

TRANSMITTAL OF RULES ADOPTED

FROM: AGRICULTURE
(Name of Agency)

TO: CODE REVISER
LEGISLATIVE BLDG (Southwest Corner, Ground Floor)
Olympia 98501

The enclosed Permanent rules , being order No. 1161
Emergency rules

relating to (Name of rules or description of subject matter)

Registration, labeling, formulation, distribution, storage, disposal, and sale of agricultural pesticides and declaring certain pesticides to be restricted use pesticides.

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 2738 ^① filed with the code reviser on 8/3/70 ^② were regularly adopted as permanent rules of this agency at Olympia, Wa. on 8/28/70 and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW. The effective date of such rules shall be 9/28/70 ^③

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding that the immediate adoption of these rules 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 the public interest, were regularly adopted as emergency rules of this agency at _____ on _____ and are herewith filed in the office of the code reviser pursuant to chapter 34.04 RCW.

Dated this 28th day of August 1970.

STATE OF WASHINGTON
FILED
AUG 28 1970
CODE REVISER'S OFFICE
KET 3070 FILE # 22

AGRICULTURE
(AGENCY)
Donald W. Moos
By DONALD W. MOOS
DIRECTOR
Title _____

① NOTICE NUMBER AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE NO. OF LAST NOTICE)
② STAMPED DATE AS APPEARS ON THE COPY OF NOTICE RETURNED TO YOU BY REVISER'S OFFICE (IF PROCEEDINGS WERE CONTINUED, USE DATE OF LAST NOTICE)
③ UNLESS A LATER DATE IS SPECIFIED IN THIS ORDER OR IS PRESCRIBED IN ANOTHER STATUTE, RULES ARE EFFECTIVE 30 DAYS AFTER FILING: RCW 34.04.040. LEAVE THIS SPACE BLANK EXCEPT IN SUCH SPECIAL CASES.

STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE
Order No. 1161
Amending Order 998
Effective September 28, 1970
(WAC 16-222-160 effective November 26, 1970)

AMD WAC 16-222-001 PROMULGATION. I, Donald W. Moos, director of agriculture, by virtue of the authority vested in me under chapters 15.57 and 17.21 RCW, after due notice as provided under chapters 34.04 and 42.32 RCW, and a public hearing held in Yakima, Washington on August 24, 1970, do hereby amend Order 998 and WAC 16-222-010, 030, 040, 050, 070, 090, 110, 120, 130, and repeal 080. Order 1128 and WAC 16-222-002 and WAC 16-222-140 are also hereby repealed.

AMD WAC 16-222-010 DEFINITIONS. (1) Dry pesticide. Any granular, pelleted, dust, or wettable powder pesticide.
(2) Land. All land and water areas, including airspace, and all plants, animals, structures, buildings, devices and contrivances, appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.
(3) Pesticide dealer. Any person engaged in the business of selling, offering for sale, or holding for sale any pesticides in commercial quantities or highly toxic pesticides in any amount. This definition is subject to the provisions stated in Section 15.57.090 of the Washington Pesticide Act, chapter 15.57 RCW.
(4) Pesticide-fertilizer mix. A mixture of a pesticide or pesticides and a fertilizer.
(5) Fertilizer. As included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.
(6) Bulk fertilizer. A commercial fertilizer, agricultural mineral, or lime, distributed in a nonpackaged form.
(7) LD₅₀. For the purpose of this order the term LD₅₀ will refer to the acute oral median lethal dose which is computed as the quantity of the pesticide, in milligrams of the toxicant per kilogram of animal body weight (usually rats), that is required to kill fifty percent of the animals tested. Values used are taken from the AAPCO Compendium when available.
(8) Ultimate User. For the purpose of this order the term ultimate user shall be any commercial producer or government agency purchasing pesticides listed in WAC 16-222-160 for use on his land.
(9) Authorized Agent. A person who is authorized to act on behalf of an ultimate user for the purpose of purchasing pesticides listed in WAC 16-222-160.

AMD WAC 16-222-030 LABEL REQUIREMENTS. (1) Ingredient statement.
(a) The ingredient statement must run parallel with other printed matter on the label, must not be obscure or crowded, and must be on a clear and contrasting background.
(b) The common name of the active ingredient or, in case there is no well-known common name, the correct chemical name shall be used. Acceptable common names shall be those approved by the American Standards Association Section Committee on Common Names for Pest Control Chemicals and accepted by the U.S. department of agriculture and approved by the director. When no such name has been accepted and the chemical composition is so complex that a common name cannot be readily derived, then the director may permit use of a new or coined name which he finds to be appropriate for the information and protection of the user.

(c) In specific circumstances the director may approve negative ingredient guarantees: PROVIDED, That the color, size print, or position of such statements on the label would not be more prominent than other guarantee statements or recommendations for use. This section shall apply as well to advertising material.

(2) Directions for use.

(a) Directions for use on the label shall include, but not be limited to, a list of the pests to be controlled, the crops, plants, or land on which the pesticide is to be used, and the amount recommended. A supplemental or revised list may be submitted for consideration during the registration year. No claims shall be made for control of any agricultural pest not included on a registered label or list.

(b) Brochures and other advertising claims must conform with registered label information.

(c) At the discretion of the director a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product: PROVIDED, That if the new labeling is contradictory to the original labeling on the container the original labeling shall be removed and the new labeling shall be securely affixed to the container.

(3) Warning and caution statements.

(a) The determination as to caution, antidote statements, and toxicity of materials will be based on federal regulations except where no information is contained in the federal regulations, or where circumstances existing in the state of Washington require that greater caution be exercised.

(b) The statement "KEEP OUT OF REACH OF CHILDREN" shall appear on the front panel of each pesticide label.

(c) Four general categories of toxicity of pesticides are recognized:

(i) The first is the highly toxic class, (formulations with LD₅₀ of less than 50). Highly toxic pesticides are required to be labeled with the skull and crossbones and the word Poison (in red) prominently displayed on a contrasting background, and an antidote statement. The antidote statement shall include the sentence, "Call a Physician Immediately." In addition, the label shall carry a warning or caution statement which should include the word Danger and instructions for handling to reduce chances of injury in use.

(ii) The second class, immediately below the highly toxic, in general includes pesticides having toxicities down to one-tenth those of the highly toxic class, (formulations with LD₅₀ of approximately 50-500). Labels of products which fall in the second class shall carry a warning or caution statement which should include the word Warning and statements equivalent to those required for highly toxic pesticides, but they do not need to bear the skull and crossbones, the word "Poison", or an antidote statement.

(iii) The third class, includes pesticides, having hazards below class two, which still require some cautions and usually includes toxicities down to about one-tenth of those in class two, (formulations with LD₅₀ of approximately 500-5000). Labels of products in the third class shall carry a warning or caution statement which should include the word Caution, and statements indicating the means of avoiding the principal hazards of use. Use of the skull and crossbones, the word "Poison", and antidote statements are not necessary for these products.

(iv) The fourth class is comparatively free from danger. No warning, caution, or antidote statements are required for

the few pesticides in the fourth class, although unqualified claims for safety are usually not justified.

(d) When not specifically stated in chapter 15.57 RCW or otherwise designated by the director, the director will be guided by the labeling requirements of the Pesticide Regulations Division of the U. S. department of agriculture. The methods of sampling and analysis shall be those of the Association of Official Analytical Chemists or other approved methods.

(e) Labeling of pesticides must not bear any unwarranted claims as to the safety of the product or its ingredients including a statement such as "SAFE", "NONPOISONOUS", "NONINJURIOUS", or "HARMLESS" with or without such a qualified phrase as "When used as directed".

(f) A truthful statement such as "Nontoxic to humans and pets" may be permitted on those products which are determined by the Pesticides Regulation Division of the USDA to be nontoxic to humans and pets.

AMD

WAC 16-222-040 ARTIFICIAL COLORING. (1) No highly toxic pesticide in powdered or granular form or highly toxic pesticide baits having a label recommendation for use in any building, ship, or similar enclosure shall be sold within the state of Washington unless it is distinctly colored or discolored in such a way that it does not resemble any food.

(2) A pesticide in liquid form with colors resembling a beverage or liquid food, which does not have distinctive odor, shall have an odorous substance added that is distinctly different from any beverage or liquid food.

AMD

WAC 16-222-050 CERTAIN ARSENIC USES PROHIBITED. A pesticide containing arsenic or a compound thereof for applications to furnishings for living quarters, or clothing or other fabrics shall not be registered, and its sale shall be prohibited.

AMD

WAC 16-222-070 EXEMPTIONS FOR EXPERIMENTAL USES. (1) These regulations shall not apply to the manufacturer or shipper of a pesticide for experimental use only, and which is to be used under supervision of a state agency, or of the federal government, or by others authorized to do experimental work if the label on the container is plainly and conspicuously marked FOR EXPERIMENTAL USE ONLY - NOT TO BE SOLD, has the manufacturer's name and address provided, has the manufacturer's identification and/or code number of contents, and contains such precautions as are known to be necessary to protect the health of persons who may come in contact with the pesticide.

(2) Pesticides for experimental use may be sold if a written permit has been obtained from the director and the pesticides are sold for experimental purposes subject to restrictions and conditions described in the permit. If the pesticide is to be used on a food crop, a tolerance must be obtained from the Food and Drug Administration before a permit can be issued.

AMD

WAC 16-222-090 PESTICIDE-FERTILIZER REGISTRATION AND LABELING. (1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: PROVIDED, That the fertilizer portion shall be considered an inert ingredient for the purposes of this order; and PROVIDED FURTHER, That such registrations may be to the nearest 0.1% of active ingredient/s.

(2) A registered pesticide label must be attached to each pesticide-fertilizer mix container.

(3) A pesticide-fertilizer label may also contain the fertilizer labeling information as required in the Washington Fertilizer Act.

(4) A pesticide-fertilizer label shall be registered with the director before distribution or sale.

AMD

WAC 16-222-110 ADEQUATE CONTAINERS. Containers, i.e. packages, cartons, bags, cans, barrels, bins, etc., in which pesticides are sold, offered for sale, or transported within the state of Washington shall be of sufficient strength and of such construction as to alleviate danger of spillage or breakage. Pesticides found to be packaged in unsafe containers shall be placed under "Stop Sale" order: PROVIDED, That containers shall meet the minimum specification of the U.S. department of transportation CFR Title 49, Chapter 1, as in effect on the effective date of this order.

AMD

WAC 16-222-120 SALE OR POSSESSION OF SODIUM FLUORACETATE, FLUORACETAMIDE, THALLIUM, AND PHOSPHORUS PASTES. (1) No person shall possess or use sodium fluoracetate (1080) and fluoracetamide (1081) except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control operators licensed by the state; and wholesalers or jobbers of pesticides for sale to the aforementioned persons, or for export.

(2) No person shall possess or use thallium or thallium compounds, or phosphorus pastes except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control operators licensed by the state; and wholesalers or jobbers of pesticides for sale to the aforementioned persons, or for export. Labels for these pesticides must bear a clear and prominent warning against sale to the general public and a statement that the pesticide is for use by government agencies and licensed pest control operators only.

AMD

WAC 16-222-130 PESTICIDE DEALER'S RESPONSIBILITIES IN SALES OF HIGHLY TOXIC AND RESTRICTED USE PESTICIDES AND IN RECOMMENDATIONS. (1) Pesticide dealers shall not sell, offer for sale, or hold for sale highly toxic pesticides in the same

department where food for human consumption is displayed or sold. The use of the same "checkstand" or food packaging area is prohibited for the distribution of highly toxic pesticides.

(2) Pesticide dealers and their employees shall not make a pesticide recommendation or give advice that would violate federal or Washington state food and drug laws, or would violate the approved labeled use and/or USDA or Washington state registration for that pesticide: PROVIDED, That pesticide dealers and their employees will not be violating this regulation when following current official Washington State University pesticide recommendations.

(3) Pesticide dealers shall post a list of persons to contact in case of a pesticide accident. This list shall include the name and address of the nearest poison control center, the Community Pesticide Study Project Laboratory in Wenatchee, the county extension agent, the department of agriculture offices in Yakima and Olympia, and the local health officer.

NEW

WAC 16-222-145 RESTRICTED USE PESTICIDES -- FOR COMMERCIAL AND GOVERNMENT AGENCY USE ONLY. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington and shall not be sold to home and garden users. The following pesticides will be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators and governmental agencies experienced in the application of pesticides. Such pesticides shall not under any circumstances be registered for sale or distribution if labeled for home or garden use:

1. Aluminum Phosphide (Phostoxin)
2. Arsenic Trioxide (1.6% and above) except for the control or eradication of crab grass and the container thereof is restrictively labeled for such.
3. Bidrin
4. Castrix
5. Dasanit
6. Delnav (25.1% and above)
7. DiNitro-O-Cresol (DNOC)
8. DiNitro-O-Sec Butyl Phenol (DNOSBP)
9. DiSyston (2.1% and above)
10. Dyfonate (11% and above)
11. Endothal (20% and above)
12. Endrin (2.5% and above)
13. EPN
14. Ethion (26% and above)
15. Furadan (Carbofuran)
16. Guthion (16% and above)
17. Hydrogen Cyanide (Hydrocyanic acid) (HCN)
18. Lannate (Methomyl)
19. Methyl Demeton (Meta Systox) (25% and above)
20. Methyl Parathion
21. OMPA (Schradan)
22. Parathion
23. Phosdrin
24. Phosphamidon

25. PMA - Phenyl Mercuric Acetate (5% and above when labeled for use as an algicide in swimming pool water); (1.5% and above when labeled for other uses).
26. Sodium Arsenite
27. Sodium Selanate
28. Strychnine and its salts (Strychnine Alkaloid 1.1% and above)
29. Systox (Demeton)
30. Temik
31. TEPP
32. Thimet
33. Trithion (liquid and wettable powder 26% and above; granular and dust 11% and above)
34. Zinc Phosphide (2.1% and above)
35. Zinophos
36. All high volatile ester formulations of 2,4-D, 2,4,5-T, and MCP as defined in Interpretation 17, Revision 1 of Title 7 under the Federal Insecticide, Fungicide & Rodenticide Act -- (see subsection b).

(2) Pesticide dealers selling the high volatile ester formulations of 2,4-D, 2,4,5-T, and MCP in broken case lots, containing packages of one gallon or less, must maintain a ledger which shall be signed by any purchaser of such high volatile esters showing that such purchaser is a commercial producer or commercial applicator or is an agent for a government agency and that such high volatile esters will not be used in areas where high volatile formulations of 2,4-D, 2,4,5-T, and MCP are restricted or will not be used for home and garden purposes. This ledger must contain the following: specific name of the pesticide, amount purchased, date of purchase, and name and address of purchaser. The director of agriculture shall have access to these records at any reasonable time.

NEW

WAC 16-222-150 RESTRICTION ON DISTRIBUTION, TRANSPORTATION, STORAGE, AND DISPOSAL. (1) No person shall handle, transport, store, display, or distribute pesticides in such a manner as to endanger man and his environment or to endanger food, feed, or any other products that may be transported, stored, displayed, or distributed with such pesticides. Toxicities of pesticides shall be considered in distribution, storage, handling, and merchandising practices.

(2) Highly toxic pesticides shall not be transported in the same vehicle or other equipment with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment which has been used to transport any highly toxic pesticide shall be inspected by the owner or his agent for contamination before reuse. In instances where leakage or spillage has occurred, the shipper of the pesticides shall be immediately notified for instructions concerning the best method to be employed for the removal of the contamination. Vehicles or other equipment which have been contaminated must not be returned to service until the contamination has been removed.

(3) Pesticides shall not be delivered to a pesticide consignee unless the consignee or his agent is present to accept delivery of the pesticides and signs a delivery slip.

(4) Pesticides shall not be stored and/or displayed over or adjacent to meat or vegetable cases, other human foods, animal feeds, or drugs, or in any manner that may result in contamination of food, feed, or clothing. Pesticide products shall not be packaged, sacked, or boxed with any of the above. Pesticides intended for sale or distribution shall only be stored and displayed within an enclosed area of a building or fence and shall not be displayed on sidewalks.

(5) Pesticides in leaking, broken, corroded, or otherwise damaged containers shall not be displayed, offered for sale, or transported and shall be handled or disposed of in a manner approved by the director or his duly authorized representative. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

(6) No person shall distribute or sell any pesticide unless it is in the registrant's or the manufacturer's unbroken, immediate container and there is affixed to such container a registered label.

(7) No person shall dispose of, discard, or store any pesticide or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock, wildlife, pollinating insects or to pollute any water supply or waterway.

NEW

WAC 16-222-160 USER PERMITS. (For the purpose of this order WAC 16-222-160 shall become effective November 26, 1970).

(1) The following highly toxic and restricted use pesticides shall not be sold or made available to any ultimate user unless such ultimate user has obtained an annual permit in accordance with Section 15.57.210 of the Washington Pesticide Act, chapter 15.57 RCW.

- (a) Bidrin
- (b) DiSyston - Liquid
- (c) Endrin - 2.5% and above
- (d) Furadan (Carbofuran)
- (e) Lannate (Methomyl)
- (f) Parathion & Methyl Parathion - 1.1% and above
- (g) Phosdrin
- (h) Schradan (OMPA)
- (i) Systox (Demeton)
- (j) Temik
- (k) TEPP
- (l) Thimet (Phorate) - Liquid
- (m) Zinophos

(2) Permits may be obtained immediately prior to sale or delivery from any authorized pesticide dealer.

(3) An ultimate user may list on his permit the name or names of an authorized agent/s for the purpose of purchasing or receiving pesticides listed in WAC 16-222-160 in behalf of said ultimate user.

(4) Permits may be issued by pesticide dealers authorized to do so by the director. Authorization to issue permits may be obtained by making written application to the director.

(5) 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 ultimate user.

(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.

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

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

(a) Name and address of ultimate user.

(b) Name of authorized agent.

(c) Date of purchase.

(d) Brand and specific pesticide name.

(e) Percent active ingredient.

(f) Amount sold.

(g) Crop to which pesticide will be applied.

(8) Authorized 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.

(9) Any ultimate user found violating the provisions of this order or the approved labeled use and/or the USDA or Washington state registration for that pesticide shall be subject to revocation of the permit, subject to a hearing as provided for in Section 15.57.070 of the Washington Pesticide Act, chapter 15.57 RCW: PROVIDED, That an ultimate user will not be violating this regulation when following current official Washington State University pesticide recommendations.

(10) Any duly licensed pesticide applicator licensed under the provisions of the Washington Pesticide Application Act, chapter 17.21 RCW, shall not be required to obtain the permit provided for in WAC 16-222-160.

NEW WAC 16-222-170 PESTICIDE DEALERS' LICENSES. (1) All pesticide dealers shall obtain an annual license from the director for each outlet or location in this state from which such pesticides are sold or held for sale or offered for sale in accordance with RCW 15.57.090: PROVIDED, That

(a) When more than one pesticide dealer is engaged in the business from the same outlet or location, each pesticide dealer shall obtain a license for said outlet or location.


(b) When pesticides, in commercial quantities, or highly toxic pesticides in any amount are shipped from a manufacturer, registrant, or distributor located outside this state directly to the user within this state, the agent or representative operating within this state that transacted the sale shall obtain a license required in RCW 15.57.090: PROVIDED, That the manufacturer, registrant, or distributor may obtain said license for their out-of-state location or outlet and take complete dealer responsibility for their agents distributing said pesticides within this state.

REP WAC 16-222-080 is hereby repealed.

REP WAC 16-222-002 and WAC 16-222-140 and Order 1128 are hereby repealed.

For the purpose of this order WAC 16-222-160 shall become effective November 26, 1970.

I hereby certify that the foregoing is a true and correct copy of the regulations promulgated.


DONALD W. MOOS
Director of Agriculture
State of Washington

Signed at Olympia, Wa.

Date: August 28, 1970