

TRANSMITTAL OF RULES ADOPTED

FROM: AGRICULTURE
(Name of Agency)

TO: CODE REVISER
LEGISLATIVE BLDG (Southwest Corner, Ground Floor)
Olympia 98501

The enclosed Permanent rules , being order No. 1219
Emergency rules
relating to (Name of rules or description of subject matter)

Pesticide application regulations on the restricted application and storage of pesticides, licensing requirements, low flying prohibitions, and pesticide recommendations.

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 3229 ^① filed with the code reviser on 11/1/71 ^② were regularly adopted as permanent rules of this agency at Olympia, Wa. on 12/1/71 and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW. The effective date of such rules shall be 1/1/72 ^③

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding that the immediate adoption of these rules is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to the public interest, were regularly adopted as emergency rules of this agency at _____ on _____ and are herewith filed in _____ (place) _____ (date) the office of the code reviser pursuant to chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter 34.04 RCW and of the Open Public Meetings Act of 1971, chapter 42.30 RCW (1971 ex.s. c 250) have been fulfilled.

Dated this 1st day of December 1971.

STATE OF WASHINGTON
FILED
DEC 1 1971
CODE REVISER'S OFFICE
D KET.#3808 FILE # 24

AGRICULTURE
(AGENCY)
Cameron S. Adams
By Cameron S. Adams
Deputy Director
Title _____

- ① NOTICE NUMBER AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE NO. OF LAST NOTICE)
- ② STAMPED DATE AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE DATE OF LAST NOTICE)
- ③ UNLESS A LATER DATE IS SPECIFIED IN THIS ORDER OR IS PRESCRIBED IN ANOTHER STATUTE, RULES ARE EFFECTIVE 30 DAYS AFTER FILING: RCW 34.04.040. LEAVE THIS SPACE BLANK EXCEPT IN SUCH SPECIAL CASES.

STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
OLYMPIA
ORDER NO. 1219
(Supersedes Order 944)

Effective January 1, 1972

NEW WAC 16-235-001 PROMULGATION. (This promulgation relates only to WAC 16-235-001 and WAC 16-235-010 through 100).

I, Donald W. Moos, Director of Agriculture, by virtue of the authority vested in me under chapters 17.21 and 15.58 RCW, after due notice as provided under chapters 34.04 and 42.32 RCW, and a public hearing held in Yakima, Washington on November 29, 1971, do hereby promulgate the following regulations relating to and controlling the use and application of pesticides and the licensing of commercial applicators, commercial operators and public operators.

NEW WAC 16-235-010 DEFINITIONS. (1) "Apparatus" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide or any equipment, device or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.

(2) "Land" means all land and water areas, including air-space, and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

(3) "Person" means a natural person, individual, firm, partnership, corporation, company, society, association, or any organized group of persons whether incorporated or not, and every officer, agent or employee thereof. This term shall import either the singular or plural as the case may be.

NEW WAC 16-235-020 RESTRICTIONS. (1) The following restrictions shall apply to any person holding, handling, using, or disposing of pesticides and their containers:

- (a) Any person applying pesticides to blooms of fruits, cover crops, and other plants shall regulate the timing and technique of application to minimize hazard to commercially important pollinating insects.
- (b) No person shall transport, handle, store, load, apply or dispose of any pesticide or pesticide container in a manner that will pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants and animals, pollinating insects, 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 local health department complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.
 - (i) Requirements of this subsection shall apply to apparatus containing pesticides.
 - (ii) No person shall pollute streams, lakes and other public water supplies in their pesticide loading and mixing operation. This includes using devices or procedures to prevent "back-syphoning."
 - (iii) None of the highly toxic pesticides listed in this

subsection shall be applied by aircraft or airblast sprayers immediately 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.

DiSyston - Liquid	Systox (Demeton)
Endrin	Temik
Parathion	TEPP
Phosdrin	Thimet (Phorate) - Liquid
Schradan (OMPA)	Zinophos

- (iv) All unattended pesticide products not labeled for home and garden use and their containers which are not adequately decontaminated, e.g. three rinsings, shall be stored in one of the following enclosures which shall be locked, when unattended, to prevent unauthorized persons, livestock or other animals from gaining entry: PROVIDED, That this requirement shall not apply to drums of petroleum oils, lime-sulphur, and ferrous sulfate; and PROVIDED FURTHER, That pesticides at the point of loading shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.
1. Closed vehicle.
 2. Closed trailer.
 3. Truck or trailer with solid sideracks and tailgate.
 4. Building or room.
 5. Fenced area with a fence at least six feet high; appropriate warning signs, visible from any direction, shall be posted around these fenced pesticide and pesticide container storage enclosures.
 6. Foot locker or similar container.
- (c) 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.

NEW WAC 16-235-030 LICENSING REQUIREMENTS. (1) Each person required to be licensed to apply pesticides under the requirements of Chapter 17.21 RCW shall:

- (a) Keep all apparatus in good repair and shall use only that apparatus capable of performing all functions necessary to insure proper and thorough application of pesticides.
- (b) Make available necessary safety equipment in proper working order and advise his employees on its use to meet the safety requirements of the pesticide label.
- (c) Keep records on a form prescribed by the director which shall include the following:
 - (i) The name of the person for whom the pesticide was applied.
 - (ii) The location of the land where the pesticide was applied.
 - (iii) The year, month, day, and time the pesticide was applied.
 - (iv) The person or firm who supplied the pesticide which was applied.
 - (v) The trade name and/or common name of the pesticide that was applied.
 - (vi) The direction and estimated velocity of the wind and the temperature at the time the pesticide was applied:

PROVIDED, That this subsection does not apply to applications of baits in bait stations and pesticide applications within structures.

- (vii) The amount or concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per 100 gallons) of the pesticide used.
- (viii) Specific crop to which pesticide was applied.
- (ix) Apparatus license plate number.
- (x) Applicator's name and address and the name of the individuals making the application.
- (d) Have application records completed and available to the department the same day the pesticides were applied.
- (e) Keep pesticide application records for a period of three 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 by the licensee.
- (f) Upon written request, provide the customer with a record of each application of pesticides to his land, for the current season, which shall contain the information listed in WAC 16-235-030 (c).
- (g) Clean apparatus so that no residue remains which may cause injury to land including humans, desirable plants and animals from subsequent applications.
- (h) On demand of the director make immediately available for inspection the pesticides being applied and the apparatus used for the application: PROVIDED, That this inspection is made at the site of application or where the apparatus is located.
- (i) Maintain a uniform mixture at all times in operating apparatus when applying pesticides.
- (j) All containers used for storing or transporting pesticide concentrates shall bear an EPA or department registered label, or in the case of prepared mixtures, other than those in an apparatus, a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.
- (k) All pesticide containers shall be secured on the vehicle in such a manner to prevent loss or spillage during transportation.

NEW

WAC 16-235-040 COMPLIANCE WITH FEDERAL REQUIREMENTS. 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. The director may require proof of compliance from the applicant or the licensee.

NEW

WAC 16-235-050 LOW FLYING PROHIBITIONS. Aircraft pilots during spraying operations, are prohibited from turning and/or low flying over (1) cities, towns, and densely populated areas unless authorized by the city or town in question pursuant to an agreement in writing for pesticide applications, or (2) directly over an occupied structure such as a residence, a school in session, or a hospital except by permission of the person(s) whose occupied structure is involved.

NEW

WAC 16-235-060 REQUIREMENTS FOR PESTICIDE RECOMMENDATIONS. Pesticide applicators and their employees and public operators shall not make a pesticide recommendation or application that would violate Federal or Washington State Food and Drug laws, or would violate the approved labeling and/or EPA or Washington State registration for that pesticide: PROVIDED, That pesticide applicators and their employees will not be violating this regulation when following current official Washington State University pesticide recommendations.

NEW

WAC 16-235-070 SALE OR POSSESSION OF SODIUM FLUORACETATE, FLUORACETAMIDE, THALLIUM, AND PHOSPHORUS PASTES. (1) No person shall possess or use sodium fluoracetate (1080) and fluoracetamide (1081) except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control operators licensed by the state; and wholesalers or jobbers of pesticides for sale to the aforementioned persons, or for export.

(2) No person shall possess or use thallium or thallium compounds, or phosphorus pastes except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control operators licensed by the state; and wholesalers or jobbers of pesticides for sale to the aforementioned persons, or for export. Labels for these pesticides must bear a clear and prominent warning against sale to the general public and a statement that the pesticide is for use by government agencies and licensed pest control operators only.

NEW

WAC 16-235-080 FINANCIAL RESPONSIBILITY INSURANCE CERTIFICATE (FRIC). (1) A 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 number(s) (if applicable)
- (e) Effective period
- (f) Amount of insurance. Minimum requirements are:
 - (i) Public liability (personal injury) (\$25,000.00); and Property damage (\$25,000.00); 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 \$50,000.00.
 - (iii) Amount of deductible (if applicable): Maximum deductible \$500 for aerial; \$250 for all other applicators.
- (g) List of any pesticides or group of pesticides not covered by the policy.
- (h) Acknowledgement of provision for 10 days' prior written notice of cancellation or reduction of the insurance coverage.

NEW
WAC 16-235-090 APPLICATION AND FEE. An applicant shall complete the application form for his license and pay the required fee prior to being given pesticide examinations, unless prior arrangements have been made.

NEW
WAC 16-235-100 EXAMINATION REQUIREMENTS. Any individual who fails any pesticide licensing examination twice shall be required to wait at least 30 days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

I hereby certify that the foregoing is a true and correct copy of the regulations promulgated.



CAMERON S. ADAMS

Deputy Director of Agriculture
State of Washington

Signed at Olympia, Washington

Date: December 1, 1971