



# RULE-MAKING ORDER

CR-103 (12/31/00)

(RCW 34.05.360)

Agency: Washington State Department of Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Repeal

(1) Date of adoption: February 11, 2003

(2) Purpose: The purpose is to adopt rules exempting pesticide products labeled only for home and garden use for the control of mosquito larvae from being declared "State Restricted Use" pesticides.

(3) Citation of existing rules affected by this order:

- Repealed:
- Amended: 16-228-1231
- Suspended:

(4) Statutory authority for adoption: RCW 15.58.040 and 34.05 RCW

Other authority:

### PERMANENT RULE ONLY

Adopted under notice filed as WSR 03-02-099 on January 2, 2003 (date).  
Describe any changes other than editing from proposed to adopted version:

### EMERGENCY RULE ONLY

Under RCW 34.05.350 the agency for good cause finds:

- (a) That immediate adoption, amendment, or repeal of a rule is necessary for the preservation of the public health, safety, or general welfare, and that observing the time requirements of notice and opportunity to comment upon adoption of a permanent rule would be contrary to the public interest.
- (b) That state or federal law or federal rule or a federal deadline for state receipt of federal funds requires immediate adoption of a rule.

Reasons for this finding:

### EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR \_\_\_ on \_\_\_ (date)

(5.3) Any other findings required by other provisions of law as precondition to adoption or effectiveness of rule?

- Yes
  - No
- If Yes, explain:

(6) Effective date of rule:

- |  |  |
|--|--|
| <b>Permanent Rules</b>                                   | <b>Emergency Rules</b>                       |
| <input checked="" type="checkbox"/> 31 days after filing | <input type="checkbox"/> Immediately         |
| <input type="checkbox"/> Other (specify) ___*            | <input type="checkbox"/> Later (specify) ___ |

\*(If less than 31 days after filing, specific finding in 5.3 under RCW 34.05.380(3) is required)

NAME (TYPE OR PRINT)

VALORIA LOVELAND

SIGNATURE

TITLE  
DIRECTOR

DATE  
2/11/03

### CODE REVISER USE ONLY

SEARCHED \_\_\_\_\_ INDEXED \_\_\_\_\_

SERIALIZED \_\_\_\_\_ FILED \_\_\_\_\_

FEB 11 2003

TIME 2:44

WSR 03-05-034

(COMPLETE REVERSE SIDE)

**Note: If any category is left blank, it will be calculated as zero.  
No descriptive text.**

**Count by whole WAC sections only, from the WAC number through the history note.  
A section may be counted in more than one category.**

**The number of sections adopted in order to comply with:**

|   |     |     |         |     |          |     |
|---|-----|-----|---------|-----|----------|-----|
| <b>Federal statute:</b>                 | New | ___ | Amended | ___ | Repealed | ___ |
| <b>Federal rules or standards:</b>      | New | ___ | Amended | ___ | Repealed | ___ |
| <b>Recently enacted state statutes:</b> | New | ___ | Amended | ___ | Repealed | ___ |

**The number of sections adopted at the request of nongovernmental entity:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted in the agency's own initiative:**

|     |     |         |          |          |     |
|-----|-----|---------|----------|----------|-----|
| New | ___ | Amended | <u>1</u> | Repealed | ___ |
|-----|-----|---------|----------|----------|-----|

**The number of sections adopted in order to clarify, streamline, or reform agency procedures:**

|     |     |         |     |          |     |
|-----|-----|---------|-----|----------|-----|
| New | ___ | Amended | ___ | Repealed | ___ |
|-----|-----|---------|-----|----------|-----|

**The number of sections adopted using:**

|                                       |     |     |         |          |          |     |
|---------------------------------------|-----|-----|---------|----------|----------|-----|
| <b>Negotiated rule making:</b>        | New | ___ | Amended | ___      | Repealed | ___ |
| <b>Pilot rule making:</b>             | New | ___ | Amended | ___      | Repealed | ___ |
| <b>Other alternative rule making:</b> | New | ___ | Amended | <u>1</u> | Repealed | ___ |

AMENDATORY SECTION (Amending WSR 02-04-041, filed 1/29/02, effective 3/1/02)

**WAC 16-228-1231 State restricted use pesticides for distribution by licensed pesticide dealers and for use by certified applicators only.** (1) Pesticides defined by the following categories or active ingredients are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or to their duly authorized agents. The certified applicator must have a valid certification, license or permit to use or purchase the kind and quantity of such pesticide sold or delivered. These pesticides shall be used or applied only by certified applicators or persons under the direct supervision of a certified applicator, and only for those uses covered by the certified applicator's license category.

(a) Any EPA restricted use pesticide.

(b) 2, 4-D - all dry formulations and all liquid amine or salt formulations distributed in quantities larger than one gallon, that are used in counties located east of the crest of the Cascade Mountains.

(c) Strychnine and its salts

(d) Aquatic pesticides. All pesticides formulations labeled for application onto or into water to control pests on or in water.

(e) Pesticides containing the following active ingredients and their isomers are hereby declared state restricted use pesticides for the protection of groundwater.

atrazine

bromacil

dcpa

disulfoton

diuron

hexazinone

metolachlor

metribuzin

picloram

prometon

simazine

tebuthiuron

(2) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses shall be exempt from the requirements of 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
- (j) Animal pets
- (k) Use within wholly enclosed structures (with floors) or fumigation chambers.

Greenhouses are not considered as wholly enclosed structures for the purposes of this section

(1) Home and garden control of mosquito larvae.

(3) Products listed in subsection (1)(e) of this section and dry formulations of 2, 4-D which are labeled and intended only for Home & Garden use are exempt from the requirements of this section.

(4) Distribution of pesticides bearing combined labeling of uses onto or into water plus non-aquatic general 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 will not be applied into or onto water. If requested by the department, dealers shall furnish record on the sales of pesticides labeled for application onto or into 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. Records shall be kept for seven years from the date of distribution.

(5) Licensed pesticide dealers shall keep records of distribution of state restricted use pesticides for a period of seven years from the date of distribution. Records shall be furnished to the director immediately upon request. The records shall contain the following information:

- (a) Name and address of certified applicator;
- (b) Name of authorized agent (if applicable);
- (c) Product name and EPA registration number;
- (d) Quantity in pounds or gallons of the pesticide distributed;
- (e) Date of distribution;
- (f) Certified applicator's license number;
- (g) Crop or site to which the pesticide will be applied.

(6) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization by the certified applicator 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 number.