

Chapter 17.21 RCW
WASHINGTON PESTICIDE APPLICATION ACT

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RCW 17.21.010 Declaration of police power and purpose. The application and the control of the use of various pesticides is important and vital to the maintenance of a high level of public health and welfare both immediate and future, and is hereby declared to be affected with the public interest. The provisions of this chapter are enacted in the exercise of the police power of the state for the purpose of protecting the immediate and future health and welfare of the people of the state. [1967 c 177 § 1; 1961 c 249 § 1.]

Washington pesticide control act: Chapter 15.58 RCW.

RCW 17.21.020 Definitions. Unless the context clearly requires otherwise, the definitions in this section apply throughout this chapter.

(1) "Agricultural commodity" means any plant or part of a plant, or animal, or animal product, produced by a person (including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters, or other comparable persons) primarily for sale, consumption, propagation, or other use by people or animals.

(2) "Agricultural land" means land on which an agricultural commodity is produced or land that is in a government-recognized conservation reserve program. This definition does not apply to private gardens where agricultural commodities are produced for personal consumption.

(3) "Antimicrobial pesticide" means a pesticide that is used for the control of microbial pests, including but not limited to viruses, bacteria, algae, and protozoa, and is intended for use as a disinfectant or sanitizer.

(4) "Apparatus" means any type of ground, water, or aerial equipment, device, or contrivance using motorized, mechanical, or pressurized power and used to apply any pesticide on land and anything that may be growing, habitating, or stored on or in such land, but shall not include any pressurized handsized household device used to apply any pesticide, or any equipment, device, or contrivance of which

the person who is applying the pesticide is the source of power or energy in making such pesticide application, or any other small equipment, device, or contrivance that is transported in a piece of equipment licensed under this chapter as an apparatus.

(5) "Arthropod" means any invertebrate animal that belongs to the phylum arthropoda, which in addition to insects, includes allied classes whose members are wingless and usually have more than six legs; for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(6) "Certified applicator" means any individual who is licensed as a commercial pesticide applicator, commercial pesticide operator, public operator, private-commercial applicator, demonstration and research applicator, private applicator, limited private applicator, rancher private applicator, or any other individual who is certified by the director to use or supervise the use of any pesticide which is classified by the EPA or the director as a restricted use pesticide.

(7) "Commercial pesticide applicator" means any person who engages in the business of applying pesticides to the land of another.

(8) "Commercial pesticide operator" means any employee of a commercial pesticide applicator who uses or supervises the use of any pesticide and who is required to be licensed under provisions of this chapter.

(9) "Defoliant" means any substance or mixture of substances intended to cause the leaves or foliage to drop from a plant with or without causing abscission.

(10) "Department" means the Washington state department of agriculture.

(11) "Desiccant" means any substance or mixture of substances intended to artificially accelerate the drying of plant tissues.

(12) "Device" means any instrument or contrivance intended to trap, destroy, control, repel, or mitigate pests, but not including equipment used for the application of pesticides when sold separately from the pesticides.

(13) "Direct supervision" by certified private applicators shall mean that the designated restricted use pesticide shall be applied for purposes of producing any agricultural commodity on land owned or rented by the applicator or the applicator's employer, by a competent person acting under the instructions and control of a certified private applicator who is available if and when needed, even though such certified private applicator is not physically present at the time and place the pesticide is applied. The certified private applicator shall have direct management responsibility and familiarity of the pesticide, manner of application, pest, and land to which the pesticide is being applied. Direct supervision by all other certified applicators means direct on-the-job supervision and shall require that the certified applicator be physically present at the application site and that the person making the application be in voice and visual contact with the certified applicator at all times during the application. However, direct supervision for forest application does not require constant voice and visual contact when general use pesticides are applied using nonapparatus type equipment, the certified applicator is physically present and readily available in the immediate application area, and the certified applicator directly observes pesticide mixing and batching. Direct supervision of an aerial apparatus means the pilot of the aircraft must be appropriately certified.

(14) "Director" means the director of the department or a duly authorized representative.

(15) "Engage in business" means any application of pesticides by any person upon lands or crops of another.

(16) "EPA" means the United States environmental protection agency.

(17) "EPA restricted use pesticide" means any pesticide classified for restricted use by the administrator, EPA.

(18) "FIFRA" means the federal insecticide, fungicide and rodenticide act as amended (61 Stat. 163, 7 U.S.C. Sec. 136 et seq.).

(19) "Forest application" means the application of pesticides to agricultural land used to grow trees for the commercial production of wood or wood fiber for products such as dimensional lumber, shakes, plywood, poles, posts, pilings, particle board, hardboard, oriented strand board, pulp, paper, cardboard, or other similar products.

(20) "Fumigant" means any pesticide product or combination of products that is a vapor or gas or forms a vapor or gas on application and whose method of pesticidal action is through the gaseous state.

(21) "Fungi" means all nonchlorophyll-bearing thallophytes (all nonchlorophyll-bearing plants of lower order than mosses and liverworts); for example, rusts, smuts, mildews, molds, and yeasts, except those on or in a living person or other animals.

(22) "Fungicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any fungi.

(23) "Herbicide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any weed or other higher plant.

(24) "Immediate service call" means a landscape application to satisfy an emergency customer request for service, or a treatment to control a pest to landscape plants.

(25) "Insect" means any small invertebrate animal, in any life stage, whose adult form is segmented and which generally belongs to the class insecta, comprised of six-legged, usually winged forms, as, for example, beetles, bugs, bees, and flies. The term insect shall also apply to other allied classes of arthropods whose members are wingless and usually have more than six legs, for example, spiders, mites, ticks, centipedes, and isopod crustaceans.

(26) "Insecticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate any insect.

(27) "Land" means all land and water areas, including airspace and all plants, animals, structures, buildings, devices, and contrivances, appurtenant to or situated on, fixed or mobile, including any used for transportation.

(28) "Landscape application" means an application of any EPA registered pesticide to any exterior landscape area around residential property, commercial properties such as apartments or shopping centers, parks, golf courses, schools including nursery schools and licensed day cares, or cemeteries or similar areas. This definition shall not apply to: (a) Applications made by private applicators, limited private applicators, or rancher private applicators; (b) mosquito abatement, gypsy moth eradication, or similar wide-area pest control programs sponsored by governmental entities; and (c) commercial pesticide applicators making structural applications.

(29) "Limited private applicator" means a certified applicator who uses or is in direct supervision, as defined for private applicators in this section, of the use of any herbicide classified by the EPA or the director as a restricted use pesticide, for the sole

purpose of controlling weeds on nonproduction agricultural land owned or rented by the applicator or the applicator's employer. Limited private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under chapters 17.04, 17.06, and 17.10 RCW and state and local regulations adopted under chapters 17.04, 17.06, and 17.10 RCW. A limited private applicator may apply restricted use herbicides to the types of land described in this subsection of another person if applied without compensation other than trading of personal services between the applicator and the other person. This license is only valid when making applications in counties of Washington located east of the crest of the Cascade mountains.

(30) "Limited production agricultural land" means land used to grow hay and grain crops that are consumed by the livestock on the farm where produced. No more than ten percent of the hay and grain crops grown on limited production agricultural land may be sold each crop year. Limited production agricultural land does not include aquatic sites.

(31) "Nematocide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate nematodes.

(32) "Nematode" means any invertebrate animal of the phylum nemathelminthes and class nematoda, that is, unsegmented round worms with elongated, fusiform, or saclike bodies covered with cuticle, and inhabiting soil, water, plants or plant parts. Nematodes may also be called nemas or eelworms.

(33) "Nonproduction agricultural land" means pastures, rangeland, fencerows, and areas around farm buildings but not aquatic sites.

(34) "Person" means any individual, partnership, association, corporation, or organized group of persons whether or not incorporated.

(35) "Pest" means, but is not limited to, any insect, rodent, nematode, snail, slug, weed, and any form of plant or animal life or virus, except virus, bacteria, or other microorganisms on or in a living person or other animal or in or on processed food or beverages or pharmaceuticals, which is normally considered to be a pest, or which the director may declare to be a pest.

(36) "Pesticide" means, but is not limited to:

(a) Any substance or mixture of substances intended to prevent, destroy, control, repel, or mitigate any pest;

(b) Any substance or mixture of substances intended to be used as a plant regulator, defoliant or desiccant; and

(c) Any spray adjuvant as defined in RCW 15.58.030.

(37) "Plant regulator" means any substance or mixture of substances intended through physiological action, to accelerate or retard the rate of growth or maturation, or to otherwise alter the behavior of ornamental or crop plants or their produce, but shall not include substances insofar as they are intended to be used as plant nutrients, trace elements, nutritional chemicals, plant inoculants, or soil amendments.

(38) "Private applicator" means a certified applicator who uses or is in direct supervision of the use of any pesticide classified by the EPA or the director as a restricted use pesticide, for the purposes of producing any agricultural commodity and for any associated noncrop application on land owned or rented by the applicator or the applicator's employer or if applied without compensation other than trading of personal services between producers of agricultural commodities on the land of another person.

(39) "Private-commercial applicator" means a certified applicator who uses or supervises the use of any pesticide classified by the EPA or the director as a restricted use pesticide for purposes other than the production of any agricultural commodity on lands owned or rented by the applicator or the applicator's employer.

(40) "Rancher private applicator" means a certified applicator who uses or is in direct supervision, as defined for private applicators in this section, of the use of any herbicide or any rodenticide classified by the EPA or the director as a restricted use pesticide for the purpose of controlling weeds and pest animals on nonproduction agricultural land and limited production agricultural land owned or rented by the applicator or the applicator's employer. Rancher private applicators may also use restricted use pesticides on timber areas, excluding aquatic sites, to control weeds designated for mandatory control under chapters 17.04, 17.06, and 17.10 RCW and state and local regulations adopted under chapters 17.04, 17.06, and 17.10 RCW. A rancher private applicator may apply restricted use herbicides and rodenticides to the types of land described in this subsection of another person if applied without compensation other than trading of personal services between the applicator and the other person. This license is only valid when making applications in counties of Washington located east of the crest of the Cascade mountains.

(41) "Residential property" includes property less than one acre in size zoned as residential by a city, town, or county, but does not include property zoned as agricultural or agricultural homesites.

(42) "Restricted use pesticide" means any pesticide or device which, when used as directed or in accordance with a widespread and commonly recognized practice, the director determines, subsequent to a hearing, requires additional restrictions for that use to prevent unreasonable adverse effects on the environment including people, lands, beneficial insects, animals, crops, and wildlife, other than pests.

(43) "Rodenticide" means any substance or mixture of substances intended to prevent, destroy, repel, or mitigate rodents, or any other vertebrate animal which the director may declare by rule to be a pest.

(44) "School facility" means any facility used for licensed day care center purposes or for the purposes of a public kindergarten or public elementary or secondary school. School facility includes the buildings or structures, playgrounds, landscape areas, athletic fields, school vehicles, or any other area of school property.

(45) "Snails or slugs" include all harmful mollusks.

(46) "Unreasonable adverse effects on the environment" means any unreasonable risk to people or the environment taking into account the economic, social, and environmental costs and benefits of the use of any pesticide, or as otherwise determined by the director.

(47) "Weed" means any plant which grows where it is not wanted. [2010 1st sp.s. c 7 § 134; 2004 c 100 § 1; 2002 c 122 § 2; (2002 c 122 § 1 expired July 1, 2002); 2001 c 333 § 1; 1994 c 283 § 1; 1992 c 176 § 1; 1989 c 380 § 33; 1979 c 92 § 1; 1971 ex.s. c 191 § 1; 1967 c 177 § 2; 1961 c 249 § 2.]

Effective date—2010 1st sp.s. c 26; 2010 1st sp.s. c 7: See note following RCW 43.03.027.

Effective date—2004 c 100: "This act takes effect January 1, 2005." [2004 c 100 § 7.]

Effective dates—2002 c 122: "(1) Section 1 of this act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect immediately [March 26, 2002].

(2) Section 2 of this act takes effect July 1, 2002." [2002 c 122 § 3.]

Expiration date—2002 c 122 § 1: "Section 1 of this act expires July 1, 2002." [2002 c 122 § 4.]

Effective date—2001 c 333: "Except for *section 7 of this act, this act takes effect July 1, 2002." [2001 c 333 § 6.]

***Reviser's note:** Section 7 of this act was vetoed.

RCW 17.21.030 Director's authority—Rules. The director shall administer and enforce the provisions of this chapter and rules adopted under this chapter.

(1) The director may adopt rules:

(a) Governing the loading, mixing, application and use, or prohibiting the loading, mixing, application, or use of any pesticide;

(b) Governing the time when, and the conditions under which restricted use pesticides shall or shall not be used in different areas as prescribed by the director in the state;

(c) Providing that any or all restricted use pesticides shall be purchased, possessed or used only under permit of the director and under the director's direct supervision in certain areas and/or under certain conditions or in certain quantities of concentrations; however, any person licensed to sell such pesticides may purchase and possess such pesticides without a permit;

(d) Establishing recordkeeping requirements for licensees, permittees, and certified applicators;

(e) Governing the fixing and collecting of examination fees;

(f) Fixing and collecting fees for recertification course sponsorship;

(g) Establishing testing procedures, licensing classifications, and requirements for licenses and permits, and criteria for assigning recertification credit to and procedures for department approval of courses as provided by this chapter;

(h) Concerning training by employers for employees who mix and load pesticides;

(i) Concerning minimum performance standards for spray boom and nozzles used in pesticide applications to minimize spray drift and establishing a list of approved spray nozzles that meet these standards; and

(j) Fixing and collecting permit fees.

(2) The director may adopt any other rules necessary to carry out the purpose and provisions of this chapter. [2020 c 180 § 3; 1994 c 283 § 2; 1989 c 380 § 34; 1987 c 45 § 26; 1979 c 92 § 2; 1961 c 249 § 3.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 17.21.040 Rules subject to administrative procedure act.

All rules adopted under the provisions of this chapter shall be subject to the provisions of chapter 34.05 RCW as enacted or hereafter amended, concerning the adoption of rules. [1989 c 380 § 35; 1961 c 249 § 4.]

RCW 17.21.050 Hearings—Administrative procedure act.

All hearings for the imposition of a civil penalty and/or the suspension, denial, or revocation of a license, certification, or permit issued under the provisions of this chapter shall be subject to the provisions of chapter 34.05 RCW concerning adjudicative proceedings. [1994 c 283 § 3. Prior: 1989 c 380 § 36; 1989 c 175 § 58; 1985 c 158 § 4; 1961 c 249 § 5.]

Effective date—1989 c 175: See note following RCW 34.05.010.

RCW 17.21.060 Subpoenas—Witness fees.

The director may issue subpoenas to compel the attendance of witnesses and/or production of books, documents, and records anywhere in the state in any hearing affecting the authority or privilege granted by a license, certification, or permit issued under the provisions of this chapter. Witnesses shall be entitled to fees for attendance and travel as provided for in chapter 2.40 RCW as enacted or hereafter amended. [1994 c 283 § 4; 1961 c 249 § 6.]

RCW 17.21.065 Classification of licenses.

The director may classify licenses to be issued under the provisions of this chapter. These classifications may include but are not limited to pest control operators, ornamental sprayers, agricultural crop sprayers or right-of-way sprayers; separate classifications may be specified as to ground, aerial, or manual methods used by any licensee to apply pesticides.

Each such classification shall be subject to separate testing procedures and requirements. No person shall be required to pay an additional license fee if such person desires to be licensed in one or all of the license classifications provided for by the director under the authority of this section, except as provided for in RCW 17.21.110. [1994 c 283 § 5; 1967 c 177 § 17.]

RCW 17.21.070 Commercial pesticide applicator license—

Requirements. It is unlawful for any person to engage in the business of applying pesticides to the land of another without a commercial pesticide applicator license. Application for a commercial applicator license must be accompanied by a fee of two hundred forty-three dollars and in addition a fee of twenty-seven dollars for each apparatus, exclusive of one, used by the applicant in the application of pesticides. [2021 c 244 § 8; 2008 c 285 § 21; 1997 c 242 § 11; 1994 c 283 § 6; 1993 sp.s. c 19 § 4; 1991 c 109 § 30; 1989 c 380 § 37; 1981 c 297 § 21; 1967 c 177 § 3; 1961 c 249 § 7.]

Effective date—2021 c 244: See note following RCW 15.58.070.

Effective date—2008 c 285 §§ 15-26: See note following RCW 15.58.070.

Intent—Captions not law—2008 c 285: See notes following RCW 43.22.434.

Effective date—1997 c 242: See note following RCW 15.58.070.

Severability—1981 c 297: See note following RCW 15.36.201.

RCW 17.21.080 Commercial pesticide applicator license—

Application—Form. Application for a commercial pesticide applicator license provided for in RCW 17.21.070 shall be on a form prescribed by the director.

(1) The application shall include the following information:

(a) The full name of the individual applying for such license.

(b) The full name of the business the individual represents with the license.

(c) If the applicant is an individual, receiver, trustee, firm, partnership, association, corporation, or any other organized group of persons whether incorporated or not, the full name of each member of the firm or partnership, or the names of the officers of the association, corporation or group.

(d) The principal business address of the applicant in the state or elsewhere.

(e) The name of a person whose domicile is in the state, and who is authorized to receive and accept services of summons and legal notice of all kinds for the applicant.

(f) The model, make, horsepower, and size of any apparatus used by the applicant to apply pesticides.

(g) License classification or classifications for which the applicant is applying.

(h) A list of the names of individuals allowed to apply pesticides under the authority of the commercial applicator's license.

(i) Any other necessary information prescribed by the director.

(2) Any changes to the information provided on the prescribed commercial applicator form shall be reported by the business to the department within thirty days of the change. [1994 c 283 § 7; 1989 c 380 § 38; 1967 c 177 § 4; 1961 c 249 § 8.]

RCW 17.21.091 Commercial pesticide applicator license—Persons who may apply under license authority. (1) No commercial pesticide applicator shall allow a person to apply pesticides under the authority of the commercial pesticide applicator's license unless the commercial pesticide applicator has, by mail or facsimile transmissions, submitted the name to the department on a form prescribed by the department as provided in RCW 17.21.080(2). The department shall maintain a list for each commercial pesticide applicator of persons authorized to apply pesticides under the authority of the commercial pesticide applicator's license.

(2) Violations of this chapter by a person acting as an employee, agent, or otherwise acting on behalf of or under the license authority of a commercial pesticide applicator, may, in the discretion of the

department, be treated as a violation by the commercial pesticide applicator. [1994 c 283 § 8.]

RCW 17.21.100 Recordkeeping by licensees and agricultural users.

(1) Certified applicators licensed under the provisions of this chapter, persons required to be licensed under this chapter, all persons applying pesticides to more than one acre of agricultural land in a calendar year, including public entities engaged in roadside spraying of pesticides, and all other persons making landscape applications of pesticides to types of property listed in RCW 17.21.410(1) (b), (c), (d), and (e), shall keep records for each application which shall include the following information:

- (a) The location of the land where the pesticide was applied;
- (b) The year, month, day and beginning and ending time of the application of the pesticide each day 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 which was applied;
- (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 the pesticide was applied;
- (h) The licensed applicator's name, address, and telephone number and the name of the individual or individuals making the application and their license number, if applicable;
- (i) The direction and estimated velocity of the wind during the time the pesticide was applied. 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 in rule.

(2) (a) The required information shall be recorded on the same day that a pesticide is applied.

(b) A commercial pesticide applicator who applies a pesticide to an agricultural crop or agricultural lands shall provide a copy of the records required under subsection (1) of this section for the application to the owner, or to the lessee if applied on behalf of the lessee, of the lands to which the pesticide is applied. Records provided by a commercial pesticide applicator to the owner or lessee of agricultural lands under this subsection need not be provided on a form adopted by the department.

(3) The records required under this section shall be maintained and preserved by the licensed pesticide applicator or such other person or entity applying the pesticides for no less than seven years from the date of the application of the pesticide to which such records refer. If the pesticide was applied by a commercial pesticide applicator to the agricultural crop or agricultural lands of a person who employs one or more employees, as "employee" is defined in RCW 49.70.020, the records shall also be kept by the employer for a period of seven years from the date of the application of the pesticide to which the records refer.

(4) (a) The pesticide records shall be readily accessible to the department for inspection. Copies of the records shall be provided on request to: The department; the department of labor and industries;

treating health care personnel initiating diagnostic testing or therapy for a patient with a suspected case of pesticide poisoning; the department of health; and, in the case of an industrial insurance claim filed under Title 51 RCW with the department of labor and industries, the employee or the employee's designated representative. In addition, the director may require the submission of the records on a routine basis within thirty days of the application of any restricted use pesticide in prescribed areas controlling the use of the restricted use pesticide. 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 record shall be provided within seventy-two hours.

(b) Copies of records provided to a person or entity under this subsection (4) shall, if so requested, be provided on a form adopted under subsection (7) 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.

(5) If a request for a copy of the record is made under this section from an applicator referred to in subsection (1) of this section and the applicator refuses to provide a copy, the requester may notify the department of the request and the applicator's refusal. Within seven working days, the department shall request that the applicator 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 applicator shall provide copies of the records to the department within twenty-four hours after the department's request.

(6) The department shall include inspection of the records required under this section as part of any on-site inspection conducted under this chapter on agricultural lands. The inspection shall determine whether the records are readily transferable to a form adopted by the department and are readily accessible to employees. However, no person subject to a department inspection may be inspected under this subsection (6) 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 (6) limits the department's inspection of records pertaining to pesticide-related injuries, illnesses, fatalities, accidents, or complaints.

(7) The department of agriculture and the department of labor and industries shall jointly adopt, by rule, forms that satisfy the information requirements of this section. [2011 c 103 § 37; 1994 c 283 § 9; 1992 c 173 § 1; 1989 c 380 § 39; 1987 c 45 § 28; 1971 ex.s. c 191 § 3; 1961 c 249 § 10.]

Purpose—2011 c 103: See note following RCW 15.26.120.

Effective dates—1992 c 173: "(1) Sections 1 through 3 of this act are necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and shall take effect immediately [April 1, 1992].

(2) Section 4 of this act shall take effect January 1, 1993."
[1992 c 173 § 5.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 17.21.110 Commercial pesticide operator license—

Requirements. It is unlawful for any person to act as an employee of a commercial pesticide applicator and apply pesticides manually or as the operator directly in charge of any apparatus which is licensed or should be licensed under this chapter for the application of any pesticide, without having obtained a commercial pesticide operator license from the director. The commercial pesticide operator license is in addition to any other license or permit required by law for the operation or use of any such apparatus. Application for a commercial operator license must be accompanied by a fee of seventy-eight dollars. This section does not apply to any individual who is a licensed commercial pesticide applicator. [2021 c 244 § 9; 2008 c 285 § 22; 1997 c 242 § 12; 1994 c 283 § 10; 1993 sp.s. c 19 § 5; 1992 c 170 § 5; 1991 c 109 § 31; 1989 c 380 § 40; 1981 c 297 § 22; 1967 c 177 § 6; 1961 c 249 § 11.]

Effective date—2021 c 244: See note following RCW 15.58.070.

Effective date—2008 c 285 §§ 15-26: See note following RCW 15.58.070.

Intent—Captions not law—2008 c 285: See notes following RCW 43.22.434.

Effective date—1997 c 242: See note following RCW 15.58.070.

Severability—1981 c 297: See note following RCW 15.36.201.

RCW 17.21.122 Private-commercial pesticide applicator license—

Requirements. It is unlawful for any person to act as a private-commercial pesticide applicator without having obtained a private-commercial pesticide applicator license from the director. Application for a private-commercial pesticide applicator license must be accompanied by a fee of thirty-eight dollars. [2021 c 244 § 10; 2008 c 285 § 23; 1997 c 242 § 13; 1994 c 283 § 11; 1993 sp.s. c 19 § 6; 1992 c 170 § 6; 1991 c 109 § 32; 1989 c 380 § 41; 1979 c 92 § 6.]

Effective date—2021 c 244: See note following RCW 15.58.070.

Effective date—2008 c 285 §§ 15-26: See note following RCW 15.58.070.

Intent—Captions not law—2008 c 285: See notes following RCW 43.22.434.

Effective date—1997 c 242: See note following RCW 15.58.070.

RCW 17.21.126 Private applicator, limited private applicator, or rancher private applicator—Requirements—Application for license—Fees. It is unlawful for any person to act as a private applicator, limited private applicator, or rancher private applicator without first complying with requirements determined by the director as necessary to prevent unreasonable adverse effects on the environment, including injury to the pesticide applicator or other persons, for each specific pesticide use.

(1) Certification standards to determine the individual's competency with respect to the use and handling of the pesticide or class of pesticides for which the private applicator, limited private applicator, or rancher private applicator is certified must be relative to hazards of the particular type of application, class of pesticides, or handling procedure. In determining these standards the director must take into consideration standards of the EPA and is authorized to adopt these standards by rule.

(2) Application for a private applicator license must be accompanied by a fee of thirty-eight dollars. Application for a limited private applicator license must be accompanied by a fee of thirty-three dollars. Application for a rancher private applicator license must be accompanied by a fee of one hundred three dollars. Individuals with a valid certified applicator license, pest control consultant license, or dealer manager license who qualify in the appropriate statewide or agricultural license categories are exempt from the private applicator, limited private applicator, or rancher private applicator fee requirements. However, licensed public pesticide operators, otherwise exempted from the public pesticide operator license fee requirement, are not also exempted from the fee requirements under this subsection. [2021 c 244 § 11; 2008 c 285 § 24; 2004 c 100 § 2; 1997 c 242 § 14; 1994 c 283 § 12; 1993 sp.s. c 19 § 7; 1992 c 170 § 7; 1991 c 109 § 33; 1989 c 380 § 42; 1979 c 92 § 8.]

Effective date—2021 c 244: See note following RCW 15.58.070.

Effective date—2008 c 285 §§ 15-26: See note following RCW 15.58.070.

Intent—Captions not law—2008 c 285: See notes following RCW 43.22.434.

Effective date—2004 c 100: See note following RCW 17.21.020.

Effective date—1997 c 242: See note following RCW 15.58.070.

RCW 17.21.128 Renewal of certificate or license—Recertification standards. (1) The director may renew any certification or license issued under authority of this chapter subject to the recertification standards identified in subsection (2) of this section or an examination requiring new knowledge that may be required to apply pesticides.

(2) Except as provided in subsection (3) of this section, all individuals licensed under this chapter shall meet the recertification standards identified in (a) or (b) of this subsection, every five years, in order to qualify for continuing licensure.

(a) Licensed pesticide applicators may qualify for continued licensure through accumulation of recertification credits.

(i) Private applicators shall accumulate a minimum of twenty department-approved credits every five years with no more than ten credits allowed per year;

(ii) Limited private applicators shall accumulate a minimum of eight department-approved credits every five years. All credits must be applicable to the control of weeds with at least one-half of the credits directly related to weed control and the remaining credits in topic areas indirectly related to weed control, such as the safe and legal use of pesticides;

(iii) Rancher private applicators shall accumulate a minimum of twelve department-approved credits every five years;

(iv) All other license types established under this chapter shall accumulate a minimum of forty department-approved credits every five years with no more than fifteen credits allowed per year.

(b) Certified pesticide applicators may qualify for continued licensure through meeting the examination requirements necessary to become licensed in those areas in which the licensee operates.

(3) At the termination of a licensee's five-year recertification period, the director may waive the requirements identified in subsection (2) of this section if the licensee can demonstrate that he or she is meeting comparable recertification standards through another state or jurisdiction or through a federal environmental protection agency approved government agency plan. [2005 c 397 § 1; 2004 c 100 § 3; 1994 c 283 § 13; 1986 c 203 § 9; 1979 c 92 § 9.]

Effective date—2004 c 100: See note following RCW 17.21.020.

RCW 17.21.129 Demonstration and research license—Fees—

Requirements. Except as provided in RCW 17.21.203, it is unlawful for a person to use or supervise the use of any experimental use pesticide or any restricted use pesticide on small experimental plots for research purposes when no charge is made for the pesticide and its application without a demonstration and research applicator's license.

(1) Application for a demonstration and research license must be accompanied by a fee of forty-three dollars.

(2) Persons licensed under this section are exempt from the requirements of RCW 17.21.160, 17.21.170, and 17.21.180. [2021 c 244 § 12; 2008 c 285 § 25; 1997 c 242 § 15; 1994 c 283 § 14; 1993 sp.s. c 19 § 8; 1992 c 170 § 8; 1991 c 109 § 34; 1989 c 380 § 43; 1987 c 45 § 30; 1981 c 297 § 26.]

Effective date—2021 c 244: See note following RCW 15.58.070.

Effective date—2008 c 285 §§ 15-26: See note following RCW 15.58.070.

Intent—Captions not law—2008 c 285: See notes following RCW 43.22.434.

Effective date—1997 c 242: See note following RCW 15.58.070.

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

Severability—1981 c 297: See note following RCW 15.36.201.

RCW 17.21.130 Revocation, suspension, or denial. Any license, permit, or certification provided for in this chapter may be revoked or suspended, and any license, permit, or certification application may be denied by the director for cause. If the director suspends a license under this chapter with respect to activity of a continuing nature under chapter 34.05 RCW, the director may elect to suspend the license for a subsequent license year during a period that coincides with the period commencing thirty days before and ending thirty days after the date of the incident or incidents giving rise to the violation.

The director shall immediately suspend the license or certificate of a person who has been certified pursuant to RCW 74.20A.320 by the department of social and health services as a person who is not in compliance with a support order or a *residential or visitation order. If the person has continued to meet all other requirements for reinstatement during the suspension, reissuance of the license or certificate shall be automatic upon the director's receipt of a release issued by the department of social and health services stating that the licensee is in compliance with the order. [1997 c 58 § 877; 1994 c 283 § 15; 1989 c 380 § 46; 1986 c 203 § 10; 1961 c 249 § 13.]

***Reviser's note:** 1997 c 58 § 886 requiring a court to order certification of noncompliance with residential provisions of a court-ordered parenting plan was vetoed. Provisions ordering the department of social and health services to certify a responsible parent based on a court order to certify for noncompliance with residential provisions of a parenting plan were vetoed. See RCW 74.20A.320.

Short title—Part headings, captions, table of contents not law—Exemptions and waivers from federal law—Conflict with federal requirements—Severability—1997 c 58: See RCW 74.08A.900 through 74.08A.904.

Effective dates—Intent—1997 c 58: See notes following RCW 74.20A.320.

RCW 17.21.132 License, certification—Applications—Expiration dates. Any person applying for a license or certification authorized under the provisions of this chapter shall file an application on a form prescribed by the director.

(1) The application shall state the license or certification and the classification(s) for which the applicant is applying and the method in which the pesticides are to be applied.

(2) For all classes of licenses except private applicator, limited private applicator, and rancher private applicator, all applicants shall be at least eighteen years of age on the date that the application is made. Applicants for a private applicator, limited private applicator, or rancher private applicator license shall be at least sixteen years of age on the date that the application is made.

(3) Application for a license to apply pesticides shall be accompanied by the required fee. No license may be issued until the required fee has been received by the department.

(4) Each classification of license issued under this chapter except the limited private applicator and the rancher private applicator expires annually on a date set by rule by the director. Limited and rancher private applicator licenses expire on the fifth December 31st after issuance. Renewal applications shall be filed on or before the applicable expiration date. [2004 c 100 § 4; 1997 c 242 § 16; 1994 c 283 § 16; 1991 c 109 § 35; 1989 c 380 § 44.]

Effective date—2004 c 100: See note following RCW 17.21.020.

RCW 17.21.134 Licenses—Examination requirements—Fees. (1) The director shall not issue a commercial pesticide applicator license until the applicant, if he or she is the sole owner and manager of the business has passed examinations in all classifications that the business operates. If there is more than one owner or the owner does not participate in the pesticide application activities, the person managing the pesticide application activities of the business shall be licensed in all classifications that the business operates. The director shall not issue a commercial pesticide operator, public operator, private commercial applicator, or demonstration and research applicator license until the applicant has passed an examination demonstrating knowledge of:

(a) How to apply pesticides under the classification for which he or she has applied, manually or with the various apparatuses that he or she may operate;

(b) The nature and effect of pesticides he or she may apply under such classifications; and

(c) Any other matter the director determines to be a necessary subject for examination.

(2) The director may charge examination fees established by the director by rule. The director may administer or contract with a public or private third-party entity to administer any or all parts of either the examination or the collection of examination fees, or both. Examinations administered by third-party entities must be the same as the examination that would otherwise be administered by the department. The department may direct that the applicant pay the fees to the third-party entity in accordance with department rules governing third-party examinations and fees.

(3) The director may prescribe separate testing procedures and requirements for each license. [2020 c 180 § 4; 1994 c 283 § 17; 1989 c 380 § 45.]

RCW 17.21.140 Renewal—Delinquency. (1) If the application for renewal of any license provided for in this chapter is not filed on or prior to the expiration date of the license under this chapter or as set by rule by the director, a penalty of twenty-five dollars for the commercial pesticide applicator's license and the rancher private applicator license, and a penalty equivalent to the license fee for any other license, shall be assessed and added to the original fee and shall be paid by the applicant before the renewal license is issued. However, the penalty does not apply if the applicant furnishes an affidavit certifying that he or she has not acted as a licensee subsequent to the expiration of the license.

(2) Any license for which a timely renewal application has been made, all other requirements have been met, and the proper fee paid, continues in full force and effect until the director notifies the applicant that the license has been renewed or the application has been denied. [2004 c 100 § 5; 1991 c 109 § 36; 1989 c 380 § 47; 1961 c 249 § 14.]

Effective date—2004 c 100: See note following RCW 17.21.020.

RCW 17.21.150 Violation of chapter—Unlawful acts. A person who has committed any of the following acts is declared to be in violation of this chapter:

(1) Made false or fraudulent claims through any media, misrepresenting the effect of materials or methods to be utilized;

(2) Applied worthless or improper pesticides;

(3) Operated a faulty or unsafe apparatus;

(4) Operated in a faulty, careless, or negligent manner;

(5) Refused or neglected to comply with the provisions of this chapter, the rules adopted hereunder, or of any lawful order of the director including a final order of the director directing payment of a civil penalty. In an adjudicative proceeding arising from the department's denial of a license for failure to pay a civil penalty the subject shall be limited to whether the payment was made and the proceeding may not be used to collaterally attack the final order;

(6) Refused or neglected to keep and maintain the pesticide application records required by rule, or to make reports when and as required;

(7) Made false or fraudulent records, invoices, or reports;

(8) Acted as a certified applicator without having provided direct supervision to an unlicensed person;

(9) Operated an unlicensed apparatus or an apparatus without a license plate issued for that particular apparatus;

(10) Used fraud or misrepresentation in making an application for a license or renewal of a license;

(11) Is not qualified to perform the type of pest control under the conditions and in the locality in which he or she operates or has operated, regardless of whether or not he or she has previously passed a pesticide license examination;

(12) Aided or abetted a licensed or an unlicensed person to evade the provisions of this chapter, combined or conspired with such a licensed or an unlicensed person to evade the provisions of this chapter, or allowed one's license to be used by an unlicensed person;

(13) Knowingly made false, misleading, or erroneous statements or reports during or after an inspection concerning any infestation or infection of pests found on land or in connection with any pesticide complaint or investigation;

(14) Impersonated any state, county or city inspector or official;

(15) Applied a restricted use pesticide without having a certified applicator in direct supervision;

(16) Operated a commercial pesticide application business: (a) Without an individual licensed as a commercial pesticide applicator or (b) with a licensed commercial pesticide applicator not licensed in the classification or classifications in which the business operates; or

(17) Operated as a commercial pesticide applicator without meeting the financial responsibility requirements including not having a properly executed financial responsibility insurance certificate or surety bond form on file with the department. [2011 c 103 § 12; 1994 c 283 § 18; 1989 c 380 § 48; 1971 ex.s. c 191 § 4; 1967 c 177 § 8; 1961 c 249 § 15.]

Purpose—2011 c 103: See note following RCW 15.26.120.

RCW 17.21.160 Commercial pesticide applicator license—Financial responsibility. The director shall not issue a commercial pesticide applicator license until the applicant has furnished evidence of financial responsibility.

(1) Evidence of financial responsibility shall consist of either a surety bond; or a liability insurance policy or certification thereof, protecting persons who may suffer legal damages as a result of the operations of the applicant. The surety bond or liability insurance policy need not apply to damages or injury to agricultural crops, plants or land being worked upon by the applicant. The director shall not accept a surety bond or liability insurance policy except from authorized insurers in this state or if placed as a surplus line as provided for in chapter 48.15 RCW.

(2) Evidence of financial responsibility shall be supplied to the department on a financial responsibility insurance certificate or surety bond form (blank forms supplied by the department to the applicant). [1994 c 283 § 19; 1989 c 380 § 49; 1967 c 177 § 9; 1961 c 249 § 16.]

RCW 17.21.170 Commercial pesticide applicator license—Amount of bond or insurance required—Notice of reduction or cancellation by surety or insurer. The following requirements apply to the amount of bond or insurance required for commercial applicators:

(1) The amount of the surety bond or liability insurance, as provided for in RCW 17.21.160, shall be not less than fifty thousand dollars for property damage and public liability insurance, each separately, and including loss or damage arising out of the actual use of any pesticide. The surety bond or liability insurance shall be maintained at not less than that sum at all times during the licensed period.

(2) The property damage portion of this requirement may be waived by the director if it can be demonstrated by the applicant that all applications performed under this license occur under confined circumstances and on property owned or leased by the applicant.

(3) The director shall be notified ten days before any reduction of insurance coverage at the request of the applicant or cancellation of the surety bond or liability insurance by the surety or insurer and by the insured.

(4) The total and aggregate of the surety and insurer for all claims is limited to the face of the bond or liability insurance policy. The director may accept a liability insurance policy or surety bond in the proper sum which has a deductible clause in an amount not exceeding five thousand dollars for all applicators for the total amount of liability insurance or surety bond required by this section, but if the applicant has not satisfied the requirement of the

deductible amount in any prior legal claim the deductible clause shall not be accepted by the director unless the applicant furnishes the director with a surety bond or liability insurance which shall satisfy the amount of the deductible as to all claims that may arise in his or her application of pesticides. [2011 c 336 § 460; 1994 c 283 § 20; 1983 c 95 § 7; 1967 c 177 § 10; 1963 c 107 § 1; 1961 c 249 § 17.]

RCW 17.21.180 Commercial pesticide applicator license—Suspension of license for failure to meet financial responsibility criteria. The commercial pesticide applicator license shall, whenever the licensee's surety bond or insurance policy is reduced below the requirements of RCW 17.21.170 or whenever the commercial applicator has not supplied evidence of financial responsibility, as required by RCW 17.21.160 and 17.21.170, by the expiration date of the previous policy or surety bond, be automatically suspended until such licensee's surety bond or insurance policy again meets the requirements of RCW 17.21.170. In addition, the director may pick up such licensee's license plates during such period of automatic suspension and return them only at such time as the licensee has furnished written proof that he or she is in compliance with the provisions of RCW 17.21.170. [1994 c 283 § 21; 1989 c 380 § 50; 1987 c 45 § 31; 1967 c 177 § 11; 1961 c 249 § 18.]

Construction—Severability—1987 c 45: See notes following RCW 15.54.270.

RCW 17.21.190 Damages due to use or application of pesticide—Report of loss required. Any person suffering property loss or damage resulting from the use or application by others of any pesticide shall file with the director a verified report of loss.

(1) The report shall set forth, so far as known to the claimant, the following:

- (a) The name and address of the claimant;
- (b) The type, kind, property alleged to be injured or damaged;
- (c) The name of the person applying the pesticide and allegedly responsible; and
- (d) The name of the owner or occupant of the property for whom such application of the pesticide was made.

(2) The report shall be filed within thirty days from the time that the property loss or damage becomes known to the claimant. If a growing crop is alleged to have been damaged, the report shall be filed prior to harvest of fifty percent of that crop, unless the loss or damage was not then known. The department shall establish time periods by rule to determine investigation response time. Time periods shall range from immediate to forty-eight hours to initiate an investigation, depending on the severity of the damage.

(3) Any person filing a report of loss under this section shall cooperate with the department in conducting an investigation of such a report and shall provide the department or authorized representatives of the department access to any affected property and any other necessary information relevant to the report. If a claimant refuses to cooperate with the department, the report shall not be acted on by the department.

(4) The filing of a report or the failure to file a report need not be alleged in any complaint which might be filed in a court of law, and the failure to file the report shall not be considered any bar to the maintenance of any criminal or civil action.

(5) The failure to file a report shall not be a violation of this chapter. However, if the person failing to file such report is the only one suffering loss from such use or application of a pesticide by a pesticide applicator or operator, the director may refuse to act upon the complaint. [1994 c 283 § 22; 1991 c 263 § 1; 1989 c 380 § 51; 1961 c 249 § 19.]

RCW 17.21.200 Commercial pesticide applicator license—

Exemptions. The provisions of this chapter relating to commercial pesticide applicator licenses and requirements for their issuance shall not apply to:

(1) Any forestland owner, or his or her employees, applying pesticides with ground apparatus or manually, on his or her own lands or any lands or rights-of-way under his or her control; or

(2) Any farmer owner of ground apparatus applying pesticides for himself or herself or if applied on an occasional basis not amounting to a principal or regular occupation without compensation other than trading of personal services between producers of agricultural commodities on the land of another person; or

(3) Any grounds maintenance person conducting grounds maintenance on an occasional basis not amounting to a regular occupation; or

(4) Persons who apply pesticides as an incidental part of their business, such as dog grooming services or such other businesses as shall be identified by the director.

However, persons exempt under this section shall not use restricted use pesticides and shall not advertise or publicly hold themselves out as pesticide applicators. [1994 c 283 § 23; 1992 c 170 § 9; 1989 c 380 § 52; 1979 c 92 § 3; 1971 ex.s. c 191 § 5; 1967 c 177 § 12; 1961 c 249 § 20.]

RCW 17.21.203 Government research personnel—Requirements. The licensing provisions of this chapter shall not apply to research personnel of federal, state, county, or municipal agencies when performing pesticide research in their official capacities, however when such persons are applying restricted use pesticides, they shall be licensed as public operators. [1994 c 283 § 24; 1981 c 297 § 23; 1979 c 92 § 4; 1971 ex.s. c 191 § 9.]

Severability—1981 c 297: See note following RCW 15.36.201.

RCW 17.21.220 Application of chapter to governmental entities—Public operator license required—Exemption—Liability. (1) All state agencies, municipal corporations, and public utilities or any other governmental agencies are subject to this chapter and its rules.

(2) It is unlawful for any employee of a state agency, municipal corporation, public utility, or any other government agency to use or to supervise the use of any restricted use pesticide, or any pesticide by means of an apparatus, without having obtained a public operator license from the director. Application for a public operator license

must be accompanied by a fee of forty-three dollars. The fee does not apply to public operators licensed and working in the health vector field. The public operator license is valid only when the operator is acting as an employee of a government agency.

(3) The jurisdictional health officer or his or her duly authorized representative is exempt from this licensing provision when applying pesticides that are not restricted use pesticides to control pests other than weeds.

(4) Agencies, municipal corporations, and public utilities are subject to legal recourse by any person damaged by such application of any pesticide, and action may be brought in the county where the damage or some part of the damage occurred. [2021 c 244 § 13; 2008 c 285 § 26; 1997 c 242 § 17; 1994 c 283 § 25; 1993 sp.s. c 19 § 9; 1991 c 109 § 37; 1989 c 380 § 53; 1986 c 203 § 11; 1981 c 297 § 24; 1971 ex.s. c 191 § 7; 1967 c 177 § 13; 1961 c 249 § 22.]

Effective date—2021 c 244: See note following RCW 15.58.070.

Effective date—2008 c 285 §§ 15-26: See note following RCW 15.58.070.

Intent—Captions not law—2008 c 285: See notes following RCW 43.22.434.

Effective date—1997 c 242: See note following RCW 15.58.070.

Severability—1981 c 297: See note following RCW 15.36.201.

RCW 17.21.280 Disposition of revenue, enforcement of chapter—Pesticide safety education program—Fee—District court fees, fines, penalties, and forfeitures. (1) Except as provided in subsections (2) and (4) of this section, all moneys collected under the provisions of this chapter shall be paid to the director and deposited in the agricultural local fund, RCW 43.23.230, for use exclusively in the enforcement of this chapter.

(2) In addition to any other fees the department may collect under this chapter, the department shall collect a fee of seven dollars for each license issued by the department under this chapter. The department shall transmit the seven dollar fee required by this subsection to Washington State University for the purpose of providing a pesticide safety education program to educate and train pesticide licensees and prospective licensees.

(3) The department shall engage with the regulated community on the status of license fees established in this chapter, including consideration of future increases, in coordination with a stakeholder work group.

(4) All moneys collected for civil penalties levied under RCW 17.21.315 shall be deposited in the state general fund. All fees, fines, forfeitures and penalties collected or assessed by a district court because of the violation of a state law shall be remitted as provided in chapter 3.62 RCW. [2021 c 244 § 14; 1997 c 242 § 18; 1994 c 283 § 29; 1989 c 380 § 59; 1987 c 202 § 183; 1969 ex.s. c 199 § 15; 1961 c 249 § 28.]

Effective date—2021 c 244: See note following RCW 15.58.070.

Intent—1987 c 202: See note following RCW 2.04.190.

RCW 17.21.290 Pesticide application apparatuses—License plate as identification. All licensed apparatuses shall be identified by a license plate furnished by the director, at no cost to the licensee, which plate shall be affixed in a location and manner upon such apparatus as prescribed in rule. [1994 c 283 § 30; 1989 c 380 § 60; 1967 c 177 § 15; 1961 c 249 § 29.]

RCW 17.21.300 Agreements with other governmental entities. The director is authorized to cooperate with and enter into agreements with any other agency of the state, the United States, and any other state or agency thereof for the purpose of carrying out the provisions of this chapter and securing uniformity of regulation. [1961 c 249 § 30.]

RCW 17.21.305 Licensing by cities of first class and counties. The provisions of this chapter requiring all structural pest control operators, exterminators and fumigators to license with the department shall not preclude a city of the first class with a population of one hundred thousand people or more, or the county in which it is situated, from also licensing structural pest control operators, exterminators and fumigators operating within the territorial confines of said city or county: PROVIDED, That when structural pest control operators, exterminators and fumigators are licensed by both the city of the first class and the county in which the city is situated, and there exists a joint county-city health department, then the joint county-city health department may enforce the provisions of the city and county as to the license requirements for the structural pest control operators, exterminators and fumigators. [1986 c 203 § 12; 1967 c 177 § 19.]

RCW 17.21.310 General penalty. (1) Except as provided in subsection (2) of this section, any person who violates any provisions or requirements of this chapter or rules adopted hereunder is guilty of a misdemeanor.

(2) A second or subsequent offense is a gross misdemeanor. Any offense committed more than five years after a previous conviction shall be considered a first offense. [2003 c 53 § 118; 1967 c 177 § 16; 1961 c 249 § 34.]

Intent—Effective date—2003 c 53: See notes following RCW 2.48.180.

RCW 17.21.315 Civil penalty for failure to comply with chapter. Every person who fails to comply with this chapter or the rules adopted under it may be subjected to a civil penalty, as determined by the director, in an amount of not more than seven thousand five hundred dollars for every such violation. Each and every such violation shall be a separate and distinct offense. Every person who, through an act of commission or omission, procures, aids, or abets in

the violation shall be considered to have violated this section and may be subject to the civil penalty herein provided. [1989 c 380 § 61; 1985 c 158 § 3.]

RCW 17.21.320 Access to public or private premises—Search warrants—Prosecuting attorney's duties—Injunctions. (1) For purpose of carrying out the provisions of this chapter the director may enter upon any public or private premises at reasonable times, in order:

- (a) To have access for the purpose of inspecting any equipment subject to this chapter and such premises on which such equipment is kept or stored;
- (b) To inspect lands actually or reported to be exposed to pesticides;
- (c) To inspect storage or disposal areas;
- (d) To inspect or investigate complaints of injury to humans or land; or
- (e) To sample pesticides being applied or to be applied.

(2) Should the director be denied access to any land where such access was sought for the purposes set forth in this chapter, the director may apply to any court of competent jurisdiction for a search warrant authorizing access to such land for said purposes. The court may upon such application, issue the search warrant for the purposes requested.

(3) It shall be the duty of each prosecuting attorney to whom any violation of this chapter is reported, to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(4) The director may bring an action to enjoin the violation or threatened violation of any provision of this chapter or any rule made pursuant to this chapter in the superior court of the county in which such violation occurs or is about to occur. [1989 c 380 § 62; 1971 ex.s. c 191 § 10.]

RCW 17.21.340 Violation of chapter—Remedies. (1) A person aggrieved by a violation of this chapter or the rules adopted under this chapter:

- (a) May request an inspection of the area in which the violation is believed to have occurred. If there are reasonable grounds to believe that a violation has occurred, the department shall conduct an inspection as soon as practicable. However, the director may refuse to act on a request for inspection concerning only property loss or damage if the person suffering property damage fails to file a timely report of loss under RCW 17.21.190. If an inspection is conducted, the person requesting the inspection shall:
 - (i) Be promptly notified in writing of the department's decision concerning the assessment of any penalty pursuant to the inspection; and
 - (ii) Be entitled, on request, to have his or her name protected from disclosure in any communication with persons outside the department and in any record published, released, or made available pursuant to this chapter: PROVIDED, That in any appeal proceeding the identity of the aggrieved person who requests the inspection shall be disclosed to the alleged violator of the act upon request of the alleged violator;

(b) Shall be notified promptly, on written application to the director, of any penalty or other action taken by the department pursuant to an investigation of the violation under this chapter; and

(c) May request, within ten days from the service of a final order fixing a penalty for the violation, that the director reconsider the entire matter if it is alleged that the penalty is inappropriate. If the person is aggrieved by a decision of the director on reconsideration, the person may request an adjudicative proceeding under chapter 34.05 RCW. However, the procedures for a brief adjudicative proceeding may not be used unless agreed to by the person requesting the adjudicative proceeding. During the adjudicative proceeding under (c) of this subsection, the presiding officer shall consider the interests of the person requesting the adjudicative proceeding.

(2) Nothing in this chapter shall preclude any person aggrieved by a violation of this chapter from bringing suit in a court of competent jurisdiction for damages arising from the violation. [1989 c 380 § 63.]

RCW 17.21.350 Report to legislature. By February 1st of each year the department shall report to the appropriate committees of the house of representatives and the senate on the activities of the department under this chapter. The report shall include, at a minimum: (1) A review of the department's pesticide incident investigation and enforcement activities, with the number of cases investigated and the number and amount of civil penalties assessed; and (2) a summary of the pesticide residue food monitoring program with information on the food samples tested and results of the tests, a listing of the pesticides for which testing is done, and other pertinent information. [1997 c 242 § 19; 1989 c 380 § 64.]

RCW 17.21.400 Landscape or right-of-way applications—Notice.

(1) (a) A certified applicator making a landscape application shall display the name and telephone number of the applicator or the applicator's employer on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(b) A certified applicator making a right-of-way application shall display the name and telephone number of the applicator or the applicator's employer and the words "VEGETATION MANAGEMENT APPLICATION" on any power application apparatus. The applicator shall also carry the material safety data sheet for each pesticide being applied.

(2) If a certified applicator receives a written request for information on a landscape or right-of-way spray application, the applicator shall provide the requestor with the name or names of each pesticide applied and (a) a copy of the material safety data sheet for each pesticide; or (b) a pesticide fact sheet for each pesticide as developed or approved by the department.

(3) The director shall adopt rules establishing the size and lettering requirements of the apparatus display signs required under this section. [1994 c 283 § 32; 1992 c 176 § 2.]

RCW 17.21.410 Landscape applications—Marking of property, posting requirements. (1) A certified applicator making a landscape application to:

(a) Residential property shall at the time of the application place a marker at the usual point of entry to the property. If the application is made to an isolated spot that is not a substantial portion of the property, the applicator shall only be required to place a marker at the application site. If the application is in a fenced or otherwise isolated backyard, no marker is required.

(b) Commercial properties such as apartments or shopping centers shall at the time of application place a marker in a conspicuous location at or near each site being treated.

(c) A golf course shall at the time of the application place a marker at the first tee and tenth tee or post the information in a conspicuous location such as on a central message board.

(d) A school, nursery school, or licensed day care shall at the time of the application place a marker at each primary point of entry to the school grounds. A school employee making an application to a school facility shall comply with the posting requirements in RCW 17.21.415.

(e) A park, cemetery, rest stop, or similar property as may be defined in rule shall at the time of the application place a marker at each primary point of entry.

(2) An individual making a landscape application to a school grounds, nursery school, or licensed day care, and not otherwise covered by subsection (1) of this section, shall at the time of the application place a marker at each primary point of entry to the school grounds.

(3) The marker shall be a minimum of four inches by five inches. It shall have the words: "THIS LANDSCAPE HAS BEEN TREATED BY" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. Larger size requirements for markers may be established in rule for specific applications. The company name and service mark shall be included between the headline and the footer on a marker placed by a commercial applicator. The applicator's telephone number where information can be obtained about the application shall be included in the footer of the marker. Markers shall be printed in colors contrasting to the background.

(4) The property owner or tenant shall remove the marker according to the schedule established in rule. A certified applicator or individual who complies with this section is not liable for the removal of markers by unauthorized persons or removal outside the designated removal time.

(5) A certified applicator or individual who complies with this section cannot be held liable for personal property damage or bodily injury resulting from markers that are placed as required. [2001 c 333 § 2; 1994 c 283 § 33; 1992 c 176 § 5.]

Effective date—2001 c 333: See note following RCW 17.21.020.

RCW 17.21.415 Schools—Policies and methods—Notification—Records—Liability. (1) As used in this section, "school" means a licensed day care center or a public kindergarten or a public elementary or secondary school.

(2) A school shall provide written notification, upon request, to parents or guardians of students and employees describing the school's pest control policies and methods, including the posting and notification requirements of this section.

(3) A school shall establish a notification system that, as a minimum, notifies interested parents or guardians of students and employees at least forty-eight hours before a pesticide application to a school facility. The notification system shall include posting of the notification in a prominent place in the main office of the school.

(4) All notifications to parents, guardians, and employees shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

- (a) The product name of the pesticide to be applied;
- (b) The intended date and time of application;
- (c) The location to which the pesticide is to be applied;
- (d) The pest to be controlled; and
- (e) The name and phone number of a contact person at the school.

(5) A school facility application must be made within forty-eight hours following the intended date and time stated in the notification or the notification process shall be repeated.

(6) A school shall, at the time of application, post notification signs for all pesticide applications made to school facilities unless the application is otherwise required to be posted by a certified applicator under the provisions of RCW 17.21.410(1)(d).

(a) Notification signs for applications made to school grounds by school employees shall be placed at the location of the application and at each primary point of entry to the school grounds. The signs shall be a minimum of four inches by five inches and shall include the words: "THIS LANDSCAPE HAS BEEN RECENTLY SPRAYED OR TREATED WITH PESTICIDES BY YOUR SCHOOL" as the headline and "FOR MORE INFORMATION PLEASE CALL" as the footer. The footer shall provide the name and telephone number of a contact person at the school.

(b) Notification signs for applications made to school facilities other than school grounds shall be posted at the location of the application. The signs shall be a minimum of eight and one-half by eleven inches and shall include the heading "Notice: Pesticide Application" and, at a minimum, shall state:

- (i) The product name of the pesticide applied;
- (ii) The date and time of application;
- (iii) The location to which the pesticide was applied;
- (iv) The pest to be controlled; and
- (v) The name and phone number of a contact person at the school.

(c) Notification signs shall be printed in colors contrasting to the background.

(d) Notification signs shall remain in place for at least twenty-four hours from the time the application is completed. In the event the pesticide label requires a restricted entry interval greater than twenty-four hours, the notification sign shall remain in place consistent with the restricted entry interval time as required by the label.

(7) A school facility application does not include the application of antimicrobial pesticides or the placement of insect or rodent baits that are not accessible to children.

(8) The prenotification requirements of this section do not apply if the school facility application is made when the school is not

occupied by students for at least two consecutive days after the application.

(9) The prenotification requirements of this section do not apply to any emergency school facility application for control of any pest that poses an immediate human health or safety threat, such as an application to control stinging insects. When an emergency school facility application is made, notification consistent with the school's notification system shall occur as soon as possible after the application. The notification shall include information consistent with subsection (6)(b) of this section.

(10) A school shall make the records of all pesticide applications to school facilities required under this chapter, including an annual summary of the records, readily accessible to interested persons.

(11) A school is not liable for the removal of signs by unauthorized persons. A school that complies with this section may not be held liable for personal property damage or bodily injury resulting from signs that are placed as required. [2009 c 556 § 16; 2001 c 333 § 3.]

Effective date—2001 c 333: See note following RCW 17.21.020.

RCW 17.21.420 Pesticide-sensitive individuals—List procedure.

(1) The department shall develop a list of pesticide-sensitive individuals. The list shall include any person with a documented pesticide sensitivity who submits information to the department on an application form developed by the department indicating the person's pesticide sensitivity.

(2) An applicant for inclusion on the pesticide-sensitive list may apply to the department at any time and shall provide the department, on the department's form, the name, street address, and telephone number of the applicant and of each property owner with property abutting the applicant's principal place of residence. The pesticide sensitivity of an individual shall be certified by a physician who holds a valid license to practice medicine in this state. The lands listed on an application for inclusion on the pesticide-sensitive list shall constitute the pesticide notification area for that applicant. For highway or road rights-of-way, a property abutting shall mean that portion of the property within one-half mile of the principal place of residence.

(3) A person whose name has been included on the pesticide-sensitive list shall notify the department of a need to update the list as soon as possible after: (a) A change of address or telephone number; (b) a change in ownership of property abutting a pesticide-sensitive individual; (c) a change in the applicant's condition; or (d) the sensitivity is deemed to no longer exist.

(4) The pesticide-sensitive list shall expire on December 31 of each year. The department shall distribute application forms for the new list at a reasonable time prior to the expiration of the current list, including mailing an application form to each person on the current list at the address given by the person in his or her most recent application. Persons desiring to be placed on or remain on the list shall submit a new application each year.

(5) The department shall distribute the list by January 1 and June 15 of each year to all certified applicators likely to make

landscape applications. The list shall provide multiple methods of accessing the information so that certified applicators making landscape applications or right-of-way applications are able to easily determine what properties and individuals require notification for a specific application. An updated list shall be distributed whenever deemed necessary by the department. Certified applicators may request a list of newly registered individuals that have been added to the list since the last distribution. Registered individuals shall receive verification that their name has been placed on the list. [1994 c 283 § 34; 1992 c 176 § 3.]

RCW 17.21.430 Pesticide-sensitive individuals—Notification.

(1) A certified applicator making a landscape application or a right-of-way application to the pesticide notification area, as defined in RCW 17.21.420(2), of a person on the pesticide-sensitive list shall notify the listed pesticide-sensitive individual of the application. Notification shall be made at least two hours prior to the scheduled application, or in the case of an immediate service call, the applicator shall provide notification at the time of the application.

(2) Notification under this section shall be made in writing, in person, or by telephone, and shall disclose the date and approximate time of the application. In the event a certified applicator is unable to provide prior notification because of the absence or inaccessibility of the individual, the applicator shall leave a written notice at the residence of the individual listed on the pesticide-sensitive list at the time of the application. If a person on the pesticide-sensitive list lives in a multifamily dwelling such as an apartment or condominium, the applicator shall notify the person on the list or shall advise the manager or other property owner's representative to notify the person on the list of the application. [1992 c 176 § 4.]

RCW 17.21.440 Agricultural workers and handlers of agricultural pesticides—Coordination of regulation and enforcement with department of labor and industries. (1) As used in this section, "federal worker protection standard" or "federal standard" means the worker protection standard for agricultural workers and handlers of agricultural pesticides adopted by the United States environmental protection agency in 40 C.F.R., part 170 as it exists on June 6, 1996.

(2) (a) No rule adopted under this chapter may impose requirements that make compliance with the federal worker protection standard impossible.

(b) The department shall adopt by rule safety and health standards that are at least as effective as the federal standard. Standards adopted by the department under this section shall be adopted in coordination with the department of labor and industries.

(3) If a violation of the federal worker protection standard, or of state rules regulating activities governed by the federal standard, is investigated by the department and by the department of labor and industries, the agencies shall conduct a joint investigation if feasible, and shall share relevant information. However, an investigation conducted by the department of labor and industries under Title 51 RCW solely with regard to industrial insurance shall not be considered to be an investigation by the department of labor

and industries for this purpose. The agencies shall not issue duplicate citations to an individual or business for the same violation of the federal standard or state rules regulating activities governed by the federal standard. By December 1, 1996, the department and the department of labor and industries shall jointly establish a formal agreement that: Identifies the roles of each of the two agencies in conducting investigations of activities governed by the federal standard; and provides for protection of workers and enforcement of standards that is at least [as] effective as provided for other enforcement under this chapter. [1996 c 260 § 3.]

Finding—Intent—Severability—1996 c 260: See notes following RCW 49.17.280.

Department of labor and industries authority: RCW 49.17.280.

RCW 17.21.445 Protection of pollinator health—Report to the legislature. (1) The department shall continue to evaluate and update, as necessary, pesticide regulatory and education programs focused on measures to protect pollinator health. This work by the department, when appropriate, must be coordinated with Washington State University pesticide education programs to limit duplication and ensure consistent information sharing.

(2) Subject to the availability of amounts appropriated for this specific purpose, and in consultation with the department of fish and wildlife with regard to considerations for native pollinator species, the department must:

(a) Evaluate and adapt pesticide training and drift reduction technical assistance programs to include up-to-date protection measures for pollinators;

(b) Support Washington State University's pesticide education programs continued incorporation of pollinator protection measures during their training and certification classes, and coordinate on presented research, new protection measures, technological advancements, and any other significant science-based information;

(c) Coordinate with pollinator health staff in the department and at Washington State University to conduct investigations and share annual findings from pesticide-related investigations with the pollinator health task force;

(d) Evaluate and, if necessary, update the pesticide civil penalty matrix related to pollinator death or damage due to the misuse of pesticides and ensure pollinator health protections are included;

(e) When possible, the department must provide credits for pesticide courses focused on pollinator protection measures.

(3) By December 31, 2021, the department shall provide a report to the appropriate committees of the senate and house of representatives, in compliance with RCW 43.01.036, that includes recommendations for measures to mitigate the risks of harm to bees and other pollinators from the use of neonicotinoid pesticides and treated seeds. The department shall evaluate and incorporate the reviews scheduled for completion by the United States environmental protection agency during 2021, including recommended mitigation measures from that agency. The department shall also review neonicotinoid pesticide use restrictions and labeling requirements adopted in other states and

include in the report any recommendations for adoption of similar requirements in this state. [2021 c 278 § 4.]

Purpose—Intent—2021 c 278: See note following RCW 43.23.320.

RCW 17.21.900 Preexisting liabilities not affected. The enactment of this act shall not have the effect of terminating, or in any way modifying, any liability, civil or criminal, which shall already be in existence on the date this act becomes effective. [1961 c 249 § 31.]

RCW 17.21.920 Short title. This chapter may be cited as the Washington pesticide application act. [1961 c 249 § 33.]