

Exemptions Criteria Worksheet

1. **Exemption:** RCW 15.58.065

2. **Session Law:** 1979, chapter 146

3. **Category:** agriculture

4. **Cross-ref.:**

5. **Date Enacted:** 1979

6. **(Text of exemption)**

7. **Exemption protects:** Safety Privacy Financial Other (explain):

1) In submitting data required by this chapter, the applicant may:

(a) Mark clearly any portions which in the applicant's opinion are trade secrets or commercial or financial information;

...

(2) Notwithstanding any other provision of this chapter or other law, the director shall not make public information which in the director's judgment should be privileged or confidential because it contains or relates to trade secrets or commercial or financial information except that, when necessary to carry out the provisions of this chapter, information relating to unpublished formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the director when necessary under this chapter.

8. **Purpose (including purpose of accompanying legislation if applicable):**

Not stated in legislative history. However, the statute allows pesticide distributors/dealers to file a court action to determine whether information is confidential.

9. **Information covered:** About gov't function Collected/held by gov't

Public funds Public official Vital gov't Interest Confidential/private Other

Describe: Pesticide distributors and dealers must register with the Dept of Agriculture and designate information as confidential.

10. **Stakeholders:**

- 1. Dept of Agriculture Contacted: yes no
- 2. Contacted: yes no
- 3. Contacted: yes no
- 4. Contacted: yes no

11. Add'l bill

Information:

Floor debate: yes no

Bill Reports: yes no

12. Comments (including significant court decisions; related WACs sections, or other).

RCW 15.58.060(1)(c) requires that an application contain the complete formula of the pesticide, including active and inert ingredients.

WAC 16-228-1400 Requirements for pesticide labels

WAC 16-228-1420 Requirements for complete pesticide formula

WAC 16-228-1450 Requirements for pesticide-fertilizer registration and labeling

Tab 13, Nov. 1, 2007 binder prepared by Dept of Agriculture contains additional information.

RCW 15.58.065

Protection of privileged or confidential information.

(1) In submitting data required by this chapter, the applicant may:

- (a) Mark clearly any portions which in the applicant's opinion are trade secrets or commercial or financial information; and
- (b) Submit such marked material separately from other material required to be submitted under this chapter.

(2) Notwithstanding any other provision of this chapter or other law, the director shall not make public information which in the director's judgment should be privileged or confidential because it contains or relates to trade secrets or commercial or financial information except that, when necessary to carry out the provisions of this chapter, information relating to unpublished formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the director when necessary under this chapter.

(3) If the director proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (2) of this section, the director shall notify the applicant or registrant in writing, by certified mail. The director shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in the superior court of Thurston county for a declaratory judgment as to whether such information is subject to protection under subsection (2) of this section.

[1989 c 380 § 5; 1979 c 146 § 4.]

(1) It is unlawful for any person to distribute within the state or deliver for transportation or transport in intrastate commerce or between points within this state through any point outside this state any of the following:

(a) Any pesticide which has not been registered pursuant to the provisions of this chapter;

(b) Any pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration: PROVIDED, That at the discretion of the director, a change in the labeling or formula of a pesticide may be made within a registration period without requiring reregistration of the product;

(c) Any pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to such container, and to the outside container or wrapper of the retail package, if there is one through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this chapter and the regulations adopted under this chapter;

(d) Any pesticide including arsenicals, fluorides, fluosilicates, and/or any other white powdered pesticides unless they have been distinctly denatured as to color, taste, odor, or form if so required by regulation;

(e) Any pesticide which is adulterated or misbranded, or any device which is misbranded;

(f) Any pesticide in containers, violating regulations adopted pursuant to RCW 15.58.040(2)(f) or pesticides found in containers which are unsafe due to damage.

(2) It shall be unlawful:

(a) To sell or deliver any restricted use pesticide to any person who is required by law or regulations promulgated under such law to have a permit to use or purchase such restricted use pesticides unless such person or his agent, to whom sale or delivery is made, has a valid permit to use or purchase the kind and quantity of such restricted use pesticide sold or delivered: PROVIDED, That, subject to conditions established by the director, such permit may be obtained immediately prior to sale or delivery from any person designated by the director;

(b) For any person to detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this chapter or regulations adopted under this chapter, or to add any substance to, or take any substance from, a pesticide in a manner that may defeat the purpose of this chapter or the regulations adopted thereunder;

(c) For any person to use or cause to be used any ((restricted-use)) pesticide contrary to label directions or to regulations of the director if those regulations differ from or further restrict the label directions: PROVIDED,

The compliance to the term "contrary to label directions" is enforced by the director consistent with the intent of this act;

(d) For any person to use for his own advantage or to reveal, other than to the director or proper officials or employees of the state, or to the courts of the state in response to a subpoena, or to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of RCW 15.58.060.

NEW SECTION. Sec. 4. There is added to chapter 15.58 RCW a new section to read as follows:

(1) In submitting data required by this chapter, the applicant may:

(a) Mark clearly any portions thereof which in his opinion are trade secrets or commercial or financial information; and

(b) Submit such marked material separately from other material required to be submitted under this chapter.

(2) Notwithstanding any other provision of this chapter or other law, the director shall not make public information which in his judgment should be privileged or confidential because it contains or relates to trade secrets or commercial or financial information except that, when necessary to carry out the provisions of this chapter, information relating to unpublished formulas of products acquired by authorization of this chapter may be revealed to any state or federal agency consulted and may be revealed at a public hearing or in findings of fact issued by the director when necessary under this chapter.

(3) If the director proposes to release for inspection information which the applicant or registrant believes to be protected from disclosure under subsection (2) of this section, he shall notify the applicant or registrant in writing, by certified mail. The director shall not thereafter make available for inspection such data until thirty days after receipt of the notice by the applicant or registrant. During this period, the applicant or registrant may institute an action in the superior court of Thurston county for a declaratory judgment as to whether such information is subject to protection under subsection (2) of this section.

NEW SECTION. Sec. 5. There is added to chapter 15.58 RCW a new section to read as follows:

For the purpose of exercising the authority granted to the state under the provisions of FIFRA, the director may:

(1) Meet emergency conditions in this state by applying for an exemption from any provision of FIFRA as provided for by section 18 of that act. If such exemption is granted by the administrator of EPA the director may carry out and enforce the requirements and conditions of the exemption;

(2) Comply with the requirements necessary to issue special local needs registration under section 24(c) of FIFRA; and

SSB 2254

Senate: (a) 48 0 Effective: June 7, 1979
House: (a) 95 0 C 154 L 79
S. Concur: 45 0

VETO SUMMARY:

The Governor vetoed the section requiring mandatory testing by the Department of Agriculture of animals for brucellosis or other contagious diseases when the animal changes owners. The Governor fears that eliminating the Department of Agriculture's present discretionary testing program would prove to be expensive and perpetuate the program once brucellosis is brought under control. (See VETO MESSAGE)

SSB 2255

SPONSORS: Committee on Agriculture
(Originally Sponsored by Senators Hansen, Gaspard, Day, Benitz and Wanamaker)
(By Department of Agriculture Request)

COMMITTEE: Agriculture

Revising the laws relating to the control of pesticides.

ISSUE:

Currently, the Washington Department of Agriculture has primary enforcement powers relating to pesticide control in the state. In order to retain this power, Washington law must not allow for less stringent regulation of pesticide use than the federal law requires. Amendments to the Washington Pesticide Control Act (RCW 15.58) to comply with the Federal Insecticide, Fungicide and Rodenticide Act as amended in 1978 are therefore needed.

SUMMARY:

To allow the state to continue primary pesticide control responsibilities, pesticide label or labeling registration requirements are specified. The use of any pesticide contrary to its label directions is unlawful. Compliance with federal law is required to protect trade secrets and other confidential information from public disclosure.

The Director is authorized to apply to the Environmental Protection Agency for an exemption to use a pesticide under emergency conditions. The Director is authorized to comply with federal requirements to register pesticides for special local needs and to issue experimental use permits.

Definitions are added to comply with federal law. The Pesticide Control Board is repealed.

Senate: 44 0 Effective: June 7, 1979
House: (a) 96 0 C 146 L 79
S. Concur: 46 0

SSB 2256

SPONSORS: Senators Rasmussen, Newschwander and Moore
(By State Finance Committee Request)

COMMITTEE: State Government

Revising laws relating to investments and custody of state funds.

ISSUE:

Three issues concerning investment of state funds by the State Finance Committee are raised in this bill.

(1) Under current law, the Attorney General has taken the position that the conflict of interest provision relating to membership on the Investment Advisory Committee precludes the appointment of a trust investment officer employed by a commercial bank or trust company which owns a mortgage servicing subsidiary. The State Finance Committee believes that this provision unnecessarily limits the Committee in securing appointees who could otherwise contribute to the state's investment program.

(2) In 1977, the Legislature authorized the State Treasurer to appoint a custodian of securities other than himself. Use of the Depository Trust Company in New York as a sub-custodian would reduce paper work and costs of transactions. Other states which permit this practice include Connecticut, Maryland, Minnesota, North Carolina and Wisconsin.

(3) Short-term investments in time certificates of deposit are currently limited to the amount of the federal insurance allowed for institutions (up to \$100,000). The State Finance Committee is already authorized to purchase (without limitation) bankers' acceptances and commercial paper, two classes of investments with similar risk.

SUMMARY:

A trust investment officer of a commercial bank or trust company which owns a mortgage servicing subsidiary may be appointed to the State Investment Advisory Committee. The State Treasurer may use the Federal Reserve System or the Depository Trust Company as a sub-custodian for state investments, and the insurance limitation on the amount of time certificates of deposit which may be purchased by the state as short-term investments is removed. Time certificates of deposit may now be purchased from banks outside, as well as within, the State of Washington.

RCW 15.58.060
Statement for registration — Contents.

(1) The applicant for registration shall file a statement with the department which shall include:

(a) The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than the applicant's;

(b) The name of the pesticide;

(c) The complete formula of the pesticide, including the active and inert ingredients: PROVIDED, That confidential business information of a proprietary nature is not made available to any other person and is exempt from disclosure as a public record, as provided by RCW 42.56.070;

(d) Other necessary information required for completion of the department's application for registration form; and

(e) A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions and precautions for use.

(2) The director may require a full description of the tests made and the results thereof upon which the claims are based.

(3) The director may prescribe other necessary information by rule.

[2005 c 274 § 215; 1989 c 380 § 4; 1971 ex.s. c 190 § 6.]

Notes:

Part headings not law – Effective date – 2005 c 274: See RCW 42.56.901 and 42.56.902.

16-228-1380 << 16-228-1400 >> 16-228-1410

WAC 16-228-1400

What are the requirements for pesticide labels?

(1) In addition to the requirements set forth in (2) through (5) below, pesticide labeling shall meet the standards or criteria of FIFRA.

(2) Any pesticide exempted from registration under the provisions of section 18 of FIFRA must be labeled as follows:

(a) Pesticides distributed under section 18 of FIFRA must be accompanied by a label approved by the department prior to distribution. All conditions set forth in the document granting the emergency exemption and all other requirements determined to be necessary by the department must be included on the label.

(b) In situations where a label cannot be developed and approved prior to the intended use period, the department may allow the use of the document granting the emergency exemption in lieu of labeling. Conditions set forth as part of the granting document, and any attached or associated documentation from the department shall be considered labeling for purposes of enforcement.

(3) Labels for spray adjuvants must include the following:

(a) The product brand name.

(b) The type or function of principal functioning agents. Terms used to describe adjuvant functions must be consistent with ASTM International Standards E 1519 and/or E 609, unless ASTM International has not defined a term. In the absence of an ASTM International definition, the department will determine the appropriate term(s). Functions claimed must be consistent with the principal functioning agents. If two or more functions are claimed, then the functions must be listed in descending order (starting with the primary function).

(c) An ingredient statement that shall include the following:

(i) "Principal functioning agents." The principal functioning agents must be listed by chemical name in descending order of composition with either individual or total percentage(s). If more than 3 functioning agents are present, only the 3 principal agents need to be listed;

(ii) The percentage of "Constituents ineffective as spray adjuvants," and

(iii) The total percentage of all ingredients which must equal 100%.

(d) Directions for use that must include a description of intended uses and recommended use rates.

(e) Precautionary statements adequate to protect people and the environment that shall include the following:

(i) The statement "Keep Out Of Reach Of Children."

(ii) A signal word (danger, warning or caution) and precautionary statements (including requirements for personal protective equipment, if applicable) consistent with product toxicity data; and

(iii) A statement prohibiting aquatic use, unless the registrant provides data to demonstrate that the proposed use will not cause unreasonable adverse effects to fish and aquatic invertebrates.

(f) An appropriate storage and disposal statement.

(g) The name and address of the registrant or manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, then the name must be qualified by appropriate wording such as "Packaged for" or "Distributed by."

(h) The weight or measure of the contents.

(i) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(j) Optional information: The spray adjuvant label may also include an exemption from tolerance statement (if applicable), an unsulfonated residue (UR) value (if applicable), the Washington registration number and a label identification code (such as the revision date).

- (4) Special local need (SLN) labels issued under section 24c of FIFRA must include the following:
- (a) A federal or state Restricted Use Pesticide (RUP) designation statement (when applicable).
 - (b) The statement "FOR DISTRIBUTION AND USE ONLY WITHIN THE STATE OF WASHINGTON."
 - (c) The product brand name.
 - (d) The EPA and SLN registration numbers of the product.
 - (e) The statement: "It is a violation of federal law to use this product in a manner inconsistent with its labeling."
 - (f) The statement: "This labeling must be in the possession of the user at the time of application."
 - (g) One of the following statements:
 - (i) For agricultural use SLN labels the statement: "Follow all applicable directions, restrictions, worker protection standard requirements, and precautions on the EPA registered label"; or
 - (ii) For nonagricultural use SLN labels the statement: "Follow all applicable directions, restrictions, and precautions on the EPA registered label."
 - (h) Directions for use that must include the following: crop or site to be treated, pest(s) to be controlled, application rate and concentration, method of application, frequency and timing of application, and pre-harvest interval.
 - (i) All restriction or precaution statements (e.g. pollinator protection, herbicide drift, aquatic toxicity, chemigation, seed crop requirements) applicable to the use.
 - (j) An expiration date statement such as: "This label for (Product name) expires and must not be distributed or used in accordance with this SLN registration after December 31, (Fifth year)." Fifth year means the fifth year after issuance of the SLN label.
 - (k) The name and address of the SLN registrant.
 - (l) A label identification code (such as the revision date).
 - (m) Any other applicable information required by the EPA or the department.
 - (n) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.
 - (o) Optional information: The SLN label may also include a waiver of liability statement (if applicable). The waiver of liability statement must be consistent with EPA requirements.
- (5) Labels for minimum risk pesticides exempted from federal registration under section 25(b) of FIFRA must include the following:
- (a) The product brand name.
 - (b) The product function. The function(s) claimed must be consistent with product ingredients.
 - (c) An ingredient statement that shall include the following:
 - (i) "Active ingredients." These ingredients must be listed by name (in descending order of composition) with individual percentage(s). Only active ingredients listed in 40 CFR 152.25(g) are permitted;
 - (ii) "Inert ingredients" or "Other ingredients." These ingredients must be listed by name with the cumulative percentage of all inert ingredients stated on the label. Only inert ingredients on EPA Inerts List 4A (40 CFR 180.950) are permitted; and
 - (iii) The total percentage of all ingredients which must equal 100%.
 - (d) Directions for use that must include a description of intended uses and use rates. The label must not bear claims either to control or mitigate microorganisms that pose a threat to human health.

(e) Precautionary statements adequate to protect people and the environment that shall include the following:

(i) The statement "Keep Out Of Reach Of Children," and

(ii) A signal word (danger, warning or caution) and precautionary statements (including requirements for personal protective equipment, if applicable) consistent with product toxicity data.

(f) An appropriate storage and disposal statement.

(g) The name and address of the registrant or manufacturer. If the registrant's name appears on the label and the registrant is not the manufacturer, then the name must be qualified by appropriate wording such as "Packaged for" or "Distributed by."

(h) The weight or measure of the contents.

(i) In situations where the department deems it appropriate, the use of alternative language and/or statements may be allowed or required.

(j) Optional information: The minimum risk pesticide label may also include the Washington registration number and a label identification code (such as the revision date).

[Statutory Authority: Chapters 17.21, 15.58, and 34.05 RCW. 07-11-041A, § 16-228-1400, filed 5/9/07, effective 6/9/07; 03-22-029, § 16-228-1400, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1400, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1400, filed 10/20/99, effective 11/20/99.]

16-228-1410 << 16-228-1420 >> 16-228-1430

WAC 16-228-1420

What are the requirements for complete pesticide formula?

The complete pesticide formula shall include a listing of each active and inert ingredient and the percentage of each ingredient. This information will be kept confidential and is exempt from disclosure as a public record as provided by RCW 15.58.065 except for names of inert ingredients of pesticides exempt under section 25b of FIFRA which according to CFR 152.25 (g)(3)(i) must have this information on the label. Information required by this section may be submitted on company letterhead marked "confidential" in red ink on each sheet or each "EPA confidential statement of formula" information sheet.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1420, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.58 and 17.21 RCW. 00-22-074, § 16-228-1420, filed 10/30/00, effective 11/30/00. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1420, filed 10/20/99, effective 11/20/99.]

16-228-1440 << 16-228-1450 >> 16-228-1455

WAC 16-228-1450

What are the requirements for pesticide-fertilizer registration and labeling?

(1) Each pesticide-fertilizer mix containing different pesticide active ingredients and/or percentages must be registered with the director: Provided that the fertilizer portion shall be considered an inert ingredient for the purpose of this order. Such registrations may be to the nearest one-tenth of one percent by weight of all active ingredient/s, except for nitrification inhibitor-pesticide mixes as stated in (4) below.

(2) A specimen pesticide-fertilizer label shall be registered with the director before distribution or sale. These labels shall bear the following items:

(a) A pesticide ingredient statement identifying the active ingredient(s) and showing the percent by weight of each active ingredient;

(b) EPA registration number of each pesticide used to formulate the pesticide-fertilizer mix;

(c) Crop(s) on which the pesticide-fertilizer mix may be used and the amount of pesticide-fertilizer mix to be applied per acre;

(d) Timing of application (for instance, preplant) and the preharvest interval;

(e) Net weight of the shipment;

(f) Name and address of the registrant or manufacturer;

(g) Any other information required by the director.

(3) Labeling bearing all of the information specified in (2) above and a complete specimen label for each pesticide product used to formulate the pesticide-fertilizer mix shall accompany each pesticide-fertilizer mix shipment. All or portions of the information required in (2) above may occur on the invoice of a custom mix: Provided that an appropriate specimen invoice has been registered by the director as pesticide labeling.

(4) Pesticide-fertilizer mixes containing nitrification inhibitors or agents intended for nitrogen stabilization only, and no other pesticide active ingredients, may be registered without specifying the percentage of active ingredient. The amount of active ingredient in the mix must be stated on the label that accompanies each shipment.

[Statutory Authority: Chapters 17.21, 15.58, 34.05 RCW. 03-22-029, § 16-228-1450, filed 10/28/03, effective 11/28/03. Statutory Authority: Chapters 15.54, 15.58 and 17.21 RCW. 99-22-002, § 16-228-1450, filed 10/20/99, effective 11/20/99.]