

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. 1222
Emergency rules
relating to (Name of rules or description of subject matter)

Pesticide regulations covering registration requirements for disinfectants and sterilizers; label requirements; pesticide-fertilizer mix requirements; packaging, distribution, storage, and transportation; pesticide dealer responsibilities; restricted use pesticides; and user permits.

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

pursuant to Notice No. 3230 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 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 19 71.

STATE OF WASHINGTON
FILED
DEC 1 1971
CODE REVISER'S OFFICE
KET# FILE#

AGRICULTURE
(AGENCY)
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. 1222
(Amending Order 1161)
Effective January 1, 1972

AMD WAC 16-222-001 PROMULGATION. (This promulgation relates only to WAC 16-222-001 and WAC 16-222-010, 030, 145, 150, 160, and 170).

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 registration, transportation, distribution, storage, issuance of permits, and disposal of pesticides.

AMD WAC 16-222-010 DEFINITIONS. (1) Dry pesticide. Any granular, pelleted, dust, or wettable powder pesticide.

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

(3) Pesticide dealer. Any person who distributes any of the following pesticides:

(a) "Highly toxic" pesticides and/or

(b) "Restricted use pesticides" which by regulation are restricted to distribution by licensed pesticide dealers only and/or

(c) Any other pesticide except those pesticides in consumer-sized packages no larger than one gallon liquid measure or five pounds dry weight and which are labeled and intended for home and garden use only; and except fertilizer-pesticide mixes when distributed in packages of fifty pounds or less for home and garden use only.

(4) Pesticide-fertilizer mix. A mixture of a pesticide or pesticides and a fertilizer.

(5) Fertilizer. As included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

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

(7) LD₅₀. For the purpose of this order the term LD₅₀ will refer to the acute oral median lethal dose which is computed as the quantity of the pesticide, in milligrams of the toxicant per kilogram of animal body weight (usually rats), that is required to kill fifty percent of the animals tested. Values used are taken from the AAPCO Compendium when available.

(8) Ultimate User. For the purpose of this order the term ultimate user shall be any commercial producer or government agency purchasing pesticides listed in WAC 16-222-160 for use on his land.

(9) Authorized Agent. A person who is authorized to act on behalf of an ultimate user for the purpose of purchasing pesticides listed in WAC 16-222-160.

AMD WAC 16-222-030 LABEL REQUIREMENTS. (1) Ingredient statement.

(a) The ingredient statement must run parallel with other printed matter on the label, must not be obscure or crowded, and must be on a clear and contrasting background.

(b) The common name of the active ingredient or, in case there is no well-known common name, the correct chemical name shall be used. Acceptable common names shall be those approved by the American Standards Association Section Committee on Common Names for Pest Control Chemicals and accepted by the U.S. department of agriculture and approved by the director. When no such name has been accepted and the chemical composition is so complex that a common name cannot be readily derived, then the director may permit use of a new or coined name which he finds to be appropriate for the information and protection of the user.

(c) In specific circumstances the director may approve negative ingredient guarantees: PROVIDED, That the color, size print, or position of such statements on the label would not be more prominent than other guarantee statements or recommendations for use. This section shall apply as well to advertising material.

(2) Directions for use.

(a) Directions for use on the label shall include, but not be limited to, a list of the pests to be controlled, the crops, plants, or land on which the pesticide is to be used, and the amount recommended. A supplemental or revised list may be submitted for consideration during the registration year. No claims shall be made for control of any agricultural pest not included on a registered label or list.

(b) Brochures and other advertising claims must conform with registered label information.

(c) At the discretion of the director a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product: PROVIDED, That if the new labeling is contradictory to the original labeling on the container the original labeling shall be removed and the new labeling shall be securely affixed to the container.

(3) Warning and caution statements.

(a) The determination as to caution, antidote statements, and toxicity of materials will be based on federal regulations except where no information is contained in the federal regulations, or where circumstances existing in the state of Washington require that greater caution be exercised.

(b) The statement "KEEP OUT OF REACH OF CHILDREN" shall appear on the front panel of each pesticide label.

(c) Four general categories of toxicity of pesticides are recognized:

(i) The first is the highly toxic class, (formulations with LD₅₀ of less than 50). Highly toxic pesticides are required to be labeled with the skull and crossbones and the word Poison (in red) prominently displayed on a contrasting background, and an antidote statement. The antidote statement shall include the sentence, "Call a Physician Immediately." In addition, the label shall carry a warning or caution statement which should include the word Danger and instructions for handling to reduce chances of injury in use.

(ii) The second class, immediately below the highly toxic, in general includes pesticides having toxicities down to one-tenth those of the highly toxic class, (formulations with LD₅₀ of approximately 50-500). Labels of products which fall in the second class shall carry a warning or caution statement which should include the word Warning and statements equivalent to those required for highly toxic pesticides, but they do not need to bear the skull and crossbones, the word "Poison", or an antidote statement.

(iii) The third class, includes pesticides, having hazards below class two, which still require some cautions and usually includes toxicities down to about one-tenth of those in class two, (formulations with LD₅₀ of approximately 500-5000). Labels of products in the third class shall carry a warning or caution statement which should include the word Caution, and statements indicating the means of avoiding the principal hazards of use. Use of the skull and crossbones, the word "Poison", and antidote statements are not necessary for these products.

(iv) The fourth class is comparatively free from danger. No warning, caution, or antidote statements are required for the few pesticides in the fourth class, although unqualified claims for safety are usually not justified.

(d) When not specifically stated in chapter 15.58 RCW or otherwise designated by the director, the director will be guided by the labeling requirements of the Pesticide Regulations Division of the Environmental Protection Agency. The methods of sampling and analysis shall be those of the Association of Official Analytical Chemists or other approved methods.

(e) Labeling of pesticides must not bear any unwarranted claims as to the safety of the product or its ingredients including a statement such as "SAFE", "NONPOISONOUS", "NON-INJURIOUS", or "HARMLESS" with or without such a qualified phrase as "When used as directed".

(f) A truthful statement such as "Nontoxic to humans and pets" may be permitted on those products which are determined by the Pesticides Regulation Division of the Environmental Protection Agency to be nontoxic to humans and pets.

AMD WAC 16-222-145 RESTRICTED USE PESTICIDES -- FOR COMMERCIAL AND GOVERNMENT AGENCY USE ONLY. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington and shall not be sold to home and garden users. The following pesticides will be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators and governmental agencies experienced in the application of pesticides. Such pesticides shall not, under any circumstances, be registered for sale or distribution if labeled for home or garden use:

1. Aluminum Phosphide (Phostoxin)
2. Arsenic Trioxide (1.6% and above) except for the control or eradication of crab grass and the container thereof is restrictively labeled for such.
3. Bidrin
4. Castrix
5. Dasanit
6. Delnav (25.1% and above)
7. DiNitro-O-Cresol (DNOC)
8. DiNitro-O-Sec Butyl Phenol (DNOSBP)
9. DiSystem (2.1% and above)
10. Dyfonate (11% and above)
11. Endothal (20% and above)
12. Endrin (2.5% and above)
13. EPN
14. Ethion (26% and above)
15. Furadan (Carbofuran)
16. Guthion (16% and above)

17. Hydrogen Cyanide (Hydrocyanic acid) (HCN)
18. Lannate (Methomyl)
19. Methyl Bromide (without a warning agent)
20. Methyl Demeton (Meta Systox) (25% and above)
21. Methyl Parathion
22. OMPA (Schradan)
23. Parathion
24. Phosdrin
25. Phosphamidon
26. Phosphorus paste (further restricted in WAC 16-222-120)
27. PMA - Phenyl Mercuric Acetate (5% and above when labeled for use as an algicide in swimming pool water); (1.5% and above when labeled for other uses)
28. Sodium Arsenite
29. Sodium Selanate
30. Strychnine and its salts (Strychnine Alkaloid 1.1% and above)
31. Systox (Demeton)
32. Temik
33. 1080 and 1081 (further restricted in WAC 16-222-120)
34. TEPP
35. Thallium compounds (further restricted in WAC 16-222-120)
36. Thimet
37. Trithion (liquid and wettable powder 26% and above; granular and dust 11% and above)
38. Zinc Phosphide (2.1% and above)
39. Zinophos
40. All high volatile ester formulations of 2,4-D, 2,4,5-T, and MCP as defined in Interpretation 17, Revision 1 of Title 7 under the Federal Insecticide, Fungicide & Rodenticide Act -- [see subsection (2)].

(2) Pesticide dealers selling the high volatile ester formulations of 2,4-D, 2,4,5-T, and MCP in broken case lots, containing packages of one gallon or less, must maintain a ledger which shall be signed by any purchaser of such high volatile esters showing that such purchaser is a commercial producer or commercial applicator or is an agent for a government agency and that such high volatile esters will not be used in areas where high volatile formulations of 2,4-D, 2,4,5-T, and MCP are restricted or will not be used for home and garden purposes. This ledger must contain the following: specific name of the pesticide, amount purchased, date of purchase, and name and address of purchaser. The director of agriculture shall have access to these records at any reasonable time.

AMD WAC 16-222-150 RESTRICTION ON DISTRIBUTION, TRANSPORTATION, STORAGE, AND DISPOSAL. (1) No person shall handle, transport, store, display, or distribute pesticides in such a manner as to endanger man and his environment or to endanger food, feed, or any other products 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 which has been used to transport any highly toxic pesticide

shall be inspected by the owner or his 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 must not be returned to service until the contamination has been removed.

(3) Pesticides shall not be delivered to a pesticide consignee unless the consignee or his agent is present to accept delivery of the pesticides and signs a delivery slip.

(4) 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. Pesticide products shall not be packaged, sacked, or boxed with any of the above. 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.

(5) 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 approved by the director or his duly authorized representative. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

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

(7) No person shall dispose of, discard, or store any pesticide or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

AMD

WAC 16-222-160 USER PERMITS. (1) The following highly toxic and restricted use pesticides shall not be sold or made available to any ultimate user unless such ultimate user has obtained an annual permit:

- (a) Bidrin
- (b) DiSyston - Liquid
- (c) Endrin - 2.5% and above
- (d) Parathion & Methyl Parathion - 1.1% and above
- (e) Phosdrin
- (f) Schradan (OMPA)
- (g) Sodium Arsenite
- (h) Systox (Demeton)
- (i) Temik
- (j) TEPP
- (k) Thimet (Phorate) - Liquid
- (l) Zinophos

(2) Permits may be obtained immediately prior to sale or delivery from any authorized pesticide dealer.

(3) An ultimate user may list on his permit the name or names of an authorized agent/s for the purpose of purchasing or receiving pesticides listed in WAC 16-222-160 in behalf of said ultimate user.

(4) Permits may be issued by pesticide dealers authorized to do so by the director. Authorization to issue permits may be obtained by making written application to the director.

(5) Permits shall be on a form furnished by the director and shall include the following:

- (a) Permit number.
- (b) Date of issuance.
- (c) Name and address of the ultimate user.
- (d) Crops and acreage to which the pesticides will be applied.
- (e) Name of authorized agent/s.
- (f) Any other information prescribed by the director.
- (6) A copy of the permit shall be issued to the user and a duplicate copy shall be retained by the pesticide dealer. Permits shall expire on December 31 of each year.

(7) Authorized dealers shall keep records on each sale of these restricted use pesticides which shall include the following:

- (a) Name and address of ultimate user.
- (b) Name of authorized agent.
- (c) Date of purchase.
- (d) Brand and specific pesticide name.
- (e) Percent active ingredient.
- (f) Amount sold.
- (g) Crop to which pesticide will be applied.
- (8) Authorized pesticide dealers shall keep permits and dealer records for a period of one year from the date of issuance and the director shall have access to these records upon request.

(9) Any ultimate user found violating the provisions of this order or the approved labeled use and/or the Environmental Protection Agency or Washington state registration for that pesticide shall be subject to revocation of the permit, subject to a hearing as provided for in the Washington Pesticide Control Act, chapter 15.58 RCW: PROVIDED, That an ultimate user will not be violating this regulation when following current official Washington State University pesticide recommendations.

(10) Any duly licensed pesticide applicator licensed under the provisions of the Washington Pesticide Application Act, chapter 17.21 RCW, shall not be required to obtain the permit provided for in WAC 16-222-160.

AMD

WAC 16-222-170 PESTICIDE DEALERS' LICENSES. (1) It shall be unlawful for any person to act in the capacity of a pesticide dealer, or advertise as, or assume to act as a pesticide dealer at any time without first having obtained an annual license from the director which shall expire on the final day of February. A license shall be required for each location or outlet located within this state from which such pesticides are distributed: PROVIDED, That any manufacturer, registrant, or distributor who has no pesticide dealer outlet licensed within this state and who distributes such pesticides directly into this state shall obtain a pesticide dealer license for his principal out-of-state location or outlet: PROVIDED FURTHER, That such licensed out-of-state pesticide dealer shall be exempt from the pesticide dealer manager requirements.

(2) 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.

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, Wa.

Date: December 1, 1971