

## NEW PESTICIDE REGULATIONS

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Since it is difficult to keep up-to-date on federal actions concerning DDT, I will discuss the current situation at both federal and state levels. In 1970, federal rules cancelled DDT use around homes, aquatic areas, on shade trees, and on tobacco. Since registrants didn't pursue appeals, these cancellations are now in effect. During the past four years a number of uses on food crops have been cancelled due to the zero tolerance cancellations. During the past year thousands of man hours went into determining essential uses of DDT. The Pesticide Regulations Division had even accepted the practical concept of registering uses limited to individual states and areas. Just as this project was being completed, the United States Court of Appeals, in a 2 to 1 decision, directed the new Environmental Protection Agency to cancel all remaining uses of DDT. William Ruckelshaus, EPA Administrator, in a news release for the press, stated "We have decided not to request the Justice Department to challenge the court order. . . . the question is not whether the court's decisions are right as a matter of law, but rather the public's right to a full and open airing of the controversy surrounding the continued use of DDT and 2, 4, 5-T." January 18 cancellation notices, to become effective 30 days later, are subject to appeal.

Beginning January 18, there will be an intensive review to decide if DDT presents an imminent hazard to the public. Such a decision could result in a ban and recall of the product. Actually, this intensive review has been going on for some years. My guess would be that the report will recite the benefits, the risks, and the hazards of the continued use of DDT and will then conclude that there is a greater hazard in recall and disposal problems than in limited usage, at least for 1971.

I refer now to state DDT regulations. On January 1, 1970, the State Department of Agriculture alerted dealers and users that on June 30, 1970, DDT could no longer be labeled, sold, or used for home and garden use, on shade trees, dust formulations, or in aquatic environments. On July 1, 1970, following recommendations of the Pesticide Review Board, a second order alerted dealers and users that beginning January 1, 1971, DDT could only be labeled, sold, or used for essential uses. Also, that no dealer could sell DDT to any person without obtaining certain information on a ledger, including the buyer's signature. At this time, our department will accept only registrations of DDT products labeled for essential uses, as listed in Order 1157.

What else is going on at a federal level in the regulation of pesticides? It took 60 years to progress from the "Buyer Beware" concept, prior to the first Federal Insecticide Act of 1910, to that of requiring a manufacturer of a new chemical to prove prior to marketing: The efficacy of the product; the safety to the user; an accurate dependable method of analysis; the safety of residue levels to the consumer; and the lack of hazard to fish, wildlife, and the environment with anticipated use patterns. Now, in a period of months, the federal control of all aspects of pesticides has been turned over to the new EPA and the courts appear to be on the threshold of a new era in which they will call the administrative agencies to account for their actions.

The last few weeks I have been studying a new bill, soon to be introduced in congress, to amend the Federal Insecticide, Fungicide, and Rodenticide Act. I was asked to do so because of my work in developing model state pesticide legislation for the Association of American Pesticide Control Officials. This proposed legislation emphasizes the important role of state programs and cooperation. I am not at a liberty to discuss the proposal in detail but I can discuss that part included in a recent news release which may give you an idea of possible trends in federal legislation.

It is proposed that pesticides be divided into three registration categories: general use according to labeled directions, as now permitted; restricted pesticides to be used only by approved and licensed applicators and operators; and restricted pesticides to be used only following the issuance of the prescription made by an approved pest control consultant. Implementing such a program presents a number of problems. Where does the competent farmer fit into such a program? He is not now licensed under current state licensing programs aimed at persons applying pesticides to the lands of another and requiring license fees plus large insurance coverage. I don't believe the draftors of this bill realize the importance and magnitude of grower usage. In Washington we license 213 applicators (owner/manager) and 574 operators (employees) for the commercial application of pesticides. In the past three months we have received requests for 14,000 commercial user permits for the use of 14 restricted use pesticides. In Washington, we believe that the most effective way to minimize the misuse of pesticides is to have responsible, competent people selling and recommending the use of pesticides. With the proper information and guidance we hope those using pesticides will accept the responsibilities of following accurate recommendations.

We have been having a problem with federal legislation because there is no provision for supplemental labeling to cover officially registered state uses. In addition to non-food seed crop uses and ornamental uses, we have minor crop uses (and occasionally major crop uses) which have not been federally cleared for use in Washington. For example, the use of Di-Syston for control of the "green bug" on winter wheat and Lannate for the control of corn earworm by aerial application was not cleared federally for use in Washington. In both instances we were advised that a supplemental state label permitting these uses would be a violation of the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Aviation Agency regulations. We are proposing the addition of a section to the new congressional pesticide act which would allow official state registered uses under certain conditions.

Our department has been receiving many questions regarding the new regulations (Order No. 1161), which became effective late in 1970. This new order did not renew the provision for permitting custom mixes with custom mix labels; dealers are now restricted from holding for sale or selling highly toxic pesticides in the same department where food is displayed or sold; a number of additional chemicals were added to the list prohibited for home and garden use (there are now 36); highly toxic pesticides may no longer be transported with clothes, food, feed or drugs; pesticides cannot be delivered unless the buyer is present to accept delivery and sign a delivery slip; guidelines are set up for pesticide disposal; and this order requires pesticide user permits. The latter has prompted the most questions. I can best clarify this requirement by reviewing with you a recent memorandum which I sent out to pesticide dealers and ultimate users.

Order No. 1161, WAC 16-222-160, requires ultimate users to obtain a Pesticide Users Permit before purchasing the following restricted use pesticides:

- |  |                               |
|--|-------------------------------|
| (a) Bidrin   | (g) Phosdrin                  |
| (b) DiSyston - Liquid                                | (h) Schradan (OMPA)           |
| (c) Endrin - 2, 5% and above                         | (i) Systox (Demeton)          |
| (d) Furadan (Carbofuran)                             | (j) Temik                     |
| (e) Lannate (Methomyl)                               | (k) TEPP                      |
| (f) Parathion & Methyl Parathion -<br>1.1% and above | (l) Thimet (Phorate) - Liquid |
|  | (m) Zinophos                  |

The intent of the user permit requirement is to alert the ultimate user to his responsibility in the use and application of these restricted use pesticides. It is hoped that all dealers and users will accept the necessary responsibility to make the user permit system work. This program requires a minimum of effort and red tape with no fee charged to the dealer or user.

Prior to the sale or delivery of any of the restricted use pesticides listed on the permit, the authorized pesticide dealer's responsibilities are:

1. Determine that the ultimate user is a commercial producer or a government agency prior to issuing the permit. (Licensed pesticide applicators are not required to obtain this permit.)
2. Have the ultimate user complete and sign a permit form. The dealer must also sign the permit. The original copy goes to the ultimate user and the pink copy must be retained by the dealer. This initial permit will expire on December 31, 1971.

Dealers shall keep permits and dealer records for each sale for a period of one year from the date of issue as per WAC 16-222-160 (7) and (8).

Any ultimate user found violating the provisions of Order No. 1161 is subject to a hearing to determine whether or not his permit should be revoked.

Listed below are representative questions we have been asked regarding this permit system since it was initiated November 26, 1970, with appropriate answers:

1. Q. Who is the ultimate user that is required to have a permit?  
A. Any commercial producer or government agency purchasing pesticides listed above for use on his land.
2. Q. Who issues the user permit?  
A. Licensed pesticide dealers who have been authorized by the Director may issue permits. Pesticide inspectors in the field or at the pesticide offices in Olympia or Yakima may also issue permits.
3. Q. How can a licensed dealer become authorized to issue user permits?  
A. By making written application to the Department of Agriculture.
4. Q. Who is an authorized agent?  
A. A person authorized to act on behalf of an ultimate user for the purpose of purchasing pesticides listed in WAC 16-222-160. This could be a hired man, wife, or food processor. Names must be designated on the pesticide user permit.
5. Q. If I obtain a permit from one dealer and at a later date go to another dealer, can the second dealer sell me a restricted use pesticide?  
A. Yes, if you show your copy of the original permit to him. If you do not have your copy of the original permit, the second dealer, if authorized, can issue a new one to you.
6. Q. If I hire a licensed commercial applicator to apply pesticides on my land, does he have to have a user permit?  
A. No. Licensed pesticide applicators are specifically exempt from this requirement.
7. Q. If as a farmer, I pick up a restricted use pesticide which I plan to have applied by a licensed applicator, do I have to have a permit?  
A. Yes, in order to obtain physical possession.

8. Q. If I intend to pay for a restricted use pesticide which will be picked up by a licensed applicator who will apply the pesticide, do I have to have a user permit?  
 A. No, as long as you never take physical possession.
9. Q. If, during the current year, a farmer finds it necessary to add an additional crop to the user permit or if he finds it necessary to purchase the pesticide from a different dealer, is a new permit needed?  
 A. Not if he has his copy of the original permit issued to him.
10. Q. Does an ultimate user, who purchases a restricted use pesticide in Washington for use in another state, need a pesticide users permit?  
 A. Yes. WAC 16-222-160 (1) restricts the sale of the fourteen restricted use pesticides in Washington to any ultimate user. However, the department does not regulate sales or application made out-of-state.

Several members of the chemical industry, in your area, have asked that I answer a few specific questions on today's program:

1. In regard to water or liquid fertilizer-pesticide mixes -- all deliveries made to the user by a dealer must be accompanied by a registered label for that mix. There is a basic need for directions for use and a specific guarantee of active ingredients. The department needs this information for laboratory analysis.

2. An employee working for a licensed pesticide dealer, who is not licensed as an operator, or an employee working for a company not licensed as an applicator, cannot operate a sprayer for the dealer on a farmer's land.

3. A dealer cannot sell broken (partly used) containers of pesticides. If the dealer takes back partially used cans or barrels, his only legal course is to dispose of the pesticide at an approved sanitary land fill. It would be helpful if manufacturers could distribute smaller containers for use in finishing a job.

4. I was asked to discuss the problem of tank mixes -- particularly mixes containing no recommendation for mixing on the label. These are tank mixes in which the individual pesticides are registered for use on the crop to be treated and there is no warning on the labels against mixing the products. Unless we have specific regulations against such a tank mix, we cannot look upon this as an enforceable violation of our law. I again emphasize the liability to the licensed pesticide applicator or the grower-user in the application of tank mixes for which the manufacturer has not provided a registered label giving directions for use. If the dealer recommends a mixture beyond the terms and conditions of labeling, he is assuming a responsibility.

Using tank mixes of herbicides which have not been adequately tested presents the following hazards: chemical incompatibility resulting in a loss of effectiveness of the individual herbicides; physical incompatibility resulting in the precipitation of solids or gelatinous gunk; and synergism or antagonism, which has been reported for herbicide mixtures and which cannot be predicted without actual studies using the particular mixes. Recommendations for herbicide mixes often call for a lesser rate, for either one or both of the herbicides, than label directions for use when each is used individually. Optimum timing or method of application for the mixture may be different than for the individual herbicide.

The department has two pesticide bills to be presented to the legislature this session. The proposed Washington Pesticide Control Act will be presented as one of the Governor's Administrative Request Bills to replace the current Washington Pesticide Act of 1961.

Major amendments to the Washington Pesticide Application Act of 1961 were enacted by the 1967 legislature. It was determined at that time that changes in the pesticide situation required redrafting of the companion Washington Pesticide Act of 1961. The new bill entitled "Washington Pesticide Control Act" provides the department with the necessary authority to cope with today's pesticide problems. While further restricting the labeling, transportation, storage, distribution, and disposal of pesticides, I believe the bill represents a workable median course by providing for the continued use of pesticides to meet the needs of the home owner, industry, and agriculture. Some of the major changes being proposed are:

1. Clarifies right of entry, sampling, publication of distribution information and laboratory analysis, and delegates authority to adopt regulations on labeling requirements, container safety specifications, procedures for recommendations, and denaturing of pesticides by color, taste, odor, or form.
2. Authorizes the Pesticide Advisory Board to advise the Director on problems relating to formulation, distribution, storage, transportation, and disposal of pesticides. Authority to advise on the use of pesticides is authorized under the Washington Pesticide Application Act.
3. Creates the Pesticide Control Board to replace the Pesticide Review Board created by the Governor's Executive Order. This board will determine which persistent pesticides shall be restricted to essential uses and what those essential uses shall be. The board becomes "decision making" rather than advisory to the Director. This board consists of the Dean of the College of Agriculture at Washington State University; the Secretary of the Department of Social and Health Services or his designee; the Director of the Department of Ecology; and the Director of the Department of Agriculture.
4. Requires that each "pesticide dealer manager" (one required for each licensed dealer outlet) pass a test on pesticides and pesticide regulations.
5. Provides for testing and licensing "pest control consultants" (salesmen and fieldmen) prior to March 1, 1973.

In 1967, major changes were made in the Washington Pesticide Application Act. The department's experience in enforcing this act and the increase in public concern over the use of pesticides during the past four years has indicated a need to make some minor revisions. I will mention a few you would be interested in:

1. Delete RCW 17.21.210, which exempts forest lands. This forest lands exemption is a carry-over provision from the original 1961 act. Pesticide application and use laws in California, Oregon, and Idaho do not have such an exemption and the pesticide situation today does not justify unregulated pesticide usage in forests. Government and private forest interests have been alerted to this proposal change.
2. Provide authority to re-examine pesticide applicators when new categories or new knowledge make such retesting advisable. The proposed wording is the same as that already included in the section for examining commercial pesticide operators RCW 17.21.210.

3. Require that each pesticide application be supervised by either a licensed pesticide applicator or operator on an "on-the-job basis" whether using apparatus or applying pesticides manually.
4. Specify that the license plate attached to the apparatus must be the plate issued for that particular apparatus. The department has an enforcement problem with applicators switching plates.
5. Require that governmental agencies be subject to this chapter regarding the application of all pesticides, not just restricted use pesticides, and that governmental agencies be required to keep records on each pesticide application.
6. Add four new members to the pesticide advisory board -- The directors, or their appointed representatives, of the departments of Game; Fisheries, Natural Resources, and Ecology. These agencies use pesticides and are concerned about the effects of pesticide applications to their areas of responsibility.