

State of Washington

Department of Agriculture

(agency name)

Administrative Order No. 2010

(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 pesticides in Benton, Franklin, and Walla Walla Counties in Chapter 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: In response to repeated herbicide drift problems in the lower Yakima Valley and Tri-Cities area, emergency measures are necessary to continue restriction the application of pesticides in Benton County and portions of Franklin and Walla Walla Counties until permanent rules can be adopted. This action will continue emergency rules now in effect until a final decision is made after the hearing held on June 27. 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:

(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 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 June 23 1989

By C. Alan Pettibone Director Title

STATE OF WASHINGTON FILED

JUN 23 1989

CODE REVISER'S OFFICE WSR 89-14-016

NEW SECTION

**WAC 16-232-440 Area under order.** The area under order shall include:

(1) All lands lying within the boundaries of Benton County.

(2) Portions of Franklin and Walla Walla counties as follows:

Beginning at the Benton-Franklin County line in the vicinity of the northwest corner of Section 1, T10N, R28E; thence east approximately thirteen miles along section lines and a portion of Sagemore Road to the northeast corner of Section 1, T10N, R30E; thence south seven miles to the southeast corner of Section 1, T9N, R30E; thence east four miles along section lines and a portion of the Pasco-Kahlotus Road to the northeast corner of Section 10, T9N, R31E; thence approximately fourteen miles south across the Franklin-Walla Walla County line to the Columbia River; thence northwesterly along the Columbia River to the point of beginning.

(3) Within the area under order described in subsection (1) and (2) above are certain lands designated as Sub-area A which have the following descriptions:

(a) All lands lying south of a line beginning at the Yakima-Benton County line and the southwest corner of Section 19, T8N, R24E; thence east one mile along section lines to the southeast corner of Section 19, T8N, R24E; thence north one mile along section lines to the northeast corner of Section 19, T8N, R24E; thence east seven miles along section lines to the southeast corner of Section 17, T8N, R25E; thence north three miles along section lines to the northeast corner of Section 5, T8N, R25E; thence east two miles along section lines to the southeast corner of Section 34, T9N, R25E; thence north one mile along the section lines to the northeast corner of Section 34, T9N, R25E; thence east two miles along section lines to the southeast corner of Section 25, T9N, R25E; thence north one mile along section lines to the northeast corner of Section 25, T9N, R25E; thence east six miles along section lines to the southeast corner of Section 24, T9N, R26E; thence south two miles along section lines to the southwest corner of Section 31, T9N, R27E; thence east five and one-half miles more or less along section lines to the K.I.D. Canal; thence southeasterly along the K.I.D. Canal to its confluence with Columbia River.

(b) All lands lying within a line beginning at the southwest corner of Section 18, T13N, R24E; thence east three miles along section lines to the southeast corner of Section 16, T13N, R24E; thence south one mile along section lines to the southwest corner of Section 22, T13N, R24E; thence east one-half mile to the Atomic Energy Commission west boundary line; thence easterly and southerly along the Atomic Energy Commission boundary line to the Yakima River; thence southerly along the Yakima River to the south boundary of Section 31, T10N, R27E; thence west eighteen and one-half miles more or less along section lines to the Yakima-Benton County line; thence north along Yakima-Benton County line to the point of origin.

## NEW SECTION

**WAC 16-232-450 Restricted use pesticides.** For purposes of WAC 16-232-440 through WAC 16-232-490, all pesticides are declared to be restricted use pesticides, except those labeled or used only for the following sites or functions:

- (1) Swimming pools and fountains
- (2) Disinfectants
- (3) Cooling tower or industrial system biocides
- (4) Pets or livestock
- (5) Lawns or home gardens (does not include golf courses, turf farms and public parks)
- (6) Use within or around buildings or similar structures (does not include irrigation canals)
- (7) Wood or lumber treatment
- (8) Baits or repellants registered solely for vertebrate pest control
- (9) Seed treatments
- (10) Enclosed food processing systems
- (11) Air conditioners, humidifiers, and heating systems

## NEW SECTION

### **WAC 16-232-460 Permits.**

(1) Application by air of restricted use pesticides as defined in WAC 16-232-450 is prohibited in Sub-area A designated in WAC 16-232-440(3): PROVIDED, That the department may issue written permits for designated aerial applications.

(2) The department may make on-site monitoring of the application by a department representative a condition of any permit. A representative of the department may revoke any such permit at any time, if the representative deems the situation at the application site unsuitable.

(3) No permit shall be issued pursuant to this rule to apply dicamba or phenoxy hormone-type herbicides, unless that permit is consistent with existing department regulations.

(4) Application of chlorsulfuron (such as: Glean, Telar) or metsulfuron methyl (such as: Finesse, Escort) to fallow land or to land during the time between harvest and emergence of the subsequent cereal grain crop above the furrows is prohibited.

## NEW SECTION

### **WAC 16-232-470 Recordkeeping.**

(1) No portion of this rule shall relieve any commercial applicator, public operator, private-commercial applicator, or demonstration and research applicator from recordkeeping requirements of WAC 16-228-190.

(2) Persons who apply restricted use pesticides as defined in WAC 16-232-450 shall keep records for each application within the

area defined in WAC 16-232-440, which shall include the following information:

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

(b) Address or location of the land where the pesticide was applied, specifying township, range, and section: PROVIDED, That right-of-way application records may omit township, range and section.

(c) Year, month, day, and time the pesticide was applied;

(d) Trade name and/or common name of the pesticide applied, and/or EPA registration number for that product;

(e) Direction and estimated velocity of the wind and temperature at the time the pesticide was applied;

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

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

(h) Acreage or area treated

(3) If an application of a restricted use pesticide as defined in WAC 16-232-450 is performed by a licensed commercial pesticide applicator within the area defined in WAC 16-232-440, the person in control of the treated land shall keep records which shall include the following information:

(a) Address or location of the land where the pesticide was applied, specifying township, range, and section: PROVIDED, That right-of-way application notices may omit township, range and section;

(b) Year, month, day, and time the pesticide was applied;

(c) Name of the commercial applicator.

(d) Trade name and/or common name and/or EPA registration number of the pesticide applied.

(4) All records required by this rule shall be completed and available to the department the same day the pesticide was applied.

(5) All records required by this rule shall be kept for a period of three years from the date of application of the pesticide to which such records refer. The department shall, upon request in writing, be furnished with a copy of such records forthwith by the person required to keep the records: PROVIDED, That upon request commercial applicators and public operators shall submit to the department the records required in subsection (2) of this section, and any additional information required in WAC 16-228-190.

#### NEW SECTION

**WAC 16-232-480 Required records submission.** (1) Application records as defined in WAC 16-232-470 for all aerial applications of restricted use pesticides made in the area under order as defined in WAC 16-232-440 shall be submitted to the Ag Chemical Branch, 2015 So. 1st Street, Yakima, WA 98903, within seven days after the date of application.

(2) Application records as defined in WAC 16-232-470 for all ground applications (including application by means of irrigation systems) of desiccants, defoliant and herbicides, including use of soil fumigants for weed or weed seed control, shall be submitted to the Ag Chemical Branch, 2015 So. 1st Street, Yakima, WA 98903, within seven days after the date of application.

NEW SECTION

**WAC 16-232-490 Other rules.** Provisions of WAC 16-232-440 through WAC 16-232-490 shall take precedence over all existing, less restrictive rules of the department affecting the application of pesticides in Benton, Franklin or Walla Walla Counties. No provision of WAC 16-232-440 through WAC 16-232-490 shall be construed as relieving any requirement of existing rules except those in direct conflict.