

State of Washington

Agriculture

(agency name)

Administrative Order No. 1680

(1) I, Bob J. Mickelson, director of Agriculture

do promulgate and adopt at Olympia, Washington (place)

the annexed rules relating to: The use of restricted use herbicides in all counties located east of the crest of the Cascade Mountains in WAC 16-230-600; WAC 16-230-605; WAC 16-230-610; WAC 16-230-615; WAC 16-230-620; WAC 16-230-625; WAC 16-230-630; WAC 16-230-635; WAC 16-230-640; WAC 16-230-645; WAC 16-230-650; WAC 16-230-655; WAC 16-230-660; WAC 16-230-665; WAC 16-230-670; and WAC 16-230-675.

(2) ALTERNATIVE A. Use only for Adoption of Permanent Rules. WSR 80-02-071

This action is taken pursuant to Notice No. WSR 79-10-142 and filed with the code reviser on 10/27/79 and 1/18/80. Such rules shall take effect:

- [x] pursuant to RCW 34.04.040(2).
[] at a later date, such date being

(2) ALTERNATIVE B. Use only for Adoption of Emergency Rules.

I, find that an emergency exists and that the foregoing order is necessary for the preservation of the public health, safety, or general welfare and that observance of the requirements of notice and opportunity to present views on the proposed action would be contrary to public interest. A statement of the facts constituting such emergency is:

Such rules are therefore adopted as emergency rules to take effect upon filing with the code reviser.

(3) Pursuant to the requirements of RCW 34.04. (1977 c 19 § 2) that every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules (fill in statement (a), (b), or (c) as appropriate):

- [x] (a) This rule is promulgated pursuant to RCW 17.21 and 15.58 and is intended to administratively implement that statute.
[] (b) This rule is promulgated pursuant to RCW which directs that the

(agency)

has authority to implement the provisions of

(name of act or RCW citation)

- [] (c) This rule is promulgated under the general rule-making authority of the

(agency)

as authorized in RCW

(4) The undersigned hereby declares that he has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) or the Higher Education Administrative Procedure Act (chapter 28B.19 RCW), as appropriate, and the State Register Act (chapter 34.08 RCW).

(5) This order after being first recorded in the order register of this agency is herewith transmitted to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED February 15 19 80

FEB 20 1980

By Bob J. Mickelson

Director of Agriculture

Title

CODE REVISER'S OFFICE WSR 80-03-041

NEW SECTION

WAC 16-230-600 HIGH VOLATILE ESTER AND DUST FORMULATIONS AND AREA UNDER ORDER. (1) The distribution, use and application of all high volatile ester and dust formulations of restricted use herbicides shall be prohibited throughout the state.

(2) WAC 16-230-605 through WAC 16-230-675 shall apply to all counties located east of the crest of the Cascade Mountains.

NEW SECTION

WAC 16-230-605 SPECIFIC COUNTY ORDERS. The regulations in this order will not preclude any additional restrictions on the application of restricted use herbicides provided for in regulations for specific counties located east of the Cascade Mountains.

NEW SECTION

WAC 16-230-610 RESTRICTED USE HERBICIDES AND DEFINITIONS. (1) All formulations of Dicamba (Banvel) and all formulations of phenoxy hormone-type herbicides including 2,4-D, 2,4,5-T and MCPA are by this order declared to be restricted use herbicides.

(2) High and low volatile esters mean those formulations labeled as high and low volatile in Interpretation 17, Revision 1 of Title 7 under the Federal Insecticide, Fungicide, and Rodenticide Act. High volatile 2,4-D includes those esters with five or less carbon atoms, such as but not limited to methyl, ethyl, isopropyl, n-butyl, isobutyl, and n-pentyl.

(3) Commercial vineyard means a parcel of land from which the grape crop is intended to be sold to a processor or for commercial fresh market.

NEW SECTION

WAC 16-230-615 SALE AND DISTRIBUTION. Liquid formulations of restricted use herbicides distributed in packages of one gallon and larger in counties located east of the crest of the Cascade Mountains shall be sold and distributed only by licensed pesticide dealers to certified applicators or their duly authorized representatives.

NEW SECTION

WAC 16-230-620 LOW VOLATILE. The sale of low volatile formulations of restricted use herbicides in containers of less than one gallon is prohibited.

NEW SECTION

WAC 16-230-625 MIXING AND LOADING. The mixing of restricted use herbicides, the loading and decontamination of equipment used to apply restricted use herbicides, and aircraft entering on to and exiting from landing sites must be done in a manner as not to cause possible damage to susceptible crops.

NEW SECTION

WAC 16-230-630 STORAGE. Restricted use herbicides shall not be stored in areas where their use is prohibited unless they are in a sealed container (tight screw type bungs, tightly closed lids or packages), and the outside of the containers not contaminated with the restricted use herbicide.

NEW SECTION

WAC 16-230-635 OIL-TYPE CARRIERS, EMULSIFIERS, AND SPREADER STICKERS. Oil-type carriers, emulsifiers and spreader stickers may be used when not in excess of one pint per acre: PROVIDED, That oil-type carriers in excess of one pint per acre may be used with invert systems: PROVIDED FURTHER, That invert systems may be used on aircraft by written permit only.

NEW SECTION

WAC 16-230-640 WEATHER AND TEMPERATURE CONDITIONS. Restricted use herbicides shall not be applied on or after May 1 through October 31 of each year when there is a temperature inversion; or throughout the year if weather conditions are such that damage could result to adjacent and nearby towns, susceptible crops and plantings through physical drift or volatilization, or the temperature is 85° F. or above at the point of application: PROVIDED, That application at the rate of fifty gallons or more per acre shall be exempt from the 85° F. temperature cutoff requirement.

NEW SECTION

WAC 16-230-645 EVENING CUTOFF. On and after May 1 through October 31 of each year, the application of restricted use herbicides shall be prohibited daily from three hours prior to sunset to sunrise the following morning: PROVIDED, That if there is a mean sustained legal wind velocity of not less than five miles per hour the application of restricted use herbicides shall be allowed in Areas 3 and 4 up to one hour prior to sunset in all counties under order except Benton, Franklin, Yakima, and Walla Walla counties.

NEW SECTION

WAC 16-230-650 APPLICATION PERMIT. The Washington State Department of Agriculture may issue a permit, upon receipt of a written request, to mix, load and apply certain restricted use herbicides for purposes of critical weed control when such activities are restricted in the area under order. The Director will consider recommendations of the 2,4-D Committee for the county in question.

NEW SECTION

WAC 16-230-655 GROUND EQUIPMENT PRESSURE REQUIREMENTS. Pressure shall not exceed 25 psi at the nozzles: PROVIDED, That pressure up to

50 psi at the nozzle may be used for an invert system and for equipment with handguns.

NEW SECTION

WAC 16-230-660 TURNING AND LOW FLYING OF AIRCRAFT. Aircraft carrying restricted use herbicides are prohibited from turning and/or low flying during spraying operations over cities and towns unless authorized by the city or town in question pursuant to an agreement for pesticide applications; or residences, windbreaks, orchards or susceptible crops belonging to any person other than the owner of the property being treated, except by permission of the person whose residence, windbreak, orchard or susceptible crop is involved.

NEW SECTION

WAC 16-230-665 AIRCRAFT RESTRICTIONS NEAR VINEYARDS. Aerial application of restricted use herbicides shall be prohibited within one mile of any commercial vineyard: PROVIDED, That the Washington State Department of Agriculture may approve written requests and issue permit for aerial application of restricted use herbicides that may be applied to lands located one-half to one mile from commercial vineyards. EXCEPTIONS are found in Franklin and Grant County orders.

NEW SECTION

WAC 16-230-670 AIRCRAFT BOOM LENGTH AND PRESSURE REQUIREMENTS. In all Areas 1 and 2, the working boom length on fixed wing aircraft shall not exceed 3/4 of the wing span and the working boom length on helicopters shall not exceed 6/7 of the total rotor length or 3/4 of the total rotor length where the rotor length exceeds forty feet.

Pressure for aerial equipment shall not exceed 25 psi at the nozzles: PROVIDED, That helicopters shall be allowed to use up to 35 psi in Area 3 and 4: PROVIDED FURTHER, That pressure up to 50 psi at the nozzle may be used with invert systems which are allowed by written permit only.

NEW SECTION

WAC 16-230-675 MINIMUM NOZZLE ORIFICE AND CORE PLATE SIZES FOR AIRCRAFT APPLICATION. Minimum nozzle orifice and core plate sizes shall be as listed in the Dormant Season, Caution, Warning, and Danger Area Restrictions. (1) DORMANT SEASON AREA. (Dormant season only - refer to specific county regulations.)

(a) Fixed wing -

(1) Minimum nozzle orifice of 0.063 inches (no core plate). Nozzles shall be directed downward and backward 135 degrees or more from the direction of flight.

(ii) Minimum nozzle orifice of 0.075 inches (may use No. 45 or larger core plate) and nozzles shall be directed downward and backward 170 degrees or more from the direction of flight.

(b) Helicopter -

Minimum nozzle orifice of 0.047 inches (may use No. 45 or larger core plate) and nozzles shall be directed downward and backward 90 degrees or more from the direction of flight. Pressure over 35 psi is prohibited.

(2) CAUTION AREA.

(a) Fixed wing -

(i) Minimum nozzle orifice of 0.075 inches (no core plate).

Nozzles shall be directed downward and backward 135 degrees or more from the direction of flight.

(ii) Minimum nozzle orifice of 0.125 inches (may use No. 45 or larger core plate). Nozzles shall be directed downward and backward 170 degrees or more from the direction of flight.

(b) Helicopter -

(i) Area 2 -

Minimum nozzle orifice of 0.063 inches (may use No. 46 or larger core plate). Nozzles shall be directed downward and backward 90 degrees or more from the direction of flight.

(ii) Areas 3 and 4 -

Minimum nozzle orifice of 0.063 inches (may use No. 45 or larger core plate). Nozzles shall be directed downward and backward 90 degrees or more from the direction of flight.

(3) WARNING AREA

(a) Fixed wing -

(i) Minimum nozzle orifice of 0.075 inches (no core plate).

Nozzles shall be directed downward and backward 135 degrees or more from the direction of flight.

(ii) Minimum nozzle orifice of 0.125 inches (may use No. 46 or larger core plate in all counties under order except Franklin County and Benton County). Nozzles shall be directed downward and backward 170 degrees or more from the direction of flight: PROVIDED, That RD8 nozzles with orifice size of 0.125 inches and No. 45 core plates may be used. Nozzles shall be directed downward and backward 170 degrees or more from direction of flight.

(iii) No flat fan nozzles shall be allowed.

(b) Helicopter -

(i) Minimum nozzle orifice of 0.047 inches for applications made under sixty miles per hour (no core plate) and minimum orifice of 0.063 for applications made over sixty miles per hour (no core plate). Nozzles shall be directed downward and backward 90 degrees or more from the direction of flight.

(ii) Minimum nozzle orifice of 0.125 inches (may use No. 46 or larger core plate in all counties under order except Franklin County and Benton County). Nozzles shall be directed downward and backward 90 degrees or more from the direction of flight: PROVIDED, That RD8 nozzles with orifice size of 0.125 inches and No. 45 core plates may be used.

(iii) No flat fan nozzles shall be allowed.

(4) DANGER AREA

(a) Fixed wing - Minimum nozzle or

(i) Minimum nozzle orifice of 0.075 inches (no core plate):

PROVIDED, That RD8 nozzles with orifice size of 0.125 inches and No. 46 core plates may be used. Nozzles shall be directed downward and backward 170 degrees or more from the direction of flight.

(ii) No flat fan nozzles shall be allowed.

(b) Helicopter -

(i) Minimum nozzle orifice of 0.063 inches (no core plate):

PROVIDED, That RD8 nozzles with orifice size of 0.125 inches and core plate No. 46 may be used. Nozzles shall be directed downward and backward 90 degrees or more from the direction of flight.

(ii) No flat fan nozzles shall be allowed.



STATE OF
WASHINGTON

Dixy Lee Ray
Governor

DEPARTMENT OF AGRICULTURE

406 General Administration Building, Olympia, Washington 98504

For the purpose of legislative review of agency rules, the following statement is submitted:

- (1) This rule relates to the use and application of restricted use herbicides in eastern Washington counties. Statutory authority is RCW 17.21 and RCW 15.58.
- (2) The sections codified under WAC Chapters 16-230, 16-231 and 16-232 are established to regulate the use of restricted use herbicides to protect susceptible crops from drift of these herbicides.
- (3) Department of Agriculture
Grain and Chemical Division
Art G. Losey
406 General Administration Bldg. AX-41
Olympia, WA 98504
Phone: 753-5062
- (4) Proponents:
Department of Agriculture
- (5) No agency comments