



Disseminating information for: [Washington Red Raspberry Commission](#), [Oregon Raspberry & Blackberry Commission](#), [Oregon Strawberry Commission](#), [Washington Blueberry Commission](#), [Washington Strawberry Commission](#).

January 23, 2004

The following information was sent by the Washington State Department of Agriculture this morning. This ruling affects Washington, Oregon, and California. It establishes buffer zones along salmon-bearing waterways in which certain pesticides can no longer be used. To see the entire ruling (all 31 pages) [click here](#).

WSDA INFORMATION

Last evening (Jan. 22), U.S. Western District Court Judge John Coughenor issued a final order in the Washington Toxics Coalition et al., v. EPA lawsuit. The order will become effective within two weeks of the date that the order was issued.

WSDA is in the process of fully analyzing the ruling for impacts to Washington agriculture. Our preliminary review indicates the ruling orders the following:

- 1) Buffer zones will not apply to any of the 54 active ingredients named in the lawsuit that have received a "no effect" determination from EPA.
- 2) Buffer zones will not apply to any of the 54 pesticides named in the lawsuit that have received a "may affect, but not likely to adversely affect" determination provided that NMFS has not rejected the "not likely to adversely affect" determination.
- 3) Any of the 54 pesticides that have not been reviewed by EPA for effects determination or those pesticides that have been determined as likely to adversely affect salmonids will be subject to buffer zones. Refer to the Endangered Species Program website for a complete listing of the buffers requirements - <http://agr.wa.gov/PestFert/EnvResources/docs/EffectsByESU2BW.pdf>
- 4) Buffer zone widths would be set at 20 yards for ground applications and 100 yards for aerial applications of pesticides.
- 5) Buffers are measured from the "ordinary high water mark" of the all streams, lakes, estuaries and other water bodies where salmon are ordinarily found at some time of the year. The StreamNet database identifies these waters. StreamNet is maintained by the Pacific States Marine Fisheries Commission and is available at <http://www.stream.net.org>.
- 6) Select pesticide uses are be exempt from the buffer zone requirement:
 - Pesticide use for maintaining public health such as mosquito abatement programs (Public Health Vector Control programs).
 - National Marine Fisheries Service (NMFS) - authorized programs (e.g., Portland (OR))

Parks).

- Pesticides used by government agencies for noxious weed control (Noxious Weed programs). The exemption would apply only when the control program implements the safeguards routinely required by NMFS for such programs.

- 7) Educational materials are required at the point of sale to alert pesticide users in urban areas to the potential risks of using certain pesticides near salmonid habitat. The seven active ingredients that require the mandatory point of sale warning are 2,4-D, carbaryl, diazinon, diuron, malathion, trichlopyr BEE and trifluralin. An "urban area" is defined as an urbanized area with a population of at least 50,000.

WSDA will provide an in-depth analysis of the ruling to newsletter subscribers by e-mail as soon as possible. We will also update and post all current information on the Endangered Species Program web page at that time. Currently, background information about the lawsuit is available at <http://agr.wa.gov/PestFert/EnvResources/Lawsuit.htm> WSDA distributes Pesticide/ESA News and ESA-related activity alerts to all parties who have expressed an interest in the activities of the Endangered Species Program.

You may also call or write us directly at:

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