

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1723

(1) I, M. Keith Ellis, director of the Department of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to:

restricted use herbicides in Franklin county in WAC 16-231-115, WAC 16-231-120, WAC 16-231-125 and WAC 16-231-140

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

This action is taken pursuant to Notice No. filed with the code reviser on 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, M. Keith Ellis, 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: in order to protect susceptible crops in Franklin county of eastern Washington from the application of phenoxy herbicides, the department promulgated Order No., effective April 12, 1981. However, since the application season in eastern Washington has already begun, I feel it necessary to issue an order effective immediately to further protect such crops.

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) 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 & 15.58 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 FILED APPROVED AND ADOPTED March 13 19 81 MAR 13 1981 CODE REVISER'S OFFICE WSR 81-07-042

By M. Keith Ellis Director of Agriculture Title

AMENDATORY SECTION (Amending Order No. 1676, filed 2-20-80)

WAC 16-231-115 AREA 1. (1) Area 1 description. (Lands generally within the Columbia Basin Irrigation Project.) This area includes all lands lying within a boundary line starting at the Columbia River and the ~~((east-boundary-line-of-Section-25, T9N, R30E; thence north fifteen miles more or less to the northeast corner of Section 12, T11N, R30E; thence west one mile))~~ south section line of Section 24, T13N, R27E; thence east along the section lines and the Basin Hill Road seventeen miles more or less to State Highway 17; thence northerly along State Highway 17, ~~((fourteen))~~ five miles more or less to State Highway 260; thence east along State Highway 260 five miles more or less to the Moor Road; thence north two miles more or less to the Burlington Northern Railroad tracks; thence northwesterly four miles more or less along the Burlington Northern tracks to the Adams County line; thence west nineteen miles more or less along the ~~((Adams Grant))~~ Adams county line to the northwest corner of Section 6, T14N, R28E; thence south four miles along the Grant County line to the southwest corner of Section 19, T14N, R28E; thence west four miles more or less to the Columbia River; thence southerly and easterly along the Columbia River six miles more or less to the south section line of Section 24, T13N, R27E ~~((to the Snake River; thence northeasterly along the Snake River to the southern boundary line of Section 17, T11N, R29E; thence east two miles more or less to the Eltopia West Road; thence east along Eltopia West Road to Highway 395; thence south on Highway 395 to the Snake River; and thence northerly and easterly along the Snake River to the east boundary line of Section 25, T9N, R30E))~~.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April 5 through October 31 of each year: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1 through April 30 of the following year.

(b) On and after April 5 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) On and after November 1 through April 4 of the following year, aircraft applications of restricted use herbicides shall be allowed using the Caution Area Restrictions (see WAC 16-230-675). On and after April 5 through October 31, aircraft applications of restricted use herbicides shall be allowed using the Danger Area Restrictions (see WAC 16-230-675).

(d) On and after April 5 through October 31, aircraft applications of restricted use herbicides shall be prohibited within one mile of any commercial vineyard: PROVIDED, That on and after April 5 through October 31, written requests to apply MCPA to peas and corn located one-half to one mile from commercial vineyards will be considered: PROVIDED FURTHER, That on and after April 5 through April 30 written requests to apply 2,4-DB on alfalfa and red clover seed crops located one-half to one mile from commercial vineyards will be considered.

AMENDATORY SECTION (Amending Order No. 1676, filed 2-20-80)

WAC 16-231-120 AREA 1A. (1) Area 1A description. This area includes all lands lying within a boundary line starting at the ~~((Columbia River and the southern boundary line of Section 17, T11N, R29E; thence east two miles more or less to the Eltopia West Road; thence east along Eltopia West Road to Highway 395; thence south on Highway 395 to the Snake River; and thence down to the Snake River to the confluence of the Snake River and the Columbia River; thence northerly and westerly along the Columbia River to the point of beginning))~~ Snake River and the east section line of Section 25, T9N, R30E; thence north fifteen miles more or less along the section lines to the northeast corner of Section 12, T11N, R30E; thence west one mile more or less to State Highway 17; thence north along State Highway 17 nine miles more or less to the Basin Hill Road; thence west seventeen miles more or less along the Basin Hill Road and the section lines to the south section of Section 24, T13N, R27E and the Columbia River; thence south and southeasterly along the Columbia River to the Snake River; thence northeasterly along the Snake River to the east section line of Section 25, T9N, R30 E.

(2) Area 1A restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April 5 through October 31 of each year: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1 through April 30 of the following year.

(b) On and after April 5 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) On and after April 5 through October 31, aircraft applications of restricted use herbicides shall be prohibited except by written permit issued by the department: PROVIDED, That on and after November 1 through April 4 of the following year, aircraft applications of restricted use herbicides shall be allowed using the Caution Area Restrictions (see WAC 16-230-675).

AMENDATORY SECTION (Amending Order No. 1676, filed 2-20-80)

WAC 16-231-125 AREA 2. (1) Area 2 description. This area includes all of the lands in Franklin County lying west and south of a line starting at the northwest corner of Section 36, T14N, R30E; thence east along the Hendricks Road five miles more or less to the northeast corner of Section 34, T14N, R31E; thence south fifteen miles more or less to the Eltopia and Eye Road; thence easterly along the Eltopia and Eye Road to the Brass Road; thence easterly along the Brass Road to the Bannenburg Road; thence southeasterly along the Bannenburg Road to the northwest corner of Section 6, T10N, R33E; thence south along the section line to the Snake River; thence southwesterly along the Snake River to the east (~~boundary-line of Area-1~~); section line of Section 25, T9N, R30E; thence north fifteen miles more or less along the section lines to the northeast corner of Section 12, T11N, R30E; thence west one mile more or less to State Highway 17; thence northerly along State Highway 17 fourteen miles more or less to the northwest corner of Section 36, T14N, R30E (~~(;--thence northerly along the east boundary line of Area-1A to the point of beginning)~~).

(2) Area 2 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April 5 through October 31 of each year: PROVIDED, That (~~aerial~~) ground applications of low volatile formulations of restricted use herbicides may be made (~~using the Warning Area Restrictions (see WAC 16-230-675)~~) from April 5 through April 30 using nozzles having a minimum orifice diameter of 0.036 inches.

(b) On and after May 1 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.036 inches.

(c) On and after (~~May-1~~) April 5 through October 31, aircraft applications of restricted use herbicides shall be made using the (~~Warning~~) Danger Area Restrictions (see WAC 16-230-675).

AMENDATORY SECTION (Amending Order No. 1676, filed 2-20-80)

WAC 16-231-140 RESTRICTIONS ON AIRCRAFT APPLICATION. (1) The loading and/or mixing of restricted use herbicides is restricted to those formulations which may be applied in the area in which the airstrip is located.

(2) Height of discharge requirements by aircraft of restricted use herbicides: The nozzles must be closed while either descending onto or ascending from the target field, and also ascending or descending over an obstacle or obstruction within the target field that would alter the height of application more than ten feet.