

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1996

(1) I, C. Alan Pettibone, director of Washington State Department of Agriculture

do promulgate and adopt at Olympia, WA (place)

the annexed rules relating to:

Rules relating to the use of pesticides for groundwater protection in Chapter 16-228 WAC.

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

This action is taken pursuant to Notice No. 89-01-110 and 89-06-006 filed with the code reviser on 12/21/88 & 2/17/89. These rules shall take effect:

- [X] 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, 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:

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

(3) Pursuant to the requirements of RCW 34.04.026 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 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

has authority to implement the provisions of (agency)

(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 March 3 1989

By [Signature] Director
[Signature] Title

STATE OF WASHINGTON FILED

MAR 3 1989

CODE REVISER'S OFFICE WSR 89-07-006

AMENDATORY SECTION (Amending Order 1817, Filed 4/10/84)

WAC 16-228-162 (~~((High volatile ester and dust formulations prohibited))~~) **Phenoxy herbicide restrictions.** (1) The distribution, use and application of all high volatile ester and dust formulations of phenoxy herbicides shall be prohibited throughout the state: PROVIDED, That this section shall not apply to dust or granular formulations packaged in shaker cans intended for home and garden use(~~((+ PROVIDED FURTHER, That high volatile ester formulations of 2,4-D may not be registered for home and garden use))~~).

(2) Pesticide dealers shall make available to the purchaser a copy of the rules pertaining to the use of dicamba and/or phenoxy hormone-type herbicides, including 2,4-D and MCPA, in the area in which the material will be applied.

NEW SECTION

WAC 16-228-164 State restricted use pesticides for use by certified applicators only. (1) Pesticides containing the following active ingredients are hereby declared state restricted use pesticides for the protection of groundwater 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.

Common Chemical Name

Also Known As*

alachlor	Lasso
aldicarb	Temik
atrazine	
bromacil	Hyvar, Krovar
carbofuran	Furadan
cyanazine	Bladex
1,3-dicloropropene	Telone
disulfoton	Di-Syston
diuron	Karmex, Krovar
heptachlor	
hexazinone	Velpar
metolachlor	Dual
metribuzin	Lexone, Sencor
oxamyl	Vydate
picloram	Tordon

prometon
simazine
tebuthiuron

Pramitol
Princep
Spike

*This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) Pesticides defined by the following categories are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives, and dealers shall keep records as defined in subsection (4) of this section, and shall furnish the records to the director as defined in subsection (7) of this section.

(a) Any EPA restricted use pesticide not listed in this rule.

(b) 2,4-D - all dry formulations and all liquid formulations distributed in packages of one gallon and larger to be used in counties located east of the crest of the Cascade Mountains. The following types of formulations are exempt from this requirement:

(i) Dry formulations labeled and intended for home and garden use only;

(ii) One gallon containers of liquid amine formulations packaged as ready-to-use products, labeled for consumer use; and

(iii) One gallon containers of liquid amine formulations containing fifteen percent or less of restricted use herbicides, labeled for consumer use.

(3) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses are exempt from the requirements of this section:

(a) Home and garden use;

(b) Pet products;

(c) Cooling tower, air conditioner, industrial systems and humidifier biocides;

(d) Use within wholly enclosed structures (with floors) or fumigation chambers. Greenhouses are not considered as wholly enclosed structures.

(4) Pesticide dealers shall keep records of distribution of state restricted use pesticides specified by common chemical name in subsection (1) of this section for a period of five years from the date of distribution, and shall keep records of distribution of the state restricted use pesticides specified in subsection (2) of this section for a period of one year from the date of distribution. The records shall contain the following information:

(a) Name and address of purchaser;

- (b) Name and address of certified applicator (if different from (a) above);
 - (c) Name of authorized agent (if applicable);
 - (d) Brand and specific pesticide name and/or EPA registration number;
 - (e) Number of pounds or gallons of the pesticide distributed;
 - (f) Date of distribution;
 - (g) Certified applicator number.
- (5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides listed in subsections (1) and (2) of this section by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.
- (6) Certified applicators shall keep records of applications of state restricted use pesticides specified by common chemical name in subsection (1) of this section for a period of five years from the date of application, and the records shall contain the following information:
- (a) Name and address of the certified applicator;
 - (b) Location of field or treatment site;
 - (c) Number of acres (or other appropriate area measurement);
 - (d) Crop or site (such as: roadside);
 - (e) Date of application;
 - (f) Number of pounds or gallons of formulation applied per acre (or equivalent measurement);
 - (g) Brand and specific name of pesticide applied;
 - (h) pounds per gallon or percent active ingredient.
 - (i) All certified applicators except private applicators are also required to keep any additional information required by RCW 17.21.100 and WAC 16-228-190.
- (7) Records required by subsections (4) and (6) of this section shall be furnished to the director immediately upon request: PROVIDED, That the director may require the submission of application records of any restricted use pesticide within prescribed areas within fifteen days of use.

NEW SECTION

WAC 16-228-166 Aquatic Pesticides. (1) All pesticide formulations labeled for application onto or into water to control pests in or on water are hereby declared 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.

(2) Pesticides which are not classified as EPA restricted use pesticides and which are labeled only for the following uses shall be exempt from this section:

- (a) Swimming pools
- (b) Wholly impounded ornamental pools or fountains
- (c) Aquariums
- (d) Closed plumbing and sewage systems
- (e) Enclosed food processing systems
- (f) Air conditioners, humidifiers, and cooling towers
- (g) Industrial heat exchange, air washing, and similar industrial systems

(h) Disinfectants

(i) Aquatic environments in states other than Washington

(3) Distribution of pesticides bearing combined labeling for uses into or onto water and for other uses may be made by licensed pesticide dealers to noncertified 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 shall furnish records on the sales of pesticides labeled for application into or onto water, whether sold for that use or not. Records shall include the name and address of the purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased.

(4) Licensed dealers shall keep records as specified in WAC 16-228-164(4) on each distribution of pesticides designated in subsection (1) of this section. The director shall have access to these records immediately upon request.

(5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides designated in subsection (1) of this section by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization to the dealer at the time of purchase. At the time of purchase by an authorized agent the pesticide dealer shall require the certified applicator's name and license or certification number.

REPEALER

The following section of the Washington Administrative Code is repealed:

WAC 16-228-165 State restricted use pesticides for use by certified applicators only.