

State of Washington

Agriculture

(agency name)

Administrative Order No. 1679

(1) I, Bob J. Mickelson, director of Department of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to: the amending of and addition to: WAC 16-228-162 and WAC 16-228-165, relating to state restricted use pesticides.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules. WSR 80-02-076 This action is taken pursuant to Notice No. WSR 79-10-133 & filed with the code reviser on 10-2-79 and 1/18/80. Such rules shall take effect:

- [X] pursuant to RCW 34.04.040(2). [] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that the foregoing order 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 public interest. A statement of the facts constituting such emergency is:

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04. (1977 c 19 § 2) that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" (fill in statement (a), (b), or (c) as appropriate):

- [X] (a) This rule is promulgated pursuant to RCW 17.21 and 15.58 and is intended to administratively implement that statute. [] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

- [] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) This order after being first recorded in the order register of this agency is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED February 15 19 80

By Bob J. Mickelson Director, Department of Agriculture Title

FILED FEB 20 1980 CODE REVISER'S OFFICE WSR 80 03-040

NEW SECTION

WAC 16-228-162 HIGH VOLATILE ESTER AND DUST FORMULATIONS PROHIBITED. The distribution, use and application of all high volatile ester and dust formulations of restricted use herbicides shall be prohibited throughout the state.

AMENDATORY SECTION (Amending Order No. 1597, filed April 10, 1979)

WAC 16-228-165 STATE RESTRICTED USE PESTICIDES FOR USE BY CERTIFIED APPLICATORS ONLY - REQUIREMENTS FOR USER PERMITS. (1) The following pesticides are hereby declared to be state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator (refer to definition of "direct supervision"). Any EPA restricted use pesticide not listed shall be distributed and used only under these restrictions:

- (a) Azodrin
- (b) Bidrin
- (c) DDD & DDT (for essential uses determined by law)
- (d) DiSyston - Liquid
- (e) Endrin - 2.5% and above
- (f) Parathion & Methyl Parathion - 1.1% and above
- (g) Phosdrin
- (h) Schradan (OMPA)
- (i) Sodium Arsenite
- (j) Systox (Demeton)
- (k) Temik
- (l) TEPP
- (m) Thimet (Phorate) - Liquid
- (n) Tordon 22K - For use on rangeland and permanent grass pastures east of the crest of the Cascade Mountains.
- (o) 2,4-D - All formulations distributed in packages of 1 gallon and larger to be used in counties located east of the crest of the Cascade Mountains. Pesticide dealers shall be required to ((furnish)) make available to the purchaser ((with)) a copy of the regulations covering the use of 2,4-D in the area in which the material will be applied.
- (p) Zinophos
- (q) All pesticide formulations labeled for application onto or into water to control pests in or on water, except those labeled only for use in:
 - (i) swimming pools;
 - (ii) wholly impounded ornamental pools and fountains;
 - (iii) aquariums;
 - (iv) closed plumbing and sewage systems;
 - (v) enclosed food processing systems;
 - (vi) air conditioners and humidifiers;
 - (vii) cooling towers;
 - (viii) and aquatic environments in states other than Washington:

PROVIDED, That for purposes of this subsection, sales of pesticides bearing combined labeling for uses into or onto water and for other uses may be made by licensed pesticide dealers to non-certified applicators, if the dealer indicates on the sales slip or invoice that the purchaser of the pesticide agrees that it is not to be applied into or onto water. If requested by the department, dealers must furnish records on the sales of pesticides labeled for application into or onto water, whether sold for that use or not. Records must include the name and address of the

purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased.

(2) User Permits will be furnished by the Washington State Department of Agriculture pesticide branch and may be issued by a licensed pesticide dealer.

(3) A certified private applicator or private-commercial applicator may list on his permit the name or names of authorized agent(s) for the purpose of purchasing or receiving above listed pesticides.

(4) 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 certified applicator
- (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.

(5) A copy of the permit shall be issued to the certified applicator and a duplicate shall be retained by the pesticide dealer. Permits shall expire on December 31 of each year.

(6) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving the restricted use pesticide listed in WAC 16-228-165(1) by making previous arrangements with the pesticide dealer or the authorized agent provides written authorization to the dealer at the time of purchase. At the time of purchase the pesticide dealer shall require the certified applicator's name and license or certification number.

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

- (a) Name and address of the certified applicator
- (b) Applicator or operator certificate or license number
- (c) Name of authorized agent
- (d) Date of purchase
- (e) Brand and specific pesticide name
- (f) Percent active ingredient or pounds active ingredient per gallon
- (g) For DDT & DDD - rate of formulation to be applied per acre
- (h) Amount sold
- (i) Crop to which pesticide will be applied

(8) 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.



STATE OF
WASHINGTON

Dixy Lee Ray
Governor

DEPARTMENT OF AGRICULTURE

406 General Administration Building, Olympia, Washington 98504

For the purpose of legislative review of agency rules, the following statement is submitted:

(1) This rule relates to state restricted use pesticides for use by certified applicators one and the requirements for user permits. Statutory authority is RCW 17.21 and RCW 15.58.

(2) The sections codified under WAC 16-228-162 and WAC 16-165 prohibit the distribution, use and application of all high volatile ester and dust formulations of restricted use herbicides throughout the state, and also allow the seller of restricted use herbicides the prerogative of furnishing upon request copies of 2,4-D regulations to customers, rather than requiring the seller to provide these WAC's to each purchaser.

(3) Department of Agriculture
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(4) Proponent:

Department of Agriculture

(5) No agency comments