

RCW 49.70.119 Agricultural employees—Pesticides—Records. (1)

An employer who applies pesticides in connection with the production of an agricultural crop, or who causes pesticides to be applied in connection with such production, shall keep records for each application, which shall include the following information:

- (a) The location of the land where the pesticide was applied or site where the pesticide was stored;
- (b) The year, month, day, and time the pesticide was applied;
- (c) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide that was applied or stored;
- (d) The crop or site to which the pesticide was applied;
- (e) The amount of pesticide applied per acre, or other appropriate measure;
- (f) The concentration of pesticide that was applied;
- (g) The number of acres, or other appropriate measure, to which pesticide was applied;
- (h) If applicable, the licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application;
- (i) The direction and estimated velocity of the wind at the time the pesticide was applied: PROVIDED, That this subsection (i) shall not apply to applications of baits in bait stations and pesticide applications within structures; and
- (j) Any other reasonable information required by the director.

(2) The records shall be updated on the same day that a pesticide is applied. If the employer has been provided a copy of a pesticide application record under RCW 17.21.100(2)(b), the copy may be used as the record of the pesticide application required under this section. The employer shall maintain and preserve the pesticide application records for no less than seven years from the date of the application of the pesticide to which the records refer.

(3) The pesticide application records shall be readily accessible to the employer's employees and their designated representatives in a central location in the workplace beginning on the day the application is made and for at least thirty days following the application. The employee or representative shall be entitled to view the pesticide application records and make his or her own record from the information contained in the application records. New or newly assigned employees shall be made aware of the accessibility of the application records before working with pesticides or in a work area containing pesticides.

(4) (a) An employer subject to this section who stores pesticides shall at least once in each calendar year perform an inventory of the pesticides stored in any work area. The pesticide inventory records shall include the following information:

- (i) The location of the site where the pesticide is stored;
- (ii) The year, month, day, and time the pesticide was first stored;
- (iii) The product name used on the registered label and the United States environmental protection agency registration number, if applicable, of the pesticide that is stored; and
- (iv) The amount of pesticide in storage at the time of the inventory.

The inventory records shall be maintained and preserved for no less than seven years.

(b) In addition to performing the annual pesticide inventory required under this subsection, an employer shall maintain a record of pesticide purchases made between the annual inventory dates. In lieu of this purchase record, an employer may obtain from distributors from whom pesticides are purchased a statement obligating the distributor to maintain the purchase records on behalf of the employer and in satisfaction of the employer's obligations under this subsection. The director may require the submission of all purchase records from employers or distributors, covering the purchases during a specified period of time or in a specified geographical area.

(5) If activities for which the records are maintained cease, the records shall be filed with the department. If an employer subject to this section is succeeded or replaced in that function by another person, the person who succeeds or replaces the employer shall retain the records as required by this section but is not liable for violations committed by the former employer under this chapter or rules adopted under this chapter, including violations relating to the retention and preservation of records.

(6) (a) The records required under this section shall be readily accessible to the department for inspection. Copies of the records shall be provided, on request, to: An employee or the employee's designated representative in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, treating health care personnel, the *pesticide incident reporting and tracking review panel, or department representative. The designated representative or treating health care personnel are not required to identify the employee represented or treated. The department shall keep the name of any affected employee confidential in accordance with RCW 49.17.080(1). When a request for records is made under this subsection by treating health care personnel and the record is required for determining treatment, copies of the record shall be provided immediately. For all other requests, copies of the records shall be provided within seventy-two hours.

(b) Copies of records provided to any person or entity under this subsection (6) shall, if so requested, be provided or made available on a form adopted under subsection (10) of this section. Information for treating health care personnel shall be made immediately available by telephone, if requested, with a copy of the records provided within twenty-four hours.

(c) If an employer has reason to suspect that an employee is ill or injured because of an exposure to one or more pesticides, the employer shall immediately provide the employee a copy of the relevant pesticide application records.

(7) If a request for a copy of a record is made under this section and the employer refuses to provide a copy, the requester may notify the department of the request and the employer's refusal. Within seven working days, the department shall request that the employer provide the department with all pertinent copies of the records, except that in a medical emergency the request shall be made within two working days. The employer shall provide copies of the records to the department within twenty-four hours after the department's request.

(8) The department shall include inspection of the records required under this section as part of any on-site inspection of a workplace conducted under this chapter or chapter 49.17 RCW. The inspection shall determine whether the records are readily transferable to a form adopted by the department, and readily

accessible to employees. However, no employer subject to a department inspection may be inspected under this subsection (8) more than once in any calendar year, unless a previous inspection has found recordkeeping violations. If recordkeeping violations are found, the department may conduct reasonable multiple inspections, pursuant to rules adopted by the department. Nothing in this subsection (8) limits the department's inspection of records pertaining to pesticide-related injuries, illnesses, fatalities, accidents, or complaints.

(9) If an employer has failed to maintain and preserve the records or provide access to or copies of the records as required under this section, the employer shall be subject to penalties authorized under RCW 49.17.180.

(10) The department of labor and industries and the department of agriculture shall jointly adopt, by rule, forms that satisfy the information requirements of this section and RCW 17.21.100. [1992 c 173 § 3; 1989 c 380 § 77.]

***Reviser's note:** The "pesticide incident reporting and tracking review panel" was eliminated pursuant to 2010 1st sp.s. c 7 § 132.

Effective dates—1992 c 173: See note following RCW 17.21.100.