Experimental Use of Pesticides

OVERVIEW

State law requires that University personnel who use experimental use pesticides (EUPs) operate under individual state or federal permits or the University's collective Experimental Use of Pesticides permit issued by the Washington Department of Agriculture (WSDA).

The Office of Research is responsible for ensuring University compliance with state collective experimental pesticide permit restrictions.

This section sets forth requirements that applicable colleges, departments, and researchers must follow in order to comply with the conditions of the individual and/or collective use permits. See also 45.65, 45.67, and 45.69 for additional requirements regarding pesticide use.

Applicability

The requirements in this section apply to colleges and/or departments that have personnel who perform research using experimental pesticides or registered pesticides in experimental situations. The collective permit covers research activities by all WSU personnel at all locations.

Applicable research may be conducted in fields or greenhouses, on University property, or on private land. Experimental pesticides are defined as unregistered active ingredients including natural products acting as pesticides. Use of registered pesticides in experimental situations is further defined under "Types of Experimental Use" on 45.70.2.

REQUIREMENTS

Experimental-Use Pesticides

The transportation, licensing, supervision, use, and storage of experimental-use pesticides are regulated in the same manner as registered pesticides. (See *WAC* 16-228.)

Definition

The term "experimental-use pesticide," or EUP, is used to describe the following:

- A pesticidal active ingredient which has not yet been registered by EPA. Such ingredients may also be referred to as "numbered compounds," in recognition that such products do not always have common chemical names or trade names at this point.

- An unregistered test use of a registered product. The use itself is experimental while the active ingredient is not.

Permits are required for both EUP ingredients and EUP uses.

Washington State
Pest Management Resource Service
253-445-4611

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Supplier Information

Personnel are to request the following information and documentation from suppliers of experimental pesticide material:

- The common chemical name of the active ingredient,
- A Material Safety Data Sheet (MSDS) for the product,
- The signal word used to complete the U.S. Environmental Protection Agency (EPA) registration process, and
- The use classification (general or restricted) that is likely to be assigned by the EPA during the registration process.

Types of Experimental Use

There are two types of experimental uses:

- Use of an active ingredient that is not yet registered by the EPA nor exempt from registration; and
- Use of an active ingredient that is registered with the EPA, but:

  The crop or type of site being tested is not included on the label, or

  The use rate is higher than that listed on the label, or

  The application timing is outside of label directions, or

  The number of applications are more frequent than the label allows, or

  The pre-harvest interval is shorter than allowed by the label, or

  The tests conducted use an application method that is forbidden by the label.

Both types of experimental uses require permits, either state or federal, before the applications and/or tests are made. Laboratory testing of pesticides in the two experimental use categories listed above is allowed under state permits only.

The use of experimental-use pesticides (EUP) in Washington State requires a permit for all field applications, regardless of plot size. See 45.70.1 for definition of EUP.

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Transgenic Plants

Personnel working with transgenic plants that are considered to be pesticides, but are not yet registered or exempted from registration by EPA, must handle such plants in the same manner as any other experimental pesticide. See 45.65.2.

Organic Production Systems

Personnel testing microbial or organic materials for pest control/management purposes must first determine whether or not the materials fall within the legal definition of a pesticide. See 45.65.2 for definition. If yes, the personnel must follow the same procedures and EUP permit requirements described on 45.70.3-7.

Employees are responsible for ensuring that pesticide use and recommendations on certified organic lands are in accordance with all regulations that govern pesticides as well as those that govern organic certification. See the U.S. Department of Agriculture (USDA) National Organic Program regulations (7 *CFR* 205).

Bioengineered Plants

Personnel working with bioengineered plants containing plant-incorporated protectants (PIPs) that are not registered or exempted from registration by EPA must obtain an individual EUP permit or work under the collective EUP permit described below and on 45.70.4-5. (See 45.65.2 for the definition of PIPs.)

Personnel working with any bioengineered plants are required to register with the Institutional BioSafety Committee (IBC) prior to initiating research, regardless of whether or not the plants contain PIPs. For further information, see the Office of Research Assurances Biosafety website at:

http://www.bio-safety.wsu.edu/biosafety/

Types of Permits

Three types of permits are available to University personnel:

- Federal EUP permit
- State of Washington individual EUP permit
- State of Washington collective EUP permit

Federal EUP Permit

A federal EUP permit is required for terrestrial sites of ten acres or more or aquatic sites of one acre or more that are treated with a single active ingredient. The acreage does not have to be contiguous, it may even be located in more than one state; the permit requirement is based on total acres treated, not total acres at each research site.

Experimental use permit forms are available from the EPA website at:

http://www.epa.gov/opprd001/forms/8570-17.pdf

Experimental Use of Pesticides

State Individual EUP Permit

A state individual EUP permit is required for applications to terrestrial sites up to ten acres in size when using a single active ingredient. Fumigant, aquatic, and residential sites all require either a federal or state individual EUP permit. The acreage does not have to be contiguous; the permit requirement is based on total acres treated, not total acres at each research site.

State individual permit application forms are available from the WSDA website at:

http://agr.wa.gov/PESTFERT/Pesticides/docs/WseupForm4257.pdf

See 45.70.3 regarding federal individual permit application forms.

Fumigant Applications

All fumigant applications of EUPs, regardless of plot size, require individual EUP permits. Individual permit application forms are available from the WSDA website at:

http://agr.wa.gov/PESTFERT/Pesticides/docs/WseupForm4257.pdf

Definition

The term fumigant refers to a chemical whose initial form may be solid, liquid, or gas, but is used in its gaseous state as a pesticide or disinfectant. Fumigants are either volatile chemicals that become gases at relatively low temperatures, around 40 degrees Fahrenheit, or are chemicals that react to produce such a gas (e.g., dazomet and metam sodium converting to methyl isothiocyanate or MITC).

Aquatic Applications

All aquatic applications of EUPs on sites up to one acre in size require individual state aquatic EUP permits. Individual aquatic EUP permit application forms are available from the WSDA website at:

http://agr.wa.gov/PESTFERT/Pesticides/docs/AquaticEupForm4128.pdf

Residential Applications

All residential (structural and landscape) applications, regardless of plot size, require individual EUP permits. Individual permit application forms are available from the WSDA website at:

http://agr.wa.gov/PESTFERT/Pesticides/docs/WseupForm4257.pdf

State Collective EUP Permit

A state collective EUP permit is issued to a single permit holder to allow all personnel of that agency, institution, or business to apply experimental pesticides to a sum total of one acre per active ingredient. The Vice President for Research obtains the collective use permit on behalf of the entire University.

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State Collective EUP Permit (cont.)

WSU holds one collective EUP that allows researchers working on terrestrial plots less than one acre in size to avoid obtaining individual permits. To view the collective EUP permit, go to the Extension website at:

http://ext.wsu.edu/admin/PDF/Permit.pdf

The collective EUP permit is binding on all personnel. Applications may be made to both WSU lands and to cooperator lands. (See 45.65.4 for definition of cooperator lands.) Only nonresidential, nonfumigant, terrestrial applications are allowed under this permit.

For further guidelines, refer to the Vice President for Research's memorandum regarding experimental use of pesticides. A copy of the memorandum is available from the Extension website at:

http://ext.wsu.edu/admin/PDF/Pesticides.pdf

USDA ARS Personnel

Researchers hired by the U.S. Department of Agriculture (USDA) and given adjunct appointments with WSU are not eligible to work under the University's collective EUP permit. The University encourages individual Agricultural Research Service (ARS) units to apply to WSDA for collective EUP permits.

Permit Compliance

Collective EUP Permit

Personnel operating under the collective EUP permit must comply with the following requirements:

EUP Application Records

University personnel must keep a record of all experimental field applications made under the collective use permit, even those applications made to WSU property. These records must be available to WSDA, if requested. The University has established a central EUP data collection website for collective EUP permit users, which is managed by the Washington State Pest Management Resource Service (WSPRS). The website, which includes data submission instructions, is located at:

http://cru2.cahe.wsu.edu/cEUP/default.aspx

All personnel working under the collective EUP permit are required to submit EUP application records to this site in a timely manner.

Written Permission for Applications

A written permission statement from the landowner/land manager is required for applications on a cooperator's land. A copy must be submitted to the Pesticide Coordinator.

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Storage Time Limitation

Storage time limit for experimental products is three years from the end of the research trial. The products must then be returned to the supplier. Personnel are not allowed to dispose of the material through the WSDA Waste Pesticide Program or the WSU EH&S Hazardous Waste Program.

Research Limitations

Only research conducted for the purpose of obtaining a pesticide registration or label modification is covered by this permit.

Crop Tolerance or Destruction

All treated food or animal feed resulting from crop applications must have an existing tolerance which is greater than anticipated residues from the application, or be destroyed (e.g. lab testing, burning, landfill, plowing under).

Personnel must include a statement detailing the date and method of crop destruction in the final application record. A list of existing tolerances may be generated using the FASonline Maximum Residue Level (MRL) Database at:

http://www.mrldatabase.com

Definition

Tolerance is defined as the maximum legal allowable limit for residues of a pesticidal active ingredient (or its metabolites) on food, feed, or fiber crops. Another term, used widely outside the US, is maximum residue level, or MRL. Residue values are usually expressed at parts per million (ppm) levels. Tolerances are set by individual countries and may vary from one country to another.

Result Summaries

Personnel must submit summaries of experimental results to the central data collection website at the end of the research trial.

Environmental Effect Reports

Personnel are to immediately report any serious adverse environmental effects resulting from an application to the WSDA; telephone (360) 902-2030.

Personnel are to submit a summary of the effects to the central data collection website with the final application record. (See 45.70.5.)

Disclaimer Language for Reports on EUP Work

In situations where personnel are reporting the results of research trials, the reports or presentations must include an appropriate disclaimer when discussing unregistered pesticides or unregistered uses of registered pesticides. Research trial reporting includes, but is not limited to:

- Slide presentations to growers,
- Poster presentations at commodity meetings, and
- Web posting of field trial reports.

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Disclaimer Language for Reports on EUP Work (cont.)

The WSDA has approved the following language for use in all WSU research trial presentations:

> *Some of the pesticides discussed in this presentation were tested under an experimental use permit granted by WSDA. Application of a pesticide to a crop or site that is not on the label is a violation of pesticide law and may subject the applicator to civil penalties up to $7,500. In addition, such an application may also result in illegal residues that could subject the crop to seizure or embargo action by WSDA and/or the U.S. Food and Drug Administration. It is your responsibility to check the label before using the product to ensure lawful use and obtain all necessary permits in advance.*

Personnel must use the disclaimer, in its entirety, when presenting information on experimental uses to user groups or in venues where user groups make up the bulk of the participants.

ADVISORY GUIDELINES

In addition to the policies and procedures regarding pesticides in 45.65, 45.67, and 45.69, refer to the advisory guidelines which are available on the WSU Employee Resources of the Washington State Pest Management Resources website at:

http://extension.wsu.edu/wsprs/Pages/Employees.aspx

The advisory guidelines include, but are not limited to:

- Contacts (for questions and assistance)
- Information for WSU Employees Working in Oregon and Idaho Test Plots