



PREPROPOSAL STATEMENT OF INQUIRY

CR-101 (June 2004)

(Implements RCW 34.05.310)

Do NOT use for expedited rule making

Agency: Dept. of Agriculture

Subject of possible rule making: Chapters 16-230 WAC, Use of chemicals and chemically treated materials in certain counties; 16-231 WAC, Restricted use herbicides; and 16-232 WAC, Use restricted herbicides in certain counties. The Department is considering:

1. Amending nozzle and pressure requirements in the three WAC chapters to reflect current standards that applications must be made by creating a droplet spectrum size (e.g., medium, coarse or very coarse) that is in conformance with ASABE (American Society of Agricultural and Biological Engineers) standards;
2. Repealing the 85 degree Fahrenheit cut-off requirement in individual county rules since it is in the statewide rule (redundant);
3. Repealing maximum wind speed restrictions in individual county rules and adding a maximum 15 mph wind speed restriction to the statewide rules;
4. Repealing restriction in statewide rules that limits the addition of oil carriers and adjuvants to one pint per acre;
5. Repealing restrictions in individual county rules that prohibit use of oil type carriers for brush control during certain times of the year;
6. Repealing restriction in statewide rules that prohibits mixing, loading and equipment decontamination (also aircraft takeoff and landing) in a manner that causes damage to susceptible crops;
7. Repealing restrictions in counties and specific "Areas" of counties that limit mixing loading of aircraft to formulations that can be applied in the Area where the airstrip is located;
8. Repealing the prohibition in statewide rules on turning or flying low over cities, towns, residences and other sensitive sites;
9. Repealing the prohibition in the statewide rules for storing use-restricted herbicides in "Areas" where their use is prohibited unless they are in a sealed container and the outside of the container is not contaminated; and
10. Repealing the provision in the statewide rules that indicates application of use-restricted herbicides through irrigation is subject to the same requirements as ground applications except for nozzle size and pressure requirements.

Statutes authorizing the agency to adopt rules on this subject: RCW 15.58.040, RCW 17.21.030, and chapter 34.05 RCW

Reasons why rules on this subject may be needed and what they might accomplish: The rules covering restricted use pesticides (mostly restricted use herbicides) found in chapters 16-230, 16-231 and 16-232 WAC are extensive, complex and confusing (there are over 50 different established Areas in eastern Washington, each with their own restrictions). In some cases the rules are redundant, while in other cases they are so outdated that they pose an increased risk to sensitive crops (nozzle/pressure requirements). Rules that are complex and confusing promote inadvertent non-compliance. Some of these rules are over 50 years old and there has been no substantial revisions for over 20 years. Many things have changed in the interim. Remarkable improvements in sprayer and application technology have made some of the requirements obsolete, and pesticide labels now have many restrictions that didn't exist when these rules were first adopted. Many of the requirements found in these three WAC chapters are preventative in nature. In all cases, if there is an incident of crop damage that occurs, the Department can take action under various other statutes and rules (e.g., WAC 16-228, the general pesticide rules). These changes will help to simplify the rules without increasing risk to sensitive crops.

Identify other federal and state agencies that regulate this subject and the process coordinating the rule with these agencies:
No coordination with a federal or state agency is necessary to adopt these rule changes.

Process for developing new rule (check all that apply):

- Negotiated rule making
- Pilot rule making
- Agency study
- Other (describe) The Department will provide an extensive explanation of all changes and solicit feedback from affected stakeholders. Affected stakeholders will also have an opportunity to submit written comments on the proposed rules during the public comment period and will be able to present oral testimony at the public hearing.

How interested parties can participate in the decision to adopt the new rule and formulation of the proposed rule before publication: (List names, addresses, telephone, fax numbers, and e-mail of persons to contact; describe meetings, other exchanges of information, etc.)

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DATE

March 21, 2017

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