



RULE-MAKING ORDER
(RCW 34.05.360)

Order No. 2022

CR-103 (10/1/89)

Agency: Washington State Department of Agriculture

Permanent Rule

Emergency Rule

(1) Date of adoption: November 30, 1989

(2) Purpose: To provide for the safe use of pesticides and to protect the health and welfare of the people of this state.

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

Repealed:

Amended: WAC 16-228-010 through WAC 16-228-233 and 16-228-900.

Suspended:

(4) Authority for adoption:

Statute: 17.21 RCW and 15.58 RCW

Other Authority:

(5.1) **PERMANENT RULE ONLY**

Pursuant to notice filed as WSR 89-20-067; ~~89-21-063~~ on 10/4/89 and ~~10/17/89~~ (date).

Describe any changes other than editing from proposed to adopted version:

None

(5.2) **EMERGENCY RULE ONLY**

Pursuant to 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:

(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:

Permanent Rules

Emergency Rules

31 days after filing

Immediately

Other (specify) _____ *

Later (specify) _____

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

CODE REVISER USE ONLY
STATE OF WASHINGTON
FILED

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TIME: 4:16

WSR: 89-24-029

NAME (TYPE OR PRINT)

Michael Schwisow

SIGNATURE

Deputy Director

DATE 11/30/89

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-223-010 DEFINITIONS. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) ~~((1))~~ "Department" means the department of agriculture of the state of Washington.

~~((2))~~ "Director" means the director of the department of agriculture of the state of Washington or a duly authorized representative.

~~((3))~~ "Agricultural commodity" means any plant, or part ~~((thereof))~~ of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by ~~((humans))~~ people or animals.

~~((4))~~ (2) "Authorized agent" is any person who is authorized to act on behalf of a certified applicator for the purpose of purchasing pesticides.

~~((5))~~ (3) "Bait box" for rodenticides is a box constructed of durable metal, wood, plastic, or other treated synthetic material. It shall be designed to hold rodent bait securely, allow rodents to enter and leave, and prevent unauthorized persons and domestic animals from gaining access to the bait. The cover shall be provided with a lock that can be unlocked only by a combination, key, special tool, or forced entry. Fragile materials are unacceptable.

~~((6))~~ (4) "Bait station" may be any location where baits are placed to allow target pests to gain access to the bait.

~~((7))~~ (5) "Bulk fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in nonpackaged form.

~~((8))~~ (6) "Certified applicator" means any individual who is ~~((certified by the director to use or supervise the use of any pesticide which is classified by the Environmental Protection Agency ((EPA)) as a restricted use pesticide or by the state as restricted to use by certified applicators including, but not limited to, licensed commercial applicators, licensed commercial operators, licensed public operators, licensed private commercial applicators, licensed demonstration and research applicators, and certified private applicators))~~ licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private commercial applicator, demonstration and research applicator, or certified private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators only.

~~((9))~~ (7) "Controlled disposal site" means any place where solid or liquid waste is disposed: PROVIDED, That the area has been designated as a disposal site for waste materials by the appropriate jurisdictional agency: PROVIDED FURTHER, That the site is fenced, barricaded or otherwise enclosed or attended by some person in charge to facilitate control-access of domestic animals, pets, and unauthorized persons.

~~((10))~~ (8) "Department" means the Washington state department of agriculture.

(9) "Diluent" means a material, liquid or solid, serving to dilute the pesticide product to field strength for adequate coverage (such as water).

(10) "Director" means the director of the department or a duly authorized representative.

(11) "Dry pesticide" is any granular, pelleted, dust or wettable powder pesticide.

~~((11))~~ (12) "EPA" means the United States Environmental Protection Agency.

~~((12))~~ (13) "EPA restricted use pesticide" means any pesticide with restricted uses as classified for restricted use by the administrator, EPA.

((43)) (14) "Fertilizer" as included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

((44)) (15) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended (61 stat. 163, 7 U.S.C. Sec. 136 et seq.).

((45)) (16) "Floor level" is considered to be the floor upon which people normally walk--not shelves, ledges, overhead beams, tops of stacked materials, surfaces of equipment, or similar places.

((46)) (17) "Food service establishment" means any fixed or mobile restaurant; coffee shop; cafeteria; short order cafe; luncheonette; grill; tearoom; sandwich shop; soda fountain; tavern; bar; cocktail lounge; nightclub; roadside stand; industrial-feeding establishment; retail grocery; retail food market; retail meat market; retail bakery; private, public, or nonprofit organization routinely serving food; catering kitchen; commissary or similar place in which food or drink is prepared for sale or for service on the premises or elsewhere; and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.

((47)) (18) "Fumigant" means any substance or combination of substances that produce gas, fumes, vapors, or smoke, and is used to kill pests in some kind of enclosure.

((48)) (19) "Highly toxic pesticide" for the purpose of this chapter, ~~((are those pesticides determined to be in the toxicity category I and are labeled on the front panel with the signal word "danger" in addition if the product was assigned to toxicity category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye local effects) the word "poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "poison"))~~ means any pesticide that conforms to the criteria in 40 C.F.R. Sec. 156.10 for toxicity category I due to oral inhalation or dermal toxicity.

((49)) (20) "Private applicator" means a certified applicator who uses or ~~((supervises))~~ is in direct supervision of the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the private applicator or the ~~((private))~~ applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

((50)) (21) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any ~~((state))~~ restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

((51)) (22) "State restricted use pesticide" means any pesticide determined to be a restricted use pesticide by the director under the authority of chapters 17.21 and 15.58 RCW that are restricted to use only by certified applicators.

((52)) (23) "Unreasonable adverse effects on the environment" means any unreasonable risk to ~~((humans))~~ people or the environment taking into account the economic, social and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

((53)) (24) "Waste pesticide" is any pesticide formulation which cannot be used according to label directions in Washington state because of cancellation or suspension of its federal or state registration, or deterioration of the product or its label, and any pesticide formulation whose active ingredients are not clearly identifiable because of label deterioration or because the pesticide is not stored in its original container.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-115 PESTICIDE LABELING REQUIREMENTS. (1) Pesticide labeling ((most)) shall meet the standards or criteria of the Federal Insecticide, Fungicide and Rodenticide Act.

(2) Conditions set forth as part of an exemption from registration under provisions of Section 18 of FIFRA shall be considered labeling for purposes of enforcement.

NEW SECTION

WAC 16-228-116 COMPLETE PESTICIDE FORMULA. The complete pesticide formula shall include a listing of each active and inert ingredient and the percentage of each ingredient. This information will be kept confidential and is exempt from disclosure as a public record as provided by RCW 15.58.065. Information required by this section may be submitted on company letterhead marked "confidential" in red ink on each sheet or each "EPA confidential statement of formula" information sheet.

NEW SECTION

WAC 16-228-143 PIRT SURCHARGE. All licenses valid on January 1, 1990, and all licenses and pesticide registrations renewed in 1990 are subject to a one-time surcharge as specified in chapters 15.58 and 17.21 RCW. License and registration renewals shall not be granted until the surcharge has been paid.

AMENDATORY SECTION (Amending Order 1470, filed 5/14/76)

WAC 16-228-145 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(~~of--PR0-41007-That~~). Containers shall meet the minimum federal specifications (~~of--the--United--States--Department--of--Transportation--CFR--Title 49--chapter--17--as--in--effect--on--the--effective--date--of--this--order~~).

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-155 PESTICIDES--NOT FOR DISTRIBUTION TO HOME AND GARDEN USERS. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington because of their toxicity to ((humans)) people and animals and shall not be distributed to home and garden users. The following pesticides ((with)) shall be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators or governmental agencies experienced in the application of pesticides:

- (a) DiNitro-O-Sec Butyl Phenol (DNOSBP)
- (b) Endothall (20% and above)
- (c) Ethion (26% and above)
- (d) Guthion (16% and above)
- (e) Hydrogen Cyanide (Hydrocyanic acid) (HCN)
- (f) Methyl Bromide
- (g) Strychnine and its salts (Strychnine Alkaloid 1.1% and above)

(2) Pesticide dealers shall keep records on the sale of any of the above listed pesticides. These records shall contain the date of sale, the name and amount of the pesticide sold and the name and address of the purchaser. These records shall be kept on file for a period of ~~((one-year))~~ seven years and the director shall have access to these records upon request.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-157 WASTE PESTICIDE DISPOSAL. Under authority of ~~((REW-78-1058-150-and-78-1058-100))~~ chapter 15.58 RCW, the department may establish a waste pesticide disposal program for farmers, or other parties regulated under chapter 17.21 RCW or licensed under chapter 15.53 RCW.

(1) Upon review and determination that a pesticide is no longer useable, the department may declare a pesticide to be a "waste pesticide."

(2) The department may take possession of a waste pesticide with the owner's written consent for the purpose of disposal.

(3) For the purpose of waste pesticide disposal, the department may:

(a) Become identified as a hazardous waste generator;

(b) Enter into contracts or cooperative agreements to carry out portions of or all of the waste pesticide disposal program. The department may also enter into cooperative agreements to carry out portions of or all of the development of education programs relating to waste pesticide disposal and programs for dissemination of information concerning the department's disposal program.

(4) The department may accept pesticides whose active ingredients are not clearly identifiable for disposal. These pesticides may be analyzed by either the department or a private laboratory. If upon analysis the material is not a pesticide, not identified or not acceptable for disposal, it shall be returned to the owner and/or not accepted for disposal.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-160 RESTRICTION ON DISTRIBUTION, TRANSPORTATION, STORAGE AND DISPOSAL. (1) No person shall handle, transport, store, display, apply, dispose of or distribute pesticides in such a manner as to endanger humans and their environment or to endanger food, feed, or any other product 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 compartment of the vehicle or other equipment together with clothes, food, feed, or any other material intended for consumption by humans or animals. Any vehicle or other equipment shall be inspected by the owner or authorized 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 shall not be returned to service until the contamination has been removed.

(3) Pesticide containers shall be secured during transit by use of side or end racks, bracing, chocks, tiedowns, or other means to prevent their sliding, falling, tipping, rolling, or falling off the vehicle with normal vehicle acceleration, deceleration, or change in direction.

(4) Valves shall be tightly closed and manhole covers shall be secured on cargo or portable tanks used for transporting pesticides, whether tanks are full or empty.

(5) Portable tanks shall be secured to prevent their sliding, falling, tipping, or rolling with normal vehicle acceleration, deceleration, or change in direction. Ends, sidewalls, or doors of van bodies shall not be relied upon for securement.

(6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or authorized agent is present to accept delivery of the pesticides and signs a delivery slip and the pesticides are secured in a proper storage.

(7) 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. 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.

(8) 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 "check-stand" or food packaging area is prohibited for the distribution of highly toxic pesticides.

(9) All pesticide incidents involving undesirable impacts on human health shall be reported to the Washington state department of social and health services.

(10) 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 that would not contaminate the environment or cause injury to humans and/or animals. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

(11) 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 the container its registered pesticide label.

(12) A user of a pesticide may distribute a properly labelled pesticide to another user who is legally entitled to use that pesticide without obtaining a pesticide dealer's license if the exclusive purpose of distributing the pesticide is keeping it from becoming a hazardous waste as defined in chapter 70.105 RCW.

(13) The distribution and use of DDT and DDD shall be prohibited in this state except for uses allowed by the Environmental Protection Agency or the Center for Disease Control of the United States Department of Health and Human Services.

AMENDATORY SECTION (Amending Order 1996, filed 3/3/89)

WAC 16-228-164 STATE RESTRICTED USE PESTICIDES FOR USE BY CERTIFIED APPLICATORS ONLY. (1) Pesticides containing the following active ingredients are hereby declared state restricted use pesticides for the protection of groundwater and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives. 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(s).

<u>Common Chemical Name</u>	<u>Also Known As*</u>
alachlor	Lasso
aldicarb	Temik
atrazine	
bromacil	Hyvar, Krovar
carbofuran	Furadan
cyanazine	Bladex
DCPA	<u>Dacthal</u>
1,3-dichloropropene	Telone
disulfoton	Di-Syston
diuron	Karmex, Krovar
heptachlor	
hexazinone	Velpar
metolachlor	Dual
metribuzin	Lexone, Sencor
oxamyl	Vydate
picloram	Tordon
prometon	Pramitol
simazine	Princep
tebuthiuron	Spike

*This column is to be used only as a guide and may not include all brand or trade names under which these chemicals are distributed.

(2) Pesticides defined by the following categories are hereby declared state restricted use pesticides and shall be distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives(~~and~~). 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. Dealers shall keep records as defined in subsection (4) of this section, and shall furnish the records to the director as defined in subsection (7) of this section.

(a) Any EPA restricted use pesticide not listed in this rule.

(b) 2,4-D - all dry formulations and all liquid formulations distributed in packages of one gallon and larger to be used in counties located east of the crest of the Cascade Mountains. The following types of formulations are exempt from this requirement:

(i) Dry formulations labeled and intended for home and garden use only;

(ii) One gallon containers of liquid amine formulations packaged as ready-to-use products, labeled for consumer use; and

(iii) One gallon containers of liquid amine formulations containing fifteen percent or less of restricted use herbicides, labeled for consumer use.

(3) Pesticides which are not classified as EPA restricted use pesticides and which are labeled and intended only for the following uses are exempt from the requirements of this section:

(a) Home and garden use;

(b) Pet products;

(c) Cooling tower, air conditioner, industrial systems and humidifier biocides;

(d) Use within wholly enclosed structures (with floors) or fumigation chambers. Greenhouses are not considered as wholly enclosed structures.

(4) Pesticide dealers shall keep records of distribution of state restricted use pesticides specified by common chemical name in subsections (1) and (2) of this section for a period of ~~(five)~~ seven years from the date of distribution(~~and shall keep records of distribution of the state restricted use pesticides specified in subsection (2) of this section for a period of one year from the date of distribution~~). The records shall contain the following information:

(a) Name and address of purchaser;

- (b) Name and address of certified applicator (if different from (a) above);
- (c) Name of authorized agent (if applicable);
- (d) Brand and specific pesticide name and/or EPA registration number;
- (e) Number of pounds or gallons of the pesticide distributed;
- (f) Date of distribution;
- (g) Certified applicator number.

(5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides listed in subsections (1) and (2) of this section by making previous arrangements with the pesticide dealer, or the authorized agent may provide written authorization 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 or certification number.

(6) Certified applicators shall keep records of applications of state restricted use pesticides specified by common chemical name in subsections (1) and (2) of this section for a period of ((five)) seven years from the date of application, and the records shall contain the ((following information:

- ~~(a) Name and address of the certified applicator;~~
- ~~(b) Location of field or treatment site;~~
- ~~(c) Number of acres for other appropriate area measurement;~~
- ~~(d) Crop or site (such as:--Roadside);~~
- ~~(e) Date of application;~~
- ~~(f) Number of pounds or gallons of formulation applied per acre (or equivalent measurement);~~
- ~~(g) Brand and specific name of pesticide applied;~~
- ~~(h) Pounds per gallon or percent active ingredients;~~
- ~~(i) All certified applicators except private applicators are also required to keep any additional information required by RCW 47.24.100 and WAC 16-228-190)) information specified in WAC 16-228-190.~~

(7) Records required by subsections (4) and (6) of this section shall be furnished to the director immediately upon request ((PRB-VIDE) that the director may require the submission of application records of any restricted use pesticide within prescribed areas within fifteen days of use)).

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-168 CHANGE OF EXEMPTIONS. The licensing exemption for ((landscape gardeners provided in RCW 47.24.285)) jurisdictional health officers as provided for in RCW 17.21.220; and research personnel provided for in RCW 17.21.203 shall not apply when applying EPA restricted use pesticides or state restricted use pesticides which are restricted to use by certified applicators only: PROVIDED, That research personnel shall be required to obtain a demonstration and research applicator certification.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-170 PESTICIDE DEALER AND DEALER MANAGER LICENSES. (1) 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.

(2) A licensed pesticide dealer manager ((most)) shall be available to the staff, customers, and department representatives at all times that an outlet or location distributes pesticides. A dealer

manager may be the designated dealer manager of more than one outlet or location only if the dealer manager can be physically present at both outlets or locations during all times of pesticide distribution and handling.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-180 LICENSE DENIED, REVOKED OR SUSPENDED. (1) The director may deny, suspend, or revoke any provision of a license, registration, permit or certification issued under chapters 17.21 and 15.58 RCW if he finds that the applicant or the holder of the license, permit, or certification has committed any of the following acts each of which is declared to be a violation:

(a) Made false or fraudulent claims through any ((public)) media ((such as newspaper, newsletter, TV or radio)) misrepresenting the effect of ((pesticide or application)) materials or methods to be utilized;

(b) Made a pesticide recommendation or gave advice or used a pesticide inconsistent with the labeling, the EPA or Washington state registration for that pesticide, an EPA or Washington state experimental use permit for that pesticide, an exemption from registration under provisions of Section 18 of FIFRA, or in violation of the EPA or Washington state restrictions on the use of that pesticide;

(c) Applied known ineffective or improper pesticides or materials;

(d) Operated a faulty or unsafe apparatus;

(e) Operated in a faulty, careless or negligent manner;

(f) Refused or neglected to comply with the provisions of the applicable sections of chapters 15.58 and 17.21 RCW, the rules adopted thereunder, or of any lawful order of the director;

(g) Refused or neglected to keep and maintain records required by chapters 15.58, 17.21 RCW, and ((regulations)) rules adopted thereunder, or to make reports when and as required;

(h) Made false or fraudulent records, invoices, ((or)) reports, and/or recommendations;

(i) Caused the application of a pesticide without having a licensed or certified applicator or operator in direct supervision;

(j) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus as provided for in chapter 17.21 RCW or failed to locate the apparatus license plate on the apparatus in a manner required by the department;

(k) Failed to properly display, when required, a department issued certified commercial ground applicator vehicle sticker;

(l) Used, or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;

((f)) (m) Used fraud or misrepresentation in making an application for a license, permit, or certification or renewal of a license, permit or certification;

((f)) (n) Refused or neglected to comply with any limitations or restrictions on or in a duly issued license, permit or certification;

((f)) (o) Aided or abetted a certified applicator, or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, conspired with such a certified applicator or licensed person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW or allowed one's license, permit, or certification to be used by another person;

((f)) (p) Made false, misleading or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or department investigation;

((f)) Made false or fraudulent reports and/or recommendations;

(o) Impersonated any state, county, or city inspector or official;

(r) Is not qualified to perform as a pest control consultant or pesticide dealer manager or certified applicator in the classifications in which he/she is licensed to operate or has operated, regardless of whether or not he/she has previously passed an examination provided for in chapter 15.58 RCW; or

(s) To have in his/her possession a department pesticide applicator, operator, dealer manager or pest control consultant examination or to remove or cause to remove any said examination from the department without expressed consent from the department.

(2) A penalty fee assessed as a result of a late license or registration renewal does not prevent the department from taking additional regulatory action against the violator.

(3) No pesticide dealer or dealer manager license shall be denied, suspended, or revoked, simply because a pesticide purchased from that dealer was applied in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder, unless the department finds the dealer or dealer manager in violation of chapters 15.58, 17.21 RCW or rules adopted thereunder.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-185 RESTRICTIONS APPLYING TO ANY PERSON HOLDING, HANDLING, USING, OR DISPOSING OF PESTICIDES AND THEIR CONTAINERS. (1) Any person handling, applying, or disposing of pesticides or pesticide containers shall do so in such a manner to minimize hazard to commercially important pollinating insect species. Due care shall be taken to regulate the timing and technique of pesticide applications to or around blossoming plants.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide, pesticide container or apparatus in such a manner as to pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants and animals, or wildlife: PROVIDED, That a pesticide labeled for aquatic use and used as directed shall not be considered a violation of this subsection: PROVIDED FURTHER, That disposing of pesticides at disposal sites approved by the appropriate agency complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

(3) No person shall pollute streams, lakes, and other water supplies in pesticide loading, mixing, and application. Adequate, functioning devices and procedures to prevent backsiphoning shall be used.

(4) None of the following pesticides shall be applied by aircraft or airblast sprayers immediately adjacent to occupied schools in session, hospitals, nursing homes or other similar establishments under conditions that may result in contamination of these establishments or their premises:

- (a) Monocrotophos (Azodrin)
- (o) Demeton (Systox)
- (c) Disulfoton (DiSystem)-Liquid
- (d) Aldicarb (Temix)
- (e) Endrin
- (f) Tepp
- (g) Parathion
- (h) Phorate (Thimet)-Liquid
- (i) Mevinphos (Phosdrin)
- (j) Zinophos

(5) No person shall apply pesticides if weather conditions are such that physical drift or volatilization may cause damage to adjacent land, including humans, desirable plants or animals.

(b) Requirements for unattended pesticides and their containers:

(a) Good generally accepted housekeeping practices shall be maintained for all pesticides and their containers.

(b) The provisions of (d) and (e) of this subsection and subsection (7) of this section shall not apply to empty pesticide containers when adequately decontaminated (e.g., three successive rinsings); shall not apply to categories 2, 3, and 4 pesticide formulations labeled for home and garden use only.

(c) For the purposes of (d) and (e) of this subsection and subsection (7) of this section, pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.

(d) Category 1 -- (~~highly-toxic~~) pesticides labeled with the signal word "danger" and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (except (v) below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry.

(i) Closed vehicle.

(ii) Closed trailer.

(iii) Building or room or fenced area with a fence at least six feet high.

(iv) Foot Locker or other container which can be locked.

(v) Unattended trucks or trailers which have solid sideracks and secured tailgate at least six feet above ground, ramp or platform level.

(vi) Bulk storage containers fifty gallons and larger with tight screw-type bungs and/or secured or locked valves.

(e) Category 2 -- pesticides labeled with the signal word "warning" and categories 3 and 4 -- pesticides labeled with the signal word "caution" and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in (d) of this subsection: PROVIDED, That metal containers, twenty-eight gallons and larger, with tight screw-type bungs and/or secured or locked valves and sealed five gallon containers (requiring tool to unseal) shall be considered secured storage.

(7) Requirements for posting of storage for category 1 pesticides:

(a) For purposes of this subsection, warning signs shall show the skull and crossbones symbol and the words: "Danger/Poison (or Pesticide or Chemical) Storage Area/Keep Out" in letters large enough to be legible at a distance of thirty feet.

(b) Warning signs shall be posted:

(i) On enclosures specified in subsection (6)(d) of this section, when such enclosures are unattended;

(ii) At each entrance or exit from a storage area and on each exterior wall, so that a sign is visible from any direction;

(iii) If the pesticide storage area is contained in a larger, multipurpose structure, warning signs shall be clearly visible on each exterior wall of the structure within thirty feet of the pesticide storage area and from the main entrance to the larger structure: PROVIDED, That posting of the main entrance shall not be required, if a sign is visible from the entrance which clearly identifies the possibility that pesticides may be stored on the premises, (i.e., XYZ Pest Control or XYZ Wood Treatment, Inc.);

(8) No person shall disperse a pesticide or pesticide rinseate from any aircraft while in flight except over the target field and at the customary application height for that crop: PROVIDED, That emergency dumping shall not be considered a violation of this section.

NEW SECTION

WAC 16-228-213 REQUIREMENTS ON PLACEMENT OF COMMERCIAL APPLICATOR APPARATUS LICENSE PLATES AND WINDSHIELD IDENTIFICATION. (1) Apparatus license plates, as provided for in chapter 17.21 RCW, shall be attached to and prominently displayed on the apparatus for which they have been issued: PROVIDED, That an apparatus license plate may be affixed to a vehicle which contains the particular apparatus. Attached plates shall be clearly visible and in a location easily accessible for inspection by the department.

(2) Each vehicle involved in the operations of a certified commercial ground application business, which does not prominently display a department issued apparatus license plate on its exterior or on the specific apparatus when that apparatus is exteriorly visible, shall be required to have a department issued sticker affixed to the lower left side of the windshield.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-215 APPLICATION FEE AND FAA CERTIFICATE. (1) An applicant shall complete the application form for a pesticide license and pay the required license application fee prior to being given pesticide examinations, unless prior arrangements have been made.

(2) ~~((Applicants for an aerial applicators license shall supply a current copy of their FAA operating certificate to the director))~~ ALL applicants for an aerial applicators license shall comply with FAA certification requirements. The department may require a current copy of the FAA operating certificate prior to issuance of ((their)) a license.

AMENDATORY SECTION (Amending Order 1981, filed 7/1/88)

WAC 16-228-220 EXAMINATION REQUIREMENTS. (1) An examination fee of ~~((five))~~ ten dollars shall be paid prior to administration of any pesticide license examination at other than a regularly scheduled examination session. ~~((Candidates for public pesticide operator/public pest control consultant or private pesticide applicator are exempt from payment of the five dollar fee))~~ Scheduled exam sessions occur every Tuesday at the Olympia and Yakima pesticide management division offices. The department reserves the right to restrict the number of applicants examining at any given time.

(2) Any individual who fails any pesticide licensing examination twice shall be required to wait at least fourteen days before retaking that examination a third time. Subsequent testing shall be at the director's discretion.

NEW SECTION

WAC 16-228-223 GROUND MAINTENANCE ON AN OCCASIONAL BASIS--EXEMPT FROM LICENSING REQUIREMENTS. Grounds maintenance persons are exempt from licensing requirements as a commercial pesticide applicator, as provided under chapter 17.21 RCW, only if they perform ground maintenance on an occasional basis not amounting to a regular occupation. Exempted persons shall only perform pesticide applications to the

grounds of residential dwellings and shall only use home and garden products.

AMENDATORY SECTION (Amending Order 1817, filed 4/10/84)

WAC 16-228-225 REGULATION OF APPLICATION OF VERTEBRATE CONTROL PESTICIDES. Vertebrate control pesticides shall be used only under the following conditions:

(1) Vertebrate control pesticides shall be placed only in locations that are not readily accessible to nonpest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure of rodenticides baits within buildings shall not be above floor levels.

(2) Baits ((most)) shall be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed. All compound 1080 solutions shall be dyed black. All 1080 baits shall be discolored.

(3) When the use of bait boxes is necessary to ensure that baits are not readily accessible to nonpest animals, children, and unauthorized persons, the bait boxes shall be of sturdy construction and designed to accomplish that purpose, and shall be labeled clearly with letters on contrasting background showing the following information:

(a) Any information required by the EPA or Washington state registered label for the bait or the concentrate from which it was formulated.

(b) The name of the active ingredient(s).

(c) For the baits containing Sodium Fluoroacetate (1080), Fluoroacetamide (1081), and phosphorus paste the words "DANGER" -- "RODENT BAIT" -- "FATAL POISON" in red letters not less than one-half inch in height and the skull and crossbones insignia in red, not smaller than the letters and on contrasting background; and in letters not less than one-eighth inch in height, the name of the rodenticide.

(d) The name of the firm and/or applicator, address, and the telephone number.

(4) Containers used for exposing vertebrate control baits to pests shall be composed of tough, nonabsorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing vertebrate control pesticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than requirements on bait boxes being used as per WAC 16-228-225(3), (except for the size of lettering). Food containers, such as "meat boats" and "souffle cups" are unacceptable. Containers used for liquid bait exposure shall be water and/or liquid impervious.

(5) ~~((For residential areas, bait portions will be limited at each bait station to quantities containing no more than one-fourth of a 2050 dose of the pesticide for a seventy kilogram (approximately one hundred fifty four pound) human:))~~

~~((7))~~ All vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles. In addition, Compounds 1080 and 1081 shall be kept in a locked container within locked storage or locked service vehicle.

~~((7))~~ (6) All containers used for storing or transporting vertebrate control pesticides shall bear an EPA or department registered label.

~~((7))~~ (7) Servicemen's kits which contain vertebrate control pesticides shall be handled with extra caution and shall not be left where children or other unauthorized persons or nontarget animals might remove contents.

~~((7))~~ (8) Upon completion of a baiting operation, all bait boxes, containers, and/or throw bags, if they may become readily

accessible to the public, shall be recovered for disposal in an approved manner.

~~((40))~~ (9) Wherever poisoned carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they ~~((must))~~ shall be recovered and disposed of by burning, burying not less than three feet below the soil surface, or placed in proper waste containers and delivered to an approved disposal site.

~~((44))~~ (10) Thallium-containing compounds shall not be used for vertebrate control.

NEW SECTION

WAC 16-228-233 INVESTIGATIVE RESPONSE TIME. Upon receipt of a verified report of loss as set forth in RCW 17.21.190, the department shall initiate an investigation. Investigation of a complaint concerning immediate acute pesticide exposure to humans or animals shall be initiated immediately. Other complaint investigations shall be initiated no later than forty-eight hours after receipt of the verified report of loss.

AMENDATORY SECTION (Amending Order 1805, filed 8/1/83)

WAC 16-228-900 PENALTIES. Any person who violates the provisions of ~~((these regulations))~~ this chapter shall be guilty of a misdemeanor pursuant to RCW 15.58.330 and 17.21.310.