

WAC 222-16-070 Pesticide uses with the potential for a substantial impact on the environment. *To identify forest practices involving pesticide uses that have the potential for a substantial impact on the environment, the department shall apply the process prescribed in this section. See WAC 222-16-050 (1)(a).

(1) Pesticide list - The department shall maintain a list of all pesticides registered under chapter 15.58 RCW for use in forest practices. The department shall conduct, in consultation with the departments of ecology, health, agriculture, and fish and wildlife, an annual review of the list for the purpose of including new pesticides and/or removing those pesticides which have been prohibited from use. The list shall be available to the public at each of the department's offices. A list of the department's offices and their addresses appears at WAC 332-10-030. In preparing the pesticide list, the department shall include information on the following characteristics:

- (a) Active ingredients, name brand or trade mark, labeled uses, pesticide type, EPA-registration number;
- (b) Toxicity of the pesticide based on the Environmental Protection Agency (EPA) label warning under 40 C.F.R. 156.10 (h)(1), listed as "caution," "warning," "danger," or "danger - poison" except as modified to consider aquatic or mammalian toxicity; and
- (c) Whether the pesticide is a state restricted use pesticide for the protection of groundwater under WAC 16-228-1231.

(2) Key for evaluating applications. To determine whether aerial application of a pesticide has the potential for a substantial impact on the environment, the department shall apply the following analysis:

KEY FOR EVALUATION OF SITE SPECIFIC USE OF AERIALLY APPLIED PESTICIDES

| Question | Question | Resp | Action |
|----------|---|-----------|---------------------------|
| 1 (a) | Is the pesticide on the pesticide list (WAC 222-16-070(1))? | Yes No | go to 2 go to 1(b) |
| 1 (b) | Is the pesticide being used under a Dept of Agriculture Experimental Use Permit (WAC 16-228-1460)? | Yes No | Class III Class IV Sp |
| 2 | Is the toxicity rating for the pesticide to be used "Danger - Poison" as designated in the pesticide list (WAC 222-16-070 (1)(b))? | Yes No | Class IV Sp go to 3(a) |
| 3 (a) | Is <i>Bacillus thuringiensis</i> (BT) the only pesticide being used on this application? | Yes No | go to 3(b) go to 4(a) |
| 3 (b) | Is there a Threatened or Endangered species or the critical habitat (Federal) or critical habitat (State) of a species within the application area that is susceptible to the BT strain being used? | Yes No | Class IV Sp Class III |
| 4 (a) | Is this operation occurring over groundwater with a high susceptibility to contamination as specified in EPA 910/9-87-169 or in documentation provided by the department of ecology? | Yes No | go to 4(b) go to 5(a) |
| 4 (b) | Is this pesticide a state restricted use pesticide for the protection of groundwater under WAC 16-228-1231? | Yes No | Class IV Sp go to 5(a) |
| 5 (a) | Is the operation adjacent (within 100 ft.) of surface water? | Yes No | go to 5(b) go to 5(e) |

| Question | Question | Resp | Action |
|----------|---|------|-------------|
| 5 (b) | Determine the toxicity rating from the pesticide list: | | |
| | *Is the toxicity rating "Caution" or "Warning"? | Yes | go to 5(c) |
| | *Is the toxicity rating "Danger"? | Yes | go to 5(d) |
| 5 (c) | Is there a Group A or B water surface water system (WAC 246-290-020) intake OR a fish hatchery intake within one half mile downstream of the operation? | Yes | Class IV Sp |
| | | No | go to 5(e) |
| 5 (d) | Is there a Group A or B water surface system intake OR a fish hatchery intake within 1 mile downstream of the operation? | Yes | Class IV Sp |
| | | No | go to 5(e) |
| 5 (e) | Is the operation within 200 feet of the intake of a Group A or B spring water system? | Yes | Class IV Sp |
| | | No | go to 5(f) |
| 5 (f) | Is the operation applying a pesticide in a Type A or B wetland? | Yes | Class IV Sp |
| | | No | go to 6(a) |
| 6 (a) | Does any portion of the planned operation cover 240 or more contiguous acres? Pesticide treatment units will be considered contiguous if they are separated by less than 300 feet or treatment dates of adjacent units are less than 90 days apart. | Yes | Class IV Sp |
| | | No | go to 6(b) |
| 6 (b) | Is there a Threatened or Endangered species or the critical habitat (Federal) or critical habitat (State) of a species within the application area? | Yes | Class IV Sp |
| | | No | go to 6(c) |
| 6 (c) | If there is a special concern identified for this pesticide in the Board manual, does it apply to this application? | Yes | Class IV Sp |
| | | No | Class III |

(3) Special concerns (see WAC 222-16-070 (2)6(c)) shall be evaluated by the department of agriculture. Information regarding special concerns shall be presented to the board for review. Approved special concerns shall be included in the board manual. Special concerns shall include situations where use of pesticides has the potential for a substantial impact on the environment, beyond those covered specifically in the key in subsection (2) of this section.

[Statutory Authority: RCW 76.09.040. WSR 05-12-119, § 222-16-070, filed 5/31/05, effective 7/1/05. Statutory Authority: Chapter 34.05 RCW, RCW 76.09.040, [76.09.]050, [76.09.]370, 76.13.120(9). WSR 01-12-042, § 222-16-070, filed 5/30/01, effective 7/1/01. Statutory Authority: RCW 76.09.040 and chapter 34.05 RCW. WSR 97-24-091, § 222-16-070, filed 12/3/97, effective 1/3/98; WSR 93-12-001, § 222-16-070, filed 5/19/93, effective 6/19/93. Statutory Authority: RCW 76.09.040, 76.09.050 and chapter 34.05 RCW. WSR 92-15-011, § 222-16-070, filed 7/2/92, effective 8/2/92.]