooperative agreements to carry out portions of or all of the waste pesticide disposal program. The department may also enter into cooperative agreements to carry



out portions of or all of the development of education programs relating to waste pesticide disposal and programs for dissemination of information concerning the department's disposal program.

(4) The department may accept pesticides whose active ingredients are not clearly identifiable for disposal. These pesticides may be analyzed by either the department or a private laboratory. If upon analysis the material is not a pesticide, not identified or not acceptable for disposal, it shall be returned to the owner and/or not accepted for disposal.

AMENDATORY SECTION (Amending WSR 00-22-073, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1380** What are the regulations ((of)) for application of vertebrate control pesticides((-))? Vertebrate control pesticides shall be used only under the following conditions:

(1) Vertebrate control pesticides shall be placed only in locations that are not readily accessible to nonpest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure of rodenticides baits within buildings shall not be above floor levels.

(2) Baits shall be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed.

(3) When the use of bait boxes is necessary to ensure that baits are not readily accessible to nonpest animals, children, and unauthorized persons, the bait boxes shall be of sturdy construction and tamper resistant. Baits placed in industrial, commercial or other areas that are accessible to the public shall be contained in tamper resistant bait boxes and such bait boxes shall be secured in such a way that nonpest animals, children and unauthorized persons cannot displace or remove the baits out of such bait boxes. Bait boxes shall be labeled clearly with letters on contrasting background showing the following information:

(a) Any information required by the EPA or Washington state registered label for the bait or the concentrate from which it was formulated.

(b) The name of the active ingredient(s).

(c) The name of the firm and/or certified applicator, address, and the telephone number.

(4) Containers used for exposing vertebrate control baits to pests shall be composed of tough, nonabsorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing vertebrate control pesticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than

requirements on bait boxes being used as per WAC 16-228-1380(3), (except for the size of lettering). Food containers, such as "meat boats" and "souffle cups" are unacceptable. Containers used for liquid bait exposure shall be water and/or liquid impervious.

(5) All vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles.

(6) All containers used for storing or transporting vertebrate control pesticides shall bear an EPA or department registered label.

(7) (~~Service~~) Applicator's kits which contain vertebrate control pesticides shall be handled with extra caution and shall not be left where children or other unauthorized persons or nontarget animals might remove contents.

(8) Upon completion of a baiting operation, all bait boxes, containers, and/or throw bags, if they may become readily accessible to the public, shall be recovered for disposal in an approved manner.

(9) Wherever poisoned carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they shall be recovered and disposed of by burning, burying not less than three feet below the soil surface, or placed in proper waste containers and delivered to an approved disposal site.

~~((10) Thallium-containing compounds shall not be used for vertebrate control.))~~

#### GENERAL PESTICIDE ((REGULATIONS)) RULES--REGISTRATION

AMENDATORY SECTION (Amending WSR 00-22-074, filed 10/30/00, effective 11/30/00)

WAC 16-228-1400 What are the requirements for pesticide ~~((labeling requirements.))~~ labels? (1) In addition to the requirements set forth in (2) through (5) below, pesticide labeling shall meet the standards or criteria of FIFRA.

(2) Any pesticide exempted from registration under the provisions of section 18 of FIFRA must be labeled as follows:

(a) Pesticides distributed under section 18 of FIFRA must be accompanied by a label approved by the department prior to distribution. All conditions set forth in the document granting the emergency exemption and all other requirements determined to be necessary by the department must be included on the label.

(b) In situations where a label cannot be developed and approved prior to the intended use period, the department may allow

the use of the document granting the emergency exemption in lieu of labeling. Conditions set forth as part of the granting document, and any attached or associated documentation from the department shall be considered labeling for purposes of enforcement.

(3) Labels for spray adjuvants must include the following:

(a) The product brand name.

(b) The type or function of principal functioning agents.

Terms used to describe adjuvant functions must be consistent with American Society for Testing and Materials (ASTM) Standard E 1519, unless ASTM has not defined a term. In the absence of an ASTM definition, the department will determine the appropriate term(s). Functions claimed must be consistent with the principal functioning agents. If two or more functions are claimed, then the functions must be listed in descending order (starting with the primary function).

(c) An ingredient statement that shall include the following:

(i) "Principal functioning agents." The principal functioning agents must be listed by chemical name in descending order of composition with either individual or total percentage(s). If more than 3 functioning agents are present, only the 3 principal agents need to be listed;

(ii) The percentage of "Constituents ineffective as spray adjuvants," and

(iii) The total percentage of all ingredients which must equal 100%.

(d) Directions for use that must include a description of intended uses and recommended use rates.

(e) Precautionary statements adequate to protect people and the environment that shall include the following:

(i) The statement "Keep Out Of Reach Of Children."

(ii) A signal word (danger, warning or caution) and precautionary statements (including requirements for personal protective equipment, if applicable) consistent with product toxicity data; and

(iii) A statement prohibiting aquatic use, unless the registrant provides data to demonstrate that the proposed use will not cause unreasonable adverse effects to fish and aquatic invertebrates.

(f) An appropriate storage and disposal statement.

(g) The name and address of the registrant or manufacturer.

If the registrant's name appears on the label and the registrant is not the manufacturer, then the name must be qualified by appropriate wording such as "Packaged for" or "Distributed by."

(h) The weight or measure of the contents.

(i) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(j) Optional information: The spray adjuvant label may also include an exemption from tolerance statement (if applicable), an unsulfonated residue (UR) value (if applicable), the Washington registration number and a label identification code (such as the revision date).

(4) Special local need (SLN) labels issued under section 24c



of FIFRA must include the following:

(a) A federal or state Restricted Use Pesticide (RUP) designation statement (when applicable).

(b) The statement "FOR DISTRIBUTION AND USE ONLY WITHIN THE STATE OF WASHINGTON."

(c) The product brand name.

(d) The EPA and SLN registration numbers of the product.

(e) The statement: "It is a violation of federal law to use this product in a manner inconsistent with its labeling."

(f) The statement: "This labeling must be in the possession of the user at the time of application."

(g) One of the following statements:

(i) For agricultural use SLN labels the statement: "Follow all applicable directions, restrictions, worker protection standard requirements, and precautions on the EPA registered label"; or

(ii) For nonagricultural use SLN labels the statement: "Follow all applicable directions, restrictions, and precautions on the EPA registered label."

(h) Directions for use that must include the following: crop or site to be treated, pest(s) to be controlled, application rate and concentration, method of application, frequency and timing of application, and pre-harvest interval.

(i) All restriction or precaution statements (e.g. pollinator protection, herbicide drift, aquatic toxicity, chemigation, seed crop requirements) applicable to the use.

(j) (~~The statement~~) An expiration date statement such as: "This label for (Product name) expires and must not be distributed or used in accordance with this SLN registration after December 31, (Fifth year)." Fifth year means the fifth year after issuance of the SLN label.

(k) The name and address of the SLN registrant.

(l) A label identification code (such as the revision date).

(m) Any other applicable information required by the EPA or the department.

(n) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(o) Optional information: The SLN label may also include a waiver of liability statement (if applicable). The waiver of liability statement must be consistent with EPA requirements.

(5) Labels for minimum risk pesticides exempted from federal registration under section 25(b) of FIFRA must include the following:

(a) The product brand name.

(b) The product function. The function(s) claimed must be consistent with product ingredients.

(c) An ingredient statement that shall include the following:

(i) "Active ingredients." These ingredients must be listed by name (in descending order of composition) with individual percentage(s). Only active ingredients listed in 40 CFR 152.25(g) are permitted;

(ii) "Inert ingredients" or "Other ingredients." These ingredients must be listed by name with the cumulative percentage of all inert ingredients stated on the label. Only inert



ingredients on EPA Inerts List 4A (40 CFR 180.950) are permitted; and

(iii) The total percentage of all ingredients which must equal 100%.

(d) Directions for use that must include a description of intended uses and use rates. The label must not bear claims either to control or mitigate microorganisms that pose a threat to human health.

(e) Precautionary statements adequate to protect people and the environment that shall include the following:

(i) The statement "Keep Out Of Reach Of Children," and

(ii) A signal word (danger, warning or caution) and precautionary statements (including requirements for personal protective equipment, if applicable) consistent with product toxicity data.

(f) An appropriate storage and disposal statement.

(g) The name and address of the registrant or manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, then the name must be qualified by appropriate wording such as "Packaged for" or "Distributed by."

(h) The weight or measure of the contents.

(i) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(j) Optional information: The minimum risk pesticide label may also include the Washington registration number and a label identification code (such as the revision date).

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1410 What pesticides are considered home and garden ((products--Definition-)) use only pesticides?** For purposes of this section, "home and garden use only" means any pesticide determined by the department to be packaged and labeled solely for use by the general public in and around a residence. In making this determination, the department shall consider, but not be limited to, the following criteria:

- (a) Packaging;
- (b) Package size;
- (c) Label instructions;
- (d) Application method;
- (e) Equipment to be used;
- (f) Rates of application.

AMENDATORY SECTION (Amending WSR 00-22-074, filed 10/30/00, effective 11/30/00)

**WAC 16-228-1420** What are the requirements for complete pesticide formula(~~-~~)? The complete pesticide formula shall include a listing of each active and inert ingredient and the percentage of each ingredient. This information will be kept confidential and is exempt from disclosure as a public record as provided by RCW 15.58.065 except for names of inert ingredients of pesticides exempt under section 25b of FIFRA which according to CFR 152.25 (g)(3)(i) must have this information on the label. Information required by this section may be submitted on company letterhead marked "confidential" in red ink on each sheet or each "EPA confidential statement of formula" information sheet.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1430** What is an adequate pesticide container(~~s-~~)? Containers, i.e., packages, cartons, bags, cans, barrels, bins, etc., in which pesticides are sold, offered for sale, or transported within the state of Washington shall be of sufficient strength and of such construction as to alleviate danger of spillage or breakage. Pesticides found to be packaged in unsafe containers shall be placed under "stop sale" order. Containers shall meet the minimum federal specifications.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1440** (~~(Artificial coloring-)~~) What pesticides must be artificially colored or have an odor added? (1) No highly toxic pesticide in powdered or granular form or highly toxic pesticide baits having a label recommendation for use in any building, ship, or similar enclosure shall be sold within the state of Washington unless it is distinctly colored or discolored in such a way that it does not resemble any food.

(2) A pesticide in liquid form with colors resembling a beverage or liquid food, which does not have a distinctive odor, shall have an odorous substance added that is distinctly different from any beverage or liquid food.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1450 What are the requirements for pesticide-fertilizer registration and labeling((~~-~~))?** (1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: Provided((~~-~~)) that the fertilizer portion shall be considered an inert ingredient for the purpose of this order((~~-~~ And provided further, That)). Such registrations may be to the nearest one-tenth of one percent by weight of all active ingredient/s, except for nitrification inhibitor-pesticide mixes as stated in (4) below.

(2) A specimen pesticide-fertilizer label shall be registered with the director before distribution or sale. These labels shall bear the following items:

(a) A pesticide ingredient statement identifying the active ingredient(s) and showing the percent by weight of each active ingredient;

(b) EPA registration number of each pesticide used to formulate the pesticide-fertilizer mix;

(c) Crop(s) on which the pesticide-fertilizer mix may be used and the amount of pesticide-fertilizer mix to be applied per acre;

(d) Timing of application (for instance, preplant) and the preharvest interval;

(e) Net weight of the shipment;

(f) Name and address of the registrant or manufacturer;

(g) Any other information required by the director.

(3) Labeling bearing all of the information specified in (2) above and a complete specimen label for each pesticide product used to formulate the pesticide-fertilizer mix shall accompany each pesticide-fertilizer mix shipment. All or portions of the information required in (2) above may occur on the invoice of a custom mix: Provided((~~-~~)) that an appropriate specimen invoice has been registered by the director as pesticide labeling.

(4) Pesticide-fertilizer mixes containing nitrification inhibitors or agents intended for nitrogen stabilization only, and no other pesticide active ingredients, may be registered without specifying the percentage of active ingredient. The amount of active ingredient in the mix must be stated on the label that accompanies each shipment.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1455 What are the requirements on dry pesticide-fertilizer ((~~mix~~—restrictions.)) mixes?** No person shall distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1460 What are the requirements for experimental use permits (-)?** (1) Pesticides shall not be distributed or used for experimental purposes unless a written permit has been obtained from the director. All distribution and use of pesticides for experimental purposes shall be subject to restrictions and conditions described in the experimental use permit. Applications for experimental use permits shall be submitted on forms prescribed by the director.

(2) For individual experimental use permits that are product and site specific, the application shall include the following (when applicable):

(a) Name of the active ingredient and/or product name and/or EPA registration number of the product to be used;

(b) Person responsible for carrying out provisions of the experimental use permit and means of locating this person in case of emergency;

(c) Target pest(s);

(d) Crop or site and location(s) to which the pesticide is to be applied;

(e) Disposition of any treated food or feed and of subsequent crops from treated sites;

(f) Rate of application of formulation or active ingredient and number of applications;

(g) Timing and duration of the proposed program;

(h) Area (acres, sq. ft., etc.) to which the pesticide is to be applied;

(i) Total amount of pesticide to be applied;

(j) Federal experimental use permit number and text;

(k) Labeling to accompany the pesticide in the field;

(l) Any other information required by the director.

~~((2))~~ (3) An individual experimental use permit shall not be issued for use of a pesticide on a food or feed unless a tolerance greater than residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the Environmental Protection Agency, provisions for destruction of the treated food or feed and any crop residue have been made, or adequate demonstration has been made to the department that no detectable pesticide residue from the experimental program will be present in food or feed. The director may require evidence to substantiate any of the above.

~~((3))~~ (4) Collective experimental use permits may be issued by the director for experimental programs conducted on terrestrial sites by recognized research institutions, organizations, pesticide registrants, or persons licensed by the department to conduct



demonstration and research activities on land ((owned or controlled by the institution)) they own or control. For the purposes of this section, "control" means:

(a) The person responsible for carrying out the provisions of the experimental use permit owns or leases the land on which the pesticide is being applied; or

(b) The person responsible for carrying out the provisions of the experimental use permit has received documented permission from the landowner or manager to conduct such activities.

(5) An application for a collective experimental use permit shall include the following:

(a) The name, address and phone number of the person responsible for carrying out the provisions of the collective experimental use permit, and means of locating the person in case of emergency;

(b) A signed statement that:

(i) Use will not exceed one acre per active ingredient per year;

(ii) No applications will be made to aquatic sites (experimental applications to aquatic sites must be performed under an individual experimental use permit);

(iii) No applications will be made to residential sites (experimental applications to residential sites must be performed under an individual experimental use permit);

(iv) All treated food and feed crops will be destroyed after harvest unless a tolerance greater than the residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the Environmental Protection Agency. "Destroyed" means rendered unusable for food or feed or used for research purposes only;

(v) Any adverse environmental effects will be immediately reported to the department;

(vi) All applicable use directions and restrictions on the federal, state or experimental use pesticide label will be followed.

((+4)) (6) The director may monitor the implementation of any experimental use permit. This may include collection of samples, inspection of premises, records and equipment, and any other related activities specified by the director. The conditions of any experimental use permit may require notification of a designated department office prior to application and/or presence of a departmental representative at the application. Experimental use permits shall be considered labeling for purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label.

((+5)) (7) Summaries of experimental results, date and method of disposal of treated food or feed crop (if applicable), and any adverse environmental effects resulting from the application shall be retained by the holder of the permit for three years and shall be submitted to the department upon request of the director.

((+6)) (8) Pesticides intended for experimental use must be contained in secure containers, the labeling of which must present such precautions as are known to be necessary to protect the health

of persons who may come in contact with the pesticide and to prevent unreasonable adverse effects on the environment. Any unused experimental use pesticide that does not have a registered use in the state must be returned to the manufacturer or disposed of properly. Individual experimental use permits shall be considered labeling for the purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label.

~~((7))~~ (9) The director may limit the amount of pesticide, acres or areas to be treated, licensing, or qualifications of persons exercising the permit, or any other condition of an experimental use permit. The director may deny, amend, suspend or revoke any experimental use permit if it is found to be in violation of applicable federal regulations, in violation of chapters 15.58 and 17.21 RCW or rules adopted thereunder, or if the director deems such action necessary to protect public health and the environment.

#### GENERAL PESTICIDE ((REGULATIONS)) RULES--LICENSING

AMENDATORY SECTION (Amending WSR 00-24-013, filed 11/27/00, effective 12/28/00)

**WAC 16-228-1500** When can a pesticide license be denied, revoked or suspended~~((7))~~? (1) The director may deny, suspend, or revoke any provision of a license, registration, permit or certification issued under chapters 17.21 and 15.58 RCW if ~~((he finds))~~ it is found that the applicant or the holder of the license, permit, or certification has committed any of the following acts each of which is declared to be a violation:

(a) Made false or fraudulent claims through any media misrepresenting the effect of materials or methods to be utilized;

(b) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of section 18 of FIFRA, or in violation of the EPA or Washington state restrictions on the use of that pesticide;

(c) Applied known ineffective or improper pesticides or materials;

(d) Operated a faulty or unsafe apparatus;

(e) Operated in a faulty, careless or negligent manner;

(f) Refused or neglected to comply with the provisions of the applicable sections of chapters 15.58 and 17.21 RCW, the rules

adopted thereunder, or of any lawful order of the director;

(g) Refused or neglected to keep and maintain records required by chapters 15.58, 17.21 RCW, and rules adopted thereunder, or to make reports when and as required;

(h) Made false or fraudulent records, invoices, reports, and/or recommendations;

(i) Caused the application of a pesticide without having a licensed or certified applicator or operator in direct supervision as applicable;

(j) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in chapter 17.21 RCW or failed to locate the apparatus license plate on the apparatus in a manner required by the department;

(k) Failed to properly display, when required, a department issued certified commercial ground applicator vehicle sticker;

(l) Used, or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;

(m) Used fraud or misrepresentation in making an application for a license, permit, or certification or renewal of a license, permit or certification;

(n) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification;

(o) Aided or abetted a certified applicator, or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, conspired with such a certified applicator or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW or allowed one's license, permit, or certification to be used by another person;

(p) Made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or department investigation;

(q) Impersonated any state, county, or city inspector or official;

(r) Is not qualified to perform as a pest control consultant or pesticide dealer manager or certified applicator in the classifications in which he/she is licensed to operate or has operated, regardless of whether or not he/she has previously passed an examination provided for in chapter 15.58 RCW;

(s) To have in his/her possession a department pesticide licensing examination or to remove or cause to remove any said examination or its contents from the department without expressed consent from the department;

(t) To violate the testing policies set forth by department representatives prior to the start of an examination session; or

(u) Made or failed to make an inspection, statement, or report in violation of WAC ((~~16-228-2000~~)) 16-228-2005 through ((~~16-228-2040~~)) 16-228-2060.

(2) A penalty fee assessed as a result of a late license or registration renewal does not prevent the department from taking



additional regulatory action against the violator.

(3) No pesticide dealer or dealer manager license shall be denied, suspended, or revoked, simply because a pesticide purchased from that dealer was applied in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder, unless the department finds the dealer or dealer manager in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

WAC 16-228-1520 What are the requirements for the commercial applicator's financial responsibility insurance certificate (FRIC) ((-))?

(1) A commercial pesticide applicator's license shall not be issued until a properly executed financial responsibility insurance certificate is filed with the department which shall certify: (Forms to be supplied by the department).

(a) Name of insured (identical to name on application form)

(b) Address of insured

(c) Policy number

(d) ((Plane)) Aircraft number(s) covered by the insurance (if applicable)

(e) Effective period

(f) Amount of insurance. Minimum requirements are:

(i) Public liability (personal injury) fifty thousand dollars; and property damage fifty thousand dollars; or

(ii) Alternately providing both public liability (personal injury), and property damage liability coverage within the same limit, providing such policy is issued in an amount of not less than one hundred thousand dollars.

(iii) Amount of deductible (if applicable): Maximum deductible, five thousand for all applicators.

(g) List of any pesticides or group of pesticides not covered by the policy.

(h) Acknowledgement of provisions for ten days' prior written notice of cancellation or reduction of the insurance coverage.

(2) The department may waive the requirements of this section, wholly or in part, if a properly executed surety bond in a form prescribed by the director is offered as evidence of financial responsibility, as provided for in RCW 17.21.160 and 17.21.170.



**WAC 16-228-1530** What are the requirements for pesticide license(~~(s--Renewal dates--)~~) renewals and penalties(~~(-)~~)? (1) (~~(The following)~~) Except for the pesticide dealer license required under RCW 15-58-180, all pesticide licenses shall expire on the December 31st following their issuance:

~~((a) Commercial pesticide applicator licenses issued under the authority of RCW 17.21.070;~~

~~(b) Commercial pesticide operator licenses issued under the authority of RCW 17.21.110;~~

~~(c) Private applicator licenses issued under the authority of RCW 17.21.126;~~

~~(d) Public operator licenses issued under the authority of RCW 17.21.220.~~

~~(e) Private-commercial applicator licenses issued under the authority of RCW 17.21.122;~~

~~(f) Pesticide dealer-manager licenses issued under the authority of RCW 15.58.200;~~

~~(g) Demonstration and research licenses issued under the authority of RCW 17.21.129.~~

~~(2) The following pesticide licenses shall expire on the final day of February of each year:~~

~~(a) Pest control consultant licenses issued under the authority of RCW 15.58.210;~~

~~(b) Public pest control consultant licenses issued under the authority of RCW 15.58.220.~~

~~(3))~~ (2) Pesticide renewal applications for licenses issued under the authority of chapter 17.21 RCW shall be filed on or before January 1st of the appropriate year.

~~((4))~~ (3) If an application for renewal of any pesticide license issued under the authority of chapter 17.21 RCW is not filed on or prior to January 1st following the expiration date of the license, a penalty shall be assessed as provided in RCW 17.21.140 and added to the original fee, and shall be paid by the applicant before the renewal license is issued.

~~((5))~~ (4) If an application for renewal of a pesticide dealer license issued under the authority of chapter 15.58 RCW is not filed on or before the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license is issued.

~~((6))~~ (5) If an application for renewal of any license issued under the authority of chapter 15.58 RCW, other than the pesticide dealer license, is not filed on or before the expiration date of the license, penalty equivalent to the license fee shall be assessed and added to the original fee, and shall be paid by the applicant before the renewal license is issued.

~~((7))~~ (6) Nothing herein shall be construed to limit the department's ability, as otherwise provided by law, to deny a license, to condition license renewal, or to enforce violations of

applicable laws, subsequent to the expiration of a license.

~~((8) An applicant shall complete the application form for a pesticide license and pay the required license application fee prior to being given pesticide examinations, unless prior arrangements have been made.))~~

AMENDATORY SECTION (Amending WSR 00-22-073, filed 10/30/00, effective 11/30/00)

WAC 16-228-1540 ~~((Examination))~~ What are the requirements((~~-~~)) for pesticide examinations? (1) An examination fee of ten dollars shall be paid prior to administration of any pesticide license examination at other than a regularly scheduled examination session. Scheduled exam sessions occur every Tuesday at the Olympia and Yakima pesticide management division offices and at other offices as scheduled. The department reserves the right to restrict the number of applicants examining at any given time.

(2) Any individual who fails any pesticide licensing examination twice shall be required to wait at least fourteen days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

(3) An applicant shall complete the application form for a pesticide license and pay the required license application fee prior to being given pesticide examinations, unless prior arrangements have been made.

(4) Pesticide examination scores shall not be released by the department until the license application fee has been paid.

AMENDATORY SECTION (Amending WSR 00-24-013, filed 11/27/00, effective 12/28/00)

WAC 16-228-1545 What are the pesticide ((examination)) licensing requirements((~~-~~))? (1) All individuals licensed or required to be licensed as commercial pesticide applicators, commercial pesticide operators, private-commercial applicators, demonstration and research applicators, public operators, structural pest inspectors, pest control consultants and public pest control consultants must be certified, through examination, in all pest control classifications defined in subsection (3)(a) through (x) of this section in which they operate, inspect or consult. Additionally, commercial pesticide applicators must be licensed in all classifications that the business operates. Licensed applicators may directly supervise unlicensed applicators only in those classifications in which they have a valid

certification.

(2) To qualify for any pesticide license listed in subsection (1) of this section, applicants, except the structural pest inspector, must pass a "laws and safety" examination or equivalent, that includes, but is not limited to, the following: The state and federal laws governing pesticide use and the regulating agencies; general pesticide uses and application techniques; safe use of pesticides; general pesticide labeling comprehension; environmental fate of pesticides, and appropriate storage and disposal of pesticides and their containers. Individuals holding valid, passing scores on the private applicator or dealer manager exam are exempt from this examination requirement. Structural pest inspectors conducting complete wood destroying organism inspections must pass a "structural pest inspector laws and standards" examination or equivalent that includes, but is not limited to, the legal requirements governing structural pest inspectors and the standards for conducting complete wood destroying organism inspections.

(3) License classifications.

(a) Agricultural weed: The control of weeds, except with soil fumigants, in all agricultural crops including forest environments, and in former agricultural lands now in a noncrop status.

(b) Rights of way weed: The control of weeds, including cut stumps, on, but not limited to, ~~((the following))~~ terrestrial rights of way locations ~~((: City, county, state and federal))~~ such as roads and/or highways, railroads, power lines and irrigation ditches and to industrial sites, including, but not limited to, airports, industrial parks, and large parking areas.

(c) Turf and ornamental weed: The control of weeds (and moss), including cut stumps, in ornamental and turf situations, which includes, but is not limited to, golf courses, parks, schools, lawns, yards, gardens, ~~((and))~~ hospitals, vacant lots and open noncrop waste areas.

(d) Structural and turf demossing: The control of moss on structures and turf.

(e) Stump treatment: The use of herbicides on cut stumps to control resprouting.

(f) Soil fumigation: The use of soil-applied fumigants on agricultural crops and noncrop land to control pests including weeds, insects and diseases.

(g) Sewer root: Control of roots in sewer lines.

(h) Agricultural insect and disease: The control of insects and diseases, except with soil fumigants, in agricultural crops including forest environments.

(i) Ornamental insect and disease: The control of insects and diseases in ornamental, turf and rights of way situations including, but not limited to, golf courses, parks, schools, lawns, yards, gardens, greenhouses, hospitals and rest homes. This includes, but is not limited to, the use of insecticides, miticides, fungicides, bacteriocides, molluscides and nematocides.

(j) Interior plantscaping: The control of insects and diseases in interior plantscapes.

(k) PCO general: The control of insects, spiders, birds,



rodents and animal pests in and around, but not limited to, the following situations: Residences, public buildings and grounds, commercial buildings and grounds, disposal sites, animal feed lots and farmsteads, including buildings and transportation equipment.

(l) PCO structural: The control of structurally destructive pests including, but not limited to, fungus, termites, carpenter ants, carpenter bees and wood-boring beetles. This classification allows a licensee to perform specific wood destroying organism inspections.

(m) Structural pest inspector: Allows for the commercial inspection of buildings for structurally destructive pests, their damage and conditions conducive to their development. This classification is required to perform complete wood destroying organism inspections.

(n) Stored grain: The use of pesticides (including fumigants and rodenticides) in grain storing facilities and railcars.

(o) Fumigant: The use of fumigants only (such as methyl bromide and aluminum phosphide) on stored commodities.

(p) Seed treatment: The application of pesticides to seeds to control destructive insects and diseases.

(q) Sprout inhibitor: Use of a pesticide to control sprouting in stored potatoes.

(r) Livestock pest: The control of external and internal pests of animals, with the exception of viruses, including, but not limited to, beef cattle, dairy cattle, swine, sheep, horses, goats and poultry, and also treatment of livestock premises.

(s) Pest animal: The control of pest animals in agricultural situations.

(t) Aquatic: The control of aquatic pests (~~(of)~~) in water areas including, but not limited to, canals, rivers, streams, lakes, ponds, marshes and pipe lines.

(u) Aquatic irrigation: Limited to the control of aquatic pests (~~(of)~~) in irrigation district water delivery systems where the pesticide is applied directly into the water or enters the water due to the application of the pesticide. Pests include, but are not limited to, moss, algae, cattails, pond weeds and other emersed and submersed aquatic weeds.

(v) Public health: (~~(This)~~) Application of pesticides by governmental employees and certain others in public health programs such as, but not limited to, mosquito control, rodent control and insect control in situations having medical and public health importance.

(w) Aquatic antifouling: Use of antifouling paints to control fouling organisms on marine vessels.

(x) Wood treatment: Use of wood preservatives for the control of wood damaging pests.

(4) All examinations required under this section shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted.

(5) A passing score of seventy percent is established for all the examinations required under this section. The department may establish separate passing scores for the examinations if a



validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

(6) The department may waive any of the examination requirements contained in this section for any person holding a valid certification with similar classifications from an EPA or Canadian approved federal, state or (~~federal~~) provincial certification program with comparable examination and recertification standards.

AMENDATORY SECTION (Amending WSR 00-24-013, filed 11/27/00, effective 12/28/00)

**WAC 16-228-1546 What are the requirements for a private applicator (~~(examination requirement-)~~) license?** (1) To qualify for a private applicator license, an individual must pass a private applicator examination. The examination shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted. Individuals holding valid, passing scores on the laws and safety examination, or equivalent, or the dealer manager exam, and one of the classifications in WAC 16-228-1545 (3) (a) or (h) or the now retired statewide classification, are exempt from this examination requirement.

(2) Private applicators making aquatic applications to water that moves off their own or their employer's agricultural land must obtain the aquatic classification described in WAC 16-228-1545 (3) (t).

(3) A passing score of seventy percent is established for the examinations required under this section. The department may establish separate passing scores for the examinations if a validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

(4) The department may waive the examination requirements contained in this section for any person holding a valid certification with similar classifications from an EPA or Canadian approved federal, state or (~~federal~~) provincial certification program with comparable examination and recertification standards.

AMENDATORY SECTION (Amending WSR 00-24-013, filed 11/27/00, effective 12/28/00)

**WAC 16-228-1547 What are the requirements for a dealer manager ((~~examination requirement.~~) license?** (1) To qualify for a dealer manager license, an individual must pass a dealer manager examination. The examination shall be written and taken without the aid of any materials that contain information relevant to the exam content. Reading of exams by an individual other than the applicant is not permitted.

(2) A passing score of seventy percent is established for the examination required under this section. The department may establish a separate passing score for the examination if a validated process is used. Passing scores are valid for obtaining a license in the calendar year in which the examination is taken plus the following calendar year.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1550 What are the requirements for apparatus display signs((~~-~~))?** (1) A certified applicator making a landscape application shall display the name and telephone number of the applicator or applicator's employer on any power equipment.

(2) A certified applicator making a right of way application shall display the name and telephone number of the applicator or the applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION."

(3) Apparatus display signs shall be attached to and prominently displayed on the application apparatus and shall be clearly visible.

(4) Lettering of the apparatus display signs shall be, at a minimum, two inches in height and shall be printed in color contrasting to the background.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1555 ((~~Requirements on placement of~~) Where must commercial applicator apparatus license plates and windshield identification((~~-~~)) be placed?** (1) Apparatus license plates, as provided for in chapter 17.21 RCW, shall be attached to and prominently displayed on the apparatus for which they have been issued: Provided((~~-~~)) that an apparatus license plate may be

affixed to a vehicle which contains the particular apparatus. Attached plates shall be clearly visible and in a location easily accessible for inspection by the department.

(2) Each vehicle involved in the operations of a certified commercial ground application business, which does not prominently display a department issued apparatus license plate on its exterior or on the specific apparatus when that apparatus is exteriorly visible, shall be required to have a department issued sticker affixed to the lower left side of the windshield.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1570 What are the circumstances when certification permits((~~r~~)) are used?** (1) Private applicator certification, demonstration and research applicator certification, user permits and private-commercial applicator licenses shall be considered as certified applicator permits as provided for in RCW 17.21.030 and 15.58.040 (2) (h).

(2) User permits may be issued by the director as temporary applicator certification in emergency situations. User permits will be issued in a form prescribed by the director, which shall include the following:

- (a) Permit number
- (b) Date of issuance
- (c) Expiration date, which shall be not longer than one year from the date of issuance
- (d) Name and address of certified applicator
- (e) Crop or site and area to which the pesticide will be applied
- (f) Amount of pesticide obtained
- (g) Any other information prescribed by the director.

(3) Pesticide dealers shall keep user permits for a period of one year from the date of issuance, and the director shall have access to these records upon request.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

**WAC 16-228-1585 Are ground maintenance ((~~on an occasional basis--Exempt from licensing requirements.~~)) persons exempt from licensing?** Grounds maintenance persons are exempt from licensing requirements as a commercial pesticide applicator, as provided under chapter 17.21 RCW, only if they perform ground maintenance on

an occasional basis not amounting to a regular occupation. Exempted persons shall only perform pesticide applications to the grounds of residential dwellings and shall only use home and garden products.

AMENDATORY SECTION (Amending WSR 99-22-002, filed 10/20/99, effective 11/20/99)

WAC 16-228-1590 (~~Pesticide dealer and dealer manager licenses.~~) What are the licensing requirements for pesticide dealers and dealer-manager businesses? (1) When more than one pesticide dealer is engaged in the business from the same outlet or location, each pesticide dealer shall obtain a license for said outlet or location.

(2) A licensed pesticide dealer manager shall be available to the staff, customers, and department representatives at all times that an outlet or location distributes pesticides. A dealer manager may be the designated dealer manager of more than one outlet or location only if the dealer manager can be physically present at both outlets or locations during all times of pesticide distribution and handling.