

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 2014

(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:

Chapter 16-230 WAC restrictions on the use of pesticides in Benton County and portions of Walla Walla and Franklin County.

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

This action is taken pursuant to Notice No. 89-07-051; 89-03-065; 89-04-056; and filed with the code reviser on 1/18/89; 2/1/89. These rules shall take effect: 89-11-093
[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

(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 July 31 19 89

By C. Alan Pettibone

Director
Title

[Form CR-7: Rev. 7/23/82]

STATE OF WASHINGTON FILED

JUL 31 1989

CODE REVISER'S OFFICE

89-16-023

2:10 pm

NEW SECTION

WAC 16-230-800 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Area under order. The area under order shall include:

(1) All lands lying within the boundaries of Benton County; and
(2) Portions of Franklin and Walla Walla Counties as follows: All lands lying within a boundary line beginning at the intersection of the Esquatzel Diversion Channel drain and the Columbia River thence east along the Esquatzel Channel to its intersection with Road 68; thence southeasterly approximately one mile along Road 68 to its intersection with Fraser Drive near the northeast corner of Section 24, T10N, R28E; thence south approximately one mile along Fraser Drive to its intersection with Selph Landing Road; thence east seven miles along Selph Landing Road to its intersection with Highway 395 near the northeast corner of Section 30, T10N, R30E; thence south two miles along Highway 395 to the southeast corner of Section 31, T10N, R30E; thence east three miles along section lines to the northeast corner of Section 3, T9N, R30E; thence south one mile along the section line to the southeast corner of Section 3, T9N, R30E; thence east seven miles along section lines and a portion of the Pasco-Kahlotus Road to its intersection with the Ice Harbor Dam Road at the northeast corner of Section 11, T9N, R31E; thence southerly approximately four miles along Ice Harbor Dam Road and Ice Harbor Drive to the west section line of Section 25, T9N, R31E; thence south approximately eleven miles along section lines to the Walla Walla River; thence west along the Walla Walla River to the Columbia River and the Walla Walla-Benton County line; thence northwesterly along the Walla Walla-Benton County line to the Benton-Franklin County line; thence northwesterly along the Benton-Franklin County line and the Columbia River to the point of beginning.

NEW SECTION

WAC 16-230-805 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Recordkeeping.

(1) No portion of this section shall relieve any commercial pesticide applicator, public operator, private-commercial applicator, demonstration and research applicator or private applicator from recordkeeping requirements of WAC 16-228-190 and WAC 16-228-164.

(2) All persons who apply pesticides within the area under order in WAC 16-230-800 shall keep records for each application per day for all pesticides, except those labeled or used only for the following sites or functions:

- (a) Swimming pools and fountains
- (b) Disinfectants
- (c) Cooling tower or industrial system biocides
- (d) Pets or livestock
- (e) Lawns or home gardens

- (f) Use within or around buildings or similar structures (does not include irrigation canals)
 - (g) Wood or lumber treatment
 - (h) Baits or repellants registered solely for vertebrate pest control
 - (i) Seed treatments
 - (j) Enclosed food processing systems
 - (k) Air conditioners, humidifiers, and heating systems
- (3) The following information shall be kept on a form prescribed by the department:
- (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 the 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.
 - (h) Acreage or area treated per section: PROVIDED, That right-of-way application records may record acreage or area only.
- (4) If an application of a restricted use pesticide as defined in WAC 16-230-810 is performed by a licensed commercial pesticide applicator within the area defined in WAC 16-230-800, 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 records may omit township, range and section;
 - (b) Year, month, and day the pesticide was applied;
 - (c) Name of the commercial applicator.
 - (d) Trade name and/or common name of the pesticide applied.
- (5) All records required by this section shall be completed and available to the department the same day the pesticide was applied.
- (6) All records required by this section shall be kept for a period of seven years from the date of application. The department shall be furnished, upon request in writing, with a copy of the records required in subsection (3) and (4) of this section, and any additional information required in WAC 16-228-190 and 16-228-164.

NEW SECTION

WAC 16-230-810 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Restricted use

pesticides. For the purposes of WAC 16-230-800 through WAC 16-230-865, the following pesticides are declared to be restricted use pesticides:

(1) Restricted use herbicides:

(a) Sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort)

(b) Desiccants and defoliants (such as Paraquat, Diquat, Endothall)

(c) Glyphosate (such as Roundup, Landmaster)

(d) Phenoxy type herbicides (such as 2,4-D, MCPA)

(e) dicamba (such as Banvel)

(f) Bromoxynil (such as Brominal, Bucril, ME4 Brominal)

(2) Restricted use insecticides:

(a) All category I insecticides with the signal words Danger/Poison on the label, except granular and pellet formulations;

(b) Additionally, all insecticides, except granular and pellet formulations, are declared to be restricted use in Area 1 as described in WAC 16-230-835.

NEW SECTION

WAC 16-230-815 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Paraquat and diquat. Aerial application of paraquat and diquat is prohibited in the entire area under order listed in WAC 16-230-800.

NEW SECTION

WAC 16-230-820 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Sulfonylurea herbicides. Application of sulfonylurea herbicides (such as Glean, Telar, Finesse, Escort) to fallow land or to land during the time between harvest and emergence above the furrows of the subsequent cereal grain crop is prohibited.

NEW SECTION

WAC 16-230-825 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Permits. The following conditions will apply to all permits issued under the authority of WAC 16-230-800 through 16-230-865.

(1) Application for a permit may be made to the Washington State Department of Agriculture, Compliance Branch, 2015 S. 1st Street, Yakima, Washington 98903. Applications may also be taken in person or by phone.

(2) The department may make on-site monitoring of the application a condition of any permit. A representative of the department may condition, deny, or revoke a permit at any time, if

the representative determines that the situation at the application site creates an unreasonable risk of drift. In determining whether the situation at the application site creates an unreasonable risk of drift, the representative may consider all relevant factors such as temperature, air inversions, time of day, burning restrictions, wind direction, wind velocity, topography, and type and condition of application equipment.

(3) No permit shall be issued to apply any pesticide unless that permit is consistent with existing department laws and rules.

(4) Application records prescribed in WAC 16-230-805 shall be submitted to the Washington State Department of Agriculture, Compliance Branch, 2015 So. 1st Street, Yakima, Washington 98903, within three days after the aerial application under permit is performed.

NEW SECTION

WAC 16-230-830 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Emergency clause. In the event of an emergency, as declared by the director, the department may issue permits for the use of restricted use pesticides in variation of any restrictions contained in the area under order as defined in WAC 16-230-800. An emergency under this section may be declared if the director determines that the risk and amount of economic harm to any agriculture crop substantially outweighs the risk and amount of damage likely to occur if a variance permit is issued.

NEW SECTION

WAC 16-230-835 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Area 1. (1) Area 1 description (Northeast Horse Heaven Hills). An area including all lands lying within a boundary line beginning at the southwest corner of Section 24, T8N, R26E; thence north approximately seven miles along section lines to the intersection with the Kennewick Irrigation District (K.I.D.) main canal; thence easterly along the K.I.D. main canal to the Amon pumping station located in Section 7, T8N, R29E; thence southeasterly along the K.I.D. Division Four Canal to the Columbia River in Section 8, T7N, R31E; thence south approximately one and one-half miles along the Columbia River to the south section line of Section 17, T7N, R31E; thence west approximately seventeen miles along section lines to the southwest corner of Section 15, T7N, R28E; thence north one mile along the section line to the northwest corner of Section 15, T7N, R28E; thence west four miles along section lines to the intersection with Badger Canyon Road at the southwest corner of Section 12, T7N, R27E; thence north two miles along Badger Canyon Road and section lines to the intersection with Sellards Road at the southeast corner of Section 35, T8N, R27E; thence west one mile along Sellards Road and

the section line to the southwest corner of Section 35, T8N, R27E; thence north one mile along the section line to the northwest corner of Section 35, T8N, R27E; thence west three miles along section lines to the southwest corner of Section 29, T8N, R27E; thence north one mile along the section line to the intersection with Cemetery Road at the northwest corner of Section 29, T8N, R27E; thence west two miles along Cemetery Road and section lines to the point of beginning.

(2) Area 1 restrictions. Application by air of restricted use pesticides as defined in WAC 16-230-810 is prohibited: PROVIDED, That the department may issue written permits for application of insecticides not containing the signal words Danger/Poison on the label.

NEW SECTION

WAC 16-230-840 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Area 2. (1) Area 2 description. Tri-Cities, Benton City area. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence south approximately five miles along section lines to the intersection with the Kennewick Irrigation District (K.I.D.) main canal; thence easterly along the K.I.D. main canal to the Amon pumping station located in Section 7, T8N, R29E; thence southeasterly along the K.I.D. Division Four Canal to the Columbia River in Section 8, T7N, R31E; thence south approximately one-half mile along the Columbia River to the south section line of Section 8, T7N, R31E; thence east approximately three miles across the Columbia River to the intersection with U.S. Highway 12 at the south section line of Section 10, T7N, R31E; thence northwesterly along Highway 12 to its intersection with Interstate 182; thence westerly along Interstate 182 to the west shoreline of the Columbia River; thence northerly approximately six and one-half miles along the Columbia River to the United States Department of Energy Hanford Site south boundary line; thence west approximately one mile and south approximately two and one-half miles along the south boundary line to the southeast corner of Section 27, T10N, R28E; thence west seven miles along section lines to the southwest corner of Section 27, T10N, R27E; thence north one mile along the section line to the northwest corner of Section 27, T10N, R27E; thence west four miles along section lines to the point of beginning.

(2) Area 2 restrictions. Application by air of restricted use pesticides as defined in WAC 16-230-810 is prohibited.

NEW SECTION

WAC 16-230-845 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Area 3. (1) Area 3 description.

(a) Eastern Yakima Valley. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the intersection with Anderson Road at the northeast corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence south approximately thirteen miles along the Benton-Yakima County line to the northwest corner of Section 31, T8N, R24E; thence east approximately two miles along section lines to the southeast corner of Section 29, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 29, T8N, R24E; thence east four miles along section lines to the southeast corner of Section 24, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 24, T8N, R24E; thence east two miles along section lines to the southeast corner of Section 16, T8N, R25E; thence north one mile along Burt James Road and the section line to the intersection with County Well Road at the northeast corner of Section 16, T8N, R25E; thence east two miles along County Well Road and section lines to the southeast corner of Section 10, T8N, R25E; thence north one mile along the section line to the northeast corner of Section 10, T8N, R25E; thence east three miles along section lines to the intersection with Gould Road at the southeast corner of Section 6, T8N, R26E; thence north one mile along Gould Road and the section line to the northeast corner of Section 6, T8N, R26E; thence east four miles along section lines to the southeast corner of Section 35, T9N, R26E; thence north eight miles along section lines to the point of beginning.

(b) Cold Creek Area. An area including all lands lying within a boundary line beginning at the intersection of the Benton-Yakima County line and the Columbia River in Section 7, T13N, R24E; thence south approximately six and one-half miles along the Benton-Yakima County line to the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence west approximately five miles along the Columbia River to the point of beginning.

(2) Area 3 restrictions. Application by air of restricted use herbicides as defined in WAC 16-230-810 is prohibited.

NEW SECTION

WAC 16-230-850 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Area 4. (1) Area 4 description.

(a) Tri-Cities northwest buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence north two miles along section

lines to the northwest corner of Section 13, T10N, R26E; thence east one mile along the section line to the northeast corner of Section 13, T10N, R26E; thence north approximately one-half mile along the section line to the United States Department of Energy Hanford Site south boundary line; thence easterly approximately ten miles and south approximately two and one-half miles along the south boundary line to the south section line of Section 27, T10N, R28E; thence west approximately six and three-fourths miles along section lines to the southwest corner of Section 27, T10N, R27E; thence north one mile along the section line to the northwest corner of Section 27, T10N, R27E; thence west four miles along section lines to the point of beginning.

(b) Tri-Cities northeast buffer zone. An area including all lands lying within a boundary line beginning at the intersection of the Esquatzel Diversion Channel drain and the Columbia River; thence east along the Esquatzel Channel to its intersection with Road 68; thence southeasterly approximately one mile along Road 68 to its intersection with Fraser Drive near the northeast corner of Section 24, T10N, R28E; thence south approximately four miles along section lines and portions of Fraser Drive and Dent Road to the southwest corner of Section 6, T9N, R29E; thence east approximately eight and one-half miles along section lines and a portion of Foster Wells Road to its intersection with the Bonneville Power Administration power line in Section 4, T9N, R30E; thence southeasterly approximately seven miles along the power line to its intersection with SR 124 in Section 32, T9N, R31E; thence easterly approximately two and one-half miles along SR 124 to the east section line of Section 34, T9N, R31E near the intersection of SR 124 and the Union Pacific Railroad; thence south approximately three miles along section lines to the southeast corner of Section 15, T8N, R31E; thence west approximately one-fourth mile along the section line to the Union Pacific Railroad; thence southerly approximately four and one-half miles along the railroad to its intersection with U.S. Highway 12 near the Boise Cascade paper mill; thence northwesterly along Highway 12 to its intersection with Interstate 182; thence westerly along I-182 to the west shoreline of the Columbia River; thence northerly approximately six and one-half miles along the Columbia River to the U.S. Department of Energy Hanford Site south boundary line in Section 14, T10N, R28E; thence east approximately one-half mile across the Columbia River to its east shoreline; thence northerly approximately one-half mile to the point of beginning.

(c) Horse Heaven Hills east buffer zone. An area including all lands lying within a boundary line beginning at the southwest corner of Section 24, T8N, R26E; thence south three miles along section lines and Tyacke Road to the southwest corner of Section 1, T7N, R26E; thence east three miles along section lines to the northeast corner of Section 8, T7N, R27E; thence south one mile along the section line and Travis Road to the intersection with Reese Road at the southeast corner of Section 8, T7N, R27E; thence east one mile along the section line and Reese Road to the northeast corner of Section 16, T7N, R27E; thence south two miles along section lines to the intersection with Tyrell Road at the northwest corner of Section 27, T7N, R27E; thence east one mile along the section line and

Tyrell Road to the northeast corner of Section 27, T7N, R27E; thence south one mile along the section line to the southeast corner of Section 27, T7N, R27E; thence east approximately twenty-two miles along section lines to the Columbia River; thence northerly approximately two miles along the Columbia River to the south section line of Section 17, T7N, R31E; thence west approximately seventeen miles along section lines to the southwest corner of Section 15, T7N, R28E; thence north one mile along the section line to the northwest corner of Section 15, T7N, R28E; thence west four miles along section lines to the intersection with Badger Canyon Road at the southwest corner of Section 12, T7N, R27E; thence north two miles along Badger Canyon Road and section lines to the intersection with Sellards Road at the southeast corner of Section 35, T8N, R27E; thence west one mile along Sellards Road and the section line to the southwest corner of Section 35, T8N, R27E; thence north one mile along the section line to the northwest corner of Section 35, T8N, R27E; thence west three miles along section lines to the southwest corner of Section 29, T8N, R27E; thence north one mile along the section line to the intersection with Cemetery Road at the northwest corner of Section 29, T8N, R27E; thence west two miles along Cemetery Road and section lines to the point of beginning.

(2) Area 4 restrictions. Application by air of restricted use pesticides as defined in WAC 16-230-810 may be made by written permit only.

NEW SECTION

WAC 16-230-855 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Area 5. (1) Area 5 description.

(a) Cold Creek buffer zone. An area including all lands lying within a boundary line beginning at the southwest corner of Section 7, T12N, R24E; thence east five miles along section lines to the southeast corner of Section 11, T12N, R24E; thence north approximately seven miles along section lines to the Columbia River; thence easterly approximately two miles along the Columbia River to the east section line of Section 6, T13N, R25E, near the Vernita Bridge; thence south approximately eight and one-half miles along section lines to the southeast corner of Section 18, T12N, R25E; thence west seven miles along section lines to the Benton-Yakima County line at the southwest corner of Section 18, T12N, R24E; thence north one mile along the county line to the point of beginning.

(b) Roza buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 25, T10N, R26E; thence west four miles along section lines to the northwest corner of Section 29, T10N, R26E; thence south one mile along the section line to the southwest corner of Section 29, T10N, R26E; thence west eleven miles along section lines to the southeast corner of Section 29, T10N, R24E; thence north one mile along the section line to the intersection with Anderson Road at the northeast

corner of Section 29, T10N, R24E; thence west two miles along Anderson Road and section lines to the Benton-Yakima County line at the northwest corner of Section 30, T10N, R24E; thence north two miles along the county line to the northwest corner of Section 18, T10N, R24E; thence east four miles along section lines to the northeast corner of Section 15, T10N, R24E; thence south one mile along the section line to the southeast corner of Section 15, T10, R24E; thence east seven miles along section lines to the southwest corner of Section 13, T10N, R25E; thence north one mile along the section line to the northwest corner of Section 13, T10N, R25E; thence east six miles along section lines to the northwest corner of Section 13, T10N, R26E; thence south two miles along section lines to the point of beginning.

(c) West Horse Heaven buffer zone. An area including all lands lying within a boundary line beginning at the northwest corner of Section 31, T8N, R24E; thence east approximately two miles along section lines to the southeast corner of Section 29, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 29, T8N, R24E; thence east four miles along section lines to the southeast corner of Section 24, T8N, R24E; thence north one mile along the section line to the northeast corner of Section 24, T8N, R24E; thence east two miles along section lines to the southeast corner of Section 16, T8N, R25E; thence north one mile along Burt James Road and the section line to the intersection with County Well Road at the northeast corner of Section 16, T8N, R25E; thence east two miles along County Well Road and section lines to the southeast corner of Section 10, T8N, R25E; thence north one mile along the section line to the northeast corner of Section 10, T8N, R25E; thence east three miles along section lines to the intersection with Gould Road at the southeast corner of Section 6, T8N, R26E; thence north one mile along Gould Road and the section line to the northeast corner of Section 6, T8N, R26E; thence east four miles along section lines to the southeast corner of Section 35, T9N, R26E; thence south seven miles along section lines and a portion of Tyacke Road to the southwest corner of Section 1, T7N, R26E; thence west approximately seventeen miles along section lines to the Benton-Yakima County line at the southwest corner of Section 6, T7N, R24E; thence north two miles along the county line to the point of beginning.

(2) Area 5 restrictions. Application by air of restricted use herbicides as defined by WAC 16-230-810 may be made by written permit only.

NEW SECTION

WAC 16-230-860 Application of pesticides in Benton County and portions of Franklin and Walla Walla Counties--Area 6. (1) Area 6 description. All remaining lands in the area under order.

(2) Area 6 restrictions. Records shall be kept as required in WAC 16-230-805.

NEW SECTION

WAC 16-230-865 Other rules. Provisions of WAC 16-230-800 through WAC 16-230-860 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 16-230-800 through WAC 16-230-860 shall be construed as relieving any requirement of existing rules except those in direct conflict.