

OAR 603-057-0545
Permanent Chlorpyrifos Rule
December 15, 2020

RULE TITLE: Limitations on Pesticide Products Containing Chlorpyrifos

(1) On and after January 1, 2021, all products that contain any amount of chlorpyrifos (“chlorpyrifos-containing products”) are classified as restricted-use pesticides.

(2) The use of chlorpyrifos-containing products is limited as follows:

(a) Application of such products is prohibited:

(A) For mosquito vector control purposes;

(B) On turfgrass on golf courses; and

(C) In an enclosed space production structure as defined in 40 CFR § 170.305, except when one of the following conditions is met and maintained until the expiration of the minimum restricted entry interval (REI):

(i) The structure has open sidewalls and ridge or roof vents, in which the combined open vented area is at least 40% of the floor area of the structure; or

(ii) The structure has at least 50% of the total roof area open; or

(iii) The structure has open end-walls and open sidewall vent areas, in which the combined open vented area is at least 40% of the floor area of the structure.

(b) The minimum REI is four days for uses covered under the Worker Protection Standard on chlorpyrifos pesticide labels, 40 CFR 170.

(c) Aerial application is prohibited on all crops, except for on Christmas trees.

(d) Application, regardless of application method, to Christmas trees is authorized only between April 1 and June 15 of each year, inclusive, and is prohibited at all other times;

(e) Any application must be conducted by a certified and licensed pesticide applicator, a certified and licensed public applicator, or a certified and licensed private applicator;

(f) Pesticide applicators, public applicators, private applicators and mixers and loaders must wear a minimum of the following personal protective equipment, which must be approved by the National Institute for Occupational Safety and Health (NIOSH):

(A) Particulate filtering face piece respirator with any N, R, or P filter, as defined and approved under 42 CFR Part 84;

(B) Elastomeric particulate respirator with any N, R, or P filter, as defined and approved under 42 CFR Part 84; or

(C) Powered air purifying respirator with HE filters, as defined and approved under 42 CFR Part 84.

(g) All private applicators shall prepare and maintain records of all applications of chlorpyrifos-containing products for at least three years from the date of application. These

records must be available during business hours for review and inspection by the department. At a minimum, such records must include the following:

- (A) The full name and address of the business, firm, or individual who owns or controls the agricultural plants, property or site treated;
- (B) The address of the application site, or a specific geographic description of the application site (such as circle or field number or name);
- (C) The specific agricultural plants or sites to which the product was applied, as applicable;
- (D) The month, day, and year of the application, and the beginning and ending time of the application;
- (E) The name of the product applied;
- (F) The EPA registration number of the product applied;
- (G) The size of the area treated (such as in acres or square feet);
- (H) Amount of product applied per acre or unit area applied;
- (I) When applicable, the carrier or diluent, dilution rate, and total amount of solution applied per acre or unit area;
- (J) The full name and license number of the private applicator who made the application;
- (K) The full name of the individual or business that supplied the product; and
- (L) Identification of the type of application equipment used, and if applied aerially, the aircraft registration number assigned by the United States Federal Aviation Administration.

(3) On and after March 1, 2021, all pre-application activities involving mixing or loading chlorpyrifos-containing products must be conducted by:

- (a) A certified and licensed pesticide applicator, a certified and licensed public applicator, or a certified and licensed private applicator; or
- (b) An individual who has successfully completed a special training conducted or approved by the Oregon Department of Agriculture on the mixing and loading of chlorpyrifos-containing products. The training must be completed annually and a record of the training must be maintained for three years from the date of the training, and available for review and inspection by the department during business hours.

(4) For purposes of this rule:

- (a) "Sensitive sites" means areas frequented by non-occupational bystanders (especially children). These include, but are not limited to, homes and other residential buildings, farmworker housing, residential lawns, schools, daycare centers, nursing homes, hospitals, pedestrian sidewalks, outdoor recreational areas such as school grounds, athletic fields, and parks, and all property associated with buildings occupied by humans for residential or commercial purposes. The following are excluded from the definition of "sensitive sites":
 - (A) Residences occupied by the owner(s) of an agricultural establishment and members of their immediate families, as defined in 40 CFR § 170.305;
 - (B) Non-residential agricultural buildings, including barns, livestock facilities, sheds, and outhouses; and
 - (C) Public and private roadways.

(b) "Bodies of water" means the aquatic areas identified on the pesticide label as requiring a buffer zone.

(c) "Buffers" means areas between the application sites and protected areas where chlorpyrifos-containing products may not be applied, as described in section 5. If more than one buffer applies to a particular application then the application must comply with the largest applicable buffer. Buffers must be measured as follows:

(A) For sensitive sites, from the edge of the sensitive site to the edge of the application site; and

(B) For bodies of water, from the ordinary high-water mark of the waterbody and extending outward to the edge of the application site.

(5) Buffer Requirements. It is prohibited to apply chlorpyrifos-containing products:

(a) When using aerial application equipment or airblast application equipment (excluding targeted or directed airblast equipment), within 300 feet of sensitive sites or bodies of water;

(b) When using a targeted or directed airblast sprayer, such as a tower sprayer, tunnel sprayer or an airblast sprayer with anti-drift panels, within 150 feet of sensitive sites or bodies of water; or

(c) When using ground equipment (excluding airblast), or applying by chemigation within 60 feet of sensitive sites or bodies of water.

(6) After December 31, 2023, it is prohibited to use, deliver, distribute, sell, offer or expose for sale all chlorpyrifos-containing products, except when:

(a) Labeled for use as, and used as, a commercial pre-plant seed treatment, or

(b) Formulated as, and used as, a granular product.

(7) This rule does not apply to chlorpyrifos impregnated in ear tags for cattle.

(8) Failure to comply with this rule may result in one or more of the following actions:

(a) Revocation, suspension or refusal to issue or renew the license or certification of an applicant, licensee or certificate holder;

(b) Imposition of a civil penalty; or

(c) Any other enforcement action authorized under any law.

Stat. Auth.: ORS 561.190, 634.306

Stats . Implemented: ORS 634.306, 634.316, 634.322