

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1826

(1) I, M. Keith Ellis, director of

the Washington State Department of Agriculture

Olympia, Washington

(place)

do promulgate and adopt at

the annexed rules relating to:

WAC 16-228-345, the chemical ethylene dibromide (EDB)

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules.

This action is taken pursuant to Notice No. filed with the code reviser on These rules shall take effect:
[ ] thirty days after they are filed with the code reviser 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, M. Keith Ellis, find that

an emergency exists and that this 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 the emergency is: The U. S. Environmental Protection Agency has suspended the sale and distribution of ethylene dibromide (EDB) registered for soil fumigation. The suspension allows applicators and/or farmers to use existing stocks. The Washington Dept. of Agriculture has received and reviewed a copy of the data upon which the suspension is based. The Washington Dept. of Social & Health Services Health Division has determined that EDB levels of 0.2 ppb or more in drinking water pose an unacceptable public health risk to consumers. EDB has

These rules are therefore adopted as emergency rules to take effect upon filing with the code reviser. (continued)

(3) Pursuant to the requirements of RCW 34.04.026 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 15.58 and 17.21 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 the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

(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 May 21 1984

CODE REVISER'S OFFICE WSR 84-11-063

By M. Keith Ellis Director

Title

NOTE:

<sup>1</sup>RCW 34.04.026 provides:

"(1) In addition to the provisions of RCW 34.04.025(1)(a)(i), every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules:

(a) The most specific reference shall be to a section of law which the rule is implementing, and shall be quoted as follows: "This rule is promulgated pursuant to RCW \_\_\_\_\_ and is intended to administratively implement that statute."

(b) The next specific reference, and one which shall be used only if paragraph (a) of this subsection is not applicable, shall be to that portion of an act which directs an agency to adopt rules and regulations as necessary to implement the act, and shall be quoted as follows: "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) The least specific reference, and one which shall be used only if paragraphs (a) and (b) of this subsection are not applicable, is one which indicates that the rule is promulgated under the agency's broad rule-making authority—either in the agency enabling legislation or chapter 34.04 RCW, and shall be quoted as follows: "This rule is promulgated under the general rule-making authority of the (agency) as authorized in RCW \_\_\_\_\_."

(2) The code reviser is directed to develop a format for placing such specific language in each rule, and agencies shall then comply with the code reviser's direction, and shall include the same in the final rule.

(3) During the promulgation hearings process the public may question whether such rule should have a more specific reference, and the agency shall, pursuant to RCW 34.04.025(1)(b), give consideration to such requests."

(2) Alternative B (continued)

the capability to leach through soil into shallow unprotected aquifers and detectable amounts of EDB have been found in such aquifers in western Washington.

For these reasons it has been determined that the immediate prohibition of the distribution or use of EDB for soil fumigation is necessary to protect the public health, safety and welfare.

STATE OF WASHINGTON  
FILED

MAY 21 1984

CODE REVISER'S OFFICE

WASH

NEW SECTION

WAC 16-228-345 SALE, DISTRIBUTION, USE, OR APPLICATION OF THE CHEMICAL ETHYLENE DIBROMIDE (EDB). (1) For purposes of this section, EDB means all pesticide products containing the chemical ethylene dibromide.

(2) The sale or distribution of EDB labeled for soil fumigation is prohibited in the state of Washington.

(3) The use or application of EDB for soil fumigation is prohibited in all counties located west of the crest of the Cascade mountains.