

FROM: Department of Agriculture
(Name of Agency)

TO: CODE REVISER
LEGISLATIVE BLDG. (Southwest Corner, Ground Floor)
OLYMPIA 98504

The enclosed rules Permanent rules , being Order No. 1538
Emergency rules

relating to (Name of rules or description of subject matter)

Registration, distribution, use, transportation and storage of pesticides

(ALTERNATIVE A. Use only for adoption of permanent rules)

pursuant to Notice No. 7625 ^① filed with the code reviser
on 6/23/77 ^② were regularly adopted as permanent rules of
(date)
this agency at Olympia on 7/29/77 and are herewith
(place) (date)
filed in the office of the code reviser pursuant to chapter 34.04
RCW. The effective date of such rules shall be 9/1/77 ^③

(ALTERNATIVE B. Use only for adoption of emergency rules)

pursuant to its finding in the attached administrative order,
that the immediate adoption of these rules 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 the
public interest, were regularly adopted as emergency rules of this
agency at _____ on _____ and
(place) (date)
are herewith filed in the office of the code reviser pursuant to
chapter 34.04 RCW.

The undersigned hereby certifies that the requirements of chapter
34.04 RCW and of the Open Public Meetings Act of 1971, chapter
42.30 RCW have been fulfilled.

Dated this 29th day of July 1977.

STATE OF WASHINGTON

FILED

JUL 29 1977

Department of Agriculture

(AGENCY)

Sory L. Stokman
By

Director

CODE REVISER'S OFFICE

DOCKET # 1538 FILE # 30

Title

① Notice number as appears on the copy of notice returned to you by
reviser's office (if proceedings were continued, use no. of last notice)
② Stamped date as appears on the copy of notice returned to you by
reviser's office (if proceedings were continued, use date of last notice)
③ Unless a later date is specified in this order or is prescribed in
another statute, rules are effective 30 days after filing:
RCW 34.04.040. Leave this space blank except in such special cases.
[Order 9, filed 9/25/74, eff. 10/25/74] [Form CR-2: Rev. 9/21/74]

STATE OF WASHINGTON
DEPARTMENT OF AGRICULTURE

Administrative Order No. 1538

(1) I, Gary Strohmaier, director of agriculture of the State of Washington, after due notice and in a meeting open to the public, held at the Yakima County Court House, Yakima, Washington on July 13, 1977, as required by chapters 34.04 and 42.30 RCW, do promulgate and adopt as permanent rules of this agency, the annexed rules:

AMD: Title 16, chapter 16-228, WAC 16-228-010, WAC 16-228-155, WAC 16-228-160, WAC 16-228-165, WAC 16-228-180, WAC 16-228-185, WAC 16-228-190, and WAC 16-228-225;

ADD: Title 16, chapter 16-228, WAC 16-228-168, WAC 16-228-172, WAC 16-228-174, WAC 16-228-176, and WAC 16-228-178;

REPEAL: WAC 16-228-001, WAC 16-228-150, WAC 16-228-175 and WAC 16-228-200 relating to the registraton, distribution, use, transportation and storage of pesticides.

(2) Appropriate statement of state statutory authority as required by RCW 34.04. This rule is promulgated pursuant to RCW 15.58 and RCW 17.21 and is intended to administratively implement that statute.

(3) This order after being first recorded in the order register of this agency shall be forwarded to the Code Reviser for filing pursuant to chapter 34.04 RCW and chapter 1-12 WAC.

APPROVED AND ADOPTED July 29, 1977

By Gary I. Strohmaier
Director of Agriculture

AMENDATORY SECTION

WAC 16-228-010 DEFINITIONS. (1) (~~"Apparatus" means any type of ground, water or aerial equipment, device or contrivance using motorized, mechanical or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating or stored on or in such land, but shall not include any pressurized hand-sized household device used to apply any pesticide or any equipment, device or contrivance of which the person who is applying the pesticide is the source of power or energy in making such pesticide application.~~) "Agricultural Commodity" means any plant, or part thereof, 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 man or animals.

(2) "Authorized Agent" is any person who is authorized to act on behalf of ((an ultimate user)) a certified applicator for the purpose of purchasing pesticides listed in WAC 16-228-165(1).

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

(4) "Bait Station" may be any location where baits are placed to allow rodents to gain access to the bait.

(5) "Bulk Fertilizer" is a commercial fertilizer, agricultural mineral, or lime, distributed in non-packaged form.

(6) "Certified Applicator" means any individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA as a restricted use pesticide or by the state as restricted to use by certified applicators including, but not limited to licensed commercial applicators, licensed commercial operators, licensed public operators, licensed private-commercial applicators, certified demonstration and research applicators, and certified private applicators.

~~((6))~~ (7) "Controlled(~~Dump~~) Disposal Site" means any place where solid or liquid waste is ((dumped for disposal purposes)) disposed: PROVIDED, That the area has been designated as a disposal site for waste materials by the jurisdictional health officer: 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.

(8) "Demonstration and Research Applicator" means (1) individuals who demonstrate to the public the proper use and techniques of application of EPA or state restricted use pesticides or supervise such demonstration, and (2) persons conducting field research with pesticides, and in doing so, use or supervise the use of EPA or state restricted use pesticides.

(9) "Direct Supervision" by (a) certified private applicators and private-commercial applicators shall mean that the designated restricted use pesticide shall be applied by a competent person acting under the instructions and control of a certified applicator certified in the category for which the pesticide is being applied who is available if and when needed, even though such certified applicator is not physically present at the time and place of the pesticide is being applied. The certified applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied; and (b) direct supervision by all other certified applicators means direct on-the-job-supervision.

~~((7))~~ (10) "Dry Pesticide" is any granular, pelleted, dust or wettable powder pesticide.

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

(12) "EPA Restricted Use Pesticide" means any pesticide with restricted uses as classified for restricted use by the Administrator, EPA.

~~((8))~~ (13) "Fertilizer" as included in this order means any liquid or dry mixed fertilizer, fertilizer material, specialty fertilizer, agricultural mineral, or lime.

(14) "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act as amended.

~~((9))~~ (15) "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.

~~((10))~~ (16) "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.

~~((11))~~ (17) "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.

~~((12))~~ (18) "Highly Toxic" for the purpose of this order, are those pesticides determined to be in the Toxicity Category I and are labeled on the front panel with the signal word "Danger". In addition if the product was assigned to Toxicity Category I on the basis of its oral, inhalation or dermal toxicity (as distinct from skin and eye local effects) the word "Poison" shall appear in red on a background of distinctly contrasting color and the skull and crossbones shall appear in immediate proximity to the word "Poison".

~~((13))~~---"Official-Washington-State-University-Recommendation"-is-any-recommendation-issued-by-Washington-State-University-in-accordance-with-the-published-policy-and-procedures-of-the-Cooperative-Extension-Service-and-the-Agriculture Research-Center-

~~(14)~~---"Person"-means-a-natural-person,-individual,-firm,-partnership,-corporation,-company,-society,-association,-or-any-organized-group-of-persons whether-incorporated-or-not,-and-every-officer,-agent-or-employee-thereof.--This term-shall-import-either-singular-or-plural-as-the-case-may-be-

~~(15)~~---"Pesticide-Dealer"-is-any-person-who-distributes-any-of-the-following pesticides:

~~(a)~~---"Highly-toxic"-pesticides-and/or

~~(b)~~---"Restricted-use-pesticides"-which-by-regulation-are-restricted-to distribution-by-licensed-pesticide-dealers-only-and/or

~~(c)~~---Any-other-pesticide-except-those-pesticides-in-consumer-sized-packages no-larger-than-one-gallon-liquid-measure-or-five-pounds-dry-weight-and-which-are labeled-and-intended-for-home-and-garden-use-only;-and-except-fertilizer-pesticide-mixes-when-distributed-in-packages-of-fifty-pounds-or-less-for-home-and garden-use-only-

~~(16)~~---"Pesticide-fertilizer-mix"-is-a-mixture-of-a-pesticide-or-pesticides and-a-fertilizer-

~~(17)~~---"Ultimate-User"-for-the-purpose-of-this-order,-shall-be-any-commercial producer,-licensed-or-certified-pesticide-applicator-or-operator,-or-government agency-purchasing-pesticides-listed-in-WAC-16-228-165(1)-)

(19) "Private Applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators by the director for the purposes of producing any agricultural commodity on land owned or rented by him or his employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(20) "Private-Commercial Applicator" means a certified applicator who uses or supervises the use of (a) any EPA restricted use pesticide; or (b) any state restricted use pesticide restricted to use only by certified applicators for purposes other than the production of any agricultural commodity on lands owned or rented by him or his employer.

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

(22) "Unreasonable Adverse Effects on the Environment" means any unreasonable risk to man 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.

AMENDATORY SECTION

WAC 16-228-155 ~~RESTRICTED USE PESTICIDES ((FOR-COMMERCIAL-AND-GOVERNMENT AGENCY-USE-ONLY-))~~ RESTRICTED USE PESTICIDES ((FOR-COMMERCIAL-AND-GOVERNMENT AGENCY-USE-ONLY-)) NOT FOR USE BY HOME AND GARDEN USERS. (1) The following pesticides are hereby declared to be restricted use pesticides in the state of Washington because of their toxicity to man and animals and shall not be sold to home and garden users. The following pesticides will be registered only when manufactured, labeled, delivered, distributed, sold, or held for sale for use by commercial producers and/or commercial applicators or governmental agencies experienced in the application of pesticides (~~((--Such-pesticides-shall not, under any circumstances, be registered for sale or distribution if labeled for home or garden use))~~):

1. Aluminum Phosphide (Phostoxin)
2. Arsenic Trioxide (1.6% and above except for the control or eradication of crabgrass and the container thereof is restrictively labeled for such.
3. Azodrin
4. Bidrin
5. Castrix
6. Dasanit
7. Delnav (25.1% and above)
8. DiNitro-O-Cresol (DNOC)
9. DiNitro-O-Sec Butyl Phenol (DNOSBP)
10. DiSystem (2.1% and above)
11. Dyfonate (11% and above)
12. Endothall (20% and above)
13. Endrin (2.5% and above)
14. EPN
15. Ethion (26% and above)
16. Furadan (Carbofuran)
17. Guthion (16% and above)
18. Hydrogen Cyanide (Hydrocyanic acid) (HCN)
19. Methomyl (Lannate or Nudrin) (2% and above)
20. Methyl Bromide
21. Methyl Demeton (Meta Systox) (25% and above)
22. Methyl Parathion
23. Monitor (40% and above)
24. OMPA (Schradan)
25. Paraquat (cation equivalent - .5% and above)
26. Parathion
27. Phosdrin
28. Phosphamidon
29. Phosphorus paste (further restricted in WAC 16-228-14501)
30. PMA - Phenyl Mercuric Acetate (1.5% and above)
31. Sodium Arsenite
32. Sodium Selanate
33. Strychnine and its salts (Strychnine Alkaloid 1.1% and above)
34. Systox (Demeton)
35. Temik
36. 1080 and 1081 (further restricted in WAC 16-228-14501)
37. TEPP
38. Thallium compounds (banned for all rodenticide uses)
39. Thimet
40. Trithion (liquid and wettable powder 26% and above; granular and dust 11% and above)
41. Zinc Phosphide (2.1% and above)
42. Zinophos

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

AMENDATORY SECTION

WAC 16-228-160 RESTRICTION ON DISTRIBUTION, TRANSPORTATION, STORAGE AND DISPOSAL. (1) No person shall handle, transport, store, display, or distribute pesticides in such a manner as to endanger man and his 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 his 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 must 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.

~~((3))~~ (6) Pesticides shall not be delivered to a pesticide consignee unless the consignee or his agent is present to accept delivery of the pesticides and signs a delivery slip and/or the pesticides are secured in a proper storage.

~~((4))~~ (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. Pesticide products shall not be packaged, sacked, or boxed with any of the above. 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) Pesticide dealers shall post in a conspicuous place a list of persons to contact in case of a pesticide accident. This list shall include the name and address of the nearest poison control center, the Washington State Department of Social and Health Services, the Community Pesticide Study Project Laboratory in Wenatchee, the county extension agent, the Department of Agriculture offices in Yakima and Olympia, and the local health officer. All pesticide accidents must

be reported to the Washington State Department of Social and Health Services.

~~((5))~~ (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 man and/or animals. Pesticides with obscured or damaged labels shall not be displayed or offered for sale.

~~((6))~~ (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 such container its registered pesticide label.

~~((7--No person shall dispose of, discard, or store any pesticide or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, live stock, wildlife, pollinating insects or to pollute any water supply or waterway.))~~

~~((8))~~ (12) The distribution and use of DDT and DDD shall be prohibited in this state except for the uses determined to be "essential uses" as determined by the Pesticide Control Board as provided for in the Washington Pesticide Control Act, chapter 15.58 RCW, 15.58.390.

AMENDATORY SECTION

WAC 16-228-165 STATE RESTRICTED USE PESTICIDES FOR USE BY CERTIFIED APPLICATORS ONLY -- REQUIREMENTS FOR USER PERMITS. (1) The following pesticides are hereby declared to be ~~((highly-toxic-and))~~ state restricted use pesticides and shall ~~((not))~~ be ~~((sold-or-made-available-to-any-ultimate-user-unless-such-ultimate-user-has-obtained-an-annual-user-permit--PROVIDED, That any commercial pesticide applicator or operator, public operator, private applicator, private-commercial applicator licensed or certified under the provisions of chapters 15.58 and 17.21 RCW, shall not be required to obtain this permit--PROVIDED FURTHER, That private applicators and private commercial applicators shall not be exempt from obtaining a user permit for the purchase of 2,4-D and Tordon 22K as listed in WAC 16-228-165))~~ 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 (refer to definition of "direct supervision"). Any EPA restricted use pesticide not listed shall be distributed and used only under these restrictions:

- (a) Azodrin
- (b) Bidrin
- (c) DDD and DDT (for essential uses determined by law)
- (d) DiSyston - Liquid
- (e) Endrin - 2.5% and above
- (f) Parathion & Methyl Parathion - 1.1% and above
- (g) Phosdrin
- (h) Schradan (OMPA)
- (i) Sodium Arsenite
- (j) Systox (Demeton)
- (k) Temik
- (l) TEPP
- (m) Thimet (Phorate) - Liquid
- (n) Tordon 22K - For use on rangeland and permanent grass pastures east of the crest of the cascade Mountains.

(o) 2,4-D - All formulations distributed in packages of 1 gallon and larger to be used in counties located east of the crest of the Cascade Mountains. Pesticide dealers shall be required to furnish the purchaser with a copy of the regulations covering the use of 2,4-D in the area in which the material will be applied.

(p) Zinophos

(2) User permits will be furnished by the Washington State Department of Agriculture pesticide branch and may be issued by a licensed pesticide dealer.

(3) ~~((An-ultimate-user))~~ A certified private applicator or private-commercial applicator may list on his permit the name or names of authorized agent(s) for the purpose of purchasing or receiving above listed pesticides ~~((for-the ultimate-user))~~.

(4) Permits shall be on a form furnished by the director and shall include the following:

(a) Permit number

(b) Date of issuance

(c) Name and address of the ~~((ultimate-user))~~ certified applicator

(d) Crops and acreage to which the pesticides will be applied.

(e) Name of authorized agent(s)

(f) Any other information prescribed by the director.

(5) A copy of the permit shall be issued to the ~~((user))~~ certified applicator and a duplicate shall be retained by the pesticide dealer. Permits shall expire on December 31 of each year.

(6) ~~((Licensed-or))~~ Certified applicators ~~((or-operators))~~ may designate authorized agent(s) for the purpose of purchasing or receiving the restricted use pesticide listed in WAC 16-228-165 (1) by making previous arrangements with the pesticide dealer or the authorized agent provides written authorization to the dealer at the time of purchase. At the time of purchase the pesticide dealer shall require the certified applicator's ~~((or-operator's))~~ name and license or certification number.

(7) Licensed dealers shall keep records on each sale of these restricted use pesticides which shall include the following:

(a) Name and address of ~~((ultimate-user))~~ the certified applicator

(b) Applicator or operator certificate or license number

(c) Name of authorized agent

(d) Date of purchase

(e) Brand and specific pesticide name

(f) Percent active ingredient or pounds active ingredient per gallon

(g) For DDT & DDD - rate of formulation to be applied per acre

(h) Amount sold

(i) Crop to which pesticide will be applied

(8) Pesticide dealers shall keep permits and dealer records 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 16-228-168 CHANGE OF EXEMPTIONS. The licensing exemption for landscape gardeners provided in RCW 17.21, Section 17.21.205; jurisdictional health officers as provided for in RCW 17.21, Section 17.21.220; and research personnel provided for in RCW 17.21, Section 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 16-228-172 PERMITS. A private applicator certification, demonstration and research applicator certification, and a private-commercial applicator license shall be considered as certified applicator permits as provided for in RCW 17.21, Section 17.21.030 and RCW 15.58.040(2)(h).

NEW SECTION

WAC 16-228-174 PRIVATE COMMERCIAL APPLICATOR LICENSE. It shall be unlawful for any person to act as a private-commercial applicator without having obtained a private-commercial applicator's license from the director. Any person applying for such private-commercial applicator's license shall file an application on a form prescribed by the director. Such application shall state the classifications the applicant is applying for and the method in which these pesticides are to be applied.

The director shall not issue a private-commercial applicator's license before such applicant has passed an examination to demonstrate to the director (1) his ability to apply pesticides in the classification he has applied for, and (2) his knowledge of the nature and effect of pesticides applied under such classifications. The director may renew any applicant's license under the classification for which such applicant is licensed, subject to examination for new knowledge that may be required to apply pesticides. A private-commercial applicator's license shall be valid (1) until revoked, or (2) the director determines that a re-examination is necessary and the licensee does not qualify.

NEW SECTION

WAC 16-228-176 PRIVATE APPLICATOR CERTIFICATION. It shall be unlawful for any person to act as a private applicator without first complying with the certification requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the applicator or other persons, for that specific pesticide use. In determining certification standards, the director shall take into consideration standards of the EPA. A private applicator certification issued by the director shall be valid until revoked or the director determines that a re-examination is necessary and the private applicator does not qualify. If the director does not qualify the private applicator under this section, he shall inform the applicant in writing of the reasons therefore. The licensing exemption for forest landowners and farmers provided for in RCW 17.21, Section 17.21.200 shall not apply to the private applicator certification when applying EPA restricted use pesticides or state restricted use pesticides which are restricted to use by certified applicators only.

NEW SECTION

WAC 16-228-178 DEMONSTRATION AND RESEARCH APPLICATOR CERTIFICATION. It shall be unlawful for any person to act as a demonstration and research applicator without having obtained a demonstration and research applicator's certification from the director. Any person applying for this certification shall file an application on a form prescribed by the director.

The director shall not issue a demonstration and research applicator's certificate before such applicant has passed an examination to demonstrate to the director (1) his ability to apply pesticides, (2) his knowledge of the nature and effect of pesticides to be applied. The director may renew any applicant's certification subject to examination for new knowledge that may be required to apply pesticides. A demonstration and research applicator's certificate shall be valid (1) until revoked, or (2) the director determines that a re-examination is necessary and the licensee does not qualify.

AMENDATORY SECTION

WAC 16-228-180 LICENSE DENIED, REVOKED OR SUSPENDED. (1) The director may deny, suspend, or revoke ~~(-a-pest-control-consultant's, pesticide-dealer's-or-pesticide-dealers-manager's-license-if-he-determines-that-an-applicant-or-licensee))~~ any provision of a license, permit or certification issued under RCW 17.21 and RCW 15.58 if he finds that the applicant or the holder of the license, permit, or certification has committed any of the following acts, each of which is declared to be a violation:

- (a) Made false or fraudulent claims through any public media such as newspaper, newsletter, TV or radio, misrepresenting the effect of pesticide or application 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, or in violation of the EPA or Washington State restrictions on the use of that pesticide: PROVIDED, That a person will not be in violation when following current EPA Pesticide Enforcement Policies;
- (c) Applied known ineffective or improper pesticides or materials;
- (d) Operated a faulty or unsafe apparatus;
- ~~((b))~~ (e) ~~(Performed)~~ Operated in a faulty, careless or negligent manner;
- ~~((e))~~ (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;
- ~~((d))~~ (g) Refused or neglected to keep and maintain records required by chapter 15.58 RCW and regulations adopted thereunder, or ~~(-of-any-lawful-order-of-the-director))~~ to make reports when and as required;
- (h) Made false or fraudulent records, invoices, or reports;
- (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 RCW 17.21;
- (k) Used, recommended, or supervised the use of a pesticide which is restricted to use by certified applicators without having qualified as a certified applicator;
- ~~((e))~~ (1) Used fraud or misrepresentation in making an application for a license, permit, or certification or ~~((a))~~ renewal of a license, permit or certification;

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

~~((f))~~ (n) Aided or abetted a certified applicator, or licensed ~~((or-an unlicensed))~~ person or an uncertified or unlicensed person to evade the provisions of chapters 17.21 and 15.58 RCW, ~~((combined-or))~~ conspired with such a certified applicator or licensed ~~((or-unlicensed))~~ 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 ~~((an-unlicensed))~~ another person;

~~((g))~~ (o) Made false, misleading ~~((or-erroneous))~~ statements or reports during or after an inspection concerning any infestation or infection of pests found on land;

~~((h))~~ (p) Made false or fraudulent reports and/or recommendations;

~~((i))~~ (q) Impersonated any state, county, or city inspector or official; ~~((or-))~~

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

(s) To have in his 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.

AMENDATORY SECTION

WAC 16-228-185 RESTRICTIONS APPLYING TO ANY PERSON HOLDING, HANDLING, USING, OR DISPOSING OF PESTICIDES AND THEIR CONTAINERS. (1) Any person applying pesticides to blooms of fruits, cover crops, and other plants shall regulate the timing and technique of application to minimize hazard to commercially important pollinating insects.

(2) No person shall transport, handle, store, load, apply, or dispose of any pesticide ~~((or-))~~, pesticide container or apparatus in a manner that will pollute water supplies or waterways, or cause damage or injury to land, including humans, desirable plants and animals, pollinating insects, 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 local health department complies with the requirements of this subsection. Toxicity, volatility, and mobility of pesticides shall be considered in complying with this subsection.

~~{{(a)--Requirements-of-subsection-(2)-shall-apply-to-apparatus-containing pesticides--}}~~

~~((b))~~ (a) No person shall pollute streams, lakes, and other public water supplies in their pesticide loading and mixing operation. This includes devices or procedures to prevent "back-syphoning".

(3) None of the following pesticides shall be applied by aircraft or air-blast 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:

Azodrin	Systox (Demeton)
DiSyston-Liquid	Temik
Endrin	Tepp
Parathion	Thimet (Phorate)-Liquid
Phosdrin	Zinophos
Schradan (OMPA)	

(4) 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.

(5) Requirements for unattended pesticides and their containers:

(a) Good generally accepted housekeeping practices must be maintained for all pesticides and their containers which are covered under chapter 15.58 RCW.

(b) The provisions of subsections (5) (d) and (e) shall not apply to empty pesticide containers when adequately decontaminated (e.g., three successive rinsings); shall not apply to Categories 3 and 4 pesticide formulations labeled for home and garden use only; and shall not apply to drums of petroleum oils, limesulfur, and ferrous sulfate.

(c) For the purposes of subsections (5) (d) and (e), pesticides and their containers at the loading area shall not be considered unattended during the spraying operation if the operator maintains either visual control or repeatedly returns at closely spaced intervals.

(d) Category 1 -- Highly toxic pesticides which labeling requires the signal word "Danger" and skull and crossbones insignia and the word "Poison" on the label.

(i) These formulations and their containers shall be stored in one of the following enclosures which, when unattended, shall be so constructed and locked (except 5 below) to prevent children, unauthorized persons, livestock, or other animals from gaining entry. Appropriate warning signs shall be posted on these enclosures or containers. The warning signs shall carry the skull and crossbones symbol and the wording "Danger: - Poison (or Pesticide or Chemical) Storage Area - Keep Out" in letters large enough to be legible at a distance of 30 feet. The signs shall be posted to be visible from any direction.

1. Closed vehicle;

2. Closed trailer;

3. Building or room or fenced area with a fence at least six feet high.

~~(Appropriate warning signs shall be posted on these enclosures. The warning signs shall carry the skull and crossbones symbol and the wording "Danger: - Poison (or Pesticide or Chemical) Storage Area - Keep Out" in letters large enough to be legible at a distance of 30 feet. The signs shall be posted to be visible from any direction.)~~

4. Foot locker or other container which can be locked.

5. Unattended trucks or trailers must have solid sideracks and secured tail-gate at least six feet above ground, ramp or platform level.

6. Bulk storage containers 50 gallons and larger with tight screw-type bungs and/or secured or locked valves.

(e) Category 2 -- pesticides which labeling carries the signal word "Warning"; Categories 3 and 4 -- pesticides which labeling carries a signal work "Caution".

(i) These pesticide formulations and their containers shall be stored in secured storage out of the reach of children in one of the enclosures listed in subsection (d) (i): PROVIDED, That metal containers, 28 gallons and larger, with tight screw-type bungs, secured or locked valves and sealed five gallon containers (requiring tool to unseal) shall be considered secured storage for pesticides covered in subsection (e). ~~(--PROVIDED-FURTHER, That temporary (not to exceed one month) loading areas at least 100 yards from public roads, occupied dwellings, or other occupied buildings shall also be considered secured storage for pesticides covered in subsection (e) if all containers are removed immediately following the temporary use of these loading areas.)~~

7. No person shall disperse a pesticide 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.

AMENDATORY SECTION

WAC 16-228-190 APPLICATOR REQUIREMENTS. (1) (~~Each person required to be licensed to apply pesticides under the requirements of chapter 17-21-RGW shall:~~) Commercial applicators and public operators when applying any pesticide, and private commercial applicators and demonstration and research applicators when applying pesticides restricted to use by certified applicators only, shall keep records which shall include the following:

- ~~((a))~~ --Keep records which shall include the following:
 - ~~((i))~~ (a) The name of the person for whom the pesticide was applied.
 - ~~((ii))~~ (b) The address or location of the land where the pesticide was applied.
 - ~~((iii))~~ (c) The year, month, day and time the pesticide was applied.
 - ~~((iv))~~ (d) The person or firm who supplied the pesticide which was applied.
 - ~~((v))~~ (e) The trade name and/or common name of the pesticide which was applied and/or EPA registration number for that product when available.
 - ~~((vi))~~ (f) The direction and estimated velocity of the wind and the temperature at the time the pesticide was applied: PROVIDED, that this subsection does not apply to applications of baits in bait stations and pesticide applications within structures.

~~((vii))~~ (g) The amount, or amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per 100 gallons) of the pesticide(~~use-~~) used.

For PCO classification, the amount and concentration of the pesticide(s) applied which may be recorded to the nearest ounce of active ingredient or to the nearest gallon of liquid spray; fumigation records shall include the pounds of gas released per 1000 cubic feet of space, the temperature, and the duration of the exposure period.

- ~~((viii))~~ (h) The pests to be controlled (For PCO classification only).
- ~~((ix))~~ (i) Specific crop or site to which pesticide was applied.
- ~~((x))~~ (j) Apparatus license plate number.
- ~~((xi))~~ (k) Applicator's name and address and the name of the individual making the application.

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

~~((c))~~ (3) (~~Keep pesticide~~) Application records shall be kept for a period of three 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.

~~((d))~~ (4) Upon written request, the applicator shall provide the customer with a record of each application of pesticides to his land (-), for the current season, which shall contain the information listed in WAC 16-228-190(1)(~~a~~).

~~((e))~~ (5) (~~Keep-~~) All apparatus shall be kept in good repair and (~~shall use~~) only that apparatus capable of performing all functions necessary to insure proper and thorough application of pesticides shall be used. (~~Clean~~) Apparatus shall be cleaned so that no residue remains which may cause injury to land, including humans, desirable plants and animals, from subsequent applications.

~~((f))~~ (6) On demand of the director, the applicator shall make immediately available for inspection the pesticides being applied and the apparatus used for the applications: PROVIDED, That this inspection is made at the site of application or where the apparatus is located.

~~((g))~~ (7) (~~Make~~) The applicator shall make available necessary safety equipment in proper working order and advise his employees on its use to meet the safety requirements of the pesticide label.

~~((i))~~ (9) All containers used for ~~(storing or transporting pesticide concentrates shall bear an EPA or department registered label or in the case of)~~ prepared mixtures, other than those in an apparatus, shall have a label identifying the contents as a pesticide, the active ingredient, and appropriate cautions.

~~((j))~~ All pesticide containers shall be secured on the vehicle in such a manner to prevent loss or spillage during transportation.

AMENDATORY SECTION

WAC 16-228-225 REGULATION OF APPLICATION OF RODENTICIDE BAITS. (1) PCO applicators and operators shall use rodenticide baits only under the following conditions:

(a) Applicators and operators in charge of baiting operations shall have had training in the use of rodenticides prior to applying them and shall have passed the department's general PCO examinations.

(b) Use only rodenticides that are registered for that use by the Environmental Protection Agency (EPA) ~~((;))~~, or the department ~~((; or that are officially recommended by Washington State University))~~; and adhere to the registered label warnings, precautions, use directions, and any regulations ~~((restriction))~~ restricting their use.

(c) Rodenticides shall be placed only in locations that are not readily accessible to non-pest animals, children, and unauthorized persons, and in a manner that shall preclude contamination of food, feed, drugs, and other consumer commodities. Exposure within buildings shall not be above floor levels.

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

(e) When the use of bait boxes is necessary to insure that baits are not readily accessible to non-pest 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:

(i) For the rodenticides warfarin, pindone (Pival), diphacinone (Diphacin), coumafuryl (Fumarin), chlorophacinone (Rozol) and other anticoagulants, the words "WARNING" -- "RODENT BAIT" in letters not less than one-half inch in height and directly under, in letters not less than one-eighth inch in height the word "ANTICOAGULANT" -- and name of the rodenticide.

(ii) For the baits containing zinc phosphide, arsenic, Red Squill, strychnine, alpha naphthylthiourea (antu), Vacor (DLP-787, or barium carbonate, the words "WARNING" -- "RODENT BAIT" -- POISON" in letters not less than one-half inch in height and the skull and crossbones, in red, not smaller than the letters; and in letters not less than one-eighth inch in height, the name of the rodenticide.

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

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

(v) Thallium shall not be used.

(f) Containers used for exposing rodenticides to pests shall be composed of tough, non-absorbent, corrosion resistant materials and designed so they cannot be readily overturned or carried off by pest animals. Those containers that are used for exposing rodenticides outside of bait boxes shall bear a legible warning label with wording not less restrictive than requirements on bait boxes for rodenticides being used as per WAC 16-228-225(1)(e), (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.

(g) For residential areas, bait portions will be limited at each bait station to quantities containing no more than one-fourth (1/4) of a LD50 dose of the rodenticide for a 70 kilogram (approximately 154 pound) human. LD50 ratings shall be established by the director.

(h) All rodenticide stocks, when not in use or when unattended, shall be kept in locked storage or locked service vehicles. In addition, compounds 1080 and 1081 shall be kept in a locked container within locked storage or locked storage vehicle.

(i) All containers used for storing or transporting rodenticide concentrates shall bear an EPA or department registered label, or in the case of bulk prepared baits, a label identifying the contents as rodent bait, the active ingredient and appropriate cautions.

(j) Servicemen's kits which contain rodenticides shall be handled with extra caution and shall not be left where children or other unauthorized persons or non-target animals might remove contents.

(k) Upon completion of a rodent 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.

(l) Whenever poisoned rodent carcasses jeopardize public sanitation, or create a health hazard to wildlife, domestic animals, or the public, they must 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.

(m) When anticoagulant baits are placed outdoors they shall be placed into burrows, tunnels, deep holes, or in covered field rodent bait stations. Grain baits coated with anticoagulants and embedded in paraffin may be used in open bait stations. Compliance with WAC 16-228-225(1)(c) shall be maintained.

(n) Strychnine shall be applied only on grain baits except when used for the control of native rodents, such as porcupines, etc., which shall be in accordance with instructions issued by the United States Bureau of Sports Fisheries & Wildlife Service.

REPEALER

The following sections of the Washington Administrative Code are each repealed:

- (1) WAC 16-228-001 PROMULGATION.
- (2) WAC 16-228-150 RESPONSIBILITIES OF PESTICIDE APPLICATORS, OPERATORS, PESTICIDE DEALERS AND PEST CONTROL CONSULTANTS IN SALES OF PESTICIDES AND IN RECOMMENDATIONS AND APPLICATION OF PESTICIDES.
- (3) WAC 16-228-175 DISTRIBUTION REQUIREMENTS FOR GROWTH REGULATING HERBICIDES TO BE USED IN COUNTIES LOCATED EAST OF THE CREST OF THE CASCADE MOUNTAINS.
- (4) WAC 16-228-200 LOW FLYING PROHIBITIONS.