



RULE-MAKING ORDER

(RCW 34.05.360)

CR-103 (7/10/97)

Agency: Agriculture

- Permanent Rule
- Emergency Rule
- Expedited Adoption
- Expedited Repeal

(1) Date of adoption:

(2) Purpose: Revised WAC numbers to group related regulations, dropped unnecessary regulations, revised conflicting sections, made minor, nonsubstantive revisions to existing sections for clarity, made new WAC section for chemigation and fertigation regulations.

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

Repealed: See attached list

Amended:

Suspended:

(4) Statutory authority for adoption: RCWs 15.54, 15.58 and 17.21

Other Authority:

PERMANENT RULE ONLY (Including EXPEDITED ADOPTION)

Adopted under notice filed as WSR 99-15-033 on July 14, 1999 (date).

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

EMERGENCY RULE ONLY

Under 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:

EXPEDITED REPEAL ONLY

Under Preproposal Statement of Inquiry filed as WSR _____ on _____ (date)

(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
or Expedited Repeal

Emergency Rules

- 31 days after filing
- Other (specify) _____*
- Immediately
- Later (specify)

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

Name (Type or Print)

Jim Jesernig

Signature

Title
Director

Date

10/20/99

CODE REVISER USE ONLY

CODE REVISER'S OFFICE
STATE OF WASHINGTON
FILED

OCT 20 1999

TIME 3:13 AM/PM PM

WSR 99-22-002

**Note: If any category is left blank, it will be calculated as zero.
No descriptive text.**

Count by whole WAC sections only, from the WAC number through the history note.
A section may be counted in more than one category.

The number of sections adopted in order to comply with:

Federal statute:	New	Amended	Repealed
Federal rules or standards:	New	Amended	Repealed
Recently enacted state statutes:	New	Amended	Repealed

The number of sections adopted at the request of nongovernmental entity:

New	Amended	Repealed
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The number of sections adopted in the agency's own initiative:

New	Amended	Repealed
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The number of sections adopted in order to clarify, streamline, or reform agency procedures:

New	<u>47</u>	Amended	Repealed	<u>55</u>
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The number of sections adopted using:

Negotiated rule making:	New	Amended	Repealed
Pilot rule making:	New	Amended	Repealed
Other alternative rule making:	New	Amended	Repealed

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

Repealed:

- WAC 16-10-010
- WAC 16-10-020
- WAC 16-10-030
- WAC 16-200-742
- WAC 16-228-010
- WAC 16-228-020
- WAC 16-228-115
- WAC 16-228-116
- WAC 16-228-117
- WAC 16-228-120
- WAC 16-228-125
- WAC 16-228-130
- WAC 16-228-140
- WAC 16-228-143
- WAC 16-228-145
- WAC 16-228-155
- WAC 16-228-157
- WAC 16-228-160
- WAC 16-228-161
- WAC 16-228-162
- WAC 16-228-164
- WAC 16-228-166
- WAC 16-228-168
- WAC 16-228-170
- WAC 16-228-172
- WAC 16-228-180
- WAC 16-228-185
- WAC 16-228-190
- WAC 16-228-195
- WAC 16-228-210
- WAC 16-228-213
- WAC 16-228-214
- WAC 16-228-215
- WAC 16-228-220
- WAC 16-228-223
- WAC 16-228-225
- WAC 16-228-227
- WAC 16-228-230
- WAC 16-228-232
- WAC 16-228-233
- WAC 16-228-400

WAC 16-228-410
WAC 16-228-420
WAC 16-228-430
WAC 16-228-600
WAC 16-228-650
WAC 16-228-655
WAC 16-228-660
WAC 16-228-905
WAC 16-228-910
WAC 16-228-915
WAC 16-228-920
WAC 16-228-925
WAC 16-228-930
WAC 16-228-14501

Chapter 16-228 WAC
GENERAL PESTICIDE REGULATIONS

NEW SECTION

WAC 16-228-1010 Definitions. The definitions set forth in this section shall apply throughout this chapter, unless the context otherwise requires:

(1) "Agricultural commodity" means any plant, or part 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 people or animals.

(2) "Agricultural emergency" means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a pesticide treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss.

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

(4) "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.

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

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

(7) "Certified applicator" means any individual who is 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.

(8) A "complainant" is defined as a person who has requested an inspection of an area in which a pesticide violation is believed to have occurred.

(9) "Complete wood destroying organism inspection" means (a) an inspection of a structure for the purpose of determining (i) evidence of infestation(s), and (ii) damage, and (iii) conducive conditions; or (b) any wood destroying organism inspection which is conducted as the result of a telephone solicitation by an inspection firm or pest control business, even if the inspection would otherwise fall within the definition of a limited wood destroying organism inspection.

(10) "Conducive conditions" means those conditions which may lead to or enhance an infestation of wood destroying organisms.

(11) "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.

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

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

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

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

(16) "EPA" means the United States Environmental Protection Agency.

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

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

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

(20) "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.

(21) "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.

(22) "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.

(23) "Highly toxic pesticide" for the purpose of this chapter, 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.

(24) "Landscape application" means an application by a certified applicator of any EPA registered pesticide to any exterior landscape plants found around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by certified private applicators; (b) mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

(25) "Limited wood destroying organism inspection" means the inspection of a structure for purposes of identifying or verifying evidence of an infestation of wood destroying organisms.

(26) "Person" is defined as any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(27) A "person aggrieved" by a violation is defined as a person who has reasonable grounds to believe that he or she has been subjected to harm or an unreasonable risk by such violation.

(28) "Private applicator" means a certified applicator who uses or 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 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.

(29) "Private-commercial applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any 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.

(30) "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.

(31) "Substantial economic loss" means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

(32) "Unreasonable adverse effects on the environment" means any unreasonable risk to 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.

(33) "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.

(34) "Wood destroying organisms" means those organisms including, but not limited to, subterranean termites, dampwood termites, carpenter ants, wood boring beetles of the family anobiidae (deathwatch beetle), and wood decay fungus (rot). Wood destroying organisms shall not include such organisms which occurred prior to the manufacturing or processing of the lumber, e.g., pocket rot.

(35) "Wood destroying organism inspection" means the service of inspecting a building for the presence of wood destroying organism pests destructive to its structural components, and/or their damage, and/or conducive conditions. For purposes of these

rules a wood destroying organism inspection shall be either a "complete wood destroying organism inspection" or a "limited wood destroying organism inspection."

NEW SECTION

WAC 16-228-1020 Rights of complainants. If an inspection is conducted by the department of an area in which a pesticide violation is believed to have occurred, a complainant shall:

(1) Be promptly provided with the department's decision, as set forth in the "notice of intent to assess civil penalty and/or deny, suspend, or revoke a license," or in any document issuing a warning or determining no action; the department will endeavor to provide notice concurrently with the department's service of such document on the alleged violator.

(2) Be entitled, upon written request to the department, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to chapter 17.21 RCW: Provided, That in any adjudicative proceeding under chapter 34.05 RCW the identity of complainant shall be disclosed to the alleged violator upon request of the alleged violator.

(3) Be otherwise entitled to those rights of persons aggrieved as set forth in WAC 16-228-1030, if aggrieved, except that the complainant shall be provided, automatically without request, a copy of the final order referred to therein.

NEW SECTION

WAC 16-228-1030 Rights of person aggrieved. A person aggrieved shall:

(1) Be entitled to be notified promptly of any final action taken by the department pursuant to an investigation under chapter 17.21 RCW; the department will provide notice concurrently with service of notice on the violator: Provided, That such person has made timely written application to the department requesting such notice. Written application to the department requesting such notice shall be received no later than the date of service of a final order.

(2) Within thirteen days of the date of mailing of a final order to a person aggrieved, the person aggrieved may request in writing that the director reconsider the matter, shall specify in writing why said person believes the penalty decision is inappropriate, and shall serve such request on the violator.

(3) Upon reconsideration, the director will reconsider the entire matter including any written statement submitted by any party, and may adjust the penalty decision set forth in the final order if the director finds that the penalty was inappropriate.

(4) If such person is aggrieved by the director's order on reconsiderations, within twenty days of service of the order he or she may request in writing an adjudicative proceeding under chapter 34.05 RCW, shall specify in writing why the person believes the penalty decision is inappropriate, and shall serve such request on the alleged violator. The subject of such proceeding shall be limited to the appropriateness of the penalty decision of the director on reconsideration based on a review of the record as

supplemented by any new evidence received by the presiding officer. The alleged violator shall be given notice and an opportunity to participate in the proceeding by the department. The proceeding shall be heard by a presiding officer who has not heard the adjudicative proceeding on the merits against the alleged violator. Chapter 34.05 RCW and chapter 16-08 WAC shall govern the conduct of such proceeding and any review thereon.

(5) Upon the filing of any request for proceeding pursuant to subsection (2) of this section, any final order of the director shall be automatically stayed pending resolution of such request and expiration of any time period for pursuing additional relief. The director shall provide written notice to the alleged violator of any such resolution, thereby reinstating the rights of the alleged violator to seek further relief.

NEW SECTION

WAC 16-228-1040 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.

NEW SECTION

WAC 16-228-1100 Statement of purpose--Penalty assignment. For the purpose of fair, uniform determination of penalty as set forth in WAC 16-228-1110 through 16-228-1150, the director hereby declares:

- (1) Regulatory action is necessary to deter violations of the pesticide laws and rules, and to educate persons about the consequences of such violation(s); and
- (2) Any regulatory action taken by the department against any person who violates the provisions of chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder shall be commensurate with the seriousness of the violation under the circumstances; and
- (3) Each person shall be treated fairly in accordance with the rules set forth in this chapter.

NEW SECTION

WAC 16-228-1110 Definitions--Penalty assignment. In addition to the definitions set forth in RCW 17.21.020, 15.58.030, and WAC 16-228-1010, the following shall apply to WAC 16-228-1100 through 16-228-1150:

- (1) "Adverse effect(s)" means a possibility of pesticide exposure that could cause damage or injury to humans, animals, plants, or the environment.
- (2) "Knowingly" means that the alleged violator knew or should have known that conditions existed that would result in adverse effect(s) or knew that a violation would occur.

(3) "Level of violation" means that the alleged violation is a first, second, third, fourth, fifth, or more violation(s).

(a) First violation. This means the alleged violator has committed no prior incident(s) which resulted in a violation or violations within three years of committing the current alleged violation.

(b) Second violation. This means the alleged violator committed one prior incident which resulted in a violation or violations within three years of committing the current alleged violation.

(c) Third violation. This means the alleged violator committed two prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(d) Fourth violation. This means the alleged violator committed three prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(e) Fifth or more violation. This means the alleged violator committed at least four prior incidents which resulted in a violation or violations within three years of committing the current alleged violation.

(4) "Not probable" means that the alleged violator's conduct more likely than not would not have an adverse effect.

(5) "Probable" means that the alleged violator's conduct more likely than not would have an adverse effect.

(6) "Unknowingly" means that the alleged violator did not act knowingly.

(7) "Violation" means commission of an act or acts prohibited by chapter 17.21 RCW, chapter 15.58 RCW, and/or rules adopted thereunder.

NEW SECTION

WAC 16-228-1120 Calculation of penalty. (1) Median penalty selection. In the disposition of administrative cases, the department shall determine the penalty by first determining the penalty assignment schedule table listed in either WAC 16-228-1130-or 16-228-1140 that is applied based on the type of violation alleged. The department shall then determine the penalty range based on the level of violation, adverse effect(s) at the time of the incident(s) giving rise to the violation, and the knowledge of the alleged violator. The median penalty is then selected as the penalty unless a proportionate adjustment is required and/or there are aggravating or mitigating factors as provided herein. The median penalty under Table A listed in WAC 16-228-1130-may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation in the penalty assignment schedule table. The median penalty under Table B listed in WAC 16-228-1140 may be proportionately adjusted and/or aggravated to a level more than the maximum penalty listed for the violation. The median penalty under Table A and B may not be proportionately adjusted and/or mitigated to a level less than the minimum penalty listed for the violation.

(2) Proportionate adjustment of median penalty. The department reserves the right to proportionately increase the civil penalty and proportionately decrease the licensing action when circumstances in the particular case demonstrate the

ineffectiveness of the licensing action as a deterrent including but not limited to violations by persons who are not licensed and violations by certified private applicator(s), or proportionately decrease the civil penalty and proportionately increase the licensing action when circumstances in the particular case demonstrate the ineffectiveness of a civil penalty action as a deterrent.

(3) Aggravating factors. The department may consider circumstances enhancing the seriousness of the violation, including, but not limited to, the following:

(a) Each separate additional incident of violation(s) alleged within a single notice of intent to have been committed by the alleged violator within the same calendar year.

(b) The high magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

(c) The similarity of the current alleged violation to previous violations that occurred within three years of the current alleged violation.

(d) The extent to which the alleged violation is part of a pattern of the same or substantially similar conduct by others which necessitates a greater deterrent factor.

(4) Mitigating factors. The department may consider circumstances reducing the seriousness of the violation including, but not limited to, the following:

(a) A voluntary disclosure of a violation by the alleged violator.

(b) The low magnitude of the harm, or potential harm, including quantity and/or degree, caused by the violation.

NEW SECTION

WAC 16-228-1130 - Penalty assignment schedule-Table A.

Pesticide use, application, disposal, licensing, distribution, recommendation, and label violations (See WAC 16-228-1150 for other dispositions of alleged violations, including warning letters.)

Level of Violation	Adverse Effect(s)	Unknowingly			Knowingly		
		Minimum	Median	Maximum	Minimum	Median	Maximum
First	a. Not probable	\$100 and 1 day suspension	\$200 and 3 days suspension	\$300 and 5 days suspension	\$200 and 3 days suspension	\$300 and 5 days suspension	\$400 and 7 days suspension
	b. Probable	\$150 and 1 day suspension	\$250 and 3 days suspension	\$350 and 5 days suspension	\$250 and 3 days suspension	\$350 and 5 days suspension	\$450 and 7 days suspension
Second	a. Not probable	\$200 and 3 days suspension	\$300 and 5 days suspension	\$400 and 7 days suspension	\$300 and 5 days suspension	\$400 and 7 days suspension	\$500 and 9 days suspension
	b. Probable	\$300 and 3 days suspension	\$350 and 5 days suspension	\$450 and 7 days suspension	\$350 and 5 days suspension	\$450 and 7 days suspension	\$550 and 9 days suspension
Third	a. Not probable	\$400 and 10 days suspension	\$700 and 15 days suspension	\$1000 and 20 days suspension	\$500 and 10 days suspension	\$1000 and 20 days suspension	\$1500 and 30 days suspension
	b. Probable	\$500 and 10 days suspension	\$1800 and 20 days suspension	\$3000 and 25 days suspension	\$700 and 20 days suspension	\$2100 and 30 days suspension	\$3500 and 40 days suspension
Fourth	a. Not probable	\$600 and 15 days suspension	\$1800 and 20 days suspension	\$3000 and 25 days suspension	\$700 and 20 days suspension	\$2100 and 30 days suspension	3500 and 40 days suspension
	b. Probable	\$700 and 20 days suspension	\$2100 and 30 days suspension	\$3500 and 40 days suspension	\$800 and 30 days suspension	\$2400 and 40 days suspension	\$4000 and 50 days suspension
Fifth or More	a. Not Probable	\$800 and 20 days suspension	\$3400 and 40 days suspension	\$6000 and 60 days suspension	\$900 and 50 days suspension	\$3700 and 60 days suspension	\$6500 and 7 days suspension
	b. Probable	\$900 and 50 days SUSPENSION OR DENIAL OR REVOCATION	\$3700 and 60 days SUSPENSION OR DENIAL OR REVOCATION	\$6500 and 70 days SUSPENSION OR DENIAL OR REVOCATION	\$1000 and 50 days SUSPENSION OR DENIAL OR REVOCATION	\$4250 and 70 days SUSPENSION OR DENIAL OR REVOCATION	\$7500 and 90 days SUSPENSION OR DENIAL OR REVOCATION

NEW SECTION

WAC 16-228-1140 Penalty assignment schedule--Table B.

Records, posting of storage for category one pesticides, removal of examination material, and impersonating state official other violations not listed in Table A (See WAC 16-228-1150 for other dispositions of alleged violations, including warning letters.)

(WAC 16-228-1140 Table B)

Level of Violation	Adverse Effect(s)	Unknowingly			Knowingly		
		Minimum	Median	Maximum	Minimum	Median	Maximum
First	a. Not probable	\$100 and 1 day suspension	\$150 and 2 days suspension	\$200 and 3 days suspension	\$150 and 2 days suspension	\$200 and 3 days suspension	\$250 and 4 days suspension
	b. Probable	\$150 and 1 day suspension	\$200 and 2 days suspension	\$250 and 3 days suspension	\$200 and 2 days suspension	\$250 and 3 days suspension	\$300 and 4 days suspension
Second	a. Not probable	\$200 and 2 days suspension	\$250 and 3 days suspension	\$300 and 4 days suspension	\$250 and 3 days suspension	\$300 and 4 days suspension	\$350 and 5 days suspension
	b. Probable	\$250 and 2 days suspension	\$300 and 3 days suspension	\$350 and 4 days suspension	\$300 and 3 days suspension	\$350 and 4 days suspension	\$400 and 5 days suspension
Third	a. Not probable	\$300 and 3 days suspension	\$350 and 4 days suspension	\$400 and 5 days suspension	\$350 and 4 days suspension	\$400 and 5 days suspension	\$450 and 6 days suspension
	b. Probable	\$350 and 3 days suspension	\$400 and 4 days suspension	\$450 and 5 days suspension	\$400 and 4 days suspension	\$450 and 5 days suspension	\$500 and 6 days suspension
Fourth	a. Not probable	\$400 and 4 days suspension	\$450 and 5 days suspension	\$500 and 6 days suspension	\$450 and 5 days suspension	\$500 and 6 days suspension	\$550 and 7 days suspension
	b. Probable	\$450 and 4 days suspension	\$500 and 5 days suspension	\$550 and 6 days suspension	\$500 and 5 days suspension	\$550 and 6 days suspension	\$600 and 7 days suspension
Fifth or More	a. Not Probable	\$500 and 5 days suspension	\$550 and 6 days suspension	\$600 and 7 days suspension	\$550 and 6 days suspension	\$600 and 7 days suspension	\$650 and 8 days suspension
	b. Probable	\$550 and 5 days suspension	\$600 and 6 days suspension	\$650 and 7 days suspension	\$600 and 6 days suspension	\$650 and 7 days suspension	\$750 and 8 days suspension

NEW SECTION

WAC 16-228-1150 Other dispositions of alleged violations. Nothing herein shall prevent the department from:

- (1) Choosing not to pursue a case administratively.
- (2) Issuing a warning letter in lieu of pursuing administrative action.
- (3) Negotiating settlement(s) of cases on such terms and for such reasons as it deems appropriate. Prior violation(s) covered by a prior settlement agreement may be used by the department for the purpose of determining the appropriate penalty for the current alleged violation(s) if not prohibited by the agreement.

NEW SECTION

WAC 16-228-1200 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 "checkstand" 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.

NEW SECTION

WAC 16-228-1220 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) Disulfoton (DiSyston)-Liquid

(b) Parathion

(c) Phorate (Thimet)-Liquid

(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.

(6) 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 -- 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 rinsate 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 16-228-1230 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</u>
<u>As*</u>	
alachlor	Lasso
aldicarb	Temik
atrazine	
bromacil	Hyvar, Krovar
carbofuran	Furadan
cyanazine	Bladex
DCPA	Dacthal
1,3-dicloropropene	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. 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.

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

(b) 2,4-D - all dry formulations and all liquid formulations distributed in quantities larger than one gallon 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) Liquid amine formulations of any concentration up to and including one gallon in size when purchased and used in all counties located east of the crest of the Cascade Mountains; and

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

(c) Strychnine and its salts

(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 for the purposes of this section.

NEW SECTION

WAC 16-228-1240 Aquatic pesticides. (1) All pesticide formulations labeled for application onto or into water to control pests in or on water are hereby declared state restricted use pesticides 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.

(2) Pesticides which are not classified as EPA restricted use pesticides and which are labeled only for the following uses shall be exempt from this section:

(a) Swimming pools

(b) Wholly impounded ornamental pools or fountains

(c) Aquariums

(d) Closed plumbing and sewage systems

(e) Enclosed food processing systems

(f) Air conditioners, humidifiers, and cooling towers

(g) Industrial heat exchange, air washing, and similar industrial systems

(h) Disinfectants

(i) Aquatic environments in states other than Washington

(3) Distribution of pesticides bearing combined labeling for uses into or onto water and for other uses may be made by licensed pesticides dealers to noncertified applicators, if the dealer indicates on the sales slip or invoice that the purchaser of the

pesticide agrees that it is not to be applied into or onto water. If requested by the department, dealers shall furnish records on the sales of pesticides labeled for application into or onto water, whether sold for that use or not. Records shall include the name and address of the purchaser, the complete product name and/or EPA registration number of the pesticide and the amount purchased.

(4) Licensed dealers shall keep records as specified in WAC 16-228-1300(1) on each distribution of pesticides designated in subsection (1) of this section. The director shall have access to these records immediately upon request.

(5) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides designated in subsection (1) 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.

NEW SECTION

WAC 16-228-1250 Phenoxy herbicide restrictions. (1) The distribution, use and application of all high volatile ester and dust formulations of phenoxy herbicides shall be prohibited throughout the state.

(2) Pesticide dealers shall make available to the purchaser a copy of the rules pertaining to the use of dicamba and/or phenoxy hormone-type herbicides, including 2,4-D and MCPA, in the area in which the material will be applied.

NEW SECTION

WAC 16-228-1260 Tributyltin. (1) The distribution for use in Washington state of paint, stain, paint additives, or similar products containing any chemical form of tributyltin for use in interiors of inhabited structures (i.e., residences, office buildings, institutions, recreational vehicles, and retail stores) shall be prohibited: *Provided*, That this section shall not apply to specialty products, such as tile grout additives or cooling tower biocides.

(2) No tributyltin-containing paint, stain, paint additives, or similar products as specified in subsection (1) of this section may be registered for distribution unless its label clearly indicates that it shall not be used on interior surfaces of inhabited structures or that it shall be used on exterior surfaces only.

NEW SECTION

WAC 16-228-1270 Use of pesticides on small seeded vegetable seed crops and seed alfalfa. (1) For purposes of pesticide registration, the following crops, when grown to produce seed specifically for crop reproduction purposes, are considered nonfood and nonfeed sites of pesticide use:

Common Name	Synonyms
alfalfa	
arugula	Mediterranean salad, rucola, roquette, Ghargir
beet	
broccoli raab	Rapani, Choy Sum, Chinese flowering cabbage
Brussels sprouts	
cabbage	
carrot	
cauliflower	
Chinese cabbage	Pe-tsai
Chinese kale	Chinese broccoli
Chinese mustard	Pak Choi (Choy), Bok Choi (Choy) Taisai, celery mustard, spoon cabbage
collard	
coriander	
dill	cilantro
endive	
kale	bore kale
kohlrabi	
leek	
lettuce	
mustard	
onion (bulb)	
onion (bunching)	
parsley	
parsnip	
radish (other than daikon)	
rape	
rutabaga	
spinach	
spinach mustard	
swiss chard	
turnip	spinach beet

(2) For the seed crops listed in subsection (1) of this section, the following conditions shall be met:

(a) All seed screenings shall be disposed of in such a way that they cannot be distributed or used for food or feed. The seed conditioner shall keep records of screening disposal for three years from the date of disposal and shall furnish the records to the director forthwith upon request. Disposal records shall consist of documentation from a controlled dump site, incinerator, or other equivalent disposal site and shall show the lot numbers, amount of material disposed of, its grower(s), and the date of disposal.

(b) No portion of the seed plant, including but not limited to green chop, hay, pellets, meal, whole seed, cracked seed, roots, bulbs, leaves and seed screenings may be used or distributed for food or feed purposes.

(c) All seed from the crops listed in subsection (1) of this section grown or conditioned in this state shall bear a tag or container label which forbids use of the seed for human consumption or animal feed.

(d) No seed from the crops listed in subsection (1) of this section grown or conditioned in this state may be distributed for human consumption or animal feed.

(3) Violation of any condition listed in subsection (2) of this section is declared to be a violation of chapters 17.21 and 15.58 RCW.

(4) Any seed crop certified under provisions of RCW 15.86.070, the Organic Food Products Act, shall be exempt from the requirements of this section.

NEW SECTION

WAC 16-228-1300 Distribution Records (1) Pesticide dealers shall furnish records to the director immediately upon request on the distribution of any pesticide except those labeled only for home and garden. These requests shall be limited to records necessary for investigations of suspected violations, damage complaints, monitoring distribution and use under provisions of special local needs registrations, emergency exemptions from federal registration and experimental use permits, and monitoring of any pesticide suspected of unreasonable adverse effects on the environment. 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 if applicable);
- (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 (if applicable).

(2) Certified applicators may designate authorized agent(s) for the purpose of purchasing or receiving restricted use pesticides 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.

(3) Pesticide dealers shall keep records of distribution of state restricted use pesticides for a period of seven years from the date of distribution.

NEW SECTION

WAC 16-228-1320 Applicator requirements. (1) Certified applicators and all persons applying pesticides to more than one acre of agricultural land in a calendar year including public entities engaged in roadside spraying shall keep records on a form prescribed by the director which shall include the following:

(a) The name and address of the person for whom the pesticide was applied.

(b) The address or exact location of the land where the pesticide was applied. If the application is made to one acre or more of agricultural land, the field must be located on the map on the prescribed form.

(c) The year, month, day and time the pesticide was applied.

(d) The product name used on the registered label and the United States Environmental Protection Agency registration number, if applicable, of the pesticide which was applied.

(e) The direction from which the wind is blowing and estimated velocity of the wind in miles per hour (mph) and the temperature in degrees Fahrenheit at the time the pesticide was applied: *Provided*, That this subsection (e) shall not apply to applications of baits in bait stations and pesticide applications within structures.

(f) The total amount of pesticide applied such as pounds, gallons, ounces, etc.

(g) The amount of pesticide applied per acre or one thousand square feet or other appropriate measure.

(i) For PCO classification or residential ornamental applications, the amount shall be recorded to the nearest ounce of product or to the nearest gallon of liquid spray per site.

(ii) Fumigation records shall include the pounds of gas released per one thousand cubic feet of space, the temperature, and the duration of the exposure period.

(h) The concentration of pesticide that was applied. Liquid applications may be recorded as amount of product per one hundred gallons of liquid spray or other appropriate measure.

(i) The pests to be controlled (for PCO classification only).

(j) Specific crop or site to which pesticide was applied.

(k) Apparatus license plate number.

(l) The licensed applicator's name, certified pesticide applicator license number, address, telephone number, and the name and license number(s) if applicable of the individual or individuals making the application.

(m) The number of acres or other appropriate measure to which the pesticide was applied.

(2) Application records shall be completed and available to the department the same day the pesticides were applied.

(3) Application records shall be kept for a period of seven years from the date of the application of the pesticide to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.

(4) Upon written request, the applicator shall provide the customer with a record of each application of pesticides to his/her land, for the current season, which shall contain the information listed in WAC 16-228-1330 (1).

(5) Except as stated in subsection (6) of this section, the information required in subsection (1) of this section shall be kept on the appropriate page of the pesticide record form (figures 1-8): *Provided*, That computerized records may be maintained as long as the records can be produced in the form and format prescribed by the department.

(6) The department may allow by written permit the information required in subsection (1) of this section to be kept in a different form and format than that described in figures 1-8: *Provided*, That the following criteria are met:

(a) The pesticide application record keeping system is computerized;

(b) The pesticide application record keeping system was in place and operational prior to July 23, 1989;

(c) The pesticide application record keeping system contains all the information required by subsection (1) of this section, and can be produced in a form and format acceptable to the department.

(7) All apparatus shall be kept in good repair and only that apparatus capable of performing all functions necessary to ensure proper and thorough application of pesticides shall be used. Apparatus shall be cleaned so that no residue remains which may cause injury to land, including humans, desirable plants and animals, from subsequent applications.

(8) On demand of the director, the applicator shall make immediately available for inspection the pesticides being applied and the apparatus used for the application: *Provided*, That this inspection is made at the site of application or where the apparatus is located.

(9) The applicator shall make available necessary safety equipment in proper working order and advise employees on its use to meet the safety requirements of the pesticide label.

(10) Maintain a uniform mixture at all times in operating apparatus when applying pesticides.

(11) All containers used for prepared mixtures, other than those in an apparatus, shall have a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.

PESTICIDE APPLICATION RECORD (Version 1)

NOTE: This form must be completed same day as the application
 and it must be retained for 7 years (Pel. RCW 17.21)

1. Date of Application - Year: Month: Day: Time:
2. Name of Person for whom the pesticide was applied:
- Firm Name (if applicable):
- Street Address: City: State: Zip:
3. Licensed Applicator's Name (if different from #2 above): License No.
- Firm Name (if applicable): Tel. No.
- Street Address: City: State: Zip:
4. Name of person(s) who applied the pesticide (if different from #3 above):
- License No(s), if applicable:
5. Application Crop or Site:
6. Total Area Treated (acre, sq. ft., etc.):
7. Was this application made as a result of a WSDA Permit? No Yes (if yes, give Permit No.) #
8. Pesticide Information (please list all information for each pesticide in the tank mix):

a) Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied
			/	
			/	
			/	
			/	
			/	

9. Address **or exact location** of application. NOTE: if the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Wind direction and estimated velocity during the application:
11. Temperature during the application:
12. Apparatus license plate number (if applicable):
13. Air Ground Chemigation
14. Miscellaneous Information:

Location of Application (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only):

Township: _____ N

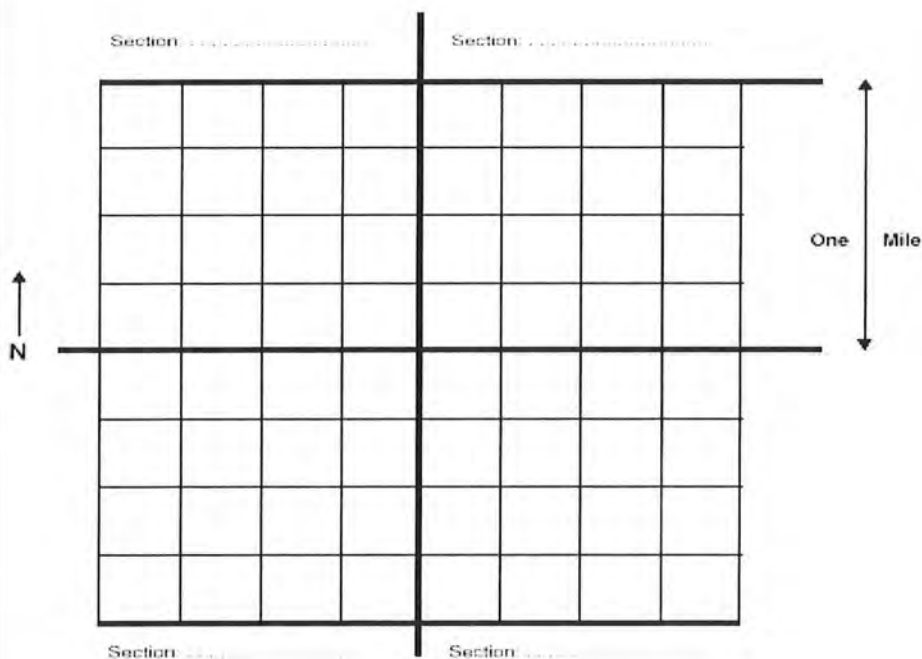
Range: E OR W (please indicate): _____

Section(s): _____

County: _____

PLEASE NOTE:

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



Miscellaneous Information: _____

PESTICIDE APPLICATION RECORD (Version 2)

NOTE: Application information must be completed same day as the application and must be retained for seven years (Ref. RCW 17.21)

1 Name & Address of Person for Whom Pesticide was Applied				2 Applicator Name and Address (if different from 1): Tel. No: _____ Lic. No: _____				
3 Address or exact location of application (NOTE: If the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form)				4 Misc. Info:				
5 Date and Time of Application	6 Crop or Site Treated	7 Acres Treated (or other measure)	8 PRODUCT NAME	9 EPA Registration Number	10 Amount of Product Applied		11 Concentration	12 Weather Conditions, Apparatus, License Plate No. and Name and License No. of person(s) who applied pesticide
					Rate per acre (or other measure)	Total Product Applied		
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							
	<input type="checkbox"/> Air <input type="checkbox"/> Ground <input type="checkbox"/> Chemigation							

Location of Application (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township _____ N _____

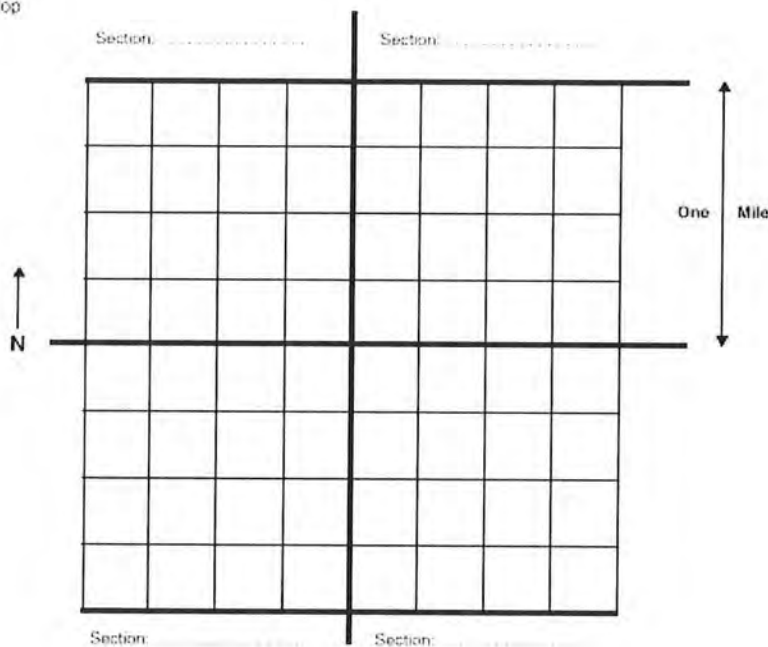
Range E OR W (please indicate): _____

Section(s) _____

County _____

PLEASE NOTE:

The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.



PESTICIDE APPLICATION RECORD (Version 3)

NOTE: This form must be completed same day as the application and it must be retained for 7 years (Reg. RCW 17.21)

1. Date of Application - Year: Month: Day(s):
2. Name of Person for whom the pesticide was applied:
 Firm Name (if applicable):
 Street Address: City: State: Zip:
3. Licensed Applicator's Name (if different from #2 above): License No.
 Firm Name (if applicable): Tel. No.
 Street Address: City: State: Zip:
4. Air Ground Chemigation
5. Application Crop or Site:
6. Total Area Treated (acre, sq. ft., etc.):
7. Was this application made as a result of a WSDA Permit? No Yes (if yes, give Permit No.) #
8. Pesticide Information (please list all information for each pesticide in the tank mix)

a) Product Name	b) EPA Reg. No.	c) Total Amount of Pesticide Applied in Area Treated	d) Pesticide Applied/Acre (or other measure)	e) Concentration Applied
			/	
			/	
			/	
			/	
			/	

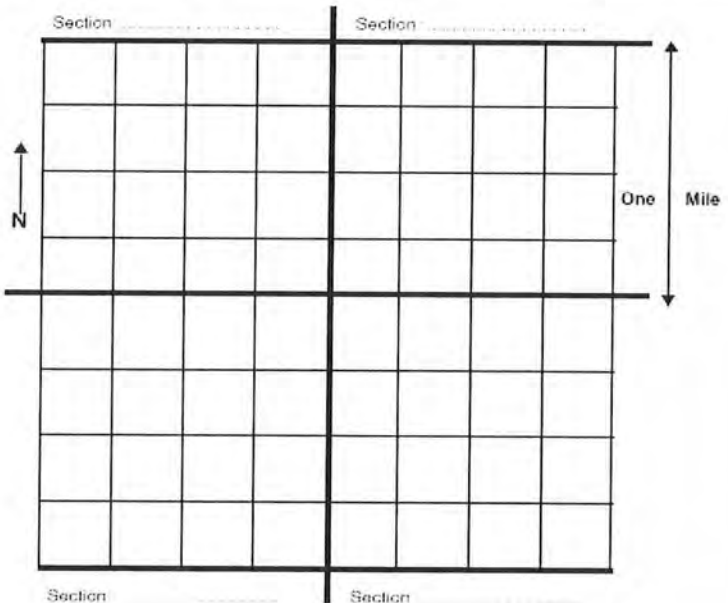
9. Address **or exact location** of application. NOTE: if the application is made to one acre or more of agricultural land, the field location must be shown on the map on page two of this form.

10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time		15. Acres Completed	16. Wind		17. Temp
				Start	Stop		Dir	Vel	

10. Date	11. Name of person(s) making the application	12. License No.	13. Apparatus Lic. Plate No.	14. Time		15. Acres Completed	16. Wind		17. Temp
				Start	Stop		Dir.	Vel.	

Location of Application (If the application covers more than one township or range, please indicate the township & range for the top left section of the map only:

Township N
 Range, E. or W. (please indicate)
 Section(s)
 County:



PLEASE NOTE:
 The map is divided into 4 sections with each section divided into quarter-quarter sections. Please complete it by marking the appropriate section number(s) on the map and indicate as accurately as possible the location of the area treated.

Miscellaneous Information:

MS4-0200-05-01

PESTICIDE APPLICATION RECORD (Version 4)

NOTE: This form must be completed same day as the application and it must be retained for 7 years (Ref. RCW 17.21)

State of Washington
Department of Agriculture
Olympia, Washington 98512

A Date of Application - Year: Month: Day:

B Firm Name: Telephone No:

Commercial Applicator's Name: License No:

Street Address: City: State: Zip:

C Name of person(s) who applied the pesticide:

License No(s):

D Pesticide Information (please list all information for each pesticide in the tank mix):

<u>Product Name</u>	<u>EPA Reg. No.</u>	<u>Concentration</u> <small>Amount (Lbs., Qts., etc.) of brand per 100 gallons of tank mix. Amount and unit must be specified.</small>

E Application crop or site: F. Apparatus License Plate No:

G Record the following information for the specific conditions during each application:

	<u>CUSTOMER</u>		<u>AMOUNT APPLIED</u> <small>(gals. of mix)</small>	<u>AREA TREATED</u> <small>(sq. ft., etc.)</small>	<u>TIME</u>	<u>TEMP</u> <small>F°</small>	<u>WIND</u>	
	<small>a) full name</small>	<small>b) location of application - street address</small>					<small>DIR</small>	<small>VEL mph</small>
1. a)								
b)								
2. a)								
b)								
3. a)								
b)								
4. a)								
b)								
5. a)								
b)								
6. a)								
b)								
7. a)								
b)								
8. a)								
b)								
9. a)								
b)								

AGP 4224 (Rev. 4/93)

DAILY PESTICIDE APPLICATION RECORD (Version 5)

For Commercial Pest Control Operators Only

NOTE: This form must be completed same day as the application and retained for seven years (Ref. RCW 17.21)

A. FIRM NAME AND ADDRESS _____

TELEPHONE NUMBER _____

B. APPLICATOR NAME _____

LICENSE NO. _____

C. PERSON MAKING APPLICATION _____

LICENSE NO. _____

D. DATE _____

E. APPARATUS LICENSE NO. _____

CUSTOMER <small>(a) FULL NAME (b) LOCATION OF APPLICATION (c) TARGET PEST</small>	PESTICIDE PRODUCT NAME (a) <small>(b) CONCENTRATION (c) TOTAL AMOUNT USED</small>	APPL. TIME (a) (b) TEMP. (c) WIND DIR. (d) WIND VELOCITY	APPLICATION SITE <small>(a) C. (b) F. (c) S. (d) N. (e) E. (f) W.</small>	PESTICIDE APPLIED (ACRE OR OTHER MEASURE)
1. a) _____ b) _____ c) _____	_____	_____	_____	_____/_____ _____/_____ _____/_____
2. a) _____ b) _____ c) _____	_____	_____	_____	_____/_____ _____/_____ _____/_____
3. a) _____ b) _____ c) _____	_____	_____	_____	_____/_____ _____/_____ _____/_____
4. a) _____ b) _____ c) _____	_____	_____	_____	_____/_____ _____/_____ _____/_____
5. a) _____ b) _____ c) _____	_____	_____	_____	_____/_____ _____/_____ _____/_____
6. a) _____ b) _____ c) _____	_____	_____	_____	_____/_____ _____/_____ _____/_____
7. a) _____ b) _____ c) _____	_____	_____	_____	_____/_____ _____/_____ _____/_____

OPTIONAL: MILEAGE START _____ MILEAGE END _____

APP-1032 (Rev. 1/86)

NEW SECTION

WAC 16-228-1330 Compliance with federal requirements.

(1) All pilots and aircraft, used for or engaged in the commercial application of pesticides shall comply fully with the appropriate rules and regulations of the Federal Aviation Administration.

(2) 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 a license.

[Statutory Authority:

NEW SECTION

WAC 16-228-1370 Waste pesticide disposal. Under authority of 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 15.58 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.

NEW SECTION

WAC 16-228-1380 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 shall be colored or otherwise formulated so that they will be identifiable from foods common to the establishment in which the bait is placed.

(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) 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 16-228-1380(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) All vertebrate control pesticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles.

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

(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.

(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.

(9) Wherever poisoned carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they 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.

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

NEW SECTION

WAC 16-228-1385 Special restrictions on the use of Compounds 1080, 1081 and phosphorus paste. Compounds 1080 and 1081, and phosphorus paste shall be restricted for use as follows:

(1) No person shall possess or use these pesticides except federal, state, county, or municipal officers or their employees for use in their official duties in pest control; research or chemical laboratories in their respective fields; pest control applicators and operators licensed by the state; and wholesalers or jobbers who distribute, sell, or export these pesticides to the aforementioned persons.

(2) No person shall use these pesticides in occupied structures such as private homes, apartment houses, other human dwellings or food service establishments. Those persons authorized in subsection (1) above shall use these pesticides only in buildings such as grain elevators, seed houses, or warehouses. The portions of these buildings being baited must be under control of the licensee. A controlled building is one that is locked or attended and that is under at least once-a-day surveillance by the licensee, unless authorized as per WAC 16-228-1385(7).

(3) Compounds 1080 and 1081 and phosphorous paste shall be used only by authorized persons who have read and will comply with the "Instructions For Using Sodium Fluoroacetate (Compound 1080)," by the National Research Council and all other labeling of the registrant, and are familiar with hazards of the above compounds.

(4) Compounds 1080 and 1081 and phosphorous paste may be used in warehouses, grain elevators, seed houses and industrial buildings only when warning signs are used which are not less than eight by ten inches with the words "DANGER" -- "FATAL POISON" -- "RODENT BAITS" in red letters not less than one inch in height on a contrasting background and the skull and crossbones, in red, not smaller than the letters. These signs must be conspicuously posted at all entrances to the building and portions of the building under control of the licensee. Below is the suggested format:

DANGER
FATAL POISON - RODENT BAIT
IN THIS AREA
(skull/crossbones) DO NOT TOUCH BAITS (skull/crossbones)
OR DEAD ANIMALS
Name, address, and phone number
of applicator

Name of the rodenticide

All authorized personnel in the building must be notified of the baiting; a diagram showing the number of bait stations and the location of each on the premises must be readily available on the property; and a copy of such diagram must be in the possession of the licensee who is performing the baiting operation.

(5) No person shall use Compounds 1080 and 1081, or phosphorus paste unless all unused baits are recovered and disposed of appropriately at the end of the baiting operation, and carcasses shall be recovered daily and disposed of as per WAC 16-228-1380(9), unless a permit issued pursuant to WAC 16-228-1385(7) provides alternative requirements.

(6) When placed in burrows, baits should be put far enough into the burrow so that domestic animals cannot reach them readily. Baits applied to dumps should be placed beneath objects, in containers, or into holes so that it is inaccessible. Appropriate warning cards, as per WAC 16-228-1380 (4) shall be conspicuously displayed in adequate numbers whenever Compounds 1080 and 1081 or phosphorus baits are used on public property or on private property accessible to the public.

(7) Any authorized person desiring to use these pesticides in any areas other than licensee-controlled buildings, controlled dumps, sanitary sewers or in emergency situations where application sites are controlled and attended, such as waterfronts, shall apply for and obtain a permit from the director prior to applying the pesticide. These permits may be issued by the department if, after an on-site inspection, the department determines that:

(a) Good housekeeping and sanitary procedures are being followed to help control the rodent population;

(b) Rodent populations and conditions are such that an emergency situation exists and less toxic rodenticides and other control measures will not be adequate for the needed rodent control;

(c) The applicant designates a competent trained person to be named on the permit, who will accept responsibility for properly collecting and disposing of dead rodents; and

(d) A date is given for completion of the baiting operation (not more than thirty days duration) when the licensee will service the bait boxes (if any) and determine if a renewal of the permit is necessary.

(8) All compound 1080 solutions shall be dyed black. All 1080 baits shall be discolored.

(9) Compounds 1080 and 1081 shall be kept in a locked container within locked storage or locked service vehicle.

General Pesticide Regulations - Registration

NEW SECTION

WAC 16-228-1400 Pesticide labeling requirements. (1) Pesticide labeling 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 16-228-1410 Home and garden products—Definition For purposes of this section, "home and garden use only" means any pesticide determined by the department to be packaged and labeled solely for use by the general public in and around a residence. In making this determination, the department shall consider, but not be limited to, the following criteria:

(a) Packaging;

(b) Package size;

(c) Label instructions;

(d) Application method;

(e) Equipment to be used;

(f) Rates of application.

NEW SECTION

WAC 16-228-1420 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 16-228-1430 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. Containers shall meet the minimum federal specifications.

NEW SECTION

WAC 16-228-1440 Artificial coloring. (1) No highly toxic pesticide in powdered or granular form or highly toxic pesticide baits having a label recommendation for use in any building, ship, or similar enclosure shall be sold within the state of Washington unless it is distinctly colored or discolored in such a way that it does not resemble any food.

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

NEW SECTION

WAC 16-228-1450 Pesticide-fertilizer registration and labeling. (1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: *Provided*, That the fertilizer portion shall be considered an inert ingredient for the purpose of this order: *And provided further*, That such registrations may be to the nearest one-tenth of one percent by weight of all active ingredient/s, except for nitrification inhibitor-pesticide mixes as stated in (4) below.

(2) A specimen pesticide-fertilizer label shall be registered with the director before distribution or sale. These labels shall bear the following items:

(a) A pesticide ingredient statement identifying the active ingredient(s) and showing the percent by weight of each active ingredient;

(b) EPA registration number of each pesticide used to formulate the pesticide-fertilizer mix;

(c) Crop(s) on which the pesticide-fertilizer mix may be used and the amount of pesticide-fertilizer mix to be applied per acre;

(d) Timing of application (for instance, preplant) and the preharvest interval;

(e) Net weight of the shipment;

(f) Name and address of the registrant or manufacturer;

(g) Any other information required by the director.

(3) Labeling bearing all of the information specified in (2) above and a complete specimen label for each pesticide product used to formulate the pesticide-fertilizer mix shall accompany each pesticide-fertilizer mix shipment. All or portions of the information required in (2) above may occur on the invoice of a custom mix: *Provided*, That an appropriate specimen invoice has been registered by the director as pesticide labeling.

(4) Pesticide-fertilizer mixes containing nitrification inhibitors or agents intended for nitrogen stabilization only, and no other pesticide active ingredients, may be registered without specifying the percentage of active ingredient. The amount of active ingredient in the mix must be stated on the label that accompanies each shipment.

NEW SECTION

WAC 16-228-1455 Pesticide-fertilizer mix restrictions. No person shall distribute, sell, offer for sale, or hold for sale any dry pesticide incorporated in a dry blended bulk fertilizer mix.

NEW SECTION

WAC 16-228-1460 Experimental use permits. (1) Pesticides shall not be distributed or used for experimental purposes unless a written permit has been obtained from the director. All distribution and use of pesticides for experimental purposes shall be subject to restrictions and conditions described in the experimental use permit.

Applications for experimental use permits shall include the following (when applicable):

(a) Name of the active ingredient and/or product name and/or EPA registration number of the product to be used;

(b) Person responsible for carrying out provisions of the experimental permit and means of locating this person in case of emergency;

(c) Target pest(s);

(d) Crop or site and location(s) to which the pesticide is to be applied;

(e) Disposition of any treated food or feed and of subsequent crops from treated sites;

(f) Rate of application of formulation or active ingredient and number of applications;

(g) Timing and duration of the proposed program;

(h) Area to which the pesticide is to be applied;

(i) Total amount of pesticide to be applied;

(j) Federal experimental use permit number and text;

(k) Labeling to accompany the pesticide in the field;

(1) Any other information required by the director.

(2) An experimental use permit shall not be issued for use of a pesticide on a food or feed unless a tolerance greater than residues anticipated from the treatment or exemption from the requirement of a tolerance has been obtained from the Environmental Protection Agency, provisions for destruction of the treated food or feed and any crop residue have been made, or adequate demonstration has been made to the department that no detectable pesticide residue from the experimental program will be present in food or feed. The director may require evidence to substantiate any of the above.

(3) Collective experimental use permits may be issued by the director for experimental programs conducted by recognized research institutions on land owned or controlled by the institution.

(4) The director may monitor the implementation of any experimental use permit. This may include collection of samples, inspection of premises, records and equipment, and any other related activities specified by the director. The conditions of any experimental use permit may require notification of a designated department office prior to application and/or presence of a departmental representative at the application. Experimental use permits shall be considered labeling for purposes of enforcement. Violations of these permits shall be considered use inconsistent with the label.

(5) Summaries of experimental results and environmental effects shall be retained by the holder of the permit for three years and shall be submitted to the department upon request of the director.

(6) Pesticides intended for experimental use must be contained in secure containers, the labeling of which must present such precautions as are known to be necessary to protect the health of persons who may come in contact with the pesticide and to prevent unreasonable adverse effects on the environment.

(7) The director may limit the amount of pesticide, acres or areas to be treated, licensing, or qualifications of persons exercising the permit, or any other condition of an experimental use permit. The director may deny, amend, suspend or revoke any experimental use permit if it is found to be in violation of applicable federal regulations, in violation of chapters 15.58 and 17.21 RCW or rules adopted thereunder, or if the director deems such action necessary to protect public health and the environment.

General Pesticide Regulations - Licensing

NEW SECTION

WAC 16-228-1500 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 media misrepresenting the effect of 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 rules adopted thereunder, or to make reports when and as required;

(h) Made false or fraudulent records, invoices, 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;

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

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

(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;

(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;

(q) 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;

(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; or

(t) Made or failed to make an inspection, statement, or report in violation of WAC 16-228-2000 through 16-228-2040.

(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.

NEW SECTION

WAC 16-228-1520 Financial responsibility insurance certificate (FRIC). (1)

A commercial pesticide applicator's license shall not be issued until a properly executed financial responsibility insurance certificate is filed with the department which shall certify: (Forms to be supplied by the department).

(a) Name of insured (identical to name on application form)

(b) Address of insured

(c) Policy number

(d) Plane number(s) (if applicable)

(e) Effective period

(f) Amount of insurance. Minimum requirements are:

(i) Public liability (personal injury) fifty thousand dollars; and property damage fifty thousand dollars; or

(ii) Alternately providing both public liability (personal injury), and property damage liability coverage within the same limit, providing such policy is issued in an amount of not less than one hundred thousand dollars.

(iii) Amount of deductible (if applicable): Maximum deductible, five thousand for all applicators.

(g) List of any pesticides or group of pesticides not covered by the policy.

(h) Acknowledgement of provisions for ten days' prior written notice of cancellation or reduction of the insurance coverage.

(2) The department may waive the requirements of this section, wholly or in part, if a properly executed surety bond in a form prescribed by the director is offered as evidence of financial responsibility, as provided for in RCW 17.21.160 and 17.21.170.

NEW SECTION

WAC 16-228-1530 Pesticide licenses--Renewal dates--Penalties. (1) The following pesticide licenses shall expire on the December 31st following their issuance:

- (a) Commercial pesticide applicator licenses issued under the authority of RCW 17.21.070;
- (b) Commercial pesticide operator licenses issued under the authority of RCW 17.21.110;
- (c) Private applicator licenses issued under the authority of RCW 17.21.126;
- (d) Public operator licenses issued under the authority of RCW 17.21.220.
- (e) Private-commercial applicator licenses issued under the authority of RCW 17.21.122;
- (f) Pesticide dealer-manager licenses issued under the authority of RCW 15.58.200;
- (g) Demonstration and research licenses issued under the authority of RCW 17.21.129.

(2) The following pesticide licenses shall expire on the final day of February of each year:

- (a) Pest control consultant licenses issued under the authority of RCW 15.58.210;
- (b) Public pest control consultant licenses issued under the authority of RCW 15.58.220.

(3) Pesticide renewal applications for licenses issued under the authority of chapter 17.21 RCW shall be filed on or before January 1st of the appropriate year.

(4) If an application for renewal of any pesticide license issued under the authority of chapter 17.21 RCW is not filed on or prior to January 1st following the expiration date of the license, a penalty shall be assessed as provided in RCW 17.21.140.

(5) If an application for renewal of a pesticide dealer license issued under the authority of chapter 15.58 RCW is not filed on or before the master license expiration date, the master license delinquency fee shall be assessed under chapter 19.02 RCW and shall be paid by the applicant before the renewal license is issued.

(6) If an application for renewal of any license issued under the authority of chapter 15.58 RCW, other than the pesticide dealer license, is not filed on or before the expiration date of the license, penalty equivalent to the license fee shall be assessed and added to the original fee, and shall be paid by the applicant before the renewal license is issued.

(7) Nothing herein shall be construed to limit the department's ability, as otherwise provided by law, to deny a license, to condition license renewal, or to enforce violations of applicable laws, subsequent to the expiration of a license.

(8) 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.

NEW SECTION

WAC 16-228-1540 Examination requirements. (1) An examination fee of ten dollars shall be paid prior to administration of any pesticide license examination at other than a regularly scheduled examination session. 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 16-228-1550 Apparatus display signs. (1) A certified applicator making a landscape application shall display the name and telephone number of the applicator or applicator's employer on any power equipment.

(2) A certified applicator making a right of way application shall display the name and telephone number of the applicator or the applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION."

(3) Apparatus display signs shall be attached to and prominently displayed on the application apparatus and shall be clearly visible.

(4) Lettering of the apparatus display signs shall be, at a minimum, two inches in height and shall be printed in color contrasting to the background.

NEW SECTION

WAC 16-228-1555 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.

NEW SECTION

WAC 16-228-1570 Permits. (1) Private applicator certification, demonstration and research applicator certification, user permits and private-commercial applicator licenses shall be considered as certified applicator permits as provided for in RCW 17.21.030 and 15.58.040 (2)(h).

(2) User permits may be issued by the director as temporary applicator certification in emergency situations. User permits will be issued in a form prescribed by the director, which shall include the following:

- (a) Permit number
- (b) Date of issuance
- (c) Expiration date, which shall be not longer than one year from the date of issuance
- (d) Name and address of certified applicator
- (e) Crop or site and area to which the pesticide will be applied
- (f) Amount of pesticide obtained
- (g) Any other information prescribed by the director.

(3) Pesticide dealers shall keep user permits for a period of one year from the date of issuance, and the director shall have access to these records upon request.

NEW SECTION

WAC 16-228-1580 Change of exemptions. The licensing exemption for 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.

NEW SECTION

WAC 16-228-1585 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.

NEW SECTION

WAC 16-228-1590 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 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

General Pesticide Regulations – Wood Destroying Organisms

NEW SECTION

WAC 16-228-2000 Inspection and reporting criteria for complete wood destroying organism inspections. All persons licensed to conduct wood destroying organism inspections shall comply with the following criteria when performing complete wood destroying organism inspections.

(1) The inspector shall make a thorough inspection of accessible areas of the subject structure which are not excluded. The inspection shall be conducted by making a careful visual examination, and/or probing with inspection instruments.

(2) Substructural crawl areas shall be inspected when accessible.

(3) Upon completion of an inspection, a wood destroying organism report shall be issued to the person paying for and/or otherwise requesting the inspection. Such report shall include the following: *Provided*, That all diagrammatic representations may be omitted from the report provided to the person paying for or otherwise requesting the inspection, but shall be maintained on file pursuant to subsection (3)(k) of this section.

(a) Date of inspection;

(b) Name of seller/ owner and purchaser (when applicable);

(c) Street address of structure inspected. When there is more than one structure that may be used as a dwelling at a given street address it shall be clearly indicated which structure was inspected;

(d) Name of structural inspector and department pesticide license number;

(e) Substructural crawl areas which are not accessible due to inadequate clearance, or foundation walls/partitions, etc., which block access, shall be clearly indicated on the complete wood destroying organism inspection report including any diagram which is a part of that report. It shall be stated on the report that such areas may be vulnerable to attack by wood destroying organisms, and should be made accessible for inspection if feasible. In the event that it is neither feasible or necessary to make access into such areas, a statement indicating the reason(s) shall be included on the report;

(f) With the exception of areas within the living quarters of an occupied structure, all areas which are excluded from the inspection shall be clearly indicated on any complete wood destroying organism inspection report;

(g) Evidence of infestation of wood destroying organisms which shall include:

(i) Common name of the wood destroying organism(s). Termites shall be described as either dampwoods or subterraneans. Wood boring beetles shall be

described by the appropriate family name, i.e., anobiidae (deathwatch beetles). Buprestid and Cerambycid beetles shall not be described as "powder post beetles";

- (ii) Statement describing specific evidence of infestation(s) observed;
- (iii) If evidence of infestation(s) is observed only in wood which is not normally considered a part of the structure i.e., form boards, cellulose debris, roots, stumps, landscaping wood/ lumber, etc., the report shall so state;
- (iv) Diagrammatic representation of areas infested sufficient to identify the approximate location of areas infested;
- (h) Optional method of control. When infestations of dampwood termites or rot fungus are localized in a structure, or observed only in wood which is not normally considered a part of the structure, such as form boards, cellulose debris, roots, stumps, landscaping wood/lumber, it shall be stated in the report that such infestations may be eliminated by removal of all infested wood and correction of any contributing conducive conditions;
 - (i) Damage caused by wood destroying organisms:
 - (i) A statement describing any damage which was observed in accessible areas of the structure which were not excluded from the inspection.
 - (ii) A diagrammatic representation indicating such areas of damage;
 - (j) Conducive conditions for an infestation of wood destroying organisms. Written statements and diagrammatic representation of the following shall be provided:
 - (i) Inadequate clearance: Where there is less than eighteen inches clear space between the bottom of floor joists and the unimproved ground area in any crawl space or portion thereof.
 - (ii) Earth-wood contact: Where wood of the structure is in direct contact with the soil. This does not include wood that has been treated for direct soil contact.
 - (iii) Cellulose debris: Where wood by-product material can be raked or is larger than can be raked, or where any stumps, roots, form boards, etc., are on the ground of a crawl space.
 - (iv) Excess moisture: Where there is standing water or evidence of seasonal standing water in crawl space or basement. Plumbing and other moisture leaks.
 - (v) Inadequate ventilation: Where there is detectable excessive moisture content in the wood of a substructure, and/or an active infestation of wood destroying organisms which can be attributed to the lack of sufficient ventilation in the substructure;
- (k) A record of the complete wood destroying organism inspection report shall be maintained on file by the structural inspector or employer for a period of seven years. Such record shall be made available to the department upon request.

NEW SECTION

WAC 16-228-2020 Inspection and report prerequisite to wood destroying organism treatment. All persons licensed to conduct wood destroying organism inspections shall conduct either a limited or complete wood destroying organism inspection prior to treatment.

(1) A limited or complete wood destroying organism inspection shall be conducted and a report issued to the person paying for and/or otherwise requesting the

inspection prior to the contracting of any treatment for wood destroying organisms, except when the treatment is for preventative purposes only. In situations when treatment is for preventative purposes, the person requesting treatment shall provide the following preauthorization:

I have requested that perform a preventative treatment for control of on the structure located at I acknowledge that this preventative treatment may be performed without inspection.

(2) A limited or complete wood destroying organism inspection report or treatment preauthorization form shall accompany or be included within any proposal/estimate for treatment of wood destroying organisms.

(3) When no evidence of infestation is observed, and any proposed treatment is for preventative purposes only, a limited or complete wood destroying organism inspection report shall include:

(a) A statement describing that no evidence of infestation was observed, and the treatment proposed is for preventative purposes only. Such statement shall stand out by having larger print than the main body of the report, or by being highlighted or underlined.

(b) The initials of the person, or representative thereof, that requested the inspection shall be inscribed directly under or adjacent to the statement as described in (a) of this subsection. Such initials shall be obtained prior to the commencement of any preventative treatment.

(4) Treatment performed for wood destroying organisms under an existing warranty shall not require the preparation of a limited or complete wood destroying organism inspection report.

NEW SECTION

WAC 16-228-2030 Limited wood destroying organism inspections. A limited wood destroying organism inspection shall not be construed as a complete wood destroying organism inspection. In no case shall a limited wood destroying organism inspection report be submitted in lieu of a complete wood destroying organism inspection report to a lending institution, title company, real estate office or agent, or other person, when a complete wood destroying organism inspection has been requested for the purpose of verifying that a structure is free of visible evidence of wood destroying organisms, their damage, or conducive conditions.

NEW SECTION

WAC 16-228-2040 Reporting criteria for limited wood destroying organism inspections. All persons licensed to conduct wood destroying organism inspections shall comply with the following criteria when performing a limited wood destroying organism inspection.

(1) A limited wood destroying organism inspection report shall include the following: *Provided*, That all diagrammatic representations may be omitted from the

report provided to the person paying for or otherwise requesting the inspection, but shall be maintained on file pursuant to subsection (2) of this section:

- (a) Date of inspection;
 - (b) Name of person or agency requesting the inspection, proposal, or estimate;
 - (c) Address of structure inspected;
 - (d) Name of structural inspector and WSDA license number;
 - (e) A statement describing specific evidence of infestation(s) observed;
 - (f) If evidence of infestation(s) is observed only in wood which is not normally considered a part of the structure, i.e., form boards, cellulose debris, roots, stumps, landscaping wood/ lumber, etc., the report shall so state;
 - (g) Common name of wood destroying organisms. Termites shall be described as either dampwoods or subterraneans. Wood boring beetles shall be described by the appropriate family name, i.e., anobiidae (deathwatch beetles). Buprestid and Cerambycid beetles shall not be described as "powder post beetles";
 - (h) A diagrammatic representation of area of infestation sufficient to identify the appropriate location of areas infested: *Provided*, That a diagram shall not be necessary when the homeowner/caretaker presents an insect and/or wood sample to the inspector, and this is the only evidence of infestation(s) observed;
 - (i) Optional method of control: When infestations of dampwood termites or rot fungus are localized in a structure, or observed only in wood which is not normally considered a part of the structure, such as form boards, cellulose debris, roots, stumps, landscaping wood/lumber, it shall be stated in the report that such infestations may be eliminated by removal of all infested wood and correction of any contributing conducive conditions.
- (2) A record of the limited wood destroying organism inspection report shall be maintained on file by the structural inspector or employer for a period of one year. Such records shall be made available to the department upon request.

Chapter 16-202 WAC

APPLICATION OF PESTICIDES AND PLANT NUTRIENTS THROUGH IRRIGATION SYSTEMS

NEW SECTION

WAC 16-202-1000 Chemigation. After October 31, 1988, the following shall apply:

- (1) No pesticide may be applied through an irrigation system, unless its registered label contains statement(s) specifically permitting this means of application: *Provided*, That applications of spray adjuvants are exempt from requirements of this section.
- (2) Any person calibrating, loading, starting up, monitoring during application, or shutting down a chemigation system shall be knowledgeable about the system, and shall be under the direct supervision of a certified applicator.
- (3) Any irrigation system used for chemigation shall contain the following functional equipment:

(a) A backflow prevention device or system in the water supply line, upstream from the point of pesticide introduction. Discharge of water into a reservoir tank prior to pesticide injection is acceptable: *Provided*, That there is an air gap between the outlet end of the fill pipe and the top (or overflow rim) of the reservoir tank of at least twice the inside diameter of the fill pipe;

(b) An automatic, quick-closing check valve in the pesticide injection pipeline to prevent the flow of liquid back toward the injection pump;

(c) A normally closed, solenoid-operated valve located on the intake side of the injection pump, connected with the system interlock to prevent fluid from being withdrawn from the supply tank during shutdown;

(d) An interlocking control to automatically shut off the injection pump when the water pump stops or when water pressure decreases to a point where pesticide distribution is affected; and

(e) A metering pump fitted into the system interlock specified in (d) of this subsection.

(4) The department may issue permits exempting specific irrigation systems or locations from requirements of subsection (3) of this section: *Provided*, That alternative technology is substituted which will adequately fulfill the function of each waived requirement. In evaluating a permit request, the department may consult qualified engineers and Washington State University personnel.

NEW SECTION

WAC 16-202-2000 Fertigation The following shall apply to fertigation: (1) Any irrigation system used for fertigation shall contain the following functional equipment:

(a) A backflow prevention device or system in the water supply line, upstream from the point of fertilizer introduction. Discharge of water into a reservoir tank prior to fertilizer injection is acceptable: **PROVIDED**, that there is an air gap between the outlet end of the fill pipe and the top (or overflow rim) of the reservoir tank of at least twice the diameter of the fill pipe;

(b) An automatic, quick-closing check valve in the fertilizer injection pipeline to prevent the flow of the liquid back toward the injection pump;

(c) A normally closed, solenoid-operated valve located on the intake side of the injection pump, connected with the system interlock to prevent fluid from being withdrawn from the supply during shutdown;

(d) An interlocking control to automatically shut off the injection pump when the water pump stops or when water pressure decreases to a point where fertilizer distribution is affected;

(e) A metering pump fitted into the system interlock specified in (d) of this subsection.

(2) The department may issue permits exempting specific irrigation systems or locations from requirements of subsection (1) of this section: *Provided*, That alternative technology is substituted which will adequately fulfill the function of each waived requirement. In evaluating a permit request, the department may consult qualified engineers and Washington State University personnel.

REPEALERS

The following sections of the Washington Administrative Code are repealed:

- WAC 16-10-010, Definitions
- WAC 16-10-020, Rights of complainants
- WAC 16-10-030, Rights of persons aggrieved
- WAC 16-200-742, Fertigation
- WAC 16-228-010, Definitions
- WAC 16-228-020, Pesticide Licenses-Renewal dates-Penalties
- WAC 16-228-115, Pesticide labeling requirements
- WAC 16-228-116, Complete pesticide formula
- WAC 16-228-117, Home and garden products—Definition—Registration fee
- WAC 16-228-120, Artificial coloring
- WAC 16-228-125, Experimental use permits
- WAC 16-228-130, Pesticide-fertilizer registration and labeling
- WAC 16-228-140, Pesticide-fertilizer mix restrictions
- WAC 16-228-143, Pirt surcharge
- WAC 16-228-145, Adequate containers
- WAC 16-228-155, Pesticides—Not for distribution to home and garden
- WAC 16-228-157, Waste pesticide disposal
- WAC 16-228-160, Restriction on distribution, transportation, storage and disposal
- WAC 16-228-161, Distribution records
- WAC 16-228-162, Phenoxy herbicide restrictions
- WAC 16-228-164, State restricted use pesticides for use by certified applicators
- only
- WAC 16-228-166, Aquatic pesticides
- WAC 16-228-168, Change of exemptions
- WAC 16-228-170, Pesticide dealer and dealer manager licenses
- WAC 16-228-172, Permits
- WAC 16-228-180, License denied, revoked or suspended
- WAC 16-228-185, Restrictions applying to any person holding, handling, using,
- or disposing of pesticides and their containers
- WAC 16-228-190, Applicator requirements
- WAC 16-228-195, Compliance with federal requirements
- WAC 16-228-210, Financial responsibility insurance certificate (FRIC)
- WAC 16-228-213, Requirements on placement of commercial applicator
- apparatus license plates and windshield identification
- WAC 16-228-214, Apparatus display signs
- WAC 16-228-215, Application fee and FAA certificate
- WAC 16-228-220, Examination requirements
- WAC 16-228-223, Ground maintenance on an occasional basis—Exempt from
- licensing requirements
- WAC 16-228-225, Regulation of application of vertebrate control pesticides

WAC 16-228-227, Tributyltin
WAC 16-228-230, Special restrictions on the use of Compounds 1080, 1081 and phosphorus paste
WAC 16-228-232, Chemigation
WAC 16-228-233, Investigative response time
WAC 16-228-400, Inspection and reporting criteria for complete wood destroying organism inspections
WAC 16-228-410, Inspection and report prerequisite to wood destroying organism treatment
WAC 16-228-420, Limited wood destroying organism inspections
WAC 16-228-430, Reporting criteria for limited wood destroying organism inspections
WAC 16-228-600, Use of pesticides on small seeded vegetable seed crops and seed alfalfa
WAC 16-228-650, Declaration of an agricultural emergency
WAC 16-228-655, Agricultural activities permitted under an agricultural emergency
WAC 16-228-660, Record keeping required for agricultural emergencies
WAC 16-228-905, Statement of purpose—Penalty assignment
WAC 16-228-910, Definitions—Penalty assignment
WAC 16-228-915, Calculation of penalty
WAC 16-228-920, Penalty Assignment Schedule-Table A
WAC 16-228-925, Penalty Assignment Schedule-Table B
WAC 16-228-930, Other dispositions of alleged violations
WAC 16-228-14501, Sale or possession of sodium fluoracetate, fluoracetamide, and phosphorus pastes