

State of Washington
Department of Agriculture

(agency name)

Administrative Order No. 1641

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

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

Heptachlor treated grain seed in WAC 16-228-320 and WAC 16-228-330.

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

This action is taken pursuant to Notice No. WSR 79-05-113 filed with the code reviser on May 2, 1979. Such rules shall take effect:

- 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)¹ 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):

(a) This rule is promulgated pursuant to RCW 15.58 and 17.21 RCW 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.

STATE OF WASHINGTON
APPROVED AND ADOPTED
FILED

JUN 29 1979

By Bob J. Mickelson

Director of Agriculture

Title

[Form CR-7: Effective 12/1/77]

CODE REVISER'S OFFICE
WSR 79-07-090



STATE OF
WASHINGTON

Dixy Lee Ray
Governor

DEPARTMENT OF AGRICULTURE

406 General Administration Building, Olympia, Washington 98504

For the purposes of legislative review of agency rules, the following statement is submitted.

1. Rules relating to the use and distribution of heptachlor treated grain seed on irrigated land. (Statutory authority 17.21 and 15.58 RCW)
2. The regulations will prohibit the use and application of heptachlor treated grain seed on irrigated lands in the southwest areas of Benton county and place requirements on the transportation and clean up of spills of this material.
3. Art G. Losey
406 General Administration Bldg.
Olympia, WA 98504
753-5062

4. Proponents:

Mr. and Mrs. Don Brooks
U. S. Fish and Wildlife Service
Department of Game
Eric Renstrom
Michael McPhail
Lower Columbia Basin Audubon Society, Jon C. Zuck
Defenders of Wildlife, Sara Polenick
Palouse Audubon Society, Inc., Irven O. Buss
Washington Environmental Council, Jeffrey F. Gilman
Progressive Animal Welfare Society, Jennifer Johnson
Jiri Vanourek
Richard McGuire
Liz Guff

Opponents:

Keith Callaway
Donald Whaley
L. E. Warmer
Van I. Walkley
Don Munkers
Doug Floch

Note: The above-mentioned individuals opposed the original proposal that prohibited the use of heptachlor treated grain seed in the broad area of all irrigated lands within seven miles of the Columbia and Snake rivers.

5. As outlined in the original proposal, the U. S. Fish and Wildlife Service requested that heptachlor treated grain seed be prohibited on all irrigated lands within seven miles of the Columbia and Spokane rivers. It was determined from the testimony presented at the hearing that damage to geese from heptachlor treated grain seed was only occurring in the Umatilla Wildlife Refuge area. Testimony was also presented that 60 miles up the Columbia river in the McNary Refuge area substantial amounts of heptachlor treated grain seed was used in this area. However, the same species of geese with the same feeding habits were not being affected.

On the basis that the testimony did not prove there is at present a hazard to wildlife along the entire Snake and Columbia river system from heptachlor treated grain seed, the department decided to place the restrictions only in the area that data substantiated a problem.

NEW SECTION

WAC 16-228-320 HEPTACHLOR TREATED GRAIN SEED--DEFINITION.

Any grain seed treated with heptachlorotetrahydro-4,7-methanoindene (heptachlor) is hereby declared to be a pesticide.

NEW SECTION

WAC 16-228-330 USE AND DISTRIBUTION. (1) Heptachlor treated

grain seed is hereby declared to be a restricted use pesticide and the use or application of any heptachlor treated grain seed for commercial plantings shall be prohibited on all irrigated land within an area starting at the common boundary of Klickitat and Benton county and the Columbia River; thence north along the county boundary fourteen miles more or less to the common township line between T6N and T7N; thence east along the township line twenty-nine miles more or less to the common range line between R28E and R29E; thence south along the range line six miles more or less to the Columbia River; thence westerly along the Columbia River to the point of beginning, including the Umatilla National Wildlife Refuge lying in Benton county in Washington State.

(2) Heptachlor treated grain seed shall be secured during transit within the state of Washington by use of side and/or end racks, bracings, chocks, tiedowns, tarps or other means to prevent the treated seed containers or the treated seed from falling or blowing off the vehicle with normal vehicle acceleration, travel speed, deceleration, or change in direction.

(3) Heptachlor treated grain seed shall be handled in such a manner as to prevent any spillage within the state of Washington. Should spillage of the treated seed occur, the seed spill must immediately be cleaned up to prevent any hazard to wildlife, domestic animals or humans.

(4) Heptachlor treated grain seed shall be exempt from the pesticide registration requirements of sections 15.58.050 and 15.58.130 of the Washington Pesticide Control Act 15.58 RCW.