

FORM OF ORDER AND TRANSMITTAL BY AGENCY HAVING SINGLE HEAD

State of Washington

Department of Agriculture
(agency name)

Administrative Order No. 1937

(1) I, C. Alan Pettibone, director of Washington State Department of Agriculture,

do promulgate and adopt at Olympia, WA (place)

the annexed rules relating to:

Restrictions on the use of restricted use herbicides in Chapter WAC 16-230, WAC 16-231 and WAC 16-232.

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

This action is taken pursuant to Notice No. filed with the code reviser on . These rules shall take effect:

- [] thirty days after they are filed with the code reviser pursuant to RCW 34.04.040(2).
[] at a later date, such date being

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

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

Due to substantial damage to grape vineyards during the last spray season caused by drift of restricted use herbicides and data provided through the hearing process, additional restrictions on the application of restricted use herbicides are necessary. A hearing is being scheduled to consider these additional changes.

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

(3) Pursuant to the requirements of RCW 34.04.026 that "every agency shall incorporate the most specific, but in no case omit all, of the following language alternatives when adopting or amending rules" fill in statement (a), (b), or (c) as appropriate:

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

[] (b) This rule is promulgated pursuant to RCW which directs that the

has authority to implement the provisions of (agency)

(name of act or RCW citation)

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

(agency)

as authorized in RCW

(4) The undersigned hereby declares that the agency has complied with the provisions of the Open Public Meetings Act (chapter 42.30 RCW), the Administrative Procedure Act (chapter 34.04 RCW) and the State Register Act (chapter 34.08 RCW) in the adoption of these rules.

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

APPROVED AND ADOPTED July 1 1987

STATE OF WASHINGTON FILED

By [Signature] Director

[Signature] Deputy Director Title

JUL 1 1987

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

CODE REVISER'S OFFICE WSR 87-14-074

AMENDATORY SECTION (Amending Order 1680, filed 2/20/80)

WAC 16-230-665 RESTRICTED USE HERBICIDES--EASTERN WASHINGTON--
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 aer-
ial application of restricted use herbicides that may be applied to
lands located one-half to one mile from commercial vineyards: PRO-
VIDED FURTHER, That no distance restrictions shall apply to aerial
applications of restricted use herbicides near vineyards during the
grape dormant season if written permission of the vineyard owner/man-
ager is obtained. EXCEPTIONS are found in Franklin and Grant County
(~~orders~~) restrictions.

NEW SECTION

WAC 16-230-673 RESTRICTED USE HERBICIDES--EASTERN WASHINGTON--
APPLICATION THROUGH IRRIGATION SYSTEMS. Restricted use herbicides
applied through irrigation systems shall be subject to the same
requirements as ground applications of restricted use herbicides
except for nozzle size and pressure requirements.

AMENDATORY SECTION (Amending Order 1677, filed 2/20/80)WAC 16-231-015 RESTRICTED USE HERBICIDES--BENTON COUNTY--AREA 1.

(1) Area 1 description. (a) (Prosser to Finley and vicinity.) This area includes all lands in Sections 1 through 12, and 15 through 19, T8N, R24E; Sections 5, 6 and 7, T8N, R25E; all of T9N, R24E; Sections 1 through 34, T9N, R25E; Sections 1 through 24, T9N, R26E; all of T9N, R27E; that portion of T10N, R27E and R28E and T8N, R28E, lying south of the Yakima River, and that portion of T8N, R28E, lying north of the Burlington Northern Railroad tracks; Sections 29 through 36, T9N, R29E; Sections 1 through 6, 10 through 13, and those portions of Sections 7, 8, 9, 14, 15, 23, and 24, T8N, R29E, lying north and east of the K.I.D. Canal; Sections 4 through 10, 14 through 28, 35, 36, and those portions of 29, 30, 32, 33 and 34, T8N, R30E lying north and east of the K.I.D. Canal, and the Atomic Energy Commission reservation.

(b) An area near Patterson starting at the southeast corner of Section 7, T5N, R26E following section lines north eight miles to the northeast corner of Section 6, T6N, R26E; thence west one mile to the northwest corner of Section 6, T6N, R26E; thence south three miles to the southwest corner of Section 18, T6N, R26E; thence east six miles to the northwest corner of Section 19, T6N, R25E; thence south three miles to the southwest corner of Section 31, T6N, R25E; thence east three miles to the southeast corner of Section 33, T6N, R25E; thence south three miles to the southwest corner of Section 15, T5N, R25E; thence west one mile to the northwest corner of Section 21, T5N, R25E; thence south one mile to the southwest corner of Section 21, T5N, R25E; thence east two miles to the southeast corner of Section 22, T5N, R25E; thence north one mile to the northwest corner of Section 22, T5N, R25E; thence east two miles to the southeast corner of Section 13, T5N, R25E; thence one mile north to the northeast corner of Section 13, T5N, R25E; thence east one mile to the point of origin.

(2) Area 1 restrictions.

(a) The use or application of low volatile ester formulations of restricted use herbicides is prohibited.

(b) On and after April 5 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) Aircraft applications of restricted use herbicides are prohibited: PROVIDED, That hormone sprays may be applied by aircraft to orchards for the prevention of fruit drop.

(d) The loading and/or mixing of restricted use herbicides is prohibited on any airstrip, airfield, or any location within Area 1, and turning and/or low flying over Area 1 is also prohibited when loaded with restricted use herbicides or prior to cleaning equipment following use of these herbicides.

NEW SECTION

WAC 16-231-033 RESTRICTED USE HERBICIDES--APPLICATION RECORDS--BENTON COUNTY. (1) Private pesticide applicators (those persons certified by the Washington state department of agriculture in the private pesticide applicator category) shall keep records for each application of restricted use herbicides in Areas 1 and 2 of Benton County. Application records shall include the following information:

(a) Applicator's name, address and name of the individual making the application;

(b) The address or location of the land where the chemical was applied;

(c) The year, month, day, and time the chemical was applied;

- (d) The trade name and/or common name of the chemical applied, and/or EPA registration number for that product;
- (e) The direction and estimated velocity of the wind and temperature at the time the chemical was applied;
- (f) The amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the chemical used;
- (g) Specific crop or site to which the chemical was applied.
- (2) Application records shall be completed and available to the department the same day the chemicals were applied.
- (3) Application records shall be kept for a period of three years from the date of application of the chemical to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.

AMENDATORY SECTION (Amending Order 1923, filed 4/6/87)

WAC 16-231-115 RESTRICTED USE HERBICIDES--FRANKLIN COUNTY--AREA 1.

(1) Area 1 description.

(a) This area includes all lands lying within a boundary line starting at the northwest corner of Section 6, T14N, R28E; thence east along section lines nineteen miles to the Burlington Northern Railroad tracks; thence southeasterly approximately four miles to Moon Road; thence south two miles to State Highway 260; thence west along State Highway 260 approximately five miles to its intersection with State Highway 17; thence south along State Highway 17 approximately ((fourteen)) seven miles to its intersection with Highway 395; thence south along Highway 395 approximately seven miles to the southwest corner of Section 1, T11N, R30E; thence east one mile more or less to the northeast corner of Section 12, T11N, R30E; thence south fifteen miles more or less along the section lines to the junction of the east section line of Section 25, T9N, R30E, and the Snake River; thence southwest-erly along the Snake River to its confluence with the Columbia River; thence following the Columbia River westerly and northerly to the north section line of Section 28, T14N, R27E; thence east along the Grant County line four miles more or less to the northeast corner of Section 25, T14N, R27E; thence north along the Grant County border four miles to the point of origin.

(b) Also including (Ice Harbor Dam area) Levey: This area includes all lands lying within a two-mile radius of Levey within Franklin County.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April ((4)) 5 through October 31 of each year: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1 through April 30 of the following year.

(b) On and after April 5 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) On and after April 5 through October 31, aircraft applications of restricted use herbicides shall be prohibited except by written permit issued by the department: PROVIDED, That on and after November 1 through April 4 of the following year, aircraft applications of restricted use herbicides shall be allowed using the caution area restrictions (see WAC 16-230-675).

(d) On and after April 5 through October 31, aircraft applications of restricted use herbicides shall be prohibited within one mile of any commercial vineyard: PROVIDED, That on and after April 5 through October 31, written requests to apply MCPA to peas and corn

located one-half to one mile from commercial vineyards will be considered: PROVIDED FURTHER, That on and after April 5 through April 30 written requests to apply 2,4 DB on alfalfa and red clover seed crops located one-half to one mile from commercial vineyards will be considered.

AMENDATORY SECTION (Amending Order 1923, filed 4/6/87)

WAC 16-231-145 . RESTRICTED USE HERBICIDES--FRANKLIN COUNTY--WIND CONDITIONS. The use or application of restricted use herbicides shall be prohibited in Areas 1, 2, 3, and 4 when the mean sustained wind velocity is over twelve miles per hour throughout the year: PROVIDED, That such applications shall be prohibited in Area 1 ((and-1A)) on and after April 1 through October 31 when the mean sustained wind velocity is over ten miles per hour: PROVIDED FURTHER, That applications of restricted use herbicides shall be allowed in winds up to and including twenty miles per hour when an approved hooded boom sprayer is used. Hooded boom sprayers shall be approved by the department of agriculture. The department shall consider the recommendations of the pesticide advisory board 2,4-D ad hoc committee in determining the criteria of what constitutes an approved hooded boom sprayer. Approval shall be based on research data.

NEW SECTION

WAC 16-231-148 RESTRICTED USE HERBICIDES--APPLICATION RECORDS--FRANKLIN COUNTY. (1) Private pesticide applicators (those persons certified by the Washington state department of agriculture in the private pesticide applicator category) shall keep records for each application of restricted use herbicides in Areas 1 and 2 of Franklin County. Application records shall include the following information:

- (a) Applicator's name, address and name of the individual making the application;
- (b) The address or location of the land where the chemical was applied;
- (c) The year, month, day, and time the chemical was applied;
- (d) The trade name and/or common name of the chemical applied, and/or EPA registration number for that product;
- (e) The direction and estimated velocity of the wind and temperature at the time the chemical was applied;
- (f) The amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the chemical used;
- (g) Specific crop or site to which the chemical was applied.

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

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

NEW SECTION

WAC 16-231-238 RESTRICTED USE HERBICIDES--APPLICATION RECORDS--YAKIMA COUNTY. (1) Private pesticide applicators (those persons certified by the Washington state department of agriculture in the private pesticide applicator category) shall keep records for each application of restricted use herbicides in Areas 1 and 2 below Union Gap of Yakima County. Application records shall include the following information:

- (a) Applicator's name, address and name of the individual making the application;
 - (b) The address or location of the land where the chemical was applied;
 - (c) The year, month, day, and time the chemical was applied;
 - (d) The trade name and/or common name of the chemical applied, and/or EPA registration number for that product;
 - (e) The direction and estimated velocity of the wind and temperature at the time the chemical was applied;
 - (f) The amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the chemical used;
 - (g) Specific crop or site to which the chemical was applied.
- (2) Application records shall be completed and available to the department the same day the chemicals were applied.
- (3) Application records shall be kept for a period of three years from the date of application of the chemical to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.

NEW SECTION

WAC 16-231-343 RESTRICTED USE HERBICIDES--APPLICATION RECORDS--ADAMS COUNTY. (1) Private pesticide applicators (those persons certified by the Washington state department of agriculture in the private pesticide applicator category) shall keep records for each application of restricted use herbicides in Areas 1 and 2 of Adams County. Application records shall include the following information:

- (a) Applicator's name, address and name of the individual making the application;
 - (b) The address or location of the land where the chemical was applied;
 - (c) The year, month, day, and time the chemical was applied;
 - (d) The trade name and/or common name of the chemical applied, and/or EPA registration number for that product;
 - (e) The direction and estimated velocity of the wind and temperature at the time the chemical was applied;
 - (f) The amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the chemical used;
 - (g) Specific crop or site to which the chemical was applied.
- (2) Application records shall be completed and available to the department the same day the chemicals were applied.
- (3) Application records shall be kept for a period of three years from the date of application of the chemical to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.

AMENDATORY SECTION (Amending Order 1923, filed 4/6/87)

WAC 16-231-910 RESTRICTED USE HERBICIDES--GRANT COUNTY--AREA 1.

(1) Area 1 description. (Lands generally within the Columbia Basin irrigation project.) An area starting at the southwest corner of Section 21, T14N, R27E; thence east along the county line four miles more or less to the southeast corner of Section 24, T14N, R27E; thence north along the county line sixteen miles to the southwest corner of Section 31, T17N, R28E; thence east along the county line thirteen miles more or less to the East Low Canal; thence northerly and easterly along the East Low Canal to the Adams County line; thence north along the Grant-Adams County lines six miles more or less to the East Low Canal; thence northwesterly along the East Low Canal to the southeast boundary of Block 70; thence easterly, northerly, and westerly, encompassing Block 70, Soap Lake and Block 701, to the West Main Canal; thence southwesterly along the West Main Canal to the north boundary line of Unit 1, Block 73; thence westerly along the northern boundary line of Block 73 to the northwest corner of Unit 278; thence due west to the Willow Springs Draw; thence down Willow Springs Draw to the Columbia River; thence southerly along the Columbia River to the south boundary line of Section 11, T15N, R23E; thence east along the crest of the Saddle Mountains approximately eighteen miles to the northwest boundary of the atomic energy reservation; thence southwest-erly along the atomic energy reservation boundary to Highway 24; thence south and ((east)) west along Highway 24 to Vernita Bridge; thence easterly along the Columbia River to the point of beginning.

(2) Area 1 restrictions.

(a) The use or application of low volatile formulations of restricted use herbicides is prohibited on and after April 15 through October 31: PROVIDED, That low volatile ester formulations of 2,4-DB may be applied to alfalfa and red clover seed crops on and after November 1 through April 30 of the following year.

(b) On and after April 15 through October 31, ground applications of restricted use herbicides shall be made using nozzles having a minimum orifice diameter of 0.052 inches: PROVIDED, That applications of restricted use herbicides on asparagus shall be made using nozzles having minimum nozzle orifice diameter of 0.072 inches.

(c) On and after November 1 through April 14 of the following year, aircraft applications of restricted use herbicides shall be made using the caution area restrictions (see WAC 16-230-675).

(d) On and after April 15 through October 31, aircraft applications of restricted use herbicides shall be made using the danger area restrictions (see WAC 16-230-675).

(e) On and after April 15 through October 31, aircraft applications of restricted use herbicides shall be prohibited within one mile of any commercial vineyard: PROVIDED, That on and after April 15 through October 31, written requests to apply MCPA to peas and corn located one-half to one mile from commercial vineyards will be considered: PROVIDED FURTHER, That on and after April 15 through April 30 written request to apply 2,4-DB on alfalfa and red clover seed crops located one-half to one mile from commercial vineyards will be considered.

NEW SECTION

WAC 16-231-938 RESTRICTED USE HERBICIDES--APPLICATION RECORDS--GRANT COUNTY. (1) Private pesticide applicators (those persons certified by the Washington state department of agriculture in the private pesticide applicator category) shall keep records for each application of restricted use herbicides in Areas 1, 1A and 2 of Grant County. Application records shall include the following information:

(a) Applicator's name, address and name of the individual making the application;

- (b) The address or location of the land where the chemical was applied;
- (c) The year, month, day, and time the chemical was applied;
- (d) The trade name and/or common name of the chemical applied, and/or EPA registration number for that product;
- (e) The direction and estimated velocity of the wind and temperature at the time the chemical was applied;
- (f) The amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the chemical used;
- (g) Specific crop or site to which the chemical was applied.
- (2) Application records shall be completed and available to the department the same day the chemicals were applied.
- (3) Application records shall be kept for a period of three years from the date of application of the chemical to which such records refer. The director shall, upon request in writing, be furnished with a copy of such records forthwith by the licensee.

REPEALED

The following section of the Washington Administrative Code is repealed:

WAC 16-231-120 AREA 1A.

NEW SECTION

WAC 16-232-038 RESTRICTED USE HERBICIDES--APPLICATION RECORDS--WALLA WALLA COUNTY. (1) Private pesticide applicators (those persons certified by the Washington state department of agriculture in the private pesticide applicator category) shall keep records for each application of restricted use herbicides in Areas 1 and 2 of Walla Walla County. Application records shall include the following information:

(a) Applicator's name, address and name of the individual making the application;

(b) The address or location of the land where the chemical was applied;

(c) The year, month, day, and time the chemical was applied;

(d) The trade name and/or common name of the chemical applied, and/or EPA registration number for that product;

(e) The direction and estimated velocity of the wind and temperature at the time the chemical was applied;

(f) The amount and concentration (pounds or gallons per acre and percentage of active ingredient and/or concentration per one hundred gallons) of the chemical used;

(g) Specific crop or site to which the chemical was applied.

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

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