

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 1993

(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:

The application of restricted use pesticides in Benton County, and portions of Franklin and Walla Walla Counties in Chapter 16-232 WAC.

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

This action is taken pursuant to Notice No. filed with the code reviser on These rules shall take effect:
[] 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, C. Alan Pettibone, 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: Existing limited staff resources are not sufficient to address the public concern regarding the application of pesticides in Benton County. Provisions under this order will allow effective, efficient use of staff resources to provide for the safe application of pesticides while not restricting further use of pesticides. This order is necessary for the rules to remain in effect until formal adoption of rules after a hearing to be held February 22, 1989. 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:

[] (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

(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 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 February 6, 19 89

STATE OF WASHINGTON FILED

FEB 6 1989

By C. Alan Pettibone

Director

Title

CODE REVISER'S OFFICE

WSR

89-05-004

WAC 16-232-405 Area under order. The area under order shall include:

(1) All lands lying within the boundaries of Benton County.

(2) Portions of Franklin and Walla Walla counties as follows:

Beginning at the Benton-Franklin County line in the vicinity of the northwest corner of Section 1, T10N, R28E; thence east approximately thirteen miles along section lines and a portion of Sagemore Road to the northeast corner of Section 1, T10N, R30E; thence south seven miles to the southeast corner of Section 1, T9N, R30E; thence east four miles along section lines and a portion of the Pasco-Kahlotus Road to the northeast corner of Section 10, T9N, R31E; thence approximately fourteen miles south across the Franklin-Walla Walla County line to the Columbia River; thence northwesterly along the Columbia River to the point of beginning.

(3) Within the area under order described in subsection (1) and (2) above are certain lands designated as Sub-area A which have the following descriptions:

(a) All lands lying south of a line beginning at the Yakima-Benton County line and the southwest corner of Section 19, T8N, R24E; thence east one mile along section lines to the southeast corner of Section 19, T8N, R24E; thence north one mile along section lines to the northeast corner of Section 19, T8N, R24E; thence east seven miles along section lines to the southeast corner of Section 17, T8N, R25E; thence north three miles along section lines to the northeast corner of Section 5, T8N, R25E; thence east two miles along section lines to the southeast corner of Section 34, T9N, R25E; thence north one mile along the section lines to the northeast corner of Section 34, T9N, R25E; thence east two miles along section lines to the southeast corner of Section 25, T9N, R25E; thence north one mile along section lines to the northeast corner of Section 25, T9N, R25E; thence east six miles along section lines to the southeast corner of Section 24, T9N, R26E; thence south two miles along section lines to the southwest corner of Section 31, T9N, R27E; thence east five and one-half miles more or less along section lines to the K.I.D. Canal; thence southeasterly along the K.I.D. Canal to its confluence with Columbia River.

(b) All lands lying within a line beginning at the southwest corner of Section 18, T13N, R24E; thence east three miles along section lines to the southeast corner of Section 16, T13N, R24E; thence south one mile along section lines to the southwest corner of Section 22, T13N, R24E; thence east one-half mile to the Atomic Energy Commission west boundary line; thence easterly and southerly along the Atomic Energy Commission boundary line to the Yakima River; thence southerly along the Yakima River to the south boundary of Section 31, T10N, R27E; thence west eighteen and one-half miles more or less along section lines to the Yakima-Benton County line; thence north along Yakima-Benton County line to the point of origin.

NEW SECTION

WAC 16-232-415 restricted use pesticides. For purposes of WAC 16-232-405 through WAC 16-232-465, all pesticides are declared to be restricted use pesticides, except those labeled or used only for the following sites or functions:

- (1) Swimming pools and fountains
- (2) Disinfectants
- (3) Cooling tower or industrial system biocides
- (4) Pets or livestock
- (5) Lawns or home gardens
- (6) Use within or around buildings or similar structures (does not include irrigation canals)
- (7) Wood or lumber treatment
- (8) Baits or repellants registered solely for vertebrate pest control
- (9) Seed treatments
- (10) Enclosed food processing systems
- (11) Air conditioners, humidifiers, and heating systems

NEW SECTION

WAC 16-232-425 Permits.

(1) Application of restricted use pesticides as defined in WAC 16-232-415 is prohibited in Sub-area A designated in WAC 16-232-405(3): PROVIDED, That the department may issue written permits for designated applications.

(2) The department may make on-site monitoring of the application by a department representative a condition of any permit. A representative of the department may revoke any such permit at any time, if the representative deems the situation at the application site unsuitable.

(3) No permit shall be issued pursuant to this rule to apply dicamba or phenoxy hormone-type herbicides, unless that permit is consistent with existing department regulations.

(4) Application of chlorsulfuron (such as: Glean, Telar) or metsulfuron methyl (such as: Finesse, Escort) to fallow land or to land during the time between harvest and emergence of the subsequent grain crop above the furrows is prohibited.

NEW SECTION

WAC 16-232-435 Recordkeeping.

(1) No portion of this rule shall relieve any commercial applicator, public operator, private-commercial applicator, or demonstration and research applicator from recordkeeping requirements of WAC 16-228-190.

(2) Persons who apply restricted use pesticides as defined in WAC 16-232-415 shall keep records for each application within the

area defined in WAC 16-232-405, which shall include the following information:

- (a) Applicator's name, address and name of the individual making the application;
 - (b) Address or location of the land where the pesticide was applied, specifying township, range, and section: PROVIDED, That right-of-way application records may omit township, range and section.
 - (c) Year, month, day, and time the pesticide was applied;
 - (d) Trade name and/or common name of the pesticide applied, and/or EPA registration number for that product;
 - (e) Direction and estimated velocity of the wind and temperature at the time the pesticide was applied;
 - (f) Amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the pesticide used;
 - (g) Specific crop or site to which the pesticide was applied.
- (3) If an application of a restricted use pesticide as defined in WAC 16-232-415 is performed by a licensed commercial pesticide applicator within the area defined in WAC 16-232-405, the person in control of the treated land shall keep records which shall include the following information:
- (a) Address or location of the land where the pesticide was applied, specifying township, range, and section: PROVIDED, That right-of-way application notices may omit township, range and section;
 - (b) Year, month, day, and time the pesticide was applied;
 - (c) Name of the commercial applicator.
- (4) All records required by this rule shall be completed and available to the department the same day the pesticide was applied.
- (5) All records required by this rule shall be kept for a period of three years from the date of application of the pesticide to which such records refer. The department shall, upon request in writing, be furnished with a copy of such records forthwith by the person required to keep the records.

NEW SECTION

WAC 16-232-445 Notice of intent.

- (1) Application of restricted use pesticides as defined in WAC 16-232-415 is prohibited unless the department is notified of the intent to make the application prior to commencing the actual application. Notice of Intent is not required for application in Sub-area A made under permits as provided in WAC 16-232-425.
- (2) Notice of Intent must be made by one of the following:
 - (a) telephone to the department's pesticide notice recorder;
 - (b) in person on forms provided by the department at the department's grain inspection office in Pasco;
 - (c) or under other conditions to be designated by the department.
- (3) Notice of Intent shall include the following information:

- (a) Name and telephone number of person filing the Notice of Intent.
- (b) Applicator's name, address and name of the individual making the application;
- (c) Address or location of the land where the pesticide is to be applied, specifying township, range, section: PROVIDED, That right-of-way application records may omit township, range and section;
- (d) Year, month, day, and time the pesticide is to be applied;
- (e) Crop or site to be treated;
- (f) Acreage or area to be treated;
- (g) Trade name and/or common name of the pesticide to be applied, and/or EPA registration number for that pesticide.
- (4) Application of restricted use pesticides shall not begin prior to the day and time provided in the Notice of Intent. If the application cannot be started or is not completed within twenty-four hours (24 hours) of the day and time stated in the original Notice of Intent, a new Notice of Intent must be made.
- (5) Notice of Intent may be made by licensed commercial pesticide applicators on behalf of persons in control of lands to be treated.
- (6) Providing the department with Notice of Intent does not replace any of the recordkeeping requirements of WAC 16-232-435, WAC 16-228-190 or other applicable rules;
- (7) Nothing in the department's acceptance of a Notice of Intent shall be construed as permitting application of any pesticide in violation of its registered label or other applicable laws and rules.

NEW SECTION

WAC 16-232-455 Other rules. Provisions of WAC 16-232-405 through WAC 16-232-465 shall take precedence over all existing, less restrictive rules of the department affecting the application of pesticides in Benton, Franklin or Walla Walla Counties. No provision of WAC 16-232-405 through WAC 16-232-465 shall be construed as relieving any requirement of existing rules except those in direct conflict.

NEW SECTION

WAC 16-232-465 Effective Date. The provisions of this order are effective immediately: PROVIDED, That the requirements for a permit for any pesticide application in the affected area shall remain in effect until November 15, 1988. After November 15, 1988, only applications to be made to the lands lying in Sub-area A will require a permit, while all other applications will require Notice of Intent.