

Pesticide Licensing in Oregon

With
Pesticide Laws and Rules



Oregon Department of Agriculture

Pesticides Division

635 Capitol Street NE

Salem, Oregon 97301-2532

Voice: 503-986-4635

FAX: 503-986-4735

Web Page: <http://oregon.gov/ODA/PEST>

June 2008

TABLE OF CONTENTS

Pesticide Web Page	Page 1
Definitions	Page 1
When Licensing is Needed	Page 1
When Licensing is Not Needed	Page 1
*Pest Inspector Licensing	Page 1
Construction Contractor Licensing	Page 1
Public Agency Projects	Page 1
Pesticide Licenses from Other States	Page 2
Pesticide Certification vs. Licensing	Page 2
Pesticide Applicator Types	Page 2
Fees and Requirements	Page 4
Study Materials	Page 5
Taking the Tests	Page 5
Testing Centers	Page 6
Recertification	Page 6
Recertification Classes	Page 6
After You Are Licensed	Page 6
Chapter 634 — Pesticide Control	Page 7
OAR 603-057 — Pesticide Control	Page 25
OAR 340-109 — Hazardous Waste	Page 42

PESTICIDE WEB PAGE

<http://oregon.gov/ODA/PEST>

- See your pesticide test scores
- Find pesticide products
- Search upcoming classes
- Check your credit hour report
- Find the nearest testing center
- Learn how to become licensed
- See pesticide alerts



DEFINITIONS

Pesticide: A substance that is used to kill, harm, or repel a pest; includes herbicides, insecticides, fungicides, rodenticides and others.

General-Use Pesticide: May be bought over-the-counter without a license; includes household pesticides.

Restricted-use pesticide: May be bought only by someone with a pesticide license and may only be used by a licensed pesticide applicator or a person they supervise. These pesticides are more dangerous than general-use pesticides. A text box above the product name on the first page of the label will tell you if it is a restricted-use pesticide.

Oregon Department of Agriculture (ODA): The state agency responsible for pesticide licensing, registration, and laws. ODA may also regulate federal pesticide laws.

WHEN LICENSING IS NEEDED

1. Buying or applying restricted-use pesticides.
2. Applying pesticides (including herbicides) to someone else's property.
3. Applying pesticides as a public employee while using a fuel or electric-powered sprayer or spreader.
4. Giving advice on how to use a restricted-use pesticide or which restricted-use pesticide will work best.

WHEN LICENSING IS NOT NEEDED

1. Applying a pesticide on a person's owned or leased property (no restricted-use pesticides).
2. Applying a pesticide on property owned or leased by an employer while acting as an employee (no restricted-use pesticides).
3. Giving advice on general-use pesticides.
4. Performing structural pest inspections for individuals buying or selling a home.*
5. Applying a pesticide while doing lawn maintenance if all of the following are true:
 - Small residential lawns or gardens only; no commercial property.
 - No restricted-use pesticides.
 - No fuel or electric-powered sprayers or spreaders.
 - Use of pesticides is not stated in advertisements, contracts, or invoices.

*PEST INSPECTOR LICENSING

Home inspectors doing structural pest inspections might need the Commercial Pesticide Applicator License. Some lenders, such as Farmer's Home Administration (FHA) and Veterans Administration (VA) require the inspector to have it. The State of Oregon only makes you have this license if you apply pesticides. Pest inspectors generally take the Laws & Safety and IIHS Structural Pest tests.

CONSTRUCTION CONTRACTOR LICENSING

Call Oregon Construction Contractor's Board (CCB) for details on non-pest (plumbing, electrical, etc.) home inspector licensing. Businesses that make changes or repairs (including pest damage repairs) to buildings should also call the Construction Contractor Board at 503-378-4621 ext. 4900.

PUBLIC AGENCY PROJECTS

Generally, public applicators may only apply pesticides on their employer's property. However, in some cases applications to private land or other public agency land may be allowed. Public agencies may not get a Commercial Pesticide Operator License. Please call ODA for details 503-986-4635.

PESTICIDE LICENSES FROM OTHER STATES

The department can give you a Private Pesticide Applicator License if you have a valid Washington or Idaho Private Pesticide Applicator License. For other licenses you must take the Oregon pesticide tests.

PESTICIDE CERTIFICATION VS. LICENSING

Certification: To qualify for a license you must show that you know how to apply pesticides safely and correctly by passing the written pesticide certification test(s). The certification period begins when you pass all tests and ends on December 31 of the fifth calendar year. If you test in the last 45 days of the year, you get a longer certification period (see examples below).

Test date	Certification end date
January 2, 2008	December 31, 2012
November 16, 2007	December 31, 2011
November 17, 2007	December 31, 2012

Licensing: You must have a license before applying pesticides. To get the license: (1) fill out the correct form, which is sent to you after passing the tests, and (2) pay the licensing fee. Just passing the required tests alone does NOT mean you are licensed! It usually takes two to three weeks to send your license. Do not apply pesticides until you get your license in the mail or you see your name on the ODA website in a license search.

PESTICIDE APPLICATOR TYPES

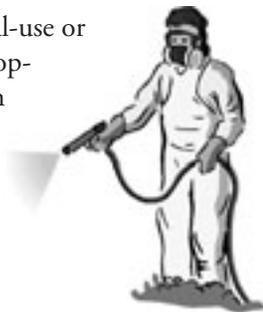
The descriptions below include the types of licenses available and the tests that go along with each type. Match the number next to the words "Study materials:" with the list after this section. That list will show you what information you need to study before taking the tests.

Commercial and Public Pesticide Applicator

Descriptions

Commercial Pesticide Applicator License

- Allows you to use pesticides (general-use or restricted-use) on someone else's property if employed by a company with the Commercial Pesticide Operator license (see below).
- Allows you to use restricted-use pesticides on your own (or your employer's) non-agricultural land.
- Allows you to supervise a licensed commercial pesticide trainee.
- Allows you to tell someone how to use a restricted-use pesticide or which restricted-use pesticide will work best



(limited to categories on your license).

- Categories must match the type of pesticide work that will be done.
- Tests required: Laws & Safety and at least one category test.

Public Pesticide Applicator License

- You must work for a state or federal agency, county, city, municipality, irrigation district, railroad, public utility, telephone company, school, or other public employer.
- Allows you to use restricted-use pesticides for your public employer.
- Allows you to use fuel or electric-powered sprayers or spreaders.
- Categories must match the type of pesticide work that will be done.
- Allows you to tell someone how to use a restricted-use pesticide or which restricted-use pesticide will work best (limited to categories on your license).
- May supervise a licensed Public Pesticide Trainee.
- Tests required: Laws & Safety and at least one category test.

Tests

Take the Laws & Safety and at least one category test for the type of pesticide work that will be done.

Laws & Safety

- Base test for the Commercial and Public Pesticide Applicator License.
- Study materials: 17, 18, 19, 20.

Category tests

Agriculture Herbicide

- The use of herbicides on agricultural lands, including Christmas tree plantations and commercial nurseries.
- Study materials: 2, 37

Agriculture Insecticide and Fungicide

- The use of insecticides, fungicides or nematicides on agricultural lands, including Christmas tree plantations and commercial nurseries.
- Study materials: 13

Agriculture Livestock Pests

- The use of pesticides for the control of livestock pests, such as insects, mites and ticks.
- Study materials: 26

Agriculture Soil Fumigation

- The use of soil applied fumigants on agricultural lands (includes Christmas tree plantations and commercial nurseries).
- Study materials: 31

Agriculture Vertebrate Pests

- The use of pesticides in agricultural areas for the control of vertebrate pests other than livestock predators.
- Study materials: 3, 6, 7, 8, 15, 19

Aquatic

- The use of pesticides in treating standing or running water.
- Study materials: 4

Forest

- The use of pesticides on forest lands or in the production of forest crops. (Does not include Christmas tree plantations or commercial nurseries.)
- Study materials: 10, 11, 24

I.I.H.S. General Pest Control

- The use of pesticides, other than fumigants, in or around structures, institutions and industrial establishments, or structures with processed or manufactured products for the control of pests other than wood-destroying pests.
- Study materials: 33

I.I.H.S. Moss Control

- The use of pesticides for the control of moss and algae on structures.
- Study materials: 32

I.I.H.S. Space Fumigation

- The use of fumigants in confined areas or structures for the control of pests, (except soil fumigants and fumigants used in field treatment of utility poles, pilings, bridge supports, etc.)
- Study materials: 25

I.I.H.S. Structural Pest Control:

- The use of pesticides, other than fumigants, in or around structures for the control of wood-destroying pests (i.e., termites, carpenter ants, powder post beetles, etc.).
- Study materials: 33

I.I.H.S. Wood Treatment

- The use of pesticides to treat wood products (i.e., lumber, poles, ties, etc.) before their use in construction, or to field treat utility poles, pilings, bridge supports and similar elements of construction with fumigants or other pesticides.
- Study materials: 39, 40

Marine Fouling Organism Control

- The use of marine anti-fouling paints or coatings on boats or ships. (Laws & Safety Exam is not required for this category.)
- Study materials: 1, 5, 12, 18, 20

Ornamental and Turf Herbicide

- The use of pesticides in the establishment and maintenance of ornamental plants and turf (does not include Christmas tree plantations, commercial nurseries, or forests).
- Study materials: 34, 35

Ornamental and Turf Insecticide & Fungicide

- The use of insecticides and fungicides in the establishment and maintenance of ornamental plants and turf (does not include Christmas tree plantations, commercial nurseries, or forests).
- Study materials: 13, 35

Public Health

- The use of pesticides for the control of any pest that may be harmful to the public health, including mosquitoes and other vectors.
- Study materials: 9, 27, 28, 36

Right-of-Way

- The use of pesticides in right-of-way areas, including road shoulders, utility lines, and irrigation ditch banks.
- Study materials: 30

Regulatory Weed Control (Public Applicators and Trainees only)

- The use of pesticides for the control of plants designated as noxious weeds.
- Study materials: 16, 24, 30, 37

Seed Treatment

- The use of pesticides on seed.
- Study materials: 21

Commercial Pesticide Operator

Description

- Allows a business to use pesticides on someone else's property.
- For corporations, at least one employee must be licensed as a commercial pesticide applicator.
- For sole proprietors or partnerships, the owner or at least one partner must be licensed as a commercial pesticide applicator.
- Categories must match the type of pesticide work that will be done.
- The business must show proof of insurance for pesticide applications.
- This license cannot be issued to a public agency.
- No test required.

Trainee, Directly and Immediately Supervised

Descriptions

Immediately Supervised Pesticide Trainee License

- Can be a public or commercial license.
- Allows you to use pesticides while supervised by a licensed Commercial or Public Pesticide Applicator.
- Supervisor must be on site at all times during spraying and within five minutes travel time from trainee.
- Trainee and supervisor categories must match the type of pesticide work that will be done.
- No test required.

Directly Supervised Pesticide Trainee License

- Can be a public or commercial trainee license.
- Allows you to use pesticides while supervised by a licensed Commercial or Public Pesticide Applicator.

- Supervisor must be able to help the trainee by phone or radio during the application.
- Supervisor does not need to be on site.
- Trainee and Supervisor categories must match the type of pesticide work that will be done.
- Test required: Directly Supervised Trainee.

Test

Directly Supervised Trainee Test

- Stand-alone test to get the Directly Supervised Trainee license.
- Test available in Spanish.
- Study materials: 14, 19

Pesticide Consultant

Description

- Allows you to tell someone how to use a restricted-use pesticide or which restricted-use pesticide will work best.
- The Demonstration and Research option allows you to create demonstration plots or do research on pesticides.
- Test required: Consultant.

Test

- Stand-alone test to get the Pesticide Consultant license.
- Study materials: 2, 17, 18, 19, 20, 22, 23, 24.

Pesticide Dealer

Description

- Allows a business to sell restricted-use pesticides to licensed pesticide users.
- No test required.

Private Pesticide Applicator

Description

- Allows you to use restricted-use pesticides on agricultural land, including farmland, ranches, forestland, nurseries, and orchards.
- Allows you to supervise a coworker or employee applying a restricted-use pesticide.
- One license covers all agricultural use (no categories).
- Test required: Private Pesticide Applicator.

Test

- Stand-alone test to get the Private Pesticide Applicator License.
- Test available in Spanish.
- Study materials: 14, 17, 18, 19, 20.



FEES AND REQUIREMENTS

Testing centers charge a testing fee. Fees range from \$10 to \$35 per test, depending on the testing center selected. Call the center directly for fee and other testing information (see test center list on page 6).

License Type	Tests	Licensing Fee	Other Requirements
Commercial Pesticide Applicator	Laws & Safety Test & category test(s)	\$50.00**	
Commercial Pesticide Operator	No test required	\$90.00+	Completed insurance form. Must employ a commercial applicator.
Directly Supervised Commercial Pesticide Trainee	Trainee Test	\$50.00**	
Directly Supervised Public Pesticide Trainee	Trainee Test	\$50.00**	Must work for public employer.
Immediately Supervised Commercial Pesticide Trainee	No test required	\$50.00#	
Immediately Supervised Public Pesticide Trainee	No test required	\$50.00#	Must work for public employer.
Pesticide Consultant	Consultant Test	\$40.00*	
Pesticide Dealer	No test required	\$75.00	
Private Pesticide Applicator	Private Applicator Test	\$25.00	
Public Pesticide Applicator	Laws & Safety Test & category test(s)	\$50.00**	Must work for public employer.

* \$5.00 fee is charged by ODA for each test that is retaken. This is in addition to testing center fees.

+ Fee depends on number of categories. \$15.00 per extra major category

Fee depends on number of categories. \$7.50 per extra major category

STUDY MATERIALS

1. "Best Pollution Prevention Practices for Abrasive Blast Media Waste from Shipyard Repair Activities" (Appendix 1 to OAR Chapter 340, Division 101, Section 0040, in "Hazardous Waste Rules Packet), Dept. of Environmental Quality, Waste Mgt. & Cleanup Division, (503) 229-5445.
2. Agriculture Herbicide Study Manual, OSU Book Stores, Inc., (541) 737-1506.
3. Animal Damage Control in Washington (EB 1147), Oregon Dept. of Agriculture, (503) 986-4635
4. Aquatic Pest Control (WAMIS 0134) (WSU pub # MIS134), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
5. Certification Training for Safe Handling and Use of Anti-Fouling Paints Containing Tributyltin (TBT), National Paint and Coatings Association, (202) 462-6272.
6. Controlling Ground Squirrel Damage Forages and Field Crops (EC 1429), Publication Orders (541) 737-2513.
7. Controlling Moles (EC 0987), Publication Orders (541) 737-2513.
8. Controlling Pocket Gopher Damage to Agricultural Crops (EC 1117), Publication Orders (541) 737-2513.
9. EXTOXNET Collection, <http://oregon.gov/ODA/PEST/examdescrip2.shtml>
10. Forest Environment Pesticide Study Manual (MIS 183), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
11. Forest Practice Notes-January 1997 No. 3, Oregon Department of Agriculture-Pesticides Div (503) 986-4635.
12. Information Bulletin for Applicators & Distributors of Marine Anti-Fouling Coatings, Oregon Dept. of Agriculture, (503) 986-4635
13. Introduction to Insect and Disease Management (MISC 0175), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
14. Manual para Aplicadores Privados de Pesticidas (MIS 0126S), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
15. Meadow Mouse (Vole) Control in Tree Fruit Orchard Ditches, and Dams (PNW 154), Publication Orders (541) 737-2513.
16. Noxious Weed Policy & Classification System. Oregon Revised Statutes - Chapter 452, Chapter 561 and Chapter 570, Oregon Department of Agriculture, (503) 986-4621.
17. Oregon Administrative Rules Chapter 340, Division 109, included in this manual.
18. Oregon Administrative Rules, Chapter 603, Division 57, included in this manual.
19. Oregon Pesticide Safety Ed. Manual (EM 8850), OSU Book Stores, Inc., (541) 737-1506.
20. Oregon Revised Statutes - Chapter 634, included in this manual.
21. Oregon Seed Treatment Training Manual, Oregon Dept. of Agriculture, (503) 986-4635
22. Pacific Northwest Disease Control Handbook, Publication Orders (541) 737-2513 or OSU Bookstores, Inc., (541) 737-1506.
23. Pacific Northwest Insect Control Handbook, Publication Orders (541) 737-2513 or OSU Bookstores, Inc., (541) 737-1506.
24. Pacific Northwest Weed Control Handbook, Publication Orders (541) 737-2513 or OSU Bookstores, Inc., (541) 737-1506.
25. Pesticide Applicator Training Manual - Fumigation (CORN FUMI), Publication Orders (541) 737-2513.
26. Pesticide Applicator Training Manual—Animal (CORN ANIM), Publication Orders (541) 737-2513.
27. Pesticides Used in Public Health, <http://oregon.gov/ODA/PEST/examdescrip2.shtml>
28. Public Health Pest Control (MISC0151), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
29. Right-of-Way Vegetation Management (Oregon Edition) (EM 8863), OSU Book Stores, Inc., (541) 737-1506.
30. Right-of-Way Vegetation Management (Oregon Edition) (EM 8863), Publication Orders, (541) 737-2513.
31. Soil Fumigation (MISC 0163), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
32. Structural & Turf Demossing Study Manual (EM 4749), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
33. Truman's Scientific Guide to Pest Control, Questex Media, (216) 706-3750
34. Turf and Ornamental Weed Management Principles (WSU publication MISC 0170), WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>
35. Turfgrass Pests. (Publication # 4053), <http://oregon.gov/ODA/PEST/examdescrip2.shtml>
36. UF Study Manual <http://oregon.gov/ODA/PEST/examdescrip2.shtml> or University of Florida, (352) 392-1764.
37. Weeds of the West, OSU Book Stores, Inc., (541) 737-1506.
38. West Nile Virus Brochure, <http://oregon.gov/ODA/PEST/examdescrip2.shtml>
39. Wood Pole Maintenance Manual (1996 Ed. Research Contribution 15), OSU Forestry Publications Office. M (541) 737-4271.
40. Wood Preservation & Wood Products Treatment Training Manual (OSU: EM 8403) or (WSU: MISC0105), Publication Orders (541) 737-2513 or WSU Bulletin Office, (800) 723-1763, <http://pubs.wsu.edu>

TAKING THE TESTS

Testing centers give the pesticide tests on a regular basis throughout Oregon.

Requirements:

- Call ahead to make an appointment.
- Pay the testing fee at the testing center.
- Decide which test(s) you need before going to test.
- Bring a driver's license or other photo ID.
- Know the last four digits of your social security number.
- Answer sheets will not be graded if the writing is sloppy or if they are missing the:
 - Signature
 - Date of birth
 - Last four digits of the social security number.

What is allowed:

- Simple calculators that do not store information.
- Testing center will provide papers and pencils for taking the tests.

What is not allowed:

- Cheating or talking to others.
- Books, notes, or other material.
- Cell phones, beepers, and other similar devices.
- Removing any test papers from the testing center, including notes.

After the test:

- Test scores are not given out over the phone. You may see your score on the internet after it is graded <http://oregon.gov/ODA/PEST>.
- The passing score on all pesticide tests is 70%.
- Scores are mailed to you with a license application form if you qualify.
- Licenses usually take three weeks after you send in your completed form with the correct fee.
- Test scores expire after two years.

TESTING CENTERS

- Albany**
Linn Benton Community College.....(541) 917-4923
- Astoria**
Clatsop Community College.....(503) 338-2426
- Bend**
Central Oregon Community College.....(541) 383-7539
- Burns**
Treasure Valley Community College.....(541) 573-1576
- Coos Bay**
Southwestern Oregon Community College.....(541) 888-7405
- Eugene**
University of Oregon(541) 346-3230
- Gresham**
Mt Hood Community College.....(541) 491-7647
- Island City**
Union Baker ESD.....(541) 963-4106
- Klamath Falls**
Oregon Institute of Technology(541) 885-1015
Klamath Community College.....(541)880-2258
- Medford**
Rogue Community College-Table Rock.....(541) 245-7820
- Ontario**
Treasure Valley Community College..... (541) 881-8822 x417
- Oregon City**
Clackamas Community College.....(503) 657-6958 x2269
- Pendleton**
Blue Mountain Community College.....(541) 278-5931
- Portland**
Portland Community College-Rock Creek(503) 614-7289
- Roseburg**
Umpqua Community College.....(541) 440-7659
- Salem**
Chemeketa Community College(503) 399-6552
- The Dalles**
Columbia Gorge Community College(541) 506-6011

RECERTIFICATION

Recertification is the process of getting your pesticide certification again after it expires. This can be done by either of two ways:

1. Going to training classes.
or
2. Taking and passing all tests again.

If you choose the first option, the number of classes needed depends on the type of license:

Private applicators

- 16 total credit hours are needed during the five-year certification period.
- 4 hours must be core classes. Core classes cover pesticide safety, laws, and other basic topics.
- 12 hours can be non-core classes.
- No more than 8 hours (including core) in each calendar year (January 1 - December 31) can count for your credits.
- You may start getting credits the day after you pass your test.

Consultants, public and commercial applicators

- 40 credit hours needed during their five-year certification period.
- No more than 15 hours in each calendar year can count for your credits.
- Classes can be either core or non-core.
- You may start getting credits the day after you pass all necessary tests.

RECERTIFICATION CLASSES

Oregon State University Extension Service, local community colleges, pesticide dealers, industry associations, and other trainers offer classes. Each issue of the ODA Pesticides Bulletin (sent to all licensed pesticide applicators and consultants) has a list of classes. You can also find classes on the department's web page at: <http://oregon.gov/ODA/PEST>. Call the listed class sponsor for details on the class.

You must sign the sign-up sheets at every class you go to. ODA will keep track of the classes you go to and send you a list every year.

AFTER YOU ARE LICENSED

- Having a pesticide license is a big responsibility!
- When you get your license, ODA will send you a brochure that lets you know about new things you must do, such as recordkeeping, reporting, and following the label. If you need more detail, look to the "Oregon Pesticide Safety Education Manual" or call ODA at 503-986-4635.
- Finally, you must follow all laws related to pesticides. "I didn't know" is not an excuse. Always read and follow the pesticide label!

**2007 EDITION
PESTICIDE CONTROL**

FOOD AND OTHER COMMODITIES

GENERAL PROVISIONS

634.005 Short title; policy statement

634.006 Definitions

REGISTRATION, LABELING AND USE

634.016 Registration of pesticides and application devices; fee; contents of application; restriction on pesticide distribution and use; exemptions

634.022 Exemption from registration for experimental pesticides; approval required for use of experimental pesticides; applicability of law

634.026 Pesticide labeling requirements; highly toxic pesticides; applicability of law

634.032 When pesticide is misbranded

634.036 When pesticide is adulterated

634.042 Unsafe use of certain pesticides on raw agricultural commodities; tolerances and exemptions; applicability to fertilizers, agricultural minerals and lime mix

PESTICIDE USE REPORTING SYSTEM

(Temporary provisions relating to the pesticide use reporting system are compiled as notes following ORS 634.042)

STATEWIDE REGULATION OF PESTICIDES

634.055 Legislative findings

634.057 State preemption of local pesticide regulation

634.060 Actions allowed by city, town, county or other political subdivision

634.063 Exceptions to state preemption of pesticide regulation

634.065 Department consideration of concerns raised by city, town, county or political subdivision

LICENSING AND CERTIFICATION

634.106 Applicability of ORS 634.112 to 634.126 and 634.146

634.112 Renewal of licenses or certificates; delinquency

634.116 Pesticide operator license; authorized activities; fees; pesticide applicator license; liability insurance; limitation on damages; rules; exemptions

634.122 Applicator license; qualifications; examination; fee

634.126 Trainee certificate; renewal; fee

634.132 Consultant license; fee; qualifications; examination; applicability of law

634.136 Dealer license; fee; applicability of law

634.142 Private applicator certificate; standards; fee

634.146 Records required of operators; retention period; report to owner of treated field crops

LIABILITY CLAIMS PROCEDURE

634.172 Procedure for making liability claim against landowner or pesticide operator; investigation of report of loss; claim procedure not waiver of governmental immunity

PROTECTED AND RESTRICTED AREAS

634.206 Continuation of protected and restricted areas created by former law

634.212 Formation of protected areas; petition; filing fee; guidelines for determinations by director

634.216 Protected area as governmental subdivision upon completion of required filings

634.222 Determination of lawful establishment of protected area in actions or proceedings; certified copy of filed order as evidence

634.226 Protected area governing committee; member election and terms; committee officers; duties and powers; rulemaking authority

634.232 Restricted area formation; matters to be considered; additional area committee member

634.236 Increasing or decreasing size of protected area; consoli-

ation of areas

634.242 Taxing power of area committee; limitation on amount of levy

ADMINISTRATION AND ENFORCEMENT

634.306 General duties and powers of department; rules

634.312 Department to develop programs for solution of pesticide and synthetic chemical problems

634.316 List of highly toxic and restricted-use pesticides

634.322 Enforcement powers of department

634.326 Use of moneys received by department

PROHIBITIONS

634.372 Prohibited acts

THIRAM STUDY AND RESTRICTIONS

634.410 Study of effects of thiram on health and safety; evaluation; report

634.415 Rules to insure adequate precautionary measures in use of thiram in reforestation

634.420 Limit on use of thiram; effect of study

634.425 Construction of ORS 634.410 to 634.425

TRIBUTYL TIN COMPOUNDS

634.500 Definitions for ORS 634.500 to 634.520

634.505 Prohibition against sale of compound that releases certain substances in water; exception

634.510 Conditions for sale

634.515 Sale by pesticide dealer; duties of customer

634.520 Report of sales to department

PESTICIDE ANALYTICAL RESPONSE CENTER

634.550 Center governing board; duties and powers

MINOR CROPS ADVISORY COMMITTEE

634.600 Committee members; appointment; compensation and expenses; duties

INTEGRATED PEST MANAGEMENT

634.650 Definitions for ORS 634.650 to 634.665

634.655 Policy

634.660 Agencies required to implement integrated pest management

634.665 Agencies to provide personnel training; appointment of coordinators; duties

CIVIL PENALTIES

634.900 Penalty for certain violations; amount

634.905 When penalty payable; notice; hearing

634.910 Reduction of penalty; criteria

634.915 Schedule for penalty amounts; criteria; rules

634.925 Disposition of penalties collected

CRIMINAL PENALTIES

634.992 Criminal penalties

GENERAL PROVISIONS

634.005 Short title; policy statement. The purpose of this chapter, which shall be known as the State Pesticide Control Act and shall be enforced by the State Department of Agriculture, is to regulate in the public interest the formulation, distribution, storage, transportation, application and use of pesticides. Many materials have been discovered or synthesized which are necessary and valuable for the control of insects, plant diseases and weeds. Many more pesticides will be discovered and needed. Such materials, however, may injure health, property, wildlife or environment by being distributed, stored, transported, applied or used in an improper or careless manner. The pesticide industry of this state has achieved and maintained high standards in its formulation and use of pesticides while at the same time experiencing a minimum of injury to persons, property or the environment. Currently updating the law to maintain this achievement and to consider future new pesticides and problems is necessary for the protection of persons, property, wildlife and environment of this state. [Formerly 634.012]

634.006 Definitions. As used in this chapter unless the context requires otherwise:

- (1) "Antidote" means a practical immediate treatment in case of poisoning and includes first-aid treatment.
- (2) "Brand" or "trademark" means any word, name, symbol or any combination thereof adopted or used by a person to identify pesticides manufactured, compounded, delivered, distributed, sold or offered for sale in this state and to distinguish them from pesticides manufactured, compounded, delivered, distributed, sold or offered for sale by others.
- (3) "Department" means the State Department of Agriculture.
- (4) "Device" means any instrument or contrivance containing pesticides or other chemicals intended for trapping, destroying, repelling or mitigating insects or rodents or destroying, repelling or mitigating fungi, nematodes or such other pests as may be designated by the department, but does not include equipment used for the application of pesticides or other chemicals when sold separately from such pesticides or chemicals.
- (5) "Private applicator" means a person who uses or supervises the use of any pesticide, classified by the department as a restricted-use or highly toxic pesticide, for the purpose of producing agricultural commodities or forest crops on land owned or leased by the person.
- (6) "Highly toxic" means a pesticide or device determined by the department to be capable of causing severe injury, disease or death to human beings.
- (7) "Landowner" means a person owning three acres or more within a proposed protected area; and in the case of multiple ownership of land, the owner is only a person whose interest is greater than an undivided one-half interest therein or who holds an authorization in writing from one or more of the other owners whose interest, when added to the interest of the person, are greater than an undivided one-half interest in the land.
- (8) "Pesticide" includes:
 - (a) "Defoliant" which means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant with or without causing abscission;
 - (b) "Desiccant" which means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue;
 - (c) "Fungicide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any fungus;
 - (d) "Herbicide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed;
 - (e) "Insecticide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any insects which may be present in any environment whatsoever;
- (f) "Nematocide" which means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating nematodes;
- (g) "Plant regulator" which means any substance or mixture of substances intended, through physiological action, to accelerate or retard the rate of growth or rate of maturation or to otherwise alter the behavior of ornamental or crop plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments; or
- (h) Any substance, or mixture of substances intended to be used for defoliating plants or for preventing, destroying, repelling or mitigating all insects, plant fungi, weeds, rodents, predatory animals or any other form of plant or animal life which is, or which the department may declare to be a pest, which may infest or be detrimental to vegetation, humans, animals, or be present in any environment thereof.
- (9) "Pesticide applicator" or "applicator" means a person who:
 - (a) Is spraying or applying pesticides for others;
 - (b) Is authorized to work for and is employed by a pesticide operator; and
 - (c) Is in direct charge of or supervises the spraying or application of pesticides or operates, uses, drives or physically directs propulsion of equipment, apparatus or machinery, either on the ground or by aircraft in such activity.
- (10) "Pesticide consultant" means a person, including governmental employees, who offers or supplies technical advice, supervision, aid or recommendations to the user of pesticides classified by the department as restricted-use or highly toxic pesticides, whether licensed as a pesticide dealer or not.
- (11) "Pesticide dealer" means a person who sells, offers for sale, handles, displays or distributes any pesticide classified by the department as a restricted-use or highly toxic pesticide.
- (12) "Pesticide equipment" means any equipment, machinery or device used in the actual application of pesticides, including aircraft and ground spraying equipment.
- (13) "Pesticide operator" means a person who owns or operates a business engaged in the application of pesticides upon the land or property of another.
- (14) "Pesticide trainee" means a person who:
 - (a) Is employed by a pesticide operator; and
 - (b) Is working and engaged in a training program under special certificate to qualify as a pesticide applicator.
- (15) "Professed standard of quality" means a plain and true statement of the name and percentage of each active ingredient and the total percentage of all inert ingredients contained in any pesticide.
- (16) "Protected area" means an area established under the provisions of this chapter to prohibit or restrict the application of pesticides.
- (17) "Public applicator" means a person who is an employee of the State of Oregon or its agencies, counties, cities, municipal corporations, other governmental bodies or subdivisions thereof, irrigation districts, drainage districts and public utilities and telecommunications utilities and who performs or carries out the work, duties or responsibilities of a pesticide applicator.
- (18) "Public trainee" means a person who is an employee of the State of Oregon or its agencies, counties, cities, municipal corporations, other governmental bodies or subdivisions thereof, irrigation districts, drainage districts and public utilities and telecommunications utility and who performs or carries out the work, duties or responsibilities of a pesticide trainee.
- (19) "Registrant" means a person registering any pesticide pursuant to this chapter.

- (20) "Restricted area" means an area established under the provisions of this chapter to restrict, but not prohibit, the application of pesticides.
- (21) "Restricted-use pesticide" means any pesticide or device which the department has found and determined to be so injurious or detrimental to persons, pollinating insects, bees, animals, crops, wildlife, land or environment, other than the pests it is intended to prevent, destroy, control or mitigate, that additional restrictions are required.
- (22) "Weed" means any plant which grows where not wanted. [1973 c.341 §3; 1987 c.447 §134]

634.007 [1995 s.s. c.3 §38a; repealed by 1996 c.10 §3 (634.055 enacted in lieu of 634.007)]

634.009 [1995 s.s. c.3 §38b; repealed by 1996 c.10 §5 (634.057 enacted in lieu of 634.009)]

634.010 [Repealed by 1953 c.118 §2]

634.011 [1995 s.s. c.3 §38c; repealed by 1996 c.10 §7 (634.060 enacted in lieu of 634.011)]

634.012 [1973 c.341 §2; renumbered 634.005 in 1995]

634.013 [1995 s.s. c.3 §38d; repealed by 1996 c.10 §9 (634.063 enacted in lieu of 634.013)]

634.015 [1995 s.s. c.3 §38e; repealed by 1996 c.10 §11 (634.065 enacted in lieu of 634.015)]

REGISTRATION, LABELING AND USE

634.016 Registration of pesticides and application devices; fee; contents of application; restriction on pesticide distribution and use; exemptions.

- (1) Every pesticide, including each formula or formulation, manufactured, compounded, delivered, distributed, sold, offered or exposed for sale in this state shall be registered each year with the State Department of Agriculture.
- (2) Every device manufactured, delivered, distributed, sold, offered or exposed for sale in this state shall be registered each year with the department.
- (3) The registration shall be made by the manufacturer or a distributor of the pesticide.
- (4) The application for registration shall include:
 - (a) The name and address of the registrant.
 - (b) The name and address of the manufacturer if different than the registrant.
 - (c) The brand name or trademark of the pesticide.
 - (d) A specimen or facsimile of the label of each pesticide, and each formula or formulation, for which registration is sought, except for annual renewals of the registration when the label remains unchanged.
 - (e) The correct name and total percentage of each active ingredient.
 - (f) The total percentage of inert ingredients.
- (5) The application for registration shall be accompanied by a registration fee to be established by the department for each pesticide and each formula or formulation. The registration fee may not exceed \$250 for each such pesticide, or each formula or formulation.
- (6) The department, at the time of application for registration of any pesticide or after a declaration of a ground water management area under ORS 468B.180 may:
 - (a) Restrict or limit the manufacture, delivery, distribution, sale or use of any pesticide in this state.
 - (b) Refuse to register any pesticide which is highly toxic for which there is no effective antidote under the conditions of use for which such pesticide is intended or recommended.
 - (c) Refuse to register any pesticide for use on a crop for which no finite tolerances for residues of such pesticide have been established by either the department or the federal government.
 - (d) In restricting the purposes for which pesticides may be manufactured, delivered, distributed, sold or used, or in refusing to register any pesticide, give consideration to:
 - (A) The damage to health or life of humans or animals, or detriment to the environment, which might result from the distribution and

use of such pesticide.

- (B) Authoritative findings and recommendations of agencies of the federal government and of any advisory committee or group established under ORS 634.306 (10).
- (C) The existence of an effective antidote under known conditions of use for which the material is intended or recommended.
- (D) Residual or delayed toxicity of the material.
- (E) The extent to which a pesticide or its carrying agent simulates by appearance and may be mistaken for human food or animal feed.
- (7) The provisions of this section shall not, except as provided herein, apply to:
 - (a) The use and purchase of pesticides by the federal government or its agencies.
 - (b) The sale or exchange of pesticides between manufacturers and distributors.
 - (c) Drugs, chemicals or other preparations sold or intended for medicinal or toilet purposes or for use in the arts or sciences.
 - (d) Common carriers, contract carriers or public warehousemen delivering or storing pesticides, except as provided in ORS 634.322. [1973 c.341 §7; 1975 c.304 §9; 1989 c.709 §3; 1989 c.833 §66; 2007 c.162 §1]

634.020 [Repealed by 1953 c.118 §2]

634.022 Exemption from registration for experimental pesticides; approval required for use of experimental pesticides; applicability of law.

- (1) The provisions of ORS 634.016 are not applicable to pesticides used only for experimental or research purposes. Such pesticides shall be conspicuously labeled "For experimental purposes only and not for sale" in addition to the labeling requirements of ORS 634.026, except that they need not be labeled with directions for use or the professed standard of quality.
 - (2)(a) Subject to the exemptions set forth in paragraph (b) of this subsection, before any pesticide can be used for experimental or research purposes a person proposing to use such pesticides shall obtain approval of the State Department of Agriculture. Application for such approval shall contain such information as may be required by the department, including the location and size of the plot on which the experiment or research is to be carried out, the nature of the pesticide to be utilized, the person responsible for such activities and the intended disposition of any crops grown upon the experimental or research plot.
 - (b) The provisions of paragraph (a) of this subsection are not applicable to:
 - (A) Federal or state agencies.
 - (B) Experiments or research carried on in greenhouses.
 - (3) If any person uses pesticides for experimental purposes as provided by this section contrary to the instructions and approval issued by the department, the department may immediately revoke such approval and refuse to issue its approval to such persons on future applications. [1973 c.341 §9; 1995 c.79 §324]
- 634.026** Pesticide labeling requirements; highly toxic pesticides; applicability of law.
- (1) If not otherwise required or prescribed by federal law or rule, each package or container of every pesticide shall be labeled with:
 - (a) The name and address of the manufacturer or person for whom it was manufactured.
 - (b) The brand name or trademark under which the material is sold.
 - (c) The professed standard of quality of the material.
 - (d) The net weight or volume of the contents.
 - (e) Adequate and necessary directions for its proper and intended use.
 - (2) In addition to the information required by subsection (1) of this section, any pesticide which is highly toxic shall be labeled with:
 - (a) A sign of a skull and crossbones.

- (b) The word “poison” in red on the package printed on a background of contrasting color.
- (c) A poison antidote for the material, if any.
- (3) The provisions of subsection (2) of this section shall not apply to bleaching powder or chloride of lime. [1973 c.341 §10]

634.030 [Repealed by 1953 c.118 §2]

634.032 When pesticide is misbranded. Pesticides shall be deemed misbranded if:

- (1) The package or container of such materials bears any false or misleading statement.
- (2) The container or package of such materials is not labeled as required by ORS 634.026. [1973 c.341 §11]

634.036 When pesticide is adulterated. A pesticide shall be deemed to be adulterated if:

- (1) It is a pesticide other than a herbicide, defoliant or desiccant, is intended for use on vegetation and contains any substance which is injurious to such vegetation when used as directed under normal growing conditions.
- (2) The strength or purity of the pesticide is below the purported or professed standard of quality as expressed in its labeling, or any substance has been substituted wholly or in part for any ingredient of the pesticide, or any valuable constituent thereof has been omitted wholly or in part.
- (3) The contents of the package or container of pesticide do not meet their purported standard of quality in any other manner.
- (4) The contents of the package or container represented to be a pesticide are not definitely effective for the purpose for which recommended. [1973 c.341 §12]

634.040 [Repealed by 1953 c.118 §2]

634.042 Unsafe use of certain pesticides on raw agricultural commodities; tolerances and exemptions; applicability to fertilizers, agricultural minerals and lime mix.

- (1) Any poisonous or deleterious pesticide or any pesticide which, in the opinion of the State Department of Agriculture, is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of pesticide chemicals as safe for use, added to a raw agricultural commodity, shall be deemed unsafe for the purposes of the application of ORS 616.235 (1)(b), unless:
 - (a) A tolerance for such pesticide chemical in or on the raw agricultural commodity has been prescribed by regulation promulgated by the department and the quantity of such pesticide chemical in or on the raw agricultural commodity is within the limits of the tolerance so prescribed; or
 - (b) With respect to use in or on such raw agricultural commodity, the pesticide chemical has been exempted from regulation promulgated by the department.
- (2) While a tolerance or exemption from tolerance is in effect for a pesticide chemical with respect to any raw agricultural commodity, such raw agricultural commodity shall not, by reason of bearing or containing any added amount of such pesticide chemical, be considered to be adulterated within the meaning of ORS 616.235 (1)(a), provided such pesticide chemical or the use of such pesticide chemical is in compliance with the law and regulations promulgated thereunder.
- (3) In a fertilizer, agricultural minerals, agricultural amendment or lime mix in which a pesticide is contained, all applicable provisions of this chapter must be complied with. In lieu of the requirements of ORS 634.026 (1)(c), the label or invoice on a certain mix may show the name and amount of the actual pesticide, together with the total amount of the entire mixture, including the amount of actual pesticide, to be applied to each acre. [1973 c.341 §13; 1979 c.29 §2; 1995 c.79 §325]

PESTICIDE USE REPORTING SYSTEM

Note: Sections 2 to 4, 6, 8 to 11, 15 and 22, chapter 1059, Oregon Laws 1999, provide:

Sec. 2. As used in sections 2 to 11 of this 1999 Act:

(1) “Pesticide” has the meaning given in ORS 634.006, but does not include antimicrobial pesticides as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 (P.L. 92-516, as amended).

(2) “Pesticide user” means any person who uses or applies a pesticide in the course of business or any other for-profit enterprise, or for a governmental entity, or in a location that is intended for public use or access.

(3) “Retail pesticide dealer” means a person who sells, offers for sale, handles, displays or distributes any pesticide but is not licensed as a pesticide dealer under ORS 634.112. [1999 c.1059 §2]

Sec. 3. The Legislative Assembly finds and declares that the development of a comprehensive, reliable and cost-effective system for collecting and organizing information on all categories of pesticide use in Oregon is needed by government agencies, researchers, policymakers and the public to ensure the public health and safety and to protect Oregon’s water and environment. [1999 c.1059 §3]

Sec. 4. The State Department of Agriculture shall establish and implement a pesticide use reporting system to meet the need described in section 3, chapter 1059, Oregon Laws 1999. In establishing and implementing the system, the department shall:

- (1) Design, develop and implement the system in order to collect, evaluate, summarize, retain and report information on the use of pesticides in each major category of use in Oregon, including agriculture, forestry, industrial, urban commercial and urban homeowner uses.
- (2) At least one time each year, collect the best data practicable from each major category of pesticide use in a manner that reduces paperwork and reporting costs.
- (3) Require all pesticide users to report basic information on their use of pesticides that includes:
 - (a) The location of use. For pesticide use within an urban area, as defined by the department by rule, the pesticide user shall report the location of use by identifying the five-digit zip code for the location. For pesticide use that is not within an urban area, the pesticide user shall report the location of use by identifying the third-level hydrologic unit for the location. As used in this paragraph, “third-level hydrologic unit” means the basin reporting level of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data Committee.
 - (b) The name and United States Environmental Protection Agency registration number for the pesticide product used.
 - (c) The quantity of pesticide product applied.
 - (d) The purpose of and type of site of the application.
 - (e) The month of the application.
- (f) Subject to section 8, chapter 1059, Oregon Laws 1999, other data gathered by pesticide applicators that the department considers necessary to achieve the purposes of section 3, chapter 1059, Oregon Laws 1999.
- (4) Develop a mechanism to ensure the accuracy, reliability and validity of the database by providing for an independent review of the pesticide use data and collection procedures by data quality assurance specialists.
- (5) Develop a specific mechanism to identify household and other urban uses of pesticides. If this mechanism involves sales reporting by retail pesticide dealers, the department shall develop a minimum monthly sales quantity below which the retail pesticide dealer is exempt from reporting. [1999 c.1059 §4; 2005 c.743 §1]

Sec. 6. In carrying out its responsibilities under sections 2 to 9 of this 1999 Act, the State Department of Agriculture shall seek technical assistance as appropriate from at least the following entities:

- (1) Oregon Department of Administrative Services;
- (2) Department of Environmental Quality;

- (3) State Department of Fish and Wildlife;
- (4) State Forestry Department;
- (5) Department of Human Services;
- (6) Occupational Safety and Health Division of the Department of Consumer and Business Services;
- (7) Oregon Poison Center;
- (8) Pesticide Analytical and Response Center; and
- (9) Office of the State Fire Marshal. [1999 c.1059 §6]

Sec. 8. (1) In implementing the pesticide use reporting system, the State Department of Agriculture shall, at a minimum:

(a) Publish an annual report summarizing the pesticide use data reported to the department under section 4, chapter 1059, Oregon Laws 1999. The report shall include:

- (A) An analysis of trends in pesticide use;
- (B) An assessment of pesticide use reporting data accuracy; and
- (C) Pesticide use information summarized by zip code or hydrologic unit as described in section 4 (3)(a), chapter 1059, Oregon Laws 1999.

(b) Establish policy and adopt rules relating to the public release of data about pesticide sales or use consistent with the limitations provided in this section.

(2)(a) Data about pesticide use obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999, are confidential if the data would reveal the identity of the owner or lessee or the specific location of property where a person has applied a pesticide:

- (A) For a private agricultural or forestry operation; or
- (B) On private property or public property leased to a private person.

(b) Data about pesticide sales obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999, are confidential if the data would reveal a trade secret, as defined in ORS 646.461, of the retail outlet, multiple-outlet retailer or associated group of retailers that reports the data.

(c) The department may not collect pesticide use data under section 4, chapter 1059, Oregon Laws 1999, that would reveal the identity of the owner or lessee or the specific location of property where a person has applied a pesticide.

(3) The policy and rules that the department adopts under this section may not limit access to data for the following purposes:

- (a) Information obtained as part of any investigation under any other provision of law;
- (b) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws 1999, to any other local, state or federal agency, if the local, state or federal agency has agreed to maintain the confidentiality of any information that is required to be treated as confidential under this section, unless the public interest by clear and convincing evidence requires disclosure in the particular instance; and
- (c) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws 1999, to a health or environmental researcher acting in an official capacity from an accredited university or accepted research institute who agrees to maintain the confidentiality of any information that is required to be treated as confidential under this section. [1999 c.1059 §8; 2001 c.915 §2; 2005 c.743 §2]

Sec. 9.

(1) In addition to any other liability or penalty provided by law, the Director of Agriculture may impose a civil penalty in an amount of up to \$10,000 on any person for violation of a confidentiality agreement established under section 8 of this 1999 Act.

(2) The State Department of Agriculture shall develop by rule a schedule establishing the amount of civil penalty that may be imposed for a particular violation under subsection (1) of this section. Under the schedule, the amount of the civil penalty shall correlate to the severity of the breach of confidentiality.

(3) Any civil penalty under this section shall be imposed as provided in ORS 183.745. [1999 c.1059 §9]

Sec. 10. Nothing in sections 2 to 9 of this 1999 Act shall be construed to create a new private right of action against any pesticide user or retail pesticide dealer. [1999 c.1059 §10]

Sec. 11. (1) As used in this section, "frivolous" means the matter is not supported by substantial evidence or the matter is initiated without reasonable prospect of prevailing.

(2) If any person files an action against another party as a result of the operation of the pesticide use reporting system created pursuant to sections 2 to 9 of this 1999 Act, and the court finds that the action is frivolous or was filed in bad faith or for the purpose of harassment, the court may impose an appropriate sanction upon the person who filed the action. The sanction may include an order to pay to the other party the amount of the reasonable expenses incurred by reason of the filing of the action, including reasonable attorney fees. [1999 c.1059 §11]

Sec. 15. The State Department of Agriculture may use up to \$40 of each pesticide, formula or formulation registration fee collected under ORS 634.016 during the period beginning January 1, 2008, and ending December 31, 2009, to implement the pesticide use reporting system under sections 2 to 9, chapter 1059, Oregon Laws 1999, as long as the Legislative Assembly appropriates an equivalent amount of moneys from the General Fund for the system. [1999 c.1059 §15; 2005 c.743 §3; 2007 c.162 §2]

Sec. 22. Sections 2 to 4, 6 to 11, 15 and 21 of this 1999 Act are repealed on December 31, 2009. [1999 c.1059 §22]

634.050 [Repealed by 1953 c.118 §2]

STATEWIDE REGULATION OF PESTICIDES

634.055 Legislative findings. The Legislative Assembly hereby determines that the citizens of this state benefit from a system of safe, effective and scientifically sound pesticide regulation. The Legislative Assembly further finds that a uniform, statewide system of pesticide regulation that is consistent, coordinated and comports with both federal and state technical expertise is essential to the public health, safety and welfare and that local regulation of pesticides does not materially assist in achieving these benefits. [1996 c.10 §4 (enacted in lieu of 634.007)]

634.057 State preemption of local pesticide regulation. No city, town, county or other political subdivision of this state shall adopt or enforce any ordinance, rule or regulation regarding pesticide sale or use, including but not limited to:

- (1) Labeling;
- (2) Registration;
- (3) Notification of use;
- (4) Advertising and marketing;
- (5) Distribution;
- (6) Applicator training and certification;
- (7) Licensing;
- (8) Transportation;
- (9) Packaging;
- (10) Storage;
- (11) Disclosure of confidential information; or
- (12) Product composition. [1996 c.10 §6 (enacted in lieu of 634.009)]

634.060 Actions allowed by city, town, county or other political subdivision. Notwithstanding ORS 634.057, a city, town, county or other political subdivision of this state may adopt a policy regarding the use of pesticides on property owned by the city, town, county or other political subdivision adopting the policy. [1996 c.10 §8 (enacted in lieu of 634.011)]

634.063 Exceptions to state preemption of pesticide regulation. Nothing in ORS 634.057 shall limit the authority of a city, town, county or other political subdivision of this state to adopt or enforce a local ordinance, rule or regulation strictly necessary to comply with:

- (1) The Uniform Building Code published by the International Conference of Building Officials, as amended and adopted by the Director of the Department of Consumer and Business Services;
- (2) A uniform fire code; or
- (3) Any requirement of a state or federal statute or regulation pertaining to pesticides. [1996 c.10 §10 (enacted in lieu of 634.013)]

634.065 Department consideration of concerns raised by city, town, county or political subdivision. In administering this chapter, the State Department of Agriculture shall consider any concern raised by a city, town, county or other political subdivision of the state regarding the regulation of pesticides. [1996 c.10 §12 (enacted in lieu of 634.015)]

LICENSING AND CERTIFICATION

634.106 Applicability of ORS 634.112 to 634.126 and 634.146. ORS 634.112 to 634.126 and 634.146 shall not apply to:

- (1) Manufacturers of materials engaged in research or experimental work on pesticides.
- (2) Persons engaged in the business of a pesticide operator or applicator only in the application of any pollenicide.
- (3) Persons licensed as veterinarians under ORS chapter 686 who are engaged in the practice of veterinary medicine within the scope of their veterinary medicine practice and employees of licensed veterinarians when acting within the scope of their employment.
- (4) A farmer or forestland owner applying pesticides, other than restricted-use pesticides, by use of equipment of the farmer or forestland owner for others on an occasional basis not amounting to a principal or regular occupation, if the farmer does not publicly hold out as a pesticide applicator and if the pesticides that are applied are furnished by the owner of the land on which such pesticides are applied.
- (5) Persons who do not advertise or publicly hold themselves out as being in the business of applying pesticides but whose main or principal work or business is the maintenance of small or home lawns, shrubs or gardens.
- (6) Persons who do not advertise or publicly hold themselves out as being in the business of applying pesticides and whose principal activity or business as related to pesticides is selling pesticides or selling or leasing equipment.
- (7) Railroads, to the extent that the application of pesticides is by their regular employees, on land or property under their ownership, supervision, control or jurisdiction, except that if power-operated spray equipment is used for applying volatile herbicides, the application shall be under the direct supervision of a licensed public applicator. [1973 c.341 §22; 1995 c.360 §1; 2001 c.307 §1]

634.110 [Repealed by 1953 c.117 §2]

634.112 Renewal of licenses or certificates; delinquency.

- (1) Except as provided in ORS 634.142 (2), any license or certificate issued or required of a pesticide consultant, dealer, operator, applicator, private applicator or trainee by this chapter shall expire on December 31 following issuance or on such date as may be specified by rule of the State Department of Agriculture. At least 30 days prior to the expiration date, the department shall by mail notify each person holding a license or certificate of the expiration date thereof.
- (2) Applications for all licenses or certificates required of a pesticide consultant, dealer, operator, applicator, private applicator or trainee, or renewal thereof, shall be made to the department on forms prescribed by the department and accompanied by the prescribed fee.
- (3) All such licenses or certificates are personal to the applicant and may not be transferred to any other person.
- (4) Nothing in this chapter shall be construed as requiring a person, helping or assisting in the application of pesticides by a licensed pesticide applicator or certified private applicator or the pesticide

application business through the performance of manual labor only, to obtain a license or certificate, if the actual application of pesticides is made by:

- (a) A licensed pesticide applicator or a certified private applicator; or
 - (b) A person applying pesticides under ORS 634.106.
- (5) Failure to pay the renewal license fees when due by a pesticide consultant, dealer, operator or applicator, or failure to pay the renewal certificate fees by a trainee, shall forfeit the right to engage in the activities of a pesticide consultant, dealer, operator, applicator or trainee, as the case may be. Any person whose pesticide consultant, dealer, operator or applicator license, or trainee certificate has been forfeited, shall not be issued a license, certificate or renewal license or renewal certificate except upon written application to the department accompanied by a sum of money equal to the license or certificate fee which should have been paid.
 - (6) If such person is a pesticide consultant or applicator and does not pay the license fee during the first month in which the license fee is delinquent, thereafter such pesticide consultant or applicator shall not only pay the required license fee but shall also obtain a passing grade in a reexamination given by the department for pesticide applicators as prescribed in ORS 634.122, or otherwise demonstrate knowledge of the subject to the satisfaction of the department.
 - (7) No penalty reexamination shall be required of a person whose application for renewal of a license or certificate is accompanied by a signed statement that prior to the application the person has not operated or worked as a pesticide consultant, applicator or trainee, as the case may be, during the previous six months or since the expiration date of the last license or certificate of the person, whichever time is less. If the department later verifies this signed statement is false, then notwithstanding the provisions of ORS chapter 183, the department may immediately suspend the license or certificate which was issued as a result of such statement. Such suspension shall only be removed after the person has complied with the applicable provisions of subsections (5) and (6) of this section. [1973 c.341 §14; 1975 c.304 §10; 1979 c.232 §1; 2007 c.768 §40]

634.116 Pesticide operator license; authorized activities; fees; pesticide applicator license; liability insurance; limitation on damages; rules; exemptions.

- (1) A pesticide operator's license, or supplements thereto, shall authorize the licensee to engage in one or more of the classes of pest control or pesticide application business prescribed by the State Department of Agriculture under ORS 634.306 (2). The department may not issue a pesticide operator license to the United States, the State of Oregon or federal, state or local agencies, instrumentalities, political subdivisions, counties, cities, towns, municipal corporations, irrigation, drainage or other districts or other federal, state or local governmental bodies.
- (2) During a license period, and after a person has been issued a license to engage in certain classes of pest control or pesticide application business during a license period, the department upon receiving an additional application and applicable fees, may authorize the licensee to engage in additional classes of pest control or pesticide application business for the remainder of the license period as prescribed in ORS 634.306 (2).
- (3)(a) The department shall establish a pesticide operator license fee not to exceed \$90 for the first class of pest control or pesticide application business as prescribed in ORS 634.306 (2) and not to exceed \$15 for each additional class.
- (b) After a person makes first application for a specific license period, if later during the same license period the person desires to engage in additional classes of pest control or pesticide applica-

- tion businesses, such person shall pay the fee for each additional class established by the department not to exceed \$20.
- (4) At least one owner or part owner of the pest control or pesticide application business shall also obtain and maintain a pesticide applicator's license if the pesticide operator is a sole proprietorship or a partnership. At least one officer or employee shall obtain and maintain a pesticide applicator's license if the pesticide operator is a corporation. If a pesticide operator is found to be in violation of this subsection, the pesticide operator's license, notwithstanding ORS chapter 183, is automatically suspended until the pesticide operator is in compliance. If the business is owned by one individual, the department shall make no charge for the pesticide applicator license issued to the individual under ORS 634.122.
- (5) The department shall not issue or renew a pesticide operator's license until the applicant or licensee has furnished evidence to the department, in the form of a public liability policy issued by an insurance company qualified to do business in Oregon, protecting the applicant or licensee against liability for injury or death to persons and loss of or damage to property resulting from the application of pesticides, or in lieu of a policy, has furnished a deposit of cash, surety bond or other evidence of financial responsibility acceptable to the department that may be applied by the department to the payment of damages resulting from operator liability. However:
- (a) Except as required under paragraph (b) of this subsection, the financial responsibility required by this section shall not apply to damages or injury to crops, real or personal property being worked upon by the applicant.
- (b) If the applicant or licensee is to be engaged in the business of controlling or eradicating structural pests, or pests within a public or private place, or pests within private or public places where food is served, prepared or processed or where persons are regularly housed, the financial responsibility required by this section shall apply to damages or injury to real or personal property being worked upon, as well as all the other real and personal property set forth in this section.
- (6) The financial responsibility required by subsection (5) of this section must be not less than \$25,000 for bodily injury to one or more persons and not less than \$25,000 for property damage.
- (7) Notwithstanding the provisions of ORS chapter 183, if the licensed pesticide operator fails to maintain the financial responsibility required by subsections (5) and (6) of this section, the license is automatically suspended until the department again verifies the pesticide operator is in compliance with subsections (5) and (6) of this section. The liability insurance company shall notify the department in writing at least 30 days prior to any cancellation of an insurance policy required by this section.
- (8) Notwithstanding the provisions of ORS 105.810 and 105.815 or other laws to the contrary, the amount of damages for which a pesticide operator or pesticide applicator is liable as a result of use of pesticides, or financial responsibility for the same is limited to actual damages only.
- (9) The department shall return the deposit required by subsection (5) of this section to the pesticide operator if the pesticide operator at any time establishes exemption from the financial responsibility requirements under this chapter. After the expiration of two years from the date of an injury, death, loss or damage, the department shall return any deposit remaining to the pesticide operator or to the personal representative of the pesticide operator except that the department shall not make a return if the department has received notice that an action for damages arising out of the provisions of this section has been filed against the pesticide operator for whom the deposit was made, and the department has determined that the action is pending or that any judgment resulting from the action remains unpaid.
- (10) If the pesticide operator is to spray by aircraft, then the department, in addition to other provisions of this section relating to financial responsibility, may by rule allow aircraft pesticide operators to reduce, suspend or terminate the liability insurance, applicable to spraying by aircraft, and required by subsections (5) and (6) of this section during certain periods of the year.
- (11) The department may by rule allow liability insurance policies required by subsections (5) and (6) of this section to include deductible clauses of amounts to be determined by the department.
- (12)(a) The United States, the State of Oregon or federal, state or local agencies, instrumentalities, political subdivisions, counties, cities, towns, municipal corporations, irrigation, drainage or other districts or other federal, state or local governmental bodies are not required to obtain a license as a pesticide operator or to furnish evidence of financial responsibility to the department when:
- (A) Applying pesticides to property under their ownership, possession, control or jurisdiction;
- (B) Applying pesticides pursuant to an order issued by the department for purposes of controlling or eradicating noxious weeds or pests; or
- (C) Applying pesticides to property under the ownership, possession, control or jurisdiction of another federal, state or local agency, instrumentality, political subdivision, county, city, town, municipal corporation, irrigation, drainage or other district or other federal, state or local governmental body or of a homeowners association as defined under ORS 94.550 if:
- (i) The land is in a jurisdiction adjacent to property under their ownership, possession, control or jurisdiction;
- (ii) The application is done in conjunction with, or as an extension of, an application of pesticides to property under their ownership, possession, control or jurisdiction; and
- (iii) The pesticide application is done on a cost recovery, cooperative trade of services or no cost basis, and not as a source for profit.
- (b) A public utility or telecommunications utility is not required to obtain a license as a pesticide operator or to furnish evidence of financial responsibility to the department when applying pesticides to property under the ownership, possession or control of the utility.
- (c) In addition to any application allowed under paragraph (a) of this subsection, a vector control district is not required to obtain a license as a pesticide operator or to furnish evidence of financial responsibility to the department when applying pesticides for the prevention, control or eradication of a public health vector as defined in ORS 452.010 to property under the ownership, possession, control or jurisdiction of another federal, state or local agency, instrumentality, political subdivision, county, city, town, municipal corporation, irrigation, drainage or other district or other federal, state or local governmental body or of a homeowners association as defined under ORS 94.550 if the pesticide application is done on a cost recovery, cooperative trade of services or no cost basis, and not as a source of profit.
- (13) Subject to subsection (15) of this section, the employees of the agencies, instrumentalities, subdivisions, counties, cities, towns, municipal corporations, districts, governmental bodies or utilities described in subsection (12) of this section who perform or carry out the work, duties or responsibilities of a pesticide applicator are subject to the provisions of this chapter, except they shall be issued "public applicator" licenses or, if they carry out the work, duties or responsibilities of a pesticide trainee, shall be issued "public trainee" certificates, if they otherwise comply or qualify with the provisions of this chapter relating thereto.
- (14) The public applicator license or public trainee certificate shall be:

- (a) Issued by the department upon payment of the fee for the pesticide applicator license or pesticide trainee certificate.
 - (b) Valid and used by the licensee or certificate holder only when applying pesticides as described in subsection (12) of this section.
 - (c) Renewed, suspended or revoked each year in the same manner, under the same provisions and at the same time as other pesticide applicator licenses and trainee certificates are renewed, suspended or revoked.
- (15) The provisions of subsection (13) of this section apply only to:
- (a) The application of restricted-use pesticides; or
 - (b) The application of any pesticide by using a machine-powered device.
- (16) Prior to applying pesticides to land described in subsection (12)(a)(C) of this section, a public applicator shall inform the person requesting pesticide application of the possible availability of alternative sources of assistance, including sources in the private sector that are registered with the department or with industry trade or professional organizations.
- (17) A federal, state or local agency, instrumentality, political subdivision, county, city, town, municipal corporation, irrigation, drainage or other district or other federal, state or local governmental body may not solicit or advertise for pesticide application business in areas outside its jurisdiction. [1973 c.341 §15; 1975 c.304 §11; 1987 c.317 §1; 1987 c.447 §135; 1993 c.599 §1; 2001 c.307 §2; 2005 c.96 §1; 2007 c.258 §9]
- 634.120** [Repealed by 1953 c.117 §2]
- 634.122** Applicator license; qualifications; examination; fee.
- (1) An applicant for a pesticide applicator's license is entitled to be examined for or to be issued a license or supplements thereto by the State Department of Agriculture, if the applicant:
 - (a) Is at least 18 years of age; and
 - (b) Proves to the satisfaction of the department that the applicant:
 - (A) Has had experience as a pesticide trainee for the minimum period and in the manner prescribed by the department;
 - (B) Has educational qualifications, experience or training which is equal to the minimum standards and requirements established by the department; or
 - (C) Has been licensed in Oregon as a pesticide applicator and actively engaged in such work during the prior license period, as shall be prescribed by the department.
 - (2) An applicant for a pesticide applicator's license shall be required to demonstrate satisfactorily by written examination or any reexamination given by the department, an adequate knowledge of:
 - (a) The characteristics of pesticides and the effect of their application to particular crops.
 - (b) The practices of application of pesticides.
 - (c) The conditions and times of application of pesticides and the precautions to be taken in connection therewith.
 - (d) The applicable laws and rules relating to pesticides and their application in this state.
 - (e) Integrated pest management techniques, as defined in ORS 634.650, for pest control.
 - (f) Other requirements or procedures which will be of benefit to and protect the pesticide applicator, the persons who use the services of the pesticide applicator and the property of others.
 - (3) Based upon the license application and the request of the applicant, the department may examine the applicant only in any one or more of the classes of pest control or pesticide application businesses established by the department under ORS 634.306 (2).
 - (4)(a) A pesticide applicator license fee shall be established by the department not to exceed \$50 for the first class of pest control or pesticide application business as prescribed in ORS 634.306 (2) and not to exceed \$7.50 for each additional class.
 - (b) After a person makes first application for a license or renewal thereof for a specific license period, if later during the same license period such person desires to engage in additional classes of pest control or pesticide application business as prescribed in ORS 634.306 (2), such person shall pay the fee for each additional class established by the department not to exceed \$12.50.
- (5) Examinations or reexaminations for pesticide applicator's licenses shall be given by the department at such time and in any of its branch offices or other locations it deems expedient, and shall be under the supervision of its employees or appointees. The department is authorized to:
- (a) Appoint without pay or reimbursement, employees of other state agencies who are authorized to give examinations.
 - (b) Prepare and maintain various types of examinations and types and schedules of reexaminations and to take all other measures deemed necessary to insure that persons receiving passing grades thereto have been fairly and reasonably tested as to their ability and that there have been no fraudulent or dishonest means used by the applicants in applying for or in the taking of examinations or reexaminations.
- (6) If it verifies an applicant has received a passing grade on the examination or reexamination and otherwise has complied with the provisions of this chapter, the department shall issue a pesticide applicator's license.
- (7) Each person who has failed to receive a passing grade or for other reasons was not issued a license as a result of an examination or reexamination given by the department, shall pay \$5 to partially reimburse the department for its costs to administer each reexamination to the applicant. [1973 c.341 §16; 1975 c.304 §12; 1991 c.943 §6; 1993 c.599 §2; 1995 c.79 §326]
- 634.126** Trainee certificate; renewal; fee.
- (1) In accordance with regulations promulgated by the State Department of Agriculture, as provided in ORS 634.306 (1), the department shall issue or renew its pesticide trainee's certificate if the applicant or certificate holder:
 - (a) Is at least 18 years of age;
 - (b) Is employed by a licensed pesticide operator;
 - (c) Is working under the direct supervision and control of a licensed applicator; and
 - (d) Is in compliance with the applicable provisions of this chapter and regulations promulgated thereunder.
 - (2) The fees for a pesticide trainee's certificate, or renewal thereof, shall be the same as the license fee for a pesticide applicator. [1973 c.341 §17; 1997 c.249 §193]
- 634.130** [Repealed by 1953 c.117 §2]
- 634.132** Consultant license; fee; qualifications; examination; applicability of law.
- (1) The annual license fee for a pesticide consultant shall be established by the State Department of Agriculture not to exceed \$40.
 - (2) An applicant for a pesticide consultant's license shall be required to demonstrate satisfactorily by written examination or any reexamination given by the department, an adequate knowledge of:
 - (a) The characteristics of pesticides and the effect of their application to particular crops.
 - (b) The practices of application of pesticides.
 - (c) The conditions and times of application of pesticides and the precautions to be taken in connection therewith.
 - (d) The applicable laws and rules relating to pesticides and their application in this state.
 - (e) Other requirements or procedures which will be of benefit to and protect the pesticide applicators, the persons who use the services of the pesticide applicator and the property of others.
 - (3) Based upon the license application and the request of the applicant, the department may examine the applicant only in any one or more of the classes of pesticides established by the department under ORS 634.306 (2).
 - (4) Examinations or reexaminations for pesticide consultant's li-

censes shall be subject to ORS 634.122 (5) to (7).

(5) This section shall not apply to licensed pesticide applicators or operators. [1973 c.341 §18; 1975 c.304 §13; 1993 c.599 §3]

634.136 Dealer license; fee; applicability of law.

(1) The annual license fee for a pesticide dealer shall be established by the State Department of Agriculture not to exceed \$75. A separate license shall be required for each sales outlet or location.

(2) This section shall not apply to:

(a) Any licensed pesticide operator who sells restricted-use or highly toxic pesticides as a part of services, or through licensed employees, through the use of the equipment of the licensed pesticide operator.

(b) Any state, federal or governmental agency providing restricted-use or highly toxic pesticides to its own employees for use in its own programs.

(c) Any person who sells, offers for sale, handles or distributes pesticide-fertilizer mixtures only in packages of 25 pounds or less in size. [1973 c.341 §19; 1975 c.304 §14; 1993 c.599 §4]

634.140 [Repealed by 1953 c.117 §2]

634.142 Private applicator certificate; standards; fee.

(1) The State Department of Agriculture shall issue or renew a private applicator's certificate if the applicant or certificate holder meets the certification standards established by the department pursuant to ORS 634.306 (14).

(2) A fee, established by the department, shall be assessed for a private applicator's certificate or renewal thereof. The fee may not exceed \$25. The time for which a certificate is valid shall be five years. [1973 c.341 §20; 1979 c.232 §2; 2003 c.14 §390]

634.146 Records required of operators; retention period; report to owner of treated field crops.

(1) Pesticide operators shall prepare and maintain records on forms approved by the State Department of Agriculture. Such records shall include:

(a) The name of the person for whom the pesticide was applied.

(b) The approximate location of the land or property on which the pesticide was applied.

(c) The date and approximate time of application.

(d) The person who supplied the pesticides.

(e) The trade name and the strength of such pesticides.

(f) The amount or concentration (pounds or gallons per acre of active ingredient or concentration per approximately 100 gallons).

(g) The specific property, crop or crops to which the pesticide was applied.

(h) The summary information of equipment, device or apparatus used and, if applied by aircraft, the Federal Aviation Administration number.

(i) The names of the pesticide applicator or pesticide trainees who did the actual application or spraying.

(2) The records, which shall be kept for a period of at least three years from the date of application of pesticides, shall be available during business hours for review and inspection by the department.

(3) Upon receiving a request from any owner of field crops on which pesticides were applied, the pesticide operator within 40 days after making such application shall give or forward to the owner a written statement setting forth the information described in subsection (1)(a), (b), (c), (e), (f) and (g) of this section. [1973 c.341 §21; 2001 c.104 §248]

LIABILITY CLAIMS PROCEDURE

634.172 Procedure for making liability claim against landowner or pesticide operator; investigation of report of loss; claim procedure not waiver of governmental immunity.

(1) No action against a landowner, person for whom the pesticide was applied or pesticide operator arising out of the use or application of any pesticide shall be commenced unless, within 60 days from the occurrence of the loss, within 60 days from the date the

loss is discovered, or, if the loss is alleged to have occurred out of damage to growing crops, before the time when 50 percent of the crop is harvested, the person commencing the action:

(a) Files a report of the alleged loss with the State Department of Agriculture;

(b) Mails or personally delivers to the landowner or pesticide operator who is allegedly responsible for the loss a true copy of the report provided for under paragraph (a) of this subsection; and

(c) Mails or personally delivers to the person for whom the pesticide was applied a true copy of the report required under paragraph (a) of this subsection if that person is not the person commencing the action.

(2) Any person who claims to have sustained any loss arising out of the use or application of any pesticide by any state agency, county or municipality may file a report of loss with the department, and mail or personally deliver a true copy of such report of loss to the state agency, county or municipality allegedly responsible, within the time provided in subsection (1) of this section.

(3) Upon receiving a report of loss as provided by this section:

(a) The department may investigate, examine and determine the extent and nature of the damage alleged to have been caused to property or crops. The department shall not determine the source of the damage, the person who may have caused the damage or the financial extent of the loss or damage. The department shall prepare and file in its office a report of the investigation, examination and determination. Copies of the report made by the department may be given upon request to persons who are financially interested in the matter.

(b) The department at the request of, and without cost to, any persons financially interested in the matter may undertake to mediate an equitable settlement of the controversy.

(4) Upon receiving a request therefor from any person, other than a person who may file a report of loss as provided by subsection (1) or (2) of this section, the department may investigate, examine and determine the extent and nature of damage alleged to have been caused to property or crops arising out of the use or application of any pesticide by any other person or any state agency, county or municipality, provided that the person making such request reimburses the department for its work. The department shall not determine the source of the damage, the person who may have caused the damage or the financial extent of the loss or damage. The department shall prepare and file in its office a report of the investigation, examination and determination. Copies of the report made by the department may be given upon request to persons who are financially interested in the matter.

(5) Nothing in this section shall be construed as a waiver by the State of Oregon or any state agency, county or municipality of any immunity against suit which otherwise may exist.

(6) Notwithstanding ORS 634.006 (7), as used in this section, "landowner" includes any person, firm, corporation, the state, any county within the state, or municipality, shown by records of the county to be the owner of land or having such land under contract for purchase. [1973 c.341 §23; 1991 c.351 §1; 1995 c.96 §2]

PROTECTED AND RESTRICTED AREAS

634.206 Continuation of protected and restricted areas created by former law. There hereby is created a protected area or restricted area territorially identical respectively with each protected area or restricted area existing as of October 5, 1973, or a restricted area established pursuant to ORS 573.537 and in effect June 1, 1973, if such existing protected area or restricted area was established or succeeded pursuant to the provisions of ORS chapter 573. Each protected area or restricted area hereby created shall bear the name of the formerly designated protected area or restricted area with which it is territorially identical. It shall succeed to the duties, obligations, property, rights and privileges of such formerly desig-

nated protected area or restricted area and shall function as authorized by the provisions of this chapter. [1973 c.341 §24]

634.210 [Amended by 1953 c.685 §12; repealed by 1961 c.294 §1 (634.211 enacted in lieu of 634.210)]

634.211 [1961 c.294 §2 (enacted in lieu of 634.210); subsection (2) enacted as 1965 c.22 §2(1); paragraph (b) of subsection (11) derived from 1965 c.22 §2(2); 1969 c.268 §4; repealed by 1973 c.341 §37]

634.212 Formation of protected areas; petition; filing fee; guidelines for determinations by director.

(1) Upon receiving a petition of any 25 or more landowners, representing at least 70 percent of the acres of land, situated within the territory proposed to be a protected area, the State Department of Agriculture may establish a protected area, in accordance with the provisions of ORS 561.510 to 561.590 governing the procedures for the declaration of quarantines, except the consent of the Governor is not required.

(2) The petition, referred to in subsection (1) of this section, shall include the following:

- (a) The proposed name of the protected area.
- (b) The description, including proposed boundaries, of the territory proposed to be a protected area.
- (c) A concise statement of the need for the establishment of the protected area proposed.
- (d) A concise statement of the pesticides and the times, methods or rates of pesticide applications to be restricted or prohibited and the extent such are to be restricted or prohibited.
- (e) A request that a public hearing be held by the department.
- (f) The name of the person authorized to act as attorney in fact for the petitioners in all matters relating to the establishment of a proposed protected area.
- (g) A concise statement of any desired limitations of the powers and duties of the governing body of the proposed protected area.

(3) If more than one petition, referred to in subsection (1) of this section, is received by the department describing parts of the same territory, the department may consolidate all or any of such petitions.

(4) Each petition, described in subsection (1) of this section, shall be accompanied by a filing fee of \$125. Upon receipt of such petition and payment of such fee, the department shall prepare and submit to the petitioners an estimated budget of the costs of establishing such proposed protected area, including cost of preparation of the estimated budget, of the hearing and of the preparation of required documents. Within 15 days of the receipt of the estimated budget, the petitioners shall remit to the department the difference between the filing fee and total estimated budget. If the petitioners fail to remit such difference, the department shall retain the filing fee and terminate the procedure for establishment of a proposed protected area. If, upon completion of the procedure for establishment of a proposed protected area, there remains an unexpended and unencumbered balance of funds received by the department under this section, such balance shall be refunded to the petitioners through their designated attorney in fact.

(5) In making a determination pursuant to the authority granted under ORS 561.520 (3), the Director of Agriculture shall consider, among other factors, the following:

- (a) The agricultural and horticultural crops, wildlife or forest industries to be affected and their locations.
- (b) The topography and climate, including temperature, humidity and prevailing winds, of the territory in which the proposed protected area is situated.
- (c) The characteristics and properties of pesticides used or applied and proposed to be restricted or prohibited. [1973 c.341 §25; 1999 c.59 §185; 2005 c.22 §446; 2007 c.71 §197]

634.213 [1961 c.642 §18; repealed by 1973 c.341 §37]

634.215 [1953 c.685 §12; 1961 c.294 §3; repealed by 1973 c.341 §37]

634.216 Protected area as governmental subdivision upon completion of required filings. In addition to the filings of an order establish-

ing a protected area as required by ORS 561.530 (1), a certified copy of such order shall be filed with the Secretary of State, accompanied by a map of a scale of at least one inch per mile, which documents shall be maintained as a public record in the office of the Secretary of State. Upon such required filings, the protected area shall be deemed to be a governmental subdivision of the state and a public body corporate. [1973 c.341 §26]

634.217 [1953 c.685 §12; 1961 c.294 §4; repealed by 1973 c.341 §37]

634.220 [1953 c.685 §12; 1961 c.294 §5; repealed by 1973 c.341 §37]

634.222 Determination of lawful establishment of protected area in actions or proceedings; certified copy of filed order as evidence. In any suit, action or proceeding involving the validity or enforcement of any proceeding or action of a protected area, the protected area shall be deemed to have been established in accordance with the provisions of this chapter upon proof of the filing of an order as required by ORS 634.216. A copy of such order, certified as filed by the Secretary of State, shall be admissible evidence in any such suit, action or proceeding and shall be proof of the filing and contents thereof. [1973 c.341 §31]

634.225 [1953 c.685 §12; 1961 c.294 §6; repealed by 1973 c.341 §37]

634.226 Protected area governing committee; member election and terms; committee officers; duties and powers; rulemaking authority.

(1) A protected area, established pursuant to the provisions of this chapter, shall be governed and administered by an area committee consisting of five members. The term of office of each member, except as provided in paragraphs (b) and (c) of this subsection, shall be three years. Such area committee shall be established in accordance with the following:

(a) Within 30 days after the establishment of a protected area, as provided in ORS 634.216, the State Department of Agriculture shall give notice that petitions to nominate candidates for three positions on such committee shall be accepted by the department. Such notice shall be given by publication at least once in a newspaper of general circulation in the protected area and by delivery of a copy of the notice to the county clerk of the county in which the protected area is situated, who thereafter shall post the same in a conspicuous public place. Such notice shall contain:

- (A) The address of the department;
- (B) The time within which the petition to nominate is to be filed;
- (C) The fact that 25 or more electors, or two-thirds of the electors then registered, if there are less than 25, residing within the protected area must subscribe such petition;
- (D) The fact that such electors may subscribe the nominating petition of more than one candidate for a position on said committee; and
- (E) The fact that a candidate must reside within the protected area.

(b) Upon receipt of any nominating petitions described in subsection (1)(a) of this section, the department shall prepare ballots containing the names of the candidates, in alphabetical order of surnames, and a space for at least one write-in candidate. If no nominating petitions are received by the department, this fact shall be stated upon the ballot and at least three spaces provided thereon for write-in candidates. Such ballots shall also state the time within which the ballots are to be returned to the department and the address of the department. All electors within the boundaries of the territory as determined by the department are eligible to vote in the referendum. The department shall determine the results of such election and shall file with the Secretary of State a declaration of the results of such election, which declaration shall be maintained as a public record in the office of the Secretary of State. The three candidates receiving the largest number of the votes cast in such election shall be the three elected members of the area commission, whose terms of office, to be determined by lot, shall be one, two and three years respectively.

(c) Upon determining the results of the election provided in paragraph (b) of this subsection, the department shall appoint two members to the area committee, which appointments shall be subject to the approval of the majority of the three elected members of said committee. Such appointed members shall be residents of the protected area and have knowledge of pesticides, pesticide application and existing conditions, affecting pesticide application. The terms of office, to be determined by lot, shall be one and two years respectively, and the department shall thereafter appoint the successors in office of such members, as well as those of elected members whose office is vacated prior to the expiration of a term.

(2)(a) Upon the establishment of the area committee, the members thereof shall designate a chairperson, secretary and treasurer, which designations may, from time to time, be changed. A majority of the area committee shall constitute a quorum and an act by a majority of such quorum shall constitute an official act of the area committee.

(b) The area committee shall:

(A) Provide for surety bonds for all persons entrusted with funds or property of the protected area;

(B) Prepare and maintain accurate and complete records of all activities, meetings, orders and regulations of the protected area;

(C) Employ, as deemed necessary, persons to assist the area committee in its administration and enforcement activities, including issuance of permits to applicators;

(D) Not engage in the business of buying or selling pesticides;

(E) Promulgate, in consultation with the department, regulations as provided in subsection (4) of this section;

(F) Carry out the procedures for the establishment of a restricted area as provided in ORS 634.232;

(G) Prepare and make public at annual meetings to be called by the area committee chairperson, annual reports and audits; and

(H) Be authorized to receive funds from any source and use the same to carry out and enforce ORS 634.212 to 634.242.

(3) Each year after the establishment of a protected area and at least 15 days prior to the annual meeting called pursuant to subsection (2)(b)(G) of this section, the area committee shall notify the department of the annual meeting time. Upon receipt of such notice, the department shall initiate and carry out the procedures for election of members to vacancies on the area committee and shall follow the procedures for elections provided in subsection (1) of this section. The candidates shall be elected and take office as provided in subsection (1) of this section.

(4)(a) In accordance with the provisions of ORS chapter 183, the area committee shall promulgate regulations governing or prohibiting the application of pesticides within the protected area, by aircraft or otherwise, which relate to the time, place, method of pesticide application and other matters necessary to prevent damage or injury to susceptible crops, insects, wildlife or forests.

(b) In promulgating such regulation, the area committee shall consider, among other things, the:

(A) Topography and climate, including temperature, humidity and prevailing winds;

(B) Characteristics and properties of pesticides used or applied; and

(C) Location of susceptible crops, insects, wildlife or forests.

(c) Any interested person may petition to enlarge or restrict the regulation of pesticide application by filing a petition to amend the regulations of the protected area with the area committee which, in consultation with the department and in accordance with the provisions of ORS chapter 183, shall allow or deny such petition and amend the regulations of the protected area accordingly. [1973 c.341 §27; 1997 c.249 §194]

634.230 [Amended by 1953 c.685 §12; 1961 c.294 §7; 1965 c.22 §4; repealed by 1973 c.341 §37]

634.232 Restricted area formation; matters to be considered; additional area committee member.

(1) At any time after the establishment of a protected area, the State Department of Agriculture at the request of the area committee of such protected area, may establish a restricted area in accordance with the provisions of ORS 561.510 to 561.590 governing the procedures for the declaration of quarantines, except the consent of the Governor shall not be required.

(2) The request, referred to in subsection (1) of this section, shall include the following:

(a) The description, including proposed boundaries, of the territory proposed to be a restricted area.

(b) A concise statement of the need for the establishment of the restricted area proposed.

(c) A concise statement of the pesticides and the times, methods or rates of pesticide application to be restricted.

(3)(a) In considering the establishment of a restricted area wherein herbicides are to be restricted, the outer boundaries of such proposed restricted area shall not be in excess of 10 airline miles beyond the outer boundary of the protected area, and if a restricted area wherein all other pesticides are to be restricted shall not be in excess of one airline mile beyond the outer boundary of the protected area.

(b) In considering the establishment of a restricted area, the factors set forth in ORS 634.212 (5) shall be considered.

(c) ORS 634.216 shall apply to the establishment of a restricted area, except that such restricted area shall be governed and administered by the area committee of the protected area, which committee shall have the same powers and duties set forth in ORS 634.226 (2)(b), and except such restricted area shall not be deemed to be a governmental subdivision of this state as a public body corporate.

(d) In the event that a restricted area is established pursuant to subsection (1) of this section, the area committee shall be expanded to include one additional member who resides in the restricted area, but outside of the protected area. The additional member shall be elected in accordance with ORS 634.226. [1973 c.341 §28]

634.233 [1961 c.294 §9; 1969 c.268 §5; repealed by 1973 c.341 §37]

634.234 [1969 c.268 §3; repealed by 1973 c.341 §37]

634.235 [1953 c.685 §12; 1961 c.294 §10; 1969 c.268 §6; 1971 c.620 §1; repealed by 1973 c.341 §37]

634.236 Increasing or decreasing size of protected area; consolidation of areas.

(1) Upon receiving a petition of any 25 or more landowners, representing at least 70 percent of the acres of land, situated within a protected area, the State Department of Agriculture may include additional adjacent territory in a protected area or withdraw territory from a protected area. The procedures to be followed by the department in considering such petition shall be those set forth in ORS 561.510 to 561.590 governing the procedures for the declaration of quarantines, except that the consent of the Governor shall not be required.

(2)(a) Upon receiving a petition of any 25 or more landowners, representing at least 70 percent of the acres of land, situated within two or more adjacent protected areas, the department may consolidate such adjacent protected areas. The procedures shall be the same as described in subsection (1) of this section.

(b) In the event of consolidation of protected areas, the corporate existence and terms of office of the area committee members of the preexisting protected areas shall terminate upon the filing of the order described in ORS 634.216. ORS 634.216 applies to the newly consolidated protected area, and all rights, powers, assets and duties of the several preexisting protected areas shall be vested in, and assumed by the newly consolidated protected area.

(c) The establishment, organization, duties and authority of the area

committee of the consolidated protected area shall be in accordance with ORS 634.226. [1973 c.341 §29]

634.240 [Amended by 1953 c.685 §12; 1961 c.294 §11; 1969 c.131 §4; repealed by 1973 c.341 §37]

634.242 Taxing power of area committee; limitation on amount of levy.

(1) The area committee of a protected area may levy and cause to be collected an ad valorem tax for the purpose of paying the obligations of the protected area incurred in the administration of its responsibilities under this chapter.

(2) The levy in any one year shall not exceed one-fortieth of one percent (0.00025) of the real market value of all taxable property within the protected area, computed in accordance with ORS 308.207. The taxes shall be levied and collected at the time and in the manner provided for the levy and collection of state and county taxes, and shall be paid by the county officers collecting the same to the treasurer of the protected area. [1973 c.341 §30; 1991 c.459 §438]

634.245 [1953 c.685 §12; repealed by 1969 c.268 §16]

634.250 [Amended by 1953 c.685 §12; 1961 c.294 §12; 1969 c.268 §7; 1971 c.699 §19; repealed by 1973 c.341 §37]

634.260 [Repealed by 1973 c.341 §37]

634.270 [Repealed by 1973 c.341 §37]

634.280 [1965 c.22 §3; repealed by 1973 c.341 §37]

634.300 [1969 c.268 §8; repealed by 1973 c.341 §37]

ADMINISTRATION AND ENFORCEMENT

634.306 General duties and powers of department; rules. In accordance with the provisions of ORS chapter 183, the State Department of Agriculture is authorized to promulgate regulations necessary to carry out the purposes and intent of this chapter, including but not limited to the following:

(1) Establish and maintain a program required for a person to work or engage in the application or spraying of pesticides as a pesticide trainee. In this regard, the department may take into consideration:

(a) Requirements for submission of applications by pesticide trainees.

(b) Minimum and maximum periods of work or experience required for pesticide trainees.

(c) Work performance records or reports to be maintained by pesticide trainees or their employers.

(d) Acceptance of educational qualifications, applicable work or experience in similar or other fields in lieu of, or as a part of, periods of employment or work by pesticide trainees.

(e) Forms and types of pesticide trainee certificates to be issued by the department, authorizing trainees to apply pesticides in all or part of the classes of operations or businesses set forth in subsection (2) of this section.

(f) Laws and requirements relating to other professional, trade or industry trainee or apprenticeship programs in this or other states.

(g) Special requirements if the pesticide trainee is to apply pesticides by the use of aircraft, and the advisability of allowing participation in federal flight training programs to be substituted, all or in part, for training requirements under this chapter.

(2) Establish and maintain classifications of the various pesticides and of the various pest control or pesticide application businesses in order to facilitate the licensing or certification and regulation of pesticide consultants, operators, applicators, private applicators and trainees. In this regard the department may take into consideration:

(a) Various types, formulations and characteristics of pesticides used and their purposes.

(b) Various methods of application of such pesticides.

(c) Precautions required for safe and effective application of such pesticides.

(3) Designate pesticides authorized to be used or applied, or prohibited from use or application, by persons in order to qualify for an exemption under ORS 634.106.

(4) Establish and maintain classifications of pesticides and devices which are deemed to be highly toxic or restricted-use pesticides or devices. In this regard, the department shall take into consideration:

(a) Laws and regulations of the federal government, including the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and the Federal Environmental Pesticide Control Act.

(b) Laws and regulations of other states.

(c) Advice and counsel of experts in pesticides from industry, universities and colleges and other governmental agencies or bodies.

(5) Establish and maintain types of pesticide consultant or applicator examinations and reexaminations, schedules for required reexaminations and other measures deemed necessary for fair and reasonable testing of applicants as provided in ORS 634.122 (5).

(6) Designate the conditions under which pesticide operators spraying by aircraft may reduce, suspend or terminate the liability insurance required by ORS 634.116, and the periods of time therefor. In this regard, the department may take into consideration:

(a) Changes in climate or seasons.

(b) Periods when certain crops are or have been harvested.

(c) Restricted or limited use of various types or classes of pesticides.

(d) Possibilities of injury or death to persons and loss or damage to real or personal property.

(7) Establish the conditions and amounts allowed for deductible classes in the liability insurance required by ORS 634.116.

(8) Establish and maintain programs of instruction or educational courses for pesticide consultants, operators, applicators and private applicators in cooperation with Oregon State University or others, wherein, as far as is practicable, provisions are made so as to allow such pesticide operators and applicators to participate only in the instruction or courses directly or indirectly related to their particular activities. Attendance of licensees may be required.

(9) Prepare and distribute a manual, or other form of publication, containing information helpful and beneficial to persons engaged in pesticide application or use or to persons preparing to qualify for licensing as a pesticide operator, consultants or applicator and establish charges therefor.

(10) Establish, from time to time, advisory groups or committees to assist the department in formulation of policies, plans or regulations under this chapter. Each member of any such group or committee so established shall be entitled to compensation and expenses as provided in ORS 292.495, which shall be charged to the department.

(11) Establish registration fees for pesticide brands and formulae or formulations thereunder.

(12) Establish restrictions or prohibitions as to the form of pesticides allowed to be mixed, applied or added to fertilizers, seed or grains.

(13) Establish restrictions, methods and procedures in the storage, transportation, use or application of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating insects, bees, animals, crops, wildlife, land or environment.

(14) Establish and maintain a system for certification of private applicators. In this regard, the department shall take into consideration:

(a) Laws and regulations of the federal government, including the provisions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq., as amended thereby, and regulations thereunder.

(b) Minimum periods of experience required and types of experi-

ence, education or work acceptable.

- (c) Forms and types of private applicator certificates to be issued by the department, authorizing private applicators to apply pesticides in all or part of the classifications of pesticides set forth in subsection (4) of this section.
- (15) Establish requirements for the reporting of pesticide sales, distribution or use by any person. [1973 c.341 §32; 1999 c.1059 §13]

Note: The amendments to 634.306 by section 17, chapter 1059, Oregon Laws 1999, become operative December 31, 2009. See section 19, chapter 1059, Oregon Laws 1999. The text that is operative on and after December 31, 2009, is set forth for the user's convenience.

634.306. In accordance with the provisions of ORS chapter 183, the State Department of Agriculture is authorized to promulgate regulations necessary to carry out the purposes and intent of this chapter, including but not limited to the following:

- (1) Establish and maintain a program required for a person to work or engage in the application or spraying of pesticides as a pesticide trainee. In this regard, the department may take into consideration:
- (a) Requirements for submission of applications by pesticide trainees.
- (b) Minimum and maximum periods of work or experience required for pesticide trainees.
- (c) Work performance records or reports to be maintained by pesticide trainees or their employers.
- (d) Acceptance of educational qualifications, applicable work or experience in similar or other fields in lieu of, or as a part of, periods of employment or work by pesticide trainees.
- (e) Forms and types of pesticide trainee certificates to be issued by the department, authorizing trainees to apply pesticides in all or part of the classes of operations or businesses set forth in subsection (2) of this section.
- (f) Laws and requirements relating to other professional, trade or industry trainee or apprenticeship programs in this or other states.
- (g) Special requirements if the pesticide trainee is to apply pesticides by the use of aircraft, and the advisability of allowing participation in federal flight training programs to be substituted, all or in part, for training requirements under this chapter.
- (2) Establish and maintain classifications of the various pesticides and of the various pest control or pesticide application businesses in order to facilitate the licensing or certification and regulation of pesticide consultants, operators, applicators, private applicators and trainees. In this regard the department may take into consideration:
- (a) Various types, formulations and characteristics of pesticides used and their purposes.
- (b) Various methods of application of such pesticides.
- (c) Precautions required for safe and effective application of such pesticides.
- (3) Designate pesticides authorized to be used or applied, or prohibited from use or application, by persons in order to qualify for an exemption under ORS 634.106.
- (4) Establish and maintain classifications of pesticides and devices which are deemed to be highly toxic or restricted-use pesticides or devices. In this regard, the department shall take into consideration:
- (a) Laws and regulations of the federal government, including the provisions of the Federal Insecticide, Fungicide and Rodenticide Act, as amended, and the Federal Environmental Pesticide Control Act.
- (b) Laws and regulations of other states.
- (c) Advice and counsel of experts in pesticides from industry, universities and colleges and other governmental agencies or bodies.
- (5) Establish and maintain types of pesticide consultant or applicator examinations and reexaminations, schedules for required reexaminations and other measures deemed necessary for fair

and reasonable testing of applicants as provided in ORS 634.122 (5).

- (6) Designate the conditions under which pesticide operators spraying by aircraft may reduce, suspend or terminate the liability insurance required by ORS 634.116, and the periods of time therefor. In this regard, the department may take into consideration:
- (a) Changes in climate or seasons.
- (b) Periods when certain crops are or have been harvested.
- (c) Restricted or limited use of various types or classes of pesticides.
- (d) Possibilities of injury or death to persons and loss or damage to real or personal property.
- (7) Establish the conditions and amounts allowed for deductible classes in the liability insurance required by ORS 634.116.
- (8) Establish and maintain programs of instruction or educational courses for pesticide consultants, operators, applicators and private applicators in cooperation with Oregon State University or others, wherein, as far as is practicable, provisions are made so as to allow such pesticide operators and applicators to participate only in the instruction or courses directly or indirectly related to their particular activities. Attendance of licensees may be required.
- (9) Prepare and distribute a manual, or other form of publication, containing information helpful and beneficial to persons engaged in pesticide application or use or to persons preparing to qualify for licensing as a pesticide operator, consultants or applicator and establish charges therefor.
- (10) Establish, from time to time, advisory groups or committees to assist the department in formulation of policies, plans or regulations under this chapter. Each member of any such group or committee so established shall be entitled to compensation and expenses as provided in ORS 292.495, which shall be charged to the department.
- (11) Establish registration fees for pesticide brands and formulae or formulations thereunder.
- (12) Establish restrictions or prohibitions as to the form of pesticides allowed to be mixed, applied or added to fertilizers, seed or grains.
- (13) Establish restrictions, methods and procedures in the storage, transportation, use or application of restricted-use pesticides or highly toxic pesticides in order to protect humans, pollinating insects, bees, animals, crops, wildlife, land or environment.
- (14) Establish and maintain a system for certification of private applicators. In this regard, the department shall take into consideration:
- (a) Laws and regulations of the federal government, including the provisions of the Federal Environmental Pesticide Control Act of 1972, 86 Stat. 973, and the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq., as amended thereby, and regulations thereunder.
- (b) Minimum periods of experience required and types of experience, education or work acceptable.
- (c) Forms and types of private applicator certificates to be issued by the department, authorizing private applicators to apply pesticides in all or part of the classifications of pesticides set forth in subsection (4) of this section.
- 634.310 [1969 c.268 §9; repealed by 1973 c.341 §37]
- 634.312** Department to develop programs for solution of pesticide and synthetic chemical problems. The increasing formulation, distribution, application and use of pesticides and other synthetic chemicals have created serious problems with storage, disposition and transportation of pesticides and other synthetic chemicals which cannot or should not be distributed, applied or used. Such problems include but are not limited to the recall and storage of pesticides and other synthetic chemicals prohibited from distribution, application or use because of a violation of or noncompliance with a law or

regulation. The State Department of Agriculture shall review scientific information relating to such problems and develop immediate and long-range programs or plans for solutions to such problems, and for these purposes seek the advice of governmental agencies or bodies. [1973 c.341 §4; 1993 c.742 §112]

634.316 List of highly toxic and restricted-use pesticides. The State Department of Agriculture may establish, maintain and amend lists of pesticides and devices which are highly toxic or restricted-use pesticides or devices. [1973 c.341 §8]

634.320 [1969 c.268 §10; repealed by 1973 c.341 §37]

634.322 Enforcement powers of department. In carrying out and enforcing the provisions of this chapter, the State Department of Agriculture is authorized:

- (1) To collect samples of pesticides from any source, for analysis to determine compliance with this chapter.
- (2) In accordance with the provisions of ORS 561.605 to 561.630, to seize or embargo any pesticide or device which is misbranded, adulterated or otherwise in violation of this chapter.
- (3) Notwithstanding the provisions of ORS 561.605 to 561.630, whenever the department has reasonable cause to believe a pesticide or device is being formulated, distributed, stored or transported in violation of any of the provisions of this chapter, to issue and serve a written "stop sale, use or removal" order to and upon the owner or person in custody of any such pesticide or device. In the event the owner or person in custody is not available for service of the order, the department may attach a copy of the order to the pesticide or device. Upon issuance of the order, the pesticide or device shall not be sold, used or removed until the provisions of this chapter have been complied with and the pesticide or device has been released, by written notice of the department, under conditions specified by the department.
- (4) In accordance with the provisions of ORS chapter 183, to revoke, suspend or refuse to issue or renew any license or certificate if it determines that an applicant, licensee or certificate holder has violated any of the provisions of this chapter.
- (5) In accordance with the provisions of ORS chapter 183, to amend, suspend or revoke the registration of a pesticide for violation of any of the provisions of this chapter.
- (6) To establish limitations and procedures deemed necessary and proper for the protection of persons, pollinating insects, bees, animals, crops, wildlife, land or environment, on the following:
 - (a) Quantities of packages;
 - (b) Quantities of sales;
 - (c) Uses or applications;
 - (d) Methods of sale, including prescription or permit requirements; or
 - (e) Persons to whom sold.
- (7) To inspect any records required to be maintained by persons formulating, distributing, using or selling the pesticides described in ORS 634.306 (4), and to cause monitoring of the effects of such pesticides on human or animal life in any area where it is used or applied by a recognized and qualified person or agency.
- (8) To enter into cooperative and reciprocal agreements with the federal government, or any of its agencies, for the purpose of enforcement of the provisions of this chapter or federal laws and regulations on the same subject matters, and to receive and expend funds pursuant to such agreements in furtherance of such purpose.
- (9) To cooperate with, and request the assistance of, Oregon State University, governmental agencies or other persons for the purpose of enforcement of the provisions of this chapter.
- (10)(a) To act jointly in, and with the concurrence of the State Forester and a research specialist designated by Oregon State University, the issuance of permits for the use of isopropyl ester of 2,4-D or any other ester of equal or higher volatility with regard to plant damage. Each such permit shall specify:

- (A) The particular ester allowed;
- (B) The boundaries of the area in which it may be used; and
- (C) The prescribed time limit and condition under which it may be applied.

(b) Such permits shall only be issued when the issuing authority determines that the use of the ester will not damage agricultural and forest products and susceptible crops. In making such determination, the issuing authority shall consider research data, topography, climate, temperature, humidity, prevailing winds, characteristics of the ester and location of agricultural and forest products and susceptible crops. Such permits may be issued subject to conditions prescribed by the issuing authority. Issuance of such permit shall not be construed as a waiver of any of the provisions of this chapter. [1973 c.341 §33; 1979 c.232 §3]

634.326 Use of moneys received by department.

- (1) The State Department of Agriculture shall deposit all fees paid to it under the provisions of this chapter in the Department of Agriculture Service Fund. Such moneys are continuously appropriated to the department for the purpose of administering and enforcing the provisions of this chapter.
- (2) An amount of the fees and moneys referred to in subsection (1) of this section not to exceed 10 percent of registration fees received under ORS 634.016 may be used by the department pursuant to agreements entered into between the department and the Dean of the College of Agricultural Sciences of Oregon State University, with the advice of the Minor Crops Advisory Committee for the purposes set forth in subsection (3) of this section.
- (3) The amounts provided for in subsection (2) of this section shall be used by the Dean of the College of Agricultural Sciences of Oregon State University for research projects and investigations agreed upon by the dean and the department directed toward obtaining pesticide use registrations needed by growers to produce crops economically in Oregon. [1973 c.341 §35; 1979 c.499 §33; 1989 c.709 §4]

634.330 [1969 c.268 §11; repealed by 1971 c.699 §22]

634.340 [1969 c.268 §12; repealed by 1971 c.699 §22]

634.350 [1969 c.268 §2; 1971 c.699 §18; repealed by 1973 c.341 §37]

634.352 [1973 c.341 §5; 1979 c.232 §4; 1993 c.742 §111]

634.356 [1973 c.341 §6; 1993 c.742 §111]

634.360 [1969 c.268 §13; repealed by 1971 c.699 §22]

PROHIBITIONS

634.372 Prohibited acts. A person may not:

- (1) Make false or misleading claims through any media, relating to the effect of pesticides or application methods to be utilized.
- (2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless pesticide or any pesticide inconsistent with its labeling, or as a pesticide consultant or dealer, recommend or distribute such pesticides.
- (3) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device or equipment.
- (4) Perform pesticide application activities in a faulty, careless or negligent manner.
- (5) Refuse or neglect to prepare and maintain records required to be kept by the provisions of this chapter.
- (6) Make false, misleading or fraudulent records, reports or application forms required by the provisions of this chapter.
- (7) Operate pesticide applicators' apparatus, machinery or equipment without a licensed pesticide applicator or certified private applicator performing the actual application, or supervising such application if such is performed by a pesticide trainee. This prohibition does not apply to the operation of tractors, trucks or other vehicular equipment used only under the supervision of a certified private applicator.
- (8) As a pesticide applicator, work or engage in the application of any classes of pesticides without first obtaining and maintaining a pesticide applicator's license, or apply pesticides that are not specifically authorized by such license.

- (9) As a pesticide operator, engage in the business of, or represent or advertise as being in the business of, applying pesticides upon the land or property of another, without first obtaining and maintaining a pesticide operator's license. The operator also may not engage in a class of pesticide application business that is not specifically authorized by license issued by the State Department of Agriculture. The operator also may not employ or use any person to apply or spray pesticides who is not a licensed pesticide applicator or pesticide trainee.
- (10) As a pesticide trainee, work or engage in the application of any class of pesticides without first obtaining and maintaining a pesticide trainee's certificate and is otherwise in compliance with the provisions of this chapter.
- (11) Act as, or purport to be, a pesticide dealer or advertise as such without first obtaining and maintaining a pesticide dealer's license.
- (12) Act as, or purport to be, a pesticide consultant without first obtaining and maintaining a pesticide consultant's license.
- (13) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricultural, horticultural or forest crops on land owned or leased by the person without first obtaining and maintaining a private applicator certificate.
- (14) As a person described in ORS 634.106 (5), use power-driven pesticide application equipment or devices (use hand or backpack types only), or use or apply any pesticide other than those prescribed by the department.
- (15) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.
- (16) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.
- (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been registered as required by ORS 634.016.
- (18) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing arsenic or any highly toxic fluoride that is not distinctly colored.
- (19) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbroken package.
- (20) Make application of pesticides, by aircraft or otherwise, within a protected or restricted area without first obtaining a permit for such application from the committee of the protected or restricted area in which the application is to be made. The person also may not make such application contrary to the conditions or terms of the permit so issued.
- (21) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to plant damage as determined by the department, without first obtaining a permit for such use as provided in ORS 634.322 (10).
- (22) Sell, use or remove any pesticide or device subjected to a "stop sale, use or removal" order until the pesticide or device has been released therefrom as provided in ORS 634.322 (3).
- (23) Fail to comply with any provision or requirement of sections 2 to 9, chapter 1059, Oregon Laws 1999, or rules adopted thereunder. [1973 c.341 §34; 1987 c.158 §121; 1995 c.360 §2; 1999 c.1059 §14; 2001 c.307 §3]

Note: The amendments to 634.372 by section 18, chapter 1059, Oregon Laws 1999, become operative December 31, 2009. See section 19, chapter 1059, Oregon Laws 1999. The text that is operative on and after December 31, 2009, including amendments by section 4, chapter 307, Oregon Laws 2001, is set forth for the user's convenience.

634.372. A person may not:

- (1) Make false or misleading claims through any media, relating to the effect of pesticides or application methods to be utilized.
- (2) As a pesticide applicator or operator, intentionally or willfully apply or use a worthless pesticide or any pesticide inconsistent with its labeling, or as a pesticide consultant or dealer, recommend or distribute such pesticides.
- (3) Operate a faulty or unsafe pesticide spray apparatus, aircraft or other application device or equipment.
- (4) Perform pesticide application activities in a faulty, careless or negligent manner.
- (5) Refuse or neglect to prepare and maintain records required to be kept by the provisions of this chapter.
- (6) Make false, misleading or fraudulent records, reports or application forms required by the provisions of this chapter.
- (7) Operate pesticide applicators' apparatus, machinery or equipment without a licensed pesticide applicator or certified private applicator performing the actual application, or supervising such application if such is performed by a pesticide trainee. This prohibition does not apply to the operation of tractors, trucks or other vehicular equipment used only under the supervision of a certified private applicator.
- (8) As a pesticide applicator, work or engage in the application of any classes of pesticides without first obtaining and maintaining a pesticide applicator's license, or apply pesticides that are not specifically authorized by such license.
- (9) As a pesticide operator, engage in the business of, or represent or advertise as being in the business of, applying pesticides upon the land or property of another, without first obtaining and maintaining a pesticide operator's license. The operator also may not engage in a class of pesticide application business that is not specifically authorized by license issued by the State Department of Agriculture. The operator also may not employ or use any person to apply or spray pesticides who is not a licensed pesticide applicator or pesticide trainee.
- (10) As a pesticide trainee, work or engage in the application of any class of pesticides without first obtaining and maintaining a pesticide trainee's certificate and is otherwise in compliance with the provisions of this chapter.
- (11) Act as, or purport to be, a pesticide dealer or advertise as such without first obtaining and maintaining a pesticide dealer's license.
- (12) Act as, or purport to be, a pesticide consultant without first obtaining and maintaining a pesticide consultant's license.
- (13) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricultural, horticultural or forest crops on land owned or leased by the person without first obtaining and maintaining a private applicator certificate.
- (14) As a person described in ORS 634.106 (5), use power-driven pesticide application equipment or devices (use hand or backpack types only), or use or apply any pesticide other than those prescribed by the department.
- (15) Deliver, distribute, sell or offer for sale any pesticide that is misbranded.
- (16) Formulate, deliver, distribute, sell or offer for sale any pesticide that is adulterated.
- (17) Formulate, deliver, distribute, sell or offer for sale any pesticide that has not been registered as required by ORS 634.016.
- (18) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing arsenic or any highly toxic fluoride that is not distinctly colored.
- (19) Distribute, sell or offer for sale any pesticide except in the manufacturer's original unbroken package.
- (20) Make application of pesticides, by aircraft or otherwise, within a protected or restricted area without first obtaining a permit for such application from the committee of the protected or restricted area in which the application is to be made. The person also may not make such application contrary to the conditions or terms of the permit so issued.
- (21) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to plant damage as determined by the department, without first obtaining a permit for such use as provided in ORS 634.322 (10).
- (22) Sell, use or remove any pesticide or device subjected to a "stop

sale, use or removal" order until the pesticide or device has been released therefrom as provided in ORS 634.322 (3).

THIRAM STUDY AND RESTRICTIONS

634.410 Study of effects of thiram on health and safety; evaluation; report. The Workers' Compensation Board shall cause the Occupational Health Section to conduct a study or insure that a study is conducted, of the effects on occupational health and safety of the use in reforestation activities of tree seedlings treated with the pesticide thiram or any formulation containing the chemical tetramethylthiuram disulfide. The study shall include evaluation of alternative precautionary measures that may be taken to protect the health and safety of individuals involved in reforestation activities who handle tree seedlings treated with thiram. The board shall report its findings and recommendations to the State Department of Agriculture not later than December 1, 1976. [1975 c.777 §2]

634.415 Rules to insure adequate precautionary measures in use of thiram in reforestation. The Workers' Compensation Board shall as a result of the study direct the Occupational Health Section to promulgate rules and regulations to insure that adequate precautionary measures and procedures are followed during the use of thiram in reforestation operations. [1975 c.777 §3]

634.420 Limit on use of thiram; effect of study. Notwithstanding any other provision of this chapter, the State Department of Agriculture shall not register or otherwise authorize the use of the pesticide thiram as a repellent on forest tree seedlings after June 1, 1977, unless a report to the department made pursuant to ORS 634.410 to 634.425 states that thiram may be used for such purpose without creating a serious health or safety hazard to individuals involved in reforestation activities who handle tree seedlings treated with thiram and that adequate precautionary measures may be reasonably undertaken to offset any substantial hazards involved in the use of thiram. [1975 c.777 §4]

634.425 Construction of ORS 634.410 to 634.425. Nothing in ORS 634.410 to 634.425 shall be construed so as to limit the authority of the State Department of Agriculture to refuse registration of the chemical thiram prior to June 1, 1977. [1975 c.777 §5]

TRIBUTYLTIN COMPOUNDS

634.500 Definitions for ORS 634.500 to 634.520. As used in ORS 634.500 to 634.520:

- (1) "Low-leaching tributyltin antifouling paint or coating" means a tributyltin-based marine antifouling paint or coating that has a steady state release rate of not more than 5.0 micrograms per square centimeter per day as determined in accordance with a United States Environmental Protection Agency (EPA) testing procedure as outlined in the EPA data call-in notice of July 29, 1986, on tributyltin in antifoulant paints under the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 136. If a lower release rate is determined by the Environmental Quality Commission to be necessary to protect health or the environment, such rate, if adopted by rule by the commission, shall be the acceptable release rate.
- (2) "Tributyltin-based marine antifouling paint or coating" means a paint, coating or treatment that contains tributyltin or a triorganotin compound used as a substitute for tributyltin and that is intended to control fouling organisms in a freshwater or marine environment.
- (3) "Waters of the state" has the meaning given that term in ORS 468B.005. [1987 c.207 §2]

634.505 Prohibition against sale of compound that releases certain substances in water; exception. Except as provided in ORS 634.510 to 634.520, a person may not sell, offer to sell or use in this state tributyltin-based marine antifouling paint or coating unless a method of using such paint or coating exists that does not result in the release of tributyltin or derivative or organotin into the waters of the state. [1987 c.207 §3]

634.510 Conditions for sale. A tributyltin-based marine antifouling paint or coating may be sold or used in this state if the paint or coating is:

- (1) Sold and used in accordance with ORS 634.515 and 634.520; and
- (2)(a) A low-leaching tributyltin antifouling paint or coating used on aluminum hulls;
- (b) A low-leaching tributyltin antifouling paint or coating used on a ship that is more than 25 meters in length; or
- (c)(A) In a spray can containing 16 ounces or less of paint or coating; and
(B) Commonly referred to as an outboard or lower drive unit paint. [1987 c.207 §4]

634.515 Sale by pesticide dealer; duties of customer.

- (1) Except as provided in subsection (2) of this section, in addition to any other limitation on a restricted use pesticide under this chapter, on and after September 27, 1987:
 - (a) A low-leaching tributyltin antifouling paint or coating may be sold in Oregon only by a pesticide dealer licensed under ORS 634.112.
 - (b) A pesticide dealer licensed under ORS 634.112 may sell low-leaching tributyltin antifouling paint or coating only to a person who certifies in writing that the paint or coating is to be used for one of the uses allowed under ORS 634.510.
- (2) Notwithstanding any provision of this chapter or any rule adopted thereunder, a pesticide dealer may sell low-leaching tributyltin antifouling paint or coating to any person, whether or not the person is a licensed applicator. [1987 c.207 §5]

634.520 Report of sales to department.

- (1) Any pesticide dealer licensed under ORS 634.112 who sells low-leaching tributyltin antifouling paint or coating shall submit a periodic report to the State Department of Agriculture.
- (2) The report required under subsection (1) of this section shall be submitted to the department on a periodic basis as established by the department. The report shall include the following information about sales of low-leaching tributyltin antifouling paint or coating:
 - (a) The name of any person purchasing the paint or coating;
 - (b) The amount sold to each purchaser; and
 - (c) The use for which the purchaser certified the paint or coating was to be used. [1987 c.207 §6]

634.525 [Formerly 488.885; repealed by 1991 c.67 §6]

PESTICIDE ANALYTICAL RESPONSE CENTER

634.550 Center governing board; duties and powers.

- (1) There is created a Pesticide Analytical and Response Center with a governing board consisting of the following members:
 - (a) The Director of Agriculture or designee.
 - (b) The State Forester or designee.
 - (c) The State Fish and Wildlife Director or designee.
 - (d) The Director of the Department of Environmental Quality or designee.
 - (e) The Director of Human Services or designee.
 - (f) The Administrator of the Occupational Safety and Health Division or designee.
 - (g) The State Fire Marshal or designee.
 - (h) The Director of the Poison Control and Drug Information Program of the Oregon Health and Science University or designee.
- (i) One citizen from the state at large appointed jointly by the Director of Agriculture and the Director of Human Services.
- (2) The Director of Agriculture shall appoint an administrator for the Pesticide Analytical and Response Center, who shall be responsible to the board for performance of the duties of the center and the board.
- (3) The Director of Agriculture or designee and the Director of Human Services or designee shall alternate as chairperson of the board for terms of one year each. When one is serving as chair-

- person, the other shall serve as vice chairperson.
- (4) The board shall seek expert consultation from the extension service toxicology program, the Center for Research on Occupational and Environmental Toxicology and such other sources as may be needed.
 - (5) The functions of the board are to:
 - (a) Direct the activities and priorities of the administrator of the center.
 - (b) Centralize receiving of information relating to actual or alleged health and environmental incidents involving pesticides.
 - (c) Mobilize expertise necessary for timely and accurate investigation of pesticide incidents and analyses of associated samples.
 - (d) Identify trends and patterns of problems related to pesticide use.
 - (e) Make recommendations for action to a state agency when a majority of the board considers that such action may be warranted on the basis of the findings of an incident investigation or on the basis of identification of a trend or pattern of problems. Recommended actions may include, but not be limited to, regulatory action, modification of administrative rules, proposal of new legislation, public education and consultation to industry.
 - (f) Report in a standardized format the results of the investigations of pesticide incidents.
 - (g) Establish by consensus, procedures for carrying out its responsibilities within the limits of available resources.
 - (h) Prepare and submit to each session of the Legislative Assembly a report of the activities of the center that includes a record of recommendations made by the board and the actions resulting from the board's work.
 - (6) Upon receipt of a recommendation from the board, a state agency shall respond in a timely manner to inform the board of actions taken or the reasons for taking no action on the recommendation.
 - (7) Any medical information received by a member of the board or by a staff member of the center in the course of carrying out the duties of the center or the board shall be held confidential as provided in ORS 192.518 to 192.529 and 433.008.
 - (8) The functions of the board do not supersede the regulatory authority of any agency and are not in lieu of the regulatory authority of any agency. [1991 c.729 §2; 2001 c.2 §1; 2003 c.86 §14]

MINOR CROPS ADVISORY COMMITTEE

634.600 Committee members; appointment; compensation and expenses; duties.

- (1) There is created the Minor Crops Advisory Committee in the State Department of Agriculture consisting of six members appointed by the Director of Agriculture and the coordinator of the Interregional Project Number 4 program at Oregon State University who shall be a permanent member.
- (2) The director, as far as practicable, shall make appointments to the advisory committee so that the committee is representative of all segments of agriculture.
- (3) Each appointed member shall serve a term of three years beginning July 1 of the year of appointment. A member shall continue to serve until a successor is appointed. Vacancies in office shall be filled by appointment for the unexpired term.
- (4) The committee shall meet at the call of the chairperson or the Director of Agriculture. A majority of the members present at any meeting shall constitute a quorum, and a majority vote of the quorum at any meeting shall constitute an official act of the committee.
- (5) At the first meeting after July 1 of each year, the committee shall select a chairperson. The Dean of the College of Agricultural Sciences of Oregon State University and the Director of Agriculture, or their representatives, shall be ex officio members without the right to vote.

(6) Members of the committee shall be eligible for compensation and expenses as provided in ORS 292.495.

(7) The committee shall:

- (a) Advise the department in the administration of ORS 634.016 to 634.042 as relates to minor crop use registrations;
- (b) Cooperate with the United States Department of Agriculture's Interregional Project Number 4 and the United States Environmental Protection Agency in obtaining federal registrations of pesticides for minor crop uses; and
- (c) Maintain close contact between the department and agricultural producers regarding the need for research to support registration of pesticides for minor crops. [1989 c.709 §2]

INTEGRATED PEST MANAGEMENT

634.650 Definitions for ORS 634.650 to 634.665. As used in ORS 634.650 to 634.665:

- (1) "Integrated pest management" means a coordinated decision-making and action process that uses the most appropriate pest control methods and strategy in an environmentally and economically sound manner to meet agency pest management objectives. The elements of integrated pest management include:
 - (a) Preventing pest problems;
 - (b) Monitoring for the presence of pests and pest damage;
 - (c) Establishing the density of the pest population, which may be set at zero, that can be tolerated or correlated with a damage level sufficient to warrant treatment of the problem based on health, public safety, economic or aesthetic thresholds;
 - (d) Treating pest problems to reduce populations below those levels established by damage thresholds using strategies that may include biological, cultural, mechanical and chemical control methods and that shall consider human health, ecological impact, feasibility and cost effectiveness; and
 - (e) Evaluating the effects and efficacy of pest treatments.
- (2) "Pest" means any vertebrate or invertebrate animal, pathogen, parasitic plant, weed or similar or allied organism which can cause disease or damage to crops, trees, shrubs, grasses or other plants, humans, animals or property. [1991 c.943 §1]

Note: 634.650 to 634.665 were enacted into law by the Legislative Assembly but were not added to or made a part of ORS chapter 634 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

634.655 Policy. The Legislative Assembly declares that it is the policy of the State of Oregon to require all state agencies that have pest control responsibilities to follow the principles of integrated pest management. [1991 c.943 §2]

Note: See note under 634.650.

634.660 Agencies required to implement integrated pest management. Each of the following state agencies or services shall implement integrated pest management practices when carrying out the agency's duties related to pest control:

- (1) State Department of Agriculture, including the control of noxious weeds.
- (2) State Department of Fish and Wildlife.
- (3) Department of Transportation.
- (4) State Parks and Recreation Department.
- (5) State Forestry Department.
- (6) Department of Corrections.
- (7) Oregon Department of Administrative Services.
- (8) The Department of State Lands.
- (9) Each Oregon institution of higher education, for the institution's own building and grounds maintenance. [1991 c.943 §3; 2003 c.14 §391]

Note: See note under 634.650.

634.665 Agencies to provide personnel training; appointment of coordinators; duties.

- (1) Each state agency or institution listed under ORS 634.660 shall provide integrated pest management training for employees responsible for pest management.
- (2) Each state agency or institution listed under ORS 634.660 shall

designate an integrated pest management coordinator. The integrated pest management coordinator shall manage the integrated pest management program of the agency or institution. [1991 c.943 §4; 2001 c.413 §11]

Note: See note under 634.650.

634.670 [1991 c.943 §5; repealed by 2001 c.413 §12]

CIVIL PENALTIES

634.900 Penalty for certain violations; amount.

- (1) In addition to any other liability or penalty provided by law, the Director of Agriculture may impose a civil penalty on a person for violation of any of the provisions of this chapter relating to pesticide application, sale or labeling. The civil penalty for a first violation shall be not more than \$1,000. For a subsequent violation, the director may impose a civil penalty of not more than \$2,000.
- (2) Notwithstanding subsection (1) of this section, if the violation of a provision relating to pesticide application, sale or labeling results from gross negligence or willful misconduct, the civil penalty for a first or subsequent violation may not exceed \$10,000.
- (3) A civil penalty may not be imposed under this section for violations other than those involving pesticide application, sale or labeling violation under this chapter. [1989 c.943 §2; 2007 c.592 §1]

Note: Section 2, chapter 592, Oregon Laws 2007, provides:

Sec. 2. The amendments to ORS 634.900 by section 1 of this 2007 Act apply to civil penalties imposed for violations of pesticide application, sale or labeling laws committed on or after the effective date of this 2007 Act [June 25, 2007]. [2007 c.592 §2]

634.905 When penalty payable; notice; hearing.

- (1) Any civil penalty under ORS 634.900 shall be imposed as provided in ORS 183.745.
- (2) Notwithstanding ORS 183.745, the person to whom the notice is addressed shall have 10 days from the date of service of the notice in which to make written application for a hearing before the Director of Agriculture. [1989 c.943 §3; 1991 c.734 §57; 1999 c.59 §186]

634.910 Reduction of penalty; criteria. A civil penalty imposed under ORS 634.900 may be remitted or reduced upon such terms and conditions as the Director of Agriculture considers proper and

consistent with the public health and safety. [1989 c.943 §4]

634.915 Schedule for penalty amounts; criteria; rules.

- (1) The State Department of Agriculture shall adopt by rule a schedule establishing the amount of civil penalty that may be imposed for a particular violation.
- (2) In imposing the penalty pursuant to the schedule authorized by this section, the Director of Agriculture shall consider the following factors:
 - (a) The past history of the person incurring a penalty in taking all feasible steps or procedures necessary or appropriate to correct any violation.
 - (b) Any prior violations of statutes, rules or orders pertaining to pesticide application, sale or labeling.
 - (c) The gravity and magnitude of the violation.
 - (d) Whether the violation was repeated or continuous.
 - (e) Whether the cause of the violation was an unavoidable accident, negligence or an intentional act.
 - (f) The violator's cooperativeness and efforts to correct the violation.
 - (g) The immediacy and extent to which the violation threatens the public health or safety. [1989 c.943 §5]

634.920 [1989 c.943 §§6,7; repealed by 1991 c.734 §122]

634.925 Disposition of penalties collected. All penalties recovered under ORS 634.900 to 634.915 shall be deposited by the State Treasurer in the Department of Agriculture Service Fund. Such moneys are continuously appropriated to the State Department of Agriculture to be used for information and education related to pesticide application. [1989 c.943 §8]

CRIMINAL PENALTIES

634.990 [Amended by 1961 c.294 §13; repealed by 1973 c.341 §37]

634.992 Criminal penalties. Violation of any of the provisions of this chapter is an unclassified misdemeanor and is punishable, upon the first conviction, by a fine of not more than \$1,000, or by imprisonment in the county jail for not more than one year, or both, and upon a second or additional conviction, by a fine of not more than \$2,000, or by imprisonment in the county jail for not more than one year, or both. [1973 c.341 §36]

**DEPARTMENT OF AGRICULTURE
DIVISION 57
PESTICIDE CONTROL**

General

603-057-0001

Definitions

In addition to the definitions set forth in ORS 634.006, the following shall apply:

- (1) "Accident" means an undesirable and unintended event, caused by the use or application of pesticides, that adversely affects the environment.
- (2) "Compatibility" means the properties of a pesticide that permit its use with other chemicals without undesirable results being caused by such combination.
- (3) "Competence" means the proficiency in the performance of activities related to pesticide application, the degree of which is directly related to the nature of such activities.
- (4) "Common Exposure Route" means a likely way (oral, dermal, respiratory) by which a pesticide may enter an organism.
- (5) "Environment" means water, air, land and plants, humans, or other animals living therein or thereon, and the interrelationships existing among them.
- (6) For the purpose of pesticide registration as specified in ORS 634.016, "pesticide product" means a pesticide readily distinguishable from any other pesticide by its content, registration number assigned by the United States Environmental Protection Agency, brand name, trade name, manufacturer, registrant, use as specified in labeling, or other distinction, but not including size or quantity of package.
- (7) "Non-Target Organism" means plant or animal life other than to which the pesticide is applied or intended to be applied.
- (8) "Regulated Pest" means a specific organism determined by the Department to be a pest requiring control, or eradication in order to protect the environment.
- (9) For the purposes of paragraph (c) of subsection (9) of ORS 634.006, subsection (7) of ORS 634.106 and paragraph (c) of subsection (1) of ORS 634.126, the terms "direct charge of," "supervises," or "direct supervision," means that a person applying a pesticide:
 - (a) Has been found by the person immediately responsible for his actions to have sufficient knowledge and ability to safely apply the particular pesticide according to its label directions and any other additional directions;
 - (b) Is applying the particular pesticide under the instructions of the person immediately responsible for his actions; and
 - (c) Is applying the pesticide in such proximity to the person immediately responsible for his actions that such supervisor is reasonably available for any needed consultation or further direction, even though such supervisor is not physically present at the time or place of the pesticide application.
- (10) "Immediate Supervision" means supervision by an appropriately licensed applicator who is:
 - (a) Located on the pesticide application site at all times during the application; and
 - (b) Available at the specific point of pesticide use within a time period of no more than five minutes.

Stat. Auth.: ORS 561.190 & ORS 634

Stats. Implemented: ORS 634.306

Hist.: AD 7-1977, f. & ef. 4-5-77; AD 7-1980, f. & ef. 9-25-80; AD 17, f. & cert. ef. 11-15-89; AD 12-1992, f. 10-13-92, cert. ef. 1-1-93

603-057-0006

Pesticide Registration Fees

The annual registration fee for each pesticide product shall be \$160, with \$40 of that fee to be used by the department for the implementation of the pesticide use reporting system under, chapter 1059,

Oregon Laws 1999.

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Hist.: AD 855(27-67), f. 10-9-67, ef. 1-1-68; AD 1008(22-73)(Temp), f. & ef. 12-5-73; AD 1014(4-74), f. 1-18-74, ef. 2-11-74; AD 7-1977, f. & ef. 4-5-77; AD 24-1981, f. & ef. 12-1-81; AD 17, f. & cert. ef. 11-15-89; DOA 21-1999, f. 9-30-99, cert. ef. 11-1-99; DOA 26-2001, f. & cert. ef. 11-6-01; DOA 38-2003(Temp), f. 10-15-03 cert. ef. 11-23-03 thru 5-19-04; DOA 40-2003, f. & cert. ef. 10-17-03; DOA 41-2003(Temp), f. 11-14-03, cert. ef. 11-23-03 thru 5-20-04; DOA 42-2003, f. & cert. ef. 12-23-04; DOA 17-2005(Temp), f. 10-14-05, cert. ef. 1-1-06 thru 6-29-06; DOA 3-2006, f. & cert. ef. 3-8-06

Operators, Applicators, Dealers, and Consultants

603-057-0100

License Fees

The following designated annual fees shall be applicable to each described license:

- (1) Pesticide Operator: \$90 including one category; \$15 for each additional category; and \$20 for each additional category after license issued.
- (2) Pesticide Applicator: \$50 including one category; \$7.50 for each additional category; and \$12.50 for each additional category after license issued.
- (3) Pesticide Trainee: Same as pesticide applicators.
- (4) Public Applicator or Trainee: Same as pesticide applicators.
- (5) Pesticide Dealer: \$75, with a separate license required for each sales outlet or location.
- (6) Pesticide Consultant: \$40.

Stat. Auth.: ORS 561 & ORS 634

Stats. Implemented: ORS 634.116, 634.122, 634.126, 634.132 & 634.136

Hist.: AD 1001(15-73), f. 11-20-73, ef. 12-11-73; AD 7-1977, f. & ef. 4-5-77; AD 24-1981, f. & ef. 12-1-81; DOA 39-2003, f. 10-17-03, cert. ef. 11-15-03

603-057-0102

Pesticide Operator Financial Responsibility

As provided in subsections (5) and (6) of ORS 634.116, the following shall apply:

- (1) Evidence of the issuance of a public liability policy of insurance may be documented to the Department by a pesticide operator either by furnishing a copy of said policy or furnishing a certificate of insurance issued by the insurer. Should said policy be subsequently endorsed or in any manner modified as to the protection offered thereby, the Department shall be furnished a copy of the policy endorsement or be furnished an additional certificate of insurance evidencing the modifications.
- (2) The public liability policy of insurance may be limited to only injuries or damages caused by the specific activities for which the pesticide operator is licensed. Should the pesticide operator subsequently become licensed in additional categories of activities, the pesticide operator shall furnish the Department the documentation described in section (1) of this rule evidencing additional protection for such additional categories.
- (3) As provided in subsection (10) of ORS 634.116, a pesticide operator engaged in the business of applying pesticides by aircraft may have his public liability policy of insurance limited to the time period within which such pesticide operator is actually engaged in the application of pesticides by aircraft, subject to the following:
 - (a) The Department is furnished the documentation required by section (1) of this rule; and
 - (b) The public liability policy of insurance identifies the specific aircraft to which it applies.

Stat. Auth.: ORS 561 & ORS 634

Stats. Implemented: ORS 634.116

Hist.: AD 7-1977, f. & ef. 4-5-77

603-057-0106

Immediately Supervised Pesticide or Public Trainee

- (1) There is herewith established a type of pesticide trainee license and a type of public trainee license which shall bear the designation "immediately supervised."
- (2) An immediately supervised pesticide trainee license or immediately supervised public trainee license may only be issued upon receipt by the department of:
 - (a) An appropriately completed license application form; and
 - (b) Payment of the appropriate fee.

- (3) The fee for an immediately supervised pesticide trainee license shall be the same as the fee for a pesticide trainee license, and the fee for an immediately supervised public trainee license shall be the same as the fee for a public trainee license.
- (4) An immediately supervised pesticide trainee license or immediately supervised public trainee license shall expire on December 31 of the year in which the license application was made, as set forth in ORS 634.112(1).
- (5) An immediately supervised pesticide trainee or immediately supervised public trainee license may only be issued in one or more of the categories set forth in OAR 603-057-0110 and 603-057-0115.
- (6) A person issued an immediately supervised pesticide trainee or immediately supervised public trainee license shall only be authorized to conduct pesticide application activities as follows:
 - (a) In the category, or categories, in which licensed, as detailed in section (5) of this rule;
 - (b) Under immediate supervision as detailed in OAR 603-057-0001(10).
- (7) An immediately supervised pesticide trainee license or immediately supervised public trainee license may be renewed.

Stat. Auth.: ORS 561.190 & ORS 634
 Stats. Implemented: ORS 634.306
 Hist.: AD 12-1992, f. 10-13-92, cert. ef. 1-1-93

603-057-0110

Pesticide Operator, Applicator, and Trainee Categories

In accordance with subsection (2) of ORS 634.306, the following categories of pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees are established with licenses or certificates to be issued for such categories, or any specific subcategories established by OAR 603-057-0115:

- (1) Agricultural Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in the production of agricultural crops and livestock (including Christmas tree plantations and commercial nurseries), or on agricultural lands, grasslands, or non-crop agricultural lands.
- (2) Aquatic Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in treating standing or running water.
- (3) Demonstration and Research: This shall include pesticide operators, pesticide applicators, and public applicators who use or supervise the use of pesticides in field research or educational demonstrations. The exemption provided manufacturers under subsection (1) of ORS 634.106 only applies to laboratory research.
- (4) Forest Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in the production of forest crops, or on forestry lands (not including Christmas tree plantations or commercial nurseries).
- (5) Industrial, Institutional, Health, and Structural Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in, on, or around food handling establishments, human dwellings, institutions (i.e., schools, hospitals, etc.), industrial establishments (including warehouses and grain elevators), and any other structures or areas utilized for the storing, processing, or manufacturing of products.
- (6) Marine Fouling Organism Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of marine antifouling paint or coating on boat or ship hulls or other parts of boats or ships.
- (7) Ornamental and Turf Pest Control: This shall include pesticide

- operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in the establishment and maintenance of ornamental plantings and turf (not including Christmas tree plantations, commercial nurseries or forest crops). The exemption provided persons under subsection (5) of ORS 634.106 only applies to persons principally engaged in home lawn and garden care.
- (8) Public Health Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides for the control of any pest which may be deleterious to the public health, including mosquito and other vector control.
- (9) Regulatory Pest Control: This shall include public applicators and public trainees who use or supervise the use of pesticides upon regulated pests not otherwise specified in this section.
- (10) Right-of-Way Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in right-of-way areas.
- (11) Seed Treatment: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides on seed, as it is defined in subsection (1) of ORS 633.511. Treatment of a person's own seed on his own premises is exempt under subsections (9) and (13) of ORS 634.006.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306
 Hist.: AD 1066(12-75), f. 8-11-75, ef. 10-15-75; AD 7-1977, f. & ef. 4-5-77; AD 12-1985, f. & ef. 11-27-85; AD 1-1990(Temp), f. & cert. ef. 3-1-90; AD 17-1990, f. & cert. ef. 10-2-90

603-057-0115

Pesticide Operator, Applicator, and Trainee Subcategories

The following subcategories of pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees are hereby established within the categories set forth in OAR 603-057-0110:

- (1) Under "Agricultural Pest Control":
 - (a) Insecticide and Fungicide: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of insecticides, fungicides, and/or nematicides in the production of agricultural crops, or on agricultural lands, grasslands, and non-crop agricultural lands;
 - (b) Herbicides: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of herbicides in the production of agricultural crops or on agricultural lands, grasslands, and non-crop agricultural lands;
 - (c) Soil Fumigation: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of soil applied fumigants in the production of agricultural crops or on agricultural lands, grasslands, or non-crop agricultural lands;
 - (d) Livestock Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in agricultural areas for control or eradication of such livestock pests as insects, mites and ticks;
 - (e) Vertebrate Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in agricultural areas for control of vertebrate pests other than livestock predators.
- (2) Under "Industrial, Institutional, Health, and Structural Pest Control":
 - (a) Pest Control, General: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and

- public trainees who use or supervise the use of pesticides, other than fumigants, in or around structures, institutions and establishments for the protection of stored, processed, and manufactured products or for the protection of human health;
- (b) Structural Pest Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides, other than fumigants, in, on, or around structures for the control of wood-destroying pests (i.e., termites, carpenter ants, powder post beetles, etc.);
- (c) Space Fumigation: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of fumigants in enclosed or confined areas or structures for the control of pests in structures, in stored food or feed, and in other agricultural products. Field treatment of utility poles, pilings, bridge supports, and similar elements of construction are excluded from this category;
- (d) Moss Control: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides for the control of moss and algae on structures;
- (e) Wood Treatment: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides to treat wood products (i.e., lumber, poles, ties, etc.) before the use of those products in construction, and to field treat utility poles, pilings, bridge supports, and similar elements of construction with fumigants or other pesticides.
- (3) Under "Ornamental and Turf Pest Control":
- (a) Insecticide and Fungicide: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of insecticides and fungicides in the establishment and maintenance of ornamental plantings and turf;
- (b) Herbicide: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators, and public trainees who use or supervise the use of pesticides in the establishment and maintenance of ornamental plantings and turf.
- (4) Under "Regulatory Pest Control":
- (a) M-44 Device: This shall include only employees of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control, who are licensed as public applicators and who use the M-44 device containing sodium cyanide for the control of coyotes and certain other wild canids, which shall be in the manner as specified by the administrative rules of the Department;
- (b) Livestock Protection Collar: This shall include only employees of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control, who are licensed as public applicators and who use the livestock protection collar containing sodium fluoroacetate (Compound 1080) for the control of coyotes, which shall be in the manner as specified by the administrative rules of the Department;
- (c) Weed Control: This shall include public applicators and public trainees who use or supervise the use of pesticides for the control of plants designated by local weed control districts or the Department as noxious weeds as set forth in ORS 570.510.

Stat. Auth.: ORS 561 & ORS 634

Stats. Implemented: ORS 634.306(2)

Hist.: AD 1066(12-75), f. 8-11-75, ef. 10-15-75; AD 7-1977, f. & ef. 4-5-77; AD 12-1985, f. & ef. 11-27-85; AD 10-1987, f. & ef. 7-1-87; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0120

General Standards of Pesticide Applicator Competence

- (1) Competence in the use or handling of pesticides shall be determined on the basis of written examinations which, in addition to the requirements of OAR 603-057-0125, shall include the following general standards:

- (a) Comprehension of labeling format, labeling terminology, and the labeled warnings and instructions;
- (b) Knowledge of safety factors to be considered, including need and use of protective clothing, first aid procedures in the event of accidents, symptoms of various pesticide poisonings, and proper storage, transportation, handling, and disposal methods;
- (c) Knowledge of potential consequences to the environment from the use or misuse of pesticides, as influenced by climate, topography, and existence of animal life;
- (d) Knowledge of methods of use or application, including the various forms (dust, wettable powder, etc.) of pesticides, the compatibility of various pesticides, the types of application equipment or devices, and the times when various pesticide forms or equipment would be appropriately used; and
- (e) Knowledge and comprehension of existing laws and rules governing pesticide use or application, including classifications of various pesticides (highly toxic, restricted use, or general).
- (2) At the time the application for a pesticide applicator's license is submitted, as required by subsection (2) of ORS 634.112, the applicant shall notify the Department when he desires to take the written examination. The Department shall thereafter notify the applicant of the time and place thereof. The applicant shall be notified within 30 days of the taking, as to the grade received in such examination and whether such grade is passing or failing. Such notification shall be deemed an "order" for the purposes of judicial review provided in ORS 183.480.
- (3) An applicant for a pesticide applicator's license renewal shall be required to take a reexamination each fifth year after taking the original examination, and be subject to the provisions of this section and OAR 603-057-0125 in regard thereto. However, if the Department's records indicate the applicant for license renewal has complied with the provisions of OAR 603-057-0150, the written examination shall be waived, except in the category "Regulatory Pest Control," subcategory "Livestock Protection Collar."
- (4) If an applicant for a pesticide applicator's license has passed a current written examination accredited by another state with which the Department has a reciprocal agreement on certification or licensing, and submits evidence of the same to the Department at the time of submitting his license application with applicable fee, the license examination may be waived.
- (5) In the event an applicant for a pesticide applicator's license fails the written examination or re-examination, he shall be qualified to take the examination again upon submitting the fee provided in subsection (7) of ORS 634.122.

Stat. Auth.: ORS 561 & ORS 634

Stats. Implemented: ORS 634.306(5)

Hist.: AD 1066(12-75), f. 8-11-75, ef. 10-15-75; AD 7-1977, f. & ef. 4-5-77; AD 15-1978, f. & ef. 9-15-78; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0125

Special Standards of Pesticide Applicator Competence

In addition to the requirements of OAR 603-057-0120, the written examination shall include the following applicable special standards for the category or subcategory indicated:

- (1) "Regulatory Pest Control -- M-44 Device":
- (a) Knowledge of the characteristics and habits of predatory animals, and particularly coyotes;
- (b) Knowledge of the toxicity levels of sodium cyanide, the hazards in the use or application thereof, and the common exposure routes thereof;
- (c) Knowledge of the common types of accidents associated with the use or application of sodium cyanide in the quantities and forms utilized;
- (d) Knowledge of precautions to be undertaken to protect the applicator and the immediate environment and nontarget organisms in the vicinity;
- (e) Knowledge of the effects of weather, terrain, soil, drainage, and other topographical or climatic conditions that are associated with

- the use or application of sodium cyanide in the prescribed manner for predator control;
- (f) Knowledge of the operation, repair, and maintenance procedures for the device known as the "M-44 spring loaded sodium cyanide coyote control device," including placement and retrieval thereof;
- (g) Knowledge of the departmental rules relating to the use of sodium cyanide and the above described device, including the placement of adequate warning signs, the keeping of records relating to pesticide device locations and numbers, and the inventorying of numbers and species of animals eradicated.
- (2) "Regulatory Pest Control-Livestock Protection Collar":
- (a) Ability to read and understand pesticide labels and labeling information, including all labeling and use restrictions for sodium fluoroacetate (Compound 1080) livestock protection collars;
- (b) Ability to recognize the technical name, sodium fluoroacetate, and understand the basic properties of Compound 1080;
- (c) Ability to recognize potential hazards posed to humans, domestic animals, and non-target wildlife by the use of the livestock protection collar;
- (d) Ability to recognize general symptoms of poisoning by Compound 1080 in humans and domestic animals and take appropriate action;
- (e) Knowledge that only an employee of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control, certified and licensed as a public pesticide applicator in the category "Regulatory Pest Control," subcategory "Livestock Protection Collar," by the Oregon Department of Agriculture can handle or use Compound 1080 and the livestock protection collar;
- (f) Ability to recognize situations where use of the livestock protection collar can be expected to be safe and effective, as well as those situations where alternative methods of control would be more suitable. These methods may include but would not be limited to use of the M-44 device, guard animals, fences, repellents, fright devices, snares, and traps;
- (g) Knowledge of the use restrictions set forth in OAR 603-057-0360 and the record-keeping requirements set forth in OAR 603-057-0375, which include a record of each animal (target or non-target) found poisoned or suspected of having been poisoned as a result of the use of Compound 1080;
- (h) Knowledge of the requirement for immediate (within three days) reporting of suspected poisonings of non-target species and suspected poisonings of humans or domestic animals by Compound 1080 to the U.S. Environmental Protection Agency and the Department, as set forth in OAR 603-057-0375(3);
- (i) Ability to distinguish between damaged livestock protection collars that can be repaired and those that must be disposed of properly;
- (j) Knowledge of how to make appropriate repairs to damaged livestock protection collars prior to reuse and how to dispose of them properly if they cannot be repaired;
- (k) Knowledge of how to properly dispose of dead animal remains, vegetation, or soil contaminated by a punctured livestock protection collar;
- (l) Knowledge of safe handling and storage procedures for the livestock protection collar;
- (m) Knowledge of the requirement to post and maintain bilingual (English/Spanish) warning signs at logical points of access to areas where livestock protection collars are in use; and
- (n) Knowledge of the requirement to perform inspections of livestock protection collars in use twice weekly.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306(5)
 Hist.: AD 1066(12-75), f. 8-11-75, ef. 10-15-75; AD 7-1977, f. & ef. 4-5-77; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0127

- Pesticide Trainee and Public Trainee Standards of Competence
- (1) A pesticide trainee license or public trainee license may be issued by the department upon receipt by the department of:
- (a) An appropriately completed license application form; and
- (b) Payment of the appropriate fee.
- (2) A person whose initial application for a pesticide trainee or public trainee license is accepted shall have a license issued which expires on December 31 of the year in which the license application is made, as set forth in ORS 634.112(1). Such a person may renew the license for the following calendar year (January 1–December 31), or for any portion of the following calendar year. License renewal for any subsequent calendar year, or for any portion of any subsequent calendar year, shall not be allowed except in special circumstances evaluated and approved by the Director.
- (3) In order for an initial application for a pesticide trainee or public trainee license to be accepted, the person must successfully complete a written examination developed and administered by the department for the purpose of assuring that the person is competent in the use of pesticides as a pesticide trainee or public trainee. The content of this examination shall include the topics detailed in OAR 603-057-0120(1)(a)–(e). Successful completion of the written examination shall require answering at least 70 percent of the examination questions correctly.
- (4) A person issued a pesticide trainee or public trainee license shall only be authorized to conduct pesticide application activities as follows:
- (a) In the category, or categories, as set forth in OAR 603-057-0110 and 603-057-0115, in which licensed; and
- (b) Under direct supervision, as detailed in OAR 603-057-0001(9), of an appropriately licensed applicator.

Stat. Auth.: ORS 561.190 & ORS 634
 Stats. Implemented: ORS 634.306
 Hist.: AD 12-1992, f. 10-13-92, cert. ef. 1-1-93

603-057-0130

Applicator's Records and Reports

- (1) Pursuant to subsection (13) of ORS 634.116, a public applicator shall prepare and maintain the records, and submit the reports, required of pesticide operators by ORS 634.146.
- (2) A pesticide applicator shall prepare and maintain the records, and submit the reports, required of pesticide operators by ORS 634.146 if the employer of such applicator is not a pesticide operator (greenskeepers, etc.).

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.146
 Hist.: AD 7-1977, f. & ef. 4-5-77

603-057-0135

Private Applicator Standards of Competence

- (1) As provided in ORS 634.142, competence of a private applicator in the use or handling of pesticides shall be determined on the basis of a written examination, and evidenced by the issuance of a certificate.
- (2) A private applicator certificate shall be valid for a period of up to five calendar years from its issuance and expire on December 31 of the fifth year.
- (3) An applicant for a private applicator's initial certificate or for a private applicator's renewal shall be required to successfully complete the written examination then in use for certification of private applicators. Successful completion of the written examination shall consist of correctly responding to at least 70 percent of the questions contained in the examination.
- (4) In lieu of the written re-examination requirement of section (3) of this rule, an applicant for renewal of a private applicator certificate may attend pesticide training sessions approved by the Department, totaling 16 hours of Department approved pesticide use related instruction, during the period preceding the expiration of his/her certificate as follows:

- (a) An individual having a certificate expiring on December 31, 1996, or subsequent dates shall be required to attend the core pesticide training session and accumulate twelve additional units of Department approved pesticide training;
- (b) Not more than eight units of department approved pesticide training may be accumulated for recertification during a single 12-month period (January–December);
- (c) Credit for attending the core pesticide training session can only be obtained twice during the five year certification period. The second core pesticide training session attended will be credited toward the twelve additional units of Department approved pesticide training required for recertification; and
- (d) The first four units of core pesticide training previously identified as “Core A” or “Core B” accumulated by an individual prior to August 9, 1996, will fulfill the core requirement specified in this section. Any additional units of “Core A” or “Core B” instruction accumulated prior to this date will be credited toward the twelve additional units of Department approved pesticide training required for recertification.
- (5) The core pesticide training session required by section (4) of this rule shall consist of a total of at least 4 units of instruction (50-60 minutes of instruction per unit) on any one or more of the following topics:
 - (a) Principles of Integrated Pest Management as defined in ORS 634.650;
 - (b) Label Comprehension;
 - (c) Calibration (math and equipment);
 - (d) Laws (environmental, endangered species, ground water protection, worker protection standards (WPS), pesticide and pesticide container disposal); and
 - (e) Personal Safety (including personal protective equipment (PPE)).
- (6) The submission of pesticide training sessions to the Department for approval, assignment of approved units of instruction and conditions relating thereto shall be done in accord with OAR 603-057-0150(3).
- (7) The Department shall annually notify each holder of a private applicator certificate of the expiration date of his/her certificate, of his/her attendance of core training, and of the number of units of additional Department approved pesticide training accumulated toward renewal of the certificate.
- (8) The requirement for re-examination as specified in section (3) of this rule and the alternate procedure of attending Department approved pesticide training as specified in section (4) of this rule shall be waived if the applicant for a private applicators certificate renewal is a pesticide applicator or consultant. Said waiver shall be in effect only for the period the applicant is a pesticide applicator or consultant. Such waiver shall not affect the requirement for re-examination or the alternate procedure of OAR 603-057-0150 for pesticide applicators or consultants specified elsewhere in these administrative rules.
- (9) The fee for a private applicator certificate shall be \$25.
- (10) This rule shall be operative and effective on and after August 9, 1996.

Stat. Auth.: ORS 561.190 & ORS 634
 Stats. Implemented: ORS 634.124
 Hist.: AD 7-1977, f. & ef. 4-5-77; AD 8-1988, f. 8-30-88, cert. ef. 10-1-88; AD 8-1993, f. 6-8-93, cert. ef. 8-1-93; AD 8-1996, f. 7-12-96, cert. ef. 8-9-96

603-057-0140

Pesticide Dealer Records

- (1) As provided in subsections (6) and (7) of ORS 634.322, a pesticide dealer shall prepare and maintain records of his sales of restricted-use and highly toxic pesticides for a period of three years. Such records shall include:
 - (a) The names and addresses of the purchasers of such pesticides, and the license or certificate numbers of the purchasers;
 - (b) The date of sale;

- (c) The trade name (and the formulation if applicable) of such pesticides;
- (d) The quantity of each sale of such pesticides.
- (2) In addition to the requirements of a pesticide dealer otherwise specified in (1) of this section, a pesticide dealer shall prepare and maintain records of sales of products containing the active ingredient carbofuran as follows:
 - (a) The name and address of the person who received the product when the product was not delivered directly to the purchaser;
 - (b) The crop(s) to which the product will be applied;
 - (c) The acreage of each crop to which the product will be applied;
 - (d) The amount of product that will be applied to each acre of each crop;
 - (e) The intended date of application to each crop.
- (3) The information required by (2) above shall be obtained by the pesticide dealer from the person receiving the product at the time of distribution or sale.
- (4) All information prepared for every distribution or sale of a pesticide product containing the active ingredient carbofuran shall be submitted by the pesticide dealer to the Oregon Department of Agriculture within five business days of the distribution or sale.
- (5) Failure to comply with the conditions set forth in OAR 603-057-0140 may be considered as violations of ORS 634.372, and may be subject to any enforcement action available to the department under ORS 634.

Stat. Auth.: ORS 561 & 634
 Stats. Implemented: ORS 634.322
 Hist.: AD 7-1977, f. & ef. 4-5-77; DOA 4-2007(Temp), f. 2-26-07, cert. ef. 3-1-07 thru 8-27-07; DOA 8-2007, f. & cert. ef. 5-9-07

603-057-0145

Pesticide Consultant Standards of Competence

- (1) As provided in ORS 634.132, competence of a pesticide consultant to advise or make recommendations concerning the use, handling, or selection of restricted-use pesticides shall be determined on the basis of a written examination. As a supplement to the subject matters set forth in subsection (2) of ORS 634.132, the examination shall also include the subject matters set forth in OAR 603-057-0120(1) relating to the General Standards of Pesticide Applicator Competence .
- (2) A pesticide consultant licensed pursuant to this section may not advise or make recommendations in subcategories (a) or (b) of 603-057-0115(4), Regulatory Pest Control, regarding the use, handling, or selection of the M-44 Device containing sodium cyanide or the livestock protection collar containing sodium fluoroacetate (Compound 1080).
- (3) A pesticide consultant licensed pursuant to this section may also be licensed as a pesticide applicator in the category of Demonstration and Research, as defined in OAR 603-057-0110(3), without further examination or additional fee, provided he makes application for such applicator’s license at the same time he makes application for a pesticide consultant’s license. Such licensing may also be documented as a Demonstration and Research special endorsement on the pesticide consultant license.
- (4) If an applicant for a pesticide consultant’s license has passed a current written examination accredited by another state with which the Department has a reciprocal agreement on certification or licensing, and submits evidence of the same to the department at the time of submitting his license application with applicable fee, the license examination may be waived.
- (5) An applicant for a pesticide consultant’s license renewal shall be required to take a reexamination each fifth year after taking the original examination, and be subject to the provisions of this section in regard thereto. However, if the Department’s records indicate the applicant for license renewal has complied with the provisions of OAR 603-057-0150, the written examination shall be waived.
- (6) In the event an applicant for a pesticide consultant’s license fails

the written examination or reexamination, he shall be qualified to take the examination again upon submitting a new application for the same.

- (7) A pesticide consultant licensed pursuant to this section shall also be considered as a private applicator for the purpose of purchasing restricted use or highly toxic pesticides for use on his own lands or crops.

Stat. Auth.: ORS 561 & ORS 634

Stats. Implemented: ORS 634.306(5)

Hist.: AD 7-1977, f. & ef. 4-5-77; AD 15-1978, f. & ef. 9-15-78; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0150

Alternative Requirements for Competence of Pesticide Applicator or Consultant License Renewal

In lieu of the written re-examination requirements of OAR 603-057-0120(3) or of 603-057-0145(4), an applicant for renewal of either a pesticide applicator's license or a pesticide consultant's license may accumulate at least 40 credits by attending pesticide-instructional sessions, accredited by the Department, during the five-year period preceding the year in which the written re-examination would be required, in accordance with the following:

- (1) Not more than 15 credits may be accumulated for recertification purposes by an applicant during any one calendar year.
- (2) An applicant for recertification credit may attend an entire annual pesticide instructional session jointly sponsored and accredited by the Department and Oregon State University (commonly referred to as the "Chemical Applicator Short course"). This instructional session shall be used as the standard by which credits are assigned to other sessions, and will have 15 credits assigned to it. Attendance shall be verified from the attendance records of the instructor or moderator of such short course, after an applicant requests the Department to award such credits.
- (3) In the event a pesticide instructional session other than that identified in section (2) of this rule is desired to be taken for credit by an applicant, such applicant (or session instructor on his behalf) shall submit to the Department a written request for accreditation not less than 30 days prior to the scheduled session, which written request shall include the agenda or content of the session, the session sponsor, the name and address of the session instructor or moderator, and the time and place of such session. Upon receipt of such written request, the Department, in consultation with Oregon State University, shall evaluate the instructional value of the session and either deny accreditation or assign credits to the entire session or any portion thereof in a range from 1 to 15, assigning no more than one credit for each 50 to 60 minute period of instruction. No such instructional sessions shall be considered for accreditation that is less than two hours in length. In the event an instructional session is accredited, the Department shall provide the session instructor or moderator with attendance certificates to be completed by such instructor or moderator and returned by the applicants to the Department within 15 days after the session is completed. Under exceptional circumstances, as described in writing by an applicant, a written request for accreditation submitted later than 30 days prior to the scheduled session may be assigned credits in accordance with the provisions of this rule. Falsification of any part of such attendance certificate shall be considered grounds for license revocation proceedings by the Department.
- (4) Upon issuing the annual license to a pesticide applicator or consultant, the Department shall record thereon the then-accumulated credits awarded to such applicator or consultant during the stated then-current five-year period.
- (5) This section shall not apply to persons licensed to use the livestock protection collar in Oregon, in accordance with OAR-603-057-0120(3).

Stat. Auth.: ORS 561 & ORS 634

Stats. Implemented: ORS 634.306(5)

Hist.: AD 15-1978, f. & ef. 9-15-78; AD 10-1987, f. & ef. 7-1-87; AD 8-1996, f. 7-12-96,

General Restrictions on Pesticide Uses

603-057-0200

Limitations on Restricted Use Pesticides

As provided in ORS 634.322 and in addition to other provisions of ORS Chapter 634, the following limitations and procedures shall apply to the distribution and use of restricted use pesticides identified in OAR 603-057-0205:

- (1) A restricted use pesticide shall only be:

- (a) Distributed for use by and used by an appropriately licensed pesticide applicator, public applicator or private applicator;
- (b) Distributed or sold to users by an appropriately licensed pesticide dealer.

- (2) A private applicator, or his/her designated agent, a pesticide operator or its designated agent, a pesticide applicator or a public applicator shall display his/her appropriate certificate or license to the pesticide dealer at the time of purchase of a restricted use pesticide, so that the number thereof may be recorded by the pesticide dealer pursuant to OAR 603-057-0140.

Stat. Auth.: ORS 561.190 & ORS 634

Stats. Implemented: ORS 634.306 & ORS 634.322

Hist.: AD 1036(26-74), f. 8-20-74, ef. 9-11-74; AD 7-1977, f. & ef. 4-5-77; AD 10-1987, f. & ef. 7-1-87; AD 13-1992, f. & cert. ef. 10-13-92

603-057-0205

Listing of Restricted Use Pesticides

As provided in ORS 634.316, restricted use pesticides shall be:

- (1) Any pesticide active ingredient, formulation, product or usage classified restricted use by the United States Environmental Protection Agency, through administration of the Federal Insecticide, Fungicide and Rodenticide Act, and identified in current Title 40, Chapter 1, Sub-Chapter E, Part 152 of the Code of Federal Regulations; or
- (2) Any pesticide product having labeling which specifies the product as being restricted use and has been accepted by the department for the purpose of registration as provided in ORS 634.016.

[Publications: The publication(s) referred to or incorporated by reference in this rule are available from the agency.]

Stat. Auth.: ORS 561.190 & ORS 634

Stats. Implemented: ORS 634.306 & ORS 634.316

Hist.: AD 1036(26-74), f. 8-20-74, ef. 9-11-74; AD 7-1977, f. & ef. 4-5-77; AD 28-1977, f. & ef. 12-5-77; AD 8-1978, f. & ef. 6-23-78; AD 7-1980, f. & ef. 9-25-80; AD 24-1981, f. & ef. 12-1-81; AD 12-1985, f. & ef. 11-27-85; AD 12-1985, f. & ef. 11-27-85; AD 10-1987, f. & ef. 7-1-87; AD 1-1990(Temp), f. & cert. ef. 3-1-90; AD 17-1990, f. & cert. ef. 10-2-90; AD 13-1992, f. & cert. ef. 10-13-92

603-057-0216

Pesticide Residue Tolerances in Foods

The rules governing residue tolerances of pesticides permitted on raw agricultural products and the exemptions from such tolerances, adopted by the United States Environmental Protection Agency and in effect as of the effective date of this rule, are hereby adopted by the Department as the rules governing residue tolerances of pesticides permitted on raw agricultural products and exemptions from such tolerances in the State of Oregon. Said federal rules are set forth in Title 40 Code of Federal Regulations (CFR), Chapter 1, Part 180.

Stat. Auth.: ORS 561 & 634

Stats. Implemented: ORS 634.306 & 634.042

Hist.: 7-1977, f. & ef. 4-5-77; DOA 9-2007(Temp), f. & cert. ef. 6-7-07 thru 12-1-07

Restrictions and Limitations on Uses or Applications of Pesticides

603-057-0300

Specifications for Use of Pesticides Containing Thiram as Animal Repellents

In addition to any requirements or conditions stated in the registration of any pesticide containing Thiram as an animal repellent for the protection of forest seedlings (i.e., Arasan 42-S, Thiram S-42, etc.), the following shall apply to forest seedlings treated with pesticides containing Thiram (tetramethylthiuram disulfide):

- (1) There shall be attached to each container, bundle, or wrapping of treated forest seedlings, a clearly legible and visible tag or label, of waterproof material and printing, on which there is stated

the following. (See Exhibit 1.)

- (2) The tagging or labeling shall be expressed in both English and Spanish languages.
- (3) Any pesticide containing Thiram as an animal repellent for the protection of forest seedlings, and the forest seedlings treated with such pesticide, shall be used, applied, or handled in accordance with the precautions and the procedures prescribed by the administrative rules of the Occupational Health Section of the Workers' Compensation Department, referred to as OAR 437-130-0032 to 437-130-0036, so long as such rules or any substitutes or additions thereto are in effect.

[ED. NOTE: The Exhibit referenced in this rule is not printed in the OAR Compilation. Copies are available from the agency.]
Stat. Auth.: ORS 561 & ORS 634
Stats. Implemented: ORS 634.306, ORS 634.410, ORS 634.415, ORS 634.420 & ORS 634.425
Hist.: AD 1049(39-74)(Temp), f. & ef. 11-12-74 thru 3-11-75; AD 1063(9-75), f. 7-7-75, ef. 7-25-75; AD 25-1977(Temp), f. & ef. 11-16-77 thru 3-15-78; AD 18-1978, f. & ef. 11-2-78

Restrictions on Use of the Pesticide 2,4-D

603-057-0301

2,4-D; High Volatile Esters

The high volatile esters of 2,4-D (2,4-Dichlorophenoxyacetic acid), including the methyl, ethyl, propyl, butyl, and amyl esters thereof, shall be subject to the restrictions and conditions on the use or application thereof as set forth in OAR 603-057-0305 to 603-057-0320.

Stat. Auth.: ORS 561.190, ORS 634.306 & ORS 634.322
Stats. Implemented: ORS 634.306 & ORS 634.322
Hist.: AD 1072(18-75), f. & ef. 12-5-75

603-057-0305

Areas Affected

All lands situated north of Interstate Highway 80N within the Counties of Morrow and Umatilla, excluding therefrom land presently subject to the East Umatilla Chemical Control District Order, shall be subject to the restrictions and limitations set forth in OAR 603-057-0305 to 603-057-0320.

Stat. Auth.: ORS 561.190, ORS 634.306 & ORS 634.322
Stats. Implemented: ORS 634.306 & ORS 634.322
Hist.: AD 1072(18-75), f. & ef. 12-5-75

603-057-0310

Time Period

The restrictions and conditions on the use or application of the high volatile esters of 2,4-D specified in OAR 603-057-0301 shall apply for the period of April 1 to September 1 of each year.

Stat. Auth.: ORS 561.190, ORS 634.306 & ORS 634.322
Stats. Implemented: ORS 634.306 & ORS 634.322
Hist.: AD 1072(18-75), f. & ef. 12-5-75

603-057-0315

Prohibited Acts

- (1) No landowner shall use, apply, or cause to be applied, either by ground or aerial equipment, 2,4-D in the formulations described in OAR 603-057-0301 within the area prescribed in OAR 603-057-0305 or within the time period prescribed by OAR 603-057-0310, without first having applied for and received a permit from the Department as provided in OAR 603-057-0320.
- (2) No pesticide applicator, pesticide trainee, public applicator, public trainee, or pesticide operator shall use, apply, or cause to be applied, either by ground or aerial equipment, 2,4-D as prescribed in section (1) of this rule without first having received a copy of a valid permit from the landowner as provided in OAR 603-057-0320.
- (3) No person shall violate the restrictions or conditions of a permit issued under OAR 603-057-0320.

Stat. Auth.: ORS 561.190, ORS 634.306 & ORS 634.322
Stats. Implemented: ORS 634.306 & ORS 634.322
Hist.: AD 1072(18-75), f. & ef. 12-5-75

603-057-0320

Permits and Applications

- (1) Application for a permit to use or apply 2,4-D, otherwise prohibited by the provisions of OAR 603-057-0315, shall be made by a landowner to the Department on forms prescribed by the De-

partment or, should there be insufficient time to utilize the United States mail, be made by a landowner by means of telegram or telephone to the Department. The application shall contain the following:

- (a) The name and address of the landowner-applicant;
 - (b) The names of any authorized agents of the landowner;
 - (c) The crops to which the pesticide is to be applied;
 - (d) The amount of acreage to which the pesticide will be applied and the location of such acreage;
 - (e) The purpose for which the pesticide is to be applied or used;
 - (f) The amount of the pesticide to be applied, the common or chemical name of the pesticide, and the rate of application per acre;
 - (g) The name and address of any person other than the landowner intended to apply the pesticide.
- (2) Permits shall be on forms prescribed by the Department and, in addition to the information described in section (1) of this rule, shall include a permit number, dates of issuance and expiration, and any special restrictions and conditions on the use or application being permitted.
 - (3) The person to whom a permit is issued shall retain a copy of the same until 60 days after the expiration date of such permit, and shall deliver a copy of such permit to any other person applying or causing application of the pesticide who shall also retain his copy of the permit until 60 days after the expiration date of such permit.
 - (4) Permits shall only be issued upon the determination by the Department that the use or application of the pesticide is for the eradication or control of sagebrush or rabbit brush, and upon the further determination of the Department that the geography, time periods, and climatic conditions would reasonably allow the use or application of the pesticide without substantial adverse effects upon grapes.

Stat. Auth.: ORS 561.190, ORS 634.306 & ORS 634.322
Stats. Implemented: ORS 634.306 & ORS 634.322
Hist.: AD 1072(18-75), f. & ef. 12-5-75

Restrictions on Use or Application of Specific Pesticides

603-057-0325

Sodium Cyanide and M-44 Device

Sodium cyanide and the M-44 device shall be subject to the restrictions and conditions set forth in OAR 603-057-0335 to 603-057-0350.

Stat. Auth.: ORS 561 & ORS 634
Stats. Implemented: ORS 634.306(5)
Hist.: AD 6-1997, f. & cert. ef. 6-11-97

603-057-0335

Sodium Cyanide and M-44 Device; Restrictions on Use

Only employees of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control, who are licensed as public applicators in the category specified in OAR 603-057-0115(4)(a), shall be entitled to use sodium cyanide and the M-44 device for the control of coyotes and certain other wild canids.

Stat. Auth.: ORS 561 & ORS 634
Stats. Implemented: ORS 634.306(13) & ORS 634.322(6)
Hist.: AD 1066(12-75), f. 8-11-75, ef. 10-15-75; AD 7-1977, f. & ef. 4-5-77; AD 1-1982, f. & ef. 3-5-82; AD 12-1985, f. & ef. 11-27-85; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0350

Sodium Cyanide and the M-44 Device; Records and Reports

- (1) Public pesticide applicators using sodium cyanide and the M-44 device shall not be required to keep records as specified in ORS 634.146 or OAR 603-057-0130, but instead shall make and maintain records which contain but are not limited to the following:
 - (a) Species and numbers of animals eradicated, whether target or non-target, and the dates and locations thereof;
 - (b) Numbers and locations of devices emplaced, with dates of installations and retrievals;
 - (c) Numbers and locations of warning signs posted;
 - (d) The name and address of the person on whose property sodium cyanide and the M-44 device was used; and

- (e) The name and address of the pesticide applicator.
- (2) The records required by section (1) of this rule shall be made available to the Department for inspection and verification. Upon request of the Department, such record information shall be submitted to the Department in the form of periodic reports. Such records shall be maintained by the user for at least three years after the cessation of the user use activity.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306(13) & ORS 634.322(6)
 Hist.: AD 1066(12-75), f. 8-11-75, ef. 10-15-75; AD 1-1982, f. & ef. 3-5-82; AD 12-1985, f. & ef. 11-27-85; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0355

Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar

- (1) Sodium fluoroacetate (Compound 1080) and the livestock protection collar shall be subject to the restrictions and conditions set forth in OAR 603-057-0360 to 603-057-0375.
- (2) Failure to comply with the restrictions and conditions set forth in OAR 603-057-0360 to 603-057-0375, as determined by the Oregon Department of Agriculture, may be used as a basis for one or more of the following actions:
 - (a) To revoke, suspend or refuse to issue or renew the license or certification of an applicant, licensee or certificate holder in accordance with ORS 634.322(4);
 - (b) To amend, suspend or revoke the registration(s) pertaining to the livestock protection collar in accordance with ORS 634.322(5);
 - (c) To impose a civil penalty, in accordance with ORS 634.900;
 - (d) To initiate and pursue any other action of an enforcement nature available through ORS 634.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306(13) & ORS 634.322(6)
 Hist.: AD 7-1977, f. & ef. 4-5-77; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0360

Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar; Restrictions on Use

- (1) Coyotes shall be the only species that may be considered to be a regulated pest, as defined in OAR 603-057-0001(8), and therefore considered to be a target organism, upon which sodium fluoroacetate (Compound 1080) and the livestock protection collar may be used.
- (2) Only employees of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control, licensed as public pesticide applicators in the subcategory specified in OAR 603-057-0115(4)(b) shall use the livestock protection collar containing sodium fluoroacetate (Compound 1080).
- (3) The following shall apply to use of the livestock protection collar containing sodium fluoroacetate (Compound 1080):
 - (a) Use of collars shall conform to all applicable federal, state and local regulations;
 - (b) Use of collars shall be limited to appropriate sites within the geographic boundaries of Curry County, Oregon;
 - (c) Collars shall only be in the possession of the registrant and its employees, except when in use;
 - (d) Collars shall only be filled with Compound 1080 solution by the manufacturer;
 - (e) Collars shall be used only to take coyotes that prey upon domestic livestock within fenced pastures no larger than 2,560 acres;
 - (f) Collars may be used only after a finding by United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control personnel that appropriate non-lethal methods of coyote control, by method, have failed to reduce losses to an acceptable level, and all other available lethal or non-lethal methods have been found to be ineffective or inappropriate;
 - (g) Prior to use of the livestock protection collar at a particular site, a preapplication inspection report will be completed by the applicator which identifies the following:
 - (A) Non-lethal techniques utilized at the site, and the reason each

- one was found to be impractical or unsatisfactory;
- (B) Non-lethal techniques considered for the site, and the reason each one was considered impractical or unsatisfactory;
- (C) Lethal techniques utilized at the site, and the reason each one was found to be impractical or unsatisfactory;
- (D) Lethal techniques considered for the site, and the reason each one was considered impractical or unsatisfactory.
- (h) Where collars are in use, each logical point of access shall be conspicuously posted with a bilingual (English/Spanish) warning sign not less than 8" x 10" in size. Such signs shall be inspected weekly to insure their continued presence and legibility, and will be removed when all collars are removed and accounted for;
- (i) Each collar in use shall be inspected by the applicator at least twice a week to insure that it is properly positioned and unbroken;
- (j) Damaged or broken collars shall be removed from the field and either returned to the manufacturer for repair or disposed of properly;
- (k) If a collar is lost, an intensive search for the missing collar shall be conducted within twelve hours from the time the loss is noted. Use of all other collars at the particular site shall be terminated after twelve hours if a search is not conducted for the lost collar and a cause for the loss identified. If the collar is lost due to a deficiency which can be corrected, appropriate corrections will be enacted prior to the continued use of collars on that site;
- (l) If a collar is found to have been punctured by a predator attacking a collared animal, an intensive search shall be conducted for the animal which punctured the collar;
- (m) Disposal of punctured or unserviceable collars and contaminated animal remains, vegetation and soil shall be accomplished by deep burial or burning at a safe location, preferably on the property of the landowner;
- (n) Storage of livestock protection collars containing Compound 1080 shall only be under lock and key in a dry place away from food, feed, domestic animals and corrosive chemicals. Collars shall not be stored in any structure occupied by humans.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306(13) & ORS 634.322(6)
 Hist.: AD 7-1977, f. & ef. 4-5-77; AD 10-1987, f. & ef. 7-1-87; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0365

Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar; Registrant of Livestock Protection Collars

Only the United States Department of Agriculture, Animal and Plant Health Inspection Service, Animal Damage Control may be the registrant of the livestock protection collar containing the active ingredient sodium fluoroacetate (Compound 1080).

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306(13) & ORS 634.322(6)
 Hist.: AD 7-1977, f. & ef. 4-5-77; AD 6-1997, f. & cert. ef. 6-11-97

603-057-0375

Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar; Records and Reports

- (1) Public pesticide applicators using the livestock protection collar shall not be required to keep records as specified in ORS 634.146 or OAR-603-057-0130, but instead shall make and maintain records which contain but are not limited to the following:
 - (a) The name and address of the person on whose property the livestock protection collar was used and the name and address of the public pesticide applicator;
 - (b) The location and size of agricultural or rangeland areas (fields) in which the livestock protection collars containing sodium fluoroacetate (Compound 1080) were used;
 - (c) The date each individual collar was obtained by the applicator, placed on livestock, punctured or ruptured (along with apparent cause), lost or unrecovered, or removed and put in storage;
 - (d) The species, date, and location of each animal found poisoned or suspected of having been poisoned as a result of the use of

- Compound 1080 in livestock protection collars;
- (e) A written description of any intensive search for missing collars or poisoned animals conducted as specified in OAR 603-057-0360(3)(j) and (k).
- (2) The registrant shall keep records of all collars distributed. Records shall include the name and address of each recipient along with dates and numbers of collars received.
- (3) The records required by sections (1) and (2) of this rule shall be maintained by the applicator for a period of three years and shall be made available to the Department for inspection and verification upon request of the Department. This record information shall be submitted to the Department and the U.S. Environmental Protection Agency in the form of periodic reports. Any poisoning of non-target species shall be reported immediately (within three days) to the U. S. Environmental Protection Agency and the Department. Each accident or injury to humans or domestic animals shall likewise be reported.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306(13) & ORS 634.322(6)
 Hist.: AD 7-1977, f. & ef. 4-5-77; AD 6-1997, f. & cert. ef. 6-11-97; AD 6-1997, f. & cert. ef. 6-11-97

Restrictions on Microencapsulated Methyl Parathion 603-057-0376

Microencapsulated Methyl Parathion

- (1) Microencapsulated methyl parathion shall be subject to the restrictions and conditions on the use thereof as set forth in this rule.
- (2) In recognition of the possible injurious or adverse effects to bees from their exposure to microencapsulated methyl parathion, such insecticide:
- (a) Shall not be applied on any field crop having an average of five or more blooms per square yard for the area to be sprayed;
- (b) Shall not be applied to any corn crop having ten percent or more of its plants with spike anthers;
- (c) Shall not be applied on any orchard or vineyard having an average of one or more open blooms per tree or vine (except second bloom of pears); and
- (d) Shall not be applied on any field crop, orchard, vineyard, fence line, ditch bank or edge of agricultural land, having an average of five or more weed blooms per square yard.
- (3) The following applications of microencapsulated methyl parathion shall be exempt from the restrictions of section (2) of this rule; if such applications are made in accordance with the label directions for such insecticide, and if such label is a part of the federal and state registrations of such pesticide:
- (a) Applications on tree fruit in the "Hood River-The Dalles" growing areas made at least 30 days after full bloom of the Red Delicious apples and made not less than 14 days prior to harvest of such tree fruit (the date of Red Delicious apple "full bloom" for any particular area shall be established by the Department, in consultation with the Oregon State University Extension Service Agent for such particular area);
- (b) Applications on wheat in growing areas east of the Cascade Mountain Range, during the fall and winter seasons of each year;
- (c) Applications on dry onions when such applications are made by ground equipment; and
- (d) Applications on white-blooming peas.
- (4) Microencapsulated methyl parathion is a highly toxic pesticide and therefore is also subject to the restrictions set forth in OAR 603-057-0200.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306 & ORS 634.322
 Hist.: AD 19-1978, f. & ef. 12-11-78

603-057-0378

Limitations on Pesticide Products Containing Clopyralid

- (1) Any application or use of a pesticide product known to contain the active ingredient clopyralid to a location other than an agri-

cultural, forest, right-of way, golf course or cemetery site is prohibited.

- (2) For the application or use of a pesticide product containing clopyralid on a site allowed under (1) above, all applicable label instructions must be followed. Providing grass clippings or other materials from a treated site for use in compost is prohibited.
- (3) Pesticide products known to contain the active ingredient clopyralid and having product labeling which authorizes application or use on an agricultural, forest, right-of way, golf course or cemetery site, or on any other site, may be registered and distributed during 2003. For 2004 and subsequent years, a pesticide product known to contain the active ingredient clopyralid must satisfy one of the following requirements in order to be registered:
- (a) The label must specify that the product may only be used on sites allowed by (1) above; or
- (b) The label must clearly and prominently display the following statement: "Use of this product in Oregon is limited to the sites stated on this label which are agricultural, forest, right-of-way, golf course or cemetery sites."
- (4) Failure to comply with sections (1), (2), or (3) above 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 in accordance with ORS 634.322(4);
- (b) Imposition of a civil penalty, in accordance with ORS 634.900;
- (c) Any other enforcement action authorized under ORS 634.

Stat. Auth.: ORS 634.322(6), ORS 634.026(1e)
 Stats. Implemented: ORS 634
 Hist.: DOA 14-2003(Temp), f. & cert. ef. 3-28-03 thru 9-24-03; DOA 26-2003, f. & cert. ef. 7-15-03

603-057-0384

Persistent, Bioaccumulative, and Toxic (PBT) Polutants

- (1) The following pesticide active ingredients, previously canceled by the United States Environmental Protection Agency, have been designated as "high priority" persistent, bioaccumulative and toxic pollutants (PBTs) by the Oregon Department of Environmental Quality:
- (a) Aldrin;
- (b) Chlordane;
- (c) Dichlorodiphenyl trichloroethane (DDT), DDD, DDE;
- (d) Dieldrin ;
- (e) Hexachlorobenzene;
- (f) Mercury based pesticides including, but not limited to, mercurous; chloride and mercuric chloride
- (g) Mirex;
- (h) Toxaphene.
- (2) In addition to the "high priority" active ingredients listed in (1), the following pesticide active ingredients, having been previously canceled by the United States Environmental Protection Agency have been identified as persistent, bioaccumulative and toxic pollutants (PBTs).
- (a) Heptachlor;
- (b) 2,4,5-Trichlorophenol.
- (3) Any application or use of a pesticide product known to contain one or more of the active ingredients identified in (1) or (2) above is herewith prohibited.
- (4) Failure to comply with the prohibition specified in (3) above, as determined by the Oregon Department of Agriculture, may be used as a basis for one or more of the following actions
- (a) To revoke, suspend or refuse to issue or renew the license or certification of an applicant, licensee or certificate holder in accordance with ORS 634.322(4);
- (b) To impose a civil penalty, in accordance with ORS 634.900;
- (c) To initiate and pursue any other action of an enforcement nature available through ORS 634.

Stat. Auth.: ORS 634
 Stats. Implemented: ORS 634
 Hist.: DOA 23-2000(Temp), f. 8-28-00, cert. ef. 8-28-00 thru 2-10-01; DOA 31-2000, f.

Reporting Pesticide Use

603-057-0405

General Requirements

As specified by Oregon Laws 1999, Chapter 1059, Sections 2 to 11, 15, 20, 21 and 22, each pesticide user must report to the Oregon Department of Agriculture the use of any pesticide product, as defined by ORS 634.006(8) except antimicrobial pesticide products.

- (1) "Pesticide user" means any person who uses or applies a pesticide in the course of business or any other for-profit enterprise, or for a governmental entity, or in a location that is intended for public use or access (Chapter 1059, Oregon Laws 1999, Section 2).
- (2) The Oregon Department of Agriculture shall determine which pesticide products are antimicrobial, according to the Federal Insecticide, Fungicide and Rodenticide Act, 7 U. S. C. 136(1) (P.L. 92-516, as amended). Antimicrobial products are substances or mixtures of substances used to destroy or suppress the growth of harmful microorganisms, whether bacteria, viruses, or fungi, on inanimate objects and surfaces. Types of antimicrobial pesticides include disinfectants and sanitizers. These products are exempt from reporting.
- (3) Pesticide use reporting shall be subject to the conditions set forth in OAR 603-057-0410. Failure to comply with these conditions may be used as a basis for one or more of the following actions:
- (a) Revoke, suspend, or refuse to renew the license or certificate of an applicant, licensee or certificate holder in accordance with ORS 634.322(4);
- (b) Initiate and pursue any other action of an enforcement nature available through ORS 634.
- (4) "Accredited University" as used in Oregon Laws 1999, Chapter 1059 and these rules means a privately or publicly operated institution of higher education accredited by a nationally recognized accrediting agency or association as determined by the U.S. Commissioner of Education.
- (5) "Accepted Research Institute" means an institution of higher learning and applied science accepted by the Department.
- (6) "Principal Investigator" means a person who leads the activities of a particular research project. In a university setting, this person is a member of the university faculty, and holds, at a minimum, the title or rank of assistant professor or equivalent.
- (7) "Ready to Use" pesticide product means a pesticide product used directly from its original container, consistent with labeling, and without dilution or mixing prior to application.
- (8) "Researcher" has the same meaning as "Principal Investigator". In a university setting, researcher refers to faculty scientists concentrating on certain areas of applied science or basic research.
- (9) "Urban area" means a site that is 'urban, general indoor' as specified in OAR 603-057-0413(7), or a site that is "urban, general outdoor" as specified in OAR 603-057-0413(8).

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0410

Pesticide Users Required to Report

- (1) All pesticide products used by each pesticide user shall be reported at least once yearly to the Department. All pesticide use in a given calendar year shall be reported no later than January 31 of the following calendar year. A pesticide user may report the use of pesticide products on a more frequent basis if so selected by the pesticide user. Each report will include the required pesticide use information for the preceding specified period, or since the most recent filing of a pesticide use report, whichever time period is shorter.
- (2) No action specified in OAR 603-057-0405(3) shall be taken for failure to report pesticide use for calendar year 2002, 2003, 2004, 2005, or 2006, or for any calendar year in which the Department

does not provide a fully effective means for pesticide users to report pesticide use. Any pesticide use information obtained from pesticide users by the Department, by any means, for calendar year 2002, 2003, 2004, 2005 or 2006 will not be maintained by the Department and will not be made available to any person.

- (3) Commercial pesticide operators are required to file the pesticide use report when a commercial pesticide operator uses a pesticide product in the course of business.
- (4) All agencies, instrumentalities, subdivisions, counties, cities, towns, municipal corporations, districts, governmental bodies, schools and utilities are required to file the pesticide use report when a pesticide product is used by their employees.
- (5) Employers are required to file the pesticide use report when an employee uses a pesticide product as an employee in the scope of his or her employment.
- (6) All other pesticide users, other than as described in subsection (3), (4) or (5) of this section, using a pesticide product, are required to file the pesticide use report.
- (7) Reports of pesticide use shall be made to the Department using forms or methods specified by the Department.
- (8) A pesticide user may authorize another person, or persons, to serve as his/her agent(s) or proxy(ies) in filing pesticide use information with the Department.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 23-2002(Temp), f. 12-2-02., cert. ef. 12-4-02 thru 6-1-03; DOA 16-2003(Temp), f. & cert. ef. 4-22-03 thru 10-18-03; DOA 37-2003, f. & cert. ef. 10-15-03; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0411

Pesticide User Information

- (1) Before filing pesticides use reports with the Department, each pesticide user shall register with the Department. The Department will record the pesticide user identification information identified below in a database separate from the database used to record reported pesticides use information. The Department will assign to each registered pesticide user a unique identification number. The pesticide user shall use the assigned identification number when filing pesticides use reports with the department.
- (2) The following information regarding identification of a pesticide user shall be provided to the Department for the purpose of registering each pesticide user and assigning a unique identification number to each pesticide user.
 - (a) Identification of the pesticide user required to file the report, which shall be either:
 - (A) The name of the pesticide user; or
 - (B) The name of the agency, instrumentality, subdivision, county, city, town, municipal corporation, district, governmental body, school or utility; or
 - (C) The name of the employer; or
 - (D) The name of the person using the pesticide.
 - (b) The mailing address of the pesticide user named, including street or postal address, city, state and five-digit ZIP code.
 - (c) The telephone number of the pesticide user named.
 - (d) The facsimile (fax) number of the pesticide user named, if available.
 - (e) The electronic mail (e-mail) address of the pesticide user named, if available.
 - (f) The name of the responsible person filing the report for the pesticide user named, if different from the pesticide user named.
 - (g) The telephone number of the responsible person filing the report for the pesticide user named, if different from the telephone number already provided.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0412

Pesticide Product Identification; Date of Use; Amount

Each report of pesticide use shall include the following information

regarding the identification and amount of pesticide product used:

- (1) The name of the specific pesticide product used.
- (2) The United States Environmental Protection Agency (EPA) registration number of the specific pesticide product used, or, if the product does not have an EPA registration number, the identification number assigned to the product by the Department.
- (3) The date the pesticide product was used. If the product was used at a single site or type of site having the same five digit zip code or third-level hydrologic unit location on multiple days in a calendar month, only the date for the last day of the use is to be reported.
- (4) The amount of the undiluted pesticide product used, including the appropriate units of measure.
- (5) If the product is a "Ready to Use" product then the date of use is the day when the product container is emptied or disposed, and the amount used is the total amount stated on the label.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0413

Description of the Type of Site Where the Pesticide Was Used

Each report of pesticide use shall include a general description of the type of site where the pesticide was used. Site descriptions must be chosen from the list of options developed by the Department. Site descriptions, at a minimum, will identify the major site at which the pesticide was applied. Major categories shall include, but not be limited to, the following:

- (1) Agriculture. This shall include the use of pesticides in the production of agricultural crops and livestock (including Christmas tree plantations and commercial nurseries), or on agricultural commodities before movement into channels of commerce, or on agricultural lands, grasslands, or non-crop agricultural lands
- (2) Aquatic. This shall include the use of pesticides in treating standing or running water. Examples of sites include irrigation ditch, lake, or river.
- (3) Forestry. This shall include the use of pesticides in the production of forest crops, or on forestry lands (not including Christmas tree plantations or commercial nurseries).
- (4) Public health and regulatory pest control. This shall include the use of pesticides for the control of any pest that may be deleterious to the public health, including mosquito and other vector and regulatory pest control.
- (5) Right-of-Way. This shall include the use of pesticides in right-of-way areas. Examples of sites include irrigation ditch banks, railroads, road shoulders, or utility lines.
- (6) Research. This shall include the use of one or more specific pesticides with the intent of gathering data needed to satisfy registration requirements of the United States Environmental Protection Agency. If the research is not conducted by a government agency, the pesticide use shall be under the authority of an "experimental use permit" issued by the United States Environmental Protection Agency or issued by the Department.
- (7) Urban, general indoor sites. This shall include the use of pesticides inside dwellings, non-agricultural buildings, establishments, institutions, schools and commercial transportation vehicles. This shall also include the use of pesticides on commodities, including agricultural commodities stored indoors that have entered into channels of commerce, including commercial warehouses and commercial grain elevators.
- (8) Urban, general outdoor sites. This shall include the use of pesticides outside dwellings, non-agricultural buildings, establishments, institutions, or schools for ornamental and turf pest control, including parks, rest areas, and golf courses. This shall also include the use of pesticides on commodities, including agricultural commodities stored outdoors that have entered into channels of commerce.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0414

Description of the Purpose of Pesticide Use

Each report of pesticide use shall include a general description of the purpose for the pesticide use. The purpose for the use must be chosen from the list of options developed by the Department. The purpose description, at a minimum, will identify the most applicable major category description for the pesticide use. Major categories include, but are not limited to, the following:

- (1) Weed control;
- (2) Insect control;
- (3) Disease control;
- (4) Rodent control;
- (5) Big game repellent;
- (6) Predator control;
- (7) Plant growth regulation;
- (8) Marine-fouling organism control;
- (9) Wood preservation;
- (10) Bird control;
- (11) Desiccation and defoliation;
- (12) Fish control;
- (13) Research; and
- (14) Slug Control.

Stat. Auth.: ORS 634, ORS 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01

603-057-0415

Location of Pesticide Use; Aggregation of Information

Each report of pesticide use shall include the following information regarding the location of a pesticide use made by the pesticide user:

- (1) For uses made to a site in an urban area as defined in OAR603-057-0405(9), the location shall be reported by identifying the five-digit zip code for the site.
- (2) For uses made to any site not in an urban area as defined in OAR 603-057-0405(9), the location shall be reported by identifying the third-level hydrologic unit for the site.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0416

Reports of Pesticide Use for Research

If the description of pesticide use is "Research" as specified in OAR 603-057-0413(6), then each report of pesticide use shall include the following information:

- (1) Identification of the pesticide user filing the report, including the information required in OAR 603-057-0411.
- (2) The name of the specific pesticide product used.
- (3) The United States Environmental Protection Agency (EPA) registration number of the specific pesticide product used, or, if the product does not have an EPA registration number, the identification number assigned to the product by the Department or the identification number of the product recognized by the Department.
- (4) The identification of the purpose of the pesticide use shall be reported as research.
- (5) The description of the site at which the pesticide product was used shall be reported as research.
- (6) The location at which the pesticide product was used shall be reported by identifying the third-level hydrologic unit for the site.
- (7) The date the pesticide product was used shall be reported as the last day of the calendar month of the use.
- (8) The amount of the undiluted pesticide product used in the calendar month, including the appropriate units of measure.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0417

Access to Reported Information

- (1) Some information reported to the Department by pesticide users is prohibited from release to the public according to Oregon Laws 1999, Chapter 1059. Information that would reveal the identity of the owner or lessee or the specific location of property where a person has applied a pesticide is prohibited from public release.
- (2) Pesticide use information reported under Oregon Laws 1999, Chapter 1059 may be released to certain persons, provided those persons maintain the confidentiality of any information that is required to be treated as confidential. Persons who may receive this information are limited to the following:
 - (a) Staff of the Department or other federal or state agency which require the information as part of an investigation conducted under provision of law; or
 - (b) A federal, state or local agency; or
 - (c) A health or environmental researcher, acting in an official capacity from an accredited university or accepted research institute.
- (3) A federal, state or local agency must agree to maintain the confidentiality of the information identified in subsection (1) of this section, unless the public interest, by clear and convincing evidence, requires disclosure in the particular instance.
- (4) Any person that releases, or causes to be released, to the public information made confidential by Oregon Laws 1999, Chapter 1059 may be subject to civil penalty as described in OAR 603-057-0420. The agency, university, or research institute employing or retaining such person or for which such person is acting in an official capacity, may also be subject to civil penalty as described in 603-057-0420.
- (5) In addition, if a person causes information identified as confidential to be released or who fails to preserve the confidentiality shall be denied all future access to confidential data collected under 603-057-0410 through 603-057-0416.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

603-057-0418

Requests for Pesticide Use Information

- (1) An agency seeking confidential information shall make a formal written request to the Department that shall:
 - (a) Identify the requesting agency.
 - (b) Identify the Principal Investigator for the agency.
 - (c) Describe the information sought.
 - (d) Explain the reason for requesting the information, including the use that will be made of the requested information.
 - (e) Include a completed and signed confidentiality agreement prepared by the Department.
 - (f) Identify each person having access to the information, and the position of each person within the agency.
 - (g) Identify the person responsible for maintaining the security of the information.
 - (h) Explain the procedures by which the requesting agency will assure the confidentiality of the information.
- (2) A health or environmental researcher acting in an official capacity from an accredited university seeking confidential information shall make a formal written request to the Department that shall:
 - (a) Describe the information sought.
 - (b) Describe the research being conducted, including identity of the Principal Investigator, purpose of the research and the use that will be made of the requested information.
 - (c) Include a copy of the university's formal review and signed acceptance of the research project.
 - (d) Include a completed and signed confidentiality agreement prepared by the Department.
 - (e) Identify each person having access to the information, and the position of each person within the university.
 - (f) Describe the procedures by which the requesting researcher and

university will assure the confidentiality of the information.

- (3) A health or environmental researcher acting in an official capacity from an accepted research institute seeking access to confidential information shall make a formal written request to the Department which shall be equivalent in content to (2) above.
- (4) The Department will consider each request for pesticide use information, as described in (1), (2) and (3) above, as follows:
 - (a) The Department will respond to the request within 30 days of receipt of the request.
 - (b) The Department, in its discretion, may request more detailed explanations in the request for information before considering it.
 - (c) If the request is approved, the requested information may be released to the requestor. The Department will release only the information that is directly pertinent to the research project or agency need. Information will be released in a manner that achieves the highest level of confidentiality but still provides pertinent data.
 - (e) If the request is denied, the requester will be informed of the basis for denial.
- (5) Any breach of the confidentiality agreement as determined by the Department, may result in a civil penalty as set forth in 603-057-0420.

Stat. Auth.: ORS 634, ORS 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01

603-057-0420

Civil Penalty Determination for Failure to Comply with Confidentiality Agreement

When the Department has determined that a violation of 603-057-0417 has occurred the Director shall calculate the amount of the civil penalty to be assessed utilizing the formula: $BN+(0.1 \times BN)(T+D) = \text{Penalty Amount}$ where:

- (1) B = Base fine, the primary fine for violating the confidentiality agreement. This base amount is set at \$2,000
- (2) N = Number of times, including the current violative act, that the person has been determined by the Department to have committed this violative act.
- (3) T = Preventability of violation and whether negligence or misconduct was involved. T will be weighted from 0 to 7 in the following way:
 - (a) 0 = information is insufficient to make any finding;
 - (b) 3 = the person's actions determined to be violative were reasonably avoidable;
 - (c) 7 = the person's actions determined to be violative were flagrant.
- (4) D = Direct release of confidential information. D will be weighted from 0 to 5 in the following way:
 - (a) 0 = information is insufficient to make any finding;
 - (b) 1 = information protected under 603-057-0417 was not directly released, but the information released was sufficient to allow a reasonable determination of the protected information;
 - (c) 3 = either the identity of the owner or lessee of a specific property, or the address of the property itself where a pesticide had been applied was directly released;
 - (d) 5 = both the identity of the owner or lessee of a specific property and the address of the property itself where a pesticide had been applied was directly released.

Stat. Auth.: ORS 634, ORS 561.190 & Ch. 1059 OL 1999

Stats. Implemented: Ch. 1059 OL 1999

Hist.: DOA 27-2001, f. & cert. ef. 12-4-01

603-057-0425

Household Pesticide Use Information

According to Chapter 1059, Oregon Laws 1999, Section 4 (5), the Department is to develop a mechanism(s) to identify the use of pesticides by households. The following rules shall apply;

- (1) The Department shall utilize a survey. Such a survey shall have the following characteristics:

- (a) Be statistically valid such that information obtained from participating households can be used to accurately estimate pesticide use by all households;
- (b) Gathers information similar in content to information reported by pesticide users; and
- (c) Includes the entire state.

(2) The Department may utilize the assistance of other agencies, including federal, state and local, and of private entities in developing, implementing and maintaining a mechanism to identify pesticide use by households.

Stat. Auth.: ORS 634, 561.190 & Ch. 1059 OL 1999
 Stats. Implemented: Ch. 1059 OL 1999
 Hist.: DOA 27-2001, f. & cert. ef. 12-4-01; DOA 11-2006, f. & cert. ef. 4-12-06

Civil Penalties for Violations of ORS Chapter 634

603-057-0500

Definitions

In addition to the definitions set forth in ORS 634.006 and OAR 603-057-0001, the following shall apply:

- (1) "Director" means the Director of the Department of Agriculture or the Director's authorized deputies or officers.
- (2) "Enforcement" means any documented action taken by the department to address a violation.
- (3) "Flagrant" means any violation where the department has documented evidence that the respondent had actual knowledge of the law and knowingly committed the violation.
- (4) "Magnitude of Violation" means the seriousness of a violation with respect to how it is categorized by the department. The prohibited acts under ORS 634.372 shall be categorized as either Category I: Major violations, Category II: Moderate violations, and/or Category III: Minor violations.
- (5) "Person" includes individuals, corporations, associations, firms, joint stock companies, public and municipal corporations, political subdivisions of the state and any agencies thereof, and the Federal Government and any agency thereof.
- (6) "Violation" is the commission of any prohibited act specified under ORS 634.372.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.006, ORS 634.306 & ORS 634.372
 Hist.: AD 4-1990, f. & cert. ef. 3-16-90

603-057-0505

Consolidation of Proceedings

Notwithstanding that each and every violation is a separate and distinct act and in cases of continuing violations, each day's continuance is a separate and distinct violation, proceedings for the assessment of multiple civil penalties for multiple violations against a person may be consolidated into a single proceeding.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306
 Hist.: AD 4-1990, f. & cert. ef. 3-16-90

603-057-0510

Notice of Violation and Assessment of Civil Penalties

- (1) Notice of violation shall inform a person of the existence of a violation, the actions required to resolve the violation and the consequences of continued non-compliance.
- (2) The Director shall prescribe a reasonable time for the elimination of a violation.
- (3) Violations occurring after the time prescribed for the elimination of the violation shall be considered repeat violations.
- (4) Civil penalties shall be due and payable when the person incurring the penalty receives a notice in writing from the Director.
- (5) Notice of violation shall be in writing and shall be sent by registered or certified mail. The notice shall include, but not be limited to:
 - (a) A reference to the particular section of the statute and/or administrative rule involved;
 - (b) A short and plain statement of the matters asserted or charged;
 - (c) A statement of the amount of the penalty or penalties imposed, and how it was calculated;

- (d) A statement of the person's right to request a hearing within ten business days of mailing of the notice and an explanation of how a hearing may be requested;
- (e) A statement that the notice becomes a final order unless the person upon whom the civil penalty is assessed makes a written request for a hearing within ten business days from the date of mailing of the notice.
- (6) A civil penalty imposed under the applicable statutes and these rules may be remitted or reduced at the Director's discretion upon such terms and conditions that are proper and consistent with public health and safety.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306, ORS 634.372 & ORS 634.915
 Hist.: AD 4-1990, f. & cert. ef. 3-16-90

603-057-0515

Hearing Procedures

All hearings shall be conducted pursuant to the applicable contested case procedures as outlined in ORS 183.310 to 183.550, and the Attorney General's Uniform and Model Rules of Procedure (OAR Chapter 137, 1989).

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306
 Hist.: AD 4-1990, f. & cert. ef. 3-16-90

603-057-0520

Entry of Order and Appeal Rights

- (1) If a person, having received a notice of violation, fails to request a hearing as specified in OAR 603-057-0510(5)(d), or if after the hearing the person is found to be in violation of the provisions of these rules, an order may be entered by the department assessing a civil penalty.
- (2) The order shall be signed by the Director or his/her designate.
- (3) If the order is not appealed, any penalty is payable ten business days after the entry of the order.
- (4) The order, if not appealed or not sustained on appeal, shall constitute a judgment and may be recorded with the county clerk in any county of this state. The penalty provided in the order so recorded becomes a lien upon the title of any interest and real property in the county owned by the person against whom the order is entered.

Stat. Auth.: ORS 561 & ORS 634
 Stats. Implemented: ORS 634.306
 Hist.: AD 4-1990, f. & cert. ef. 3-16-90

603-057-0525

Civil Penalty Schedule Matrix

- (1) In addition to any other penalty provided by law, the Director may assess a civil penalty for violation of any provision of ORS 634 relating to pesticide application, sale or labeling. The amount of any civil penalty shall be determined using the following matrix in conjunction with the formula contained in OAR 603-057-0530(4). The amount identified by the matrix for a specific situation shall be considered the base penalty (B).

Magnitude	Gravity		
	Category I	Category II	Category III
High	\$370	\$300	\$200
Medium	\$300	\$200	\$100
Low	\$200	\$100	\$ 50

The amount of an initial civil penalty shall not exceed \$1,000 and any subsequent civil penalties for a repeat occurrence of the same prohibited act under ORS 634.372 shall not exceed \$2,000 per violation.

- (2) Magnitude of Violation: The commission of any prohibited act specified under ORS 634.372 has been determined to be a violation of ORS Chapter 634 subject to a civil penalty. The commission of each prohibited act has been categorized as to its magnitude of violation as follows:

- (a) Category I (Major):

- (A) Make false or misleading claims through any media, relating to the effect of pesticides or application methods to be utilized (ORS 634.372(1));
 - (B) As a pesticide applicator or operator intentionally or wilfully apply or use a worthless pesticide or any pesticide inconsistent with its labeling (ORS 634.372(2));
 - (C) As a pesticide consultant recommend the application or use of any pesticide inconsistent with its labeling (ORS 634.372(2));
 - (D) As a pesticide dealer knowingly distribute any pesticide for application or use inconsistent with its labeling (ORS 634.372(2));
 - (E) Perform pesticide application activities in a faulty, careless or negligent manner (ORS 634.372(4));
 - (F) As a pesticide dealer refuse or neglect to prepare required records of restricted use and highly toxic pesticide product sales and to maintain those records for at least three years prior to the date of inspection, which include the purchaser's name, address and certification number, sale date, and identification and quantity of product sold (ORS 634.372(5), OAR 603-057-0140). Four or more items of required information missing and/or incorrectly recorded;
 - (G) As a pesticide operator, public applicator or pesticide applicator not employed by a pesticide operator, refuse or neglect to prepare required pesticide application records, and to maintain those records for at least three years prior to the date of inspection, which include the name of the employer or customer, location, date, approximate time application was made, supplier and identity of product applied, amount of product applied, the specific property or the crop to which application was made, type of application equipment used, and the full name of the applicator or trainee who made the application (ORS 634.372(5); 634.146(1); OAR 603-057-0130). Four or more items of required information missing and/or incorrectly recorded;
 - (H) Prepare required records, reports or application forms which are false, misleading or fraudulent (ORS 634.372(6));
 - (I) Operate pesticide applicators' apparatus, machinery or equipment without a licensed pesticide applicator or certified private applicator performing the actual application, or supervising such application if performed by a pesticide trainee (ORS 634.372(7));
 - (J) As a pesticide applicator, work or engage in the application of any classes of pesticides without first obtaining and maintaining a pesticide applicator's license, or apply pesticides which are not specifically authorized by such license (ORS 634.372(8)). No license;
 - (K) As a pesticide operator, engage in the business of, or represent or advertise as being in the business of, applying pesticides on the property of another, without first obtaining and maintaining a pesticide operator's license, nor shall such person engage in a class of pesticide application business which is not specifically authorized by the license issued by the department. Further, no such person shall employ or use any person to apply or spray pesticides who is not a licensed pesticide applicator or pesticide trainee (ORS 634.372(9)):
 - (i) Firm licensing -- No license;
 - (ii) Employee licensing -- No license.
 - (L) As a pesticide trainee, work or engage in the application of any class of pesticides without first obtaining and maintaining a pesticide trainee's license and is otherwise in compliance with the provisions of this chapter (ORS 634.372(10)). No license;
 - (M) Act as or purport to be, a pesticide dealer or advertise as such without first obtaining and maintaining a pesticide dealer's license (ORS 634.372(11));
 - (N) Act as or purport to be a pesticide consultant without first obtaining and maintaining a pesticide consultant's license (ORS 634.372(12));
 - (O) Apply any pesticide classified as a restricted-use or highly toxic pesticide to agricultural, horticultural or forest crops on land owned or leased by the person without first obtaining and maintaining a private applicator certificate (ORS 634.372(13));
 - (P) As a person described in ORS 634.106(5), use power-driven pesticide application equipment or devices (use hand or backpack types only), or use or apply any pesticide other than those prescribed by the department (ORS 634.372(14));
 - (Q) Deliver, distribute, sell or offer for sale any pesticide which has been misbranded (ORS 634.372(15));
 - (R) Formulate, deliver, distribute, sell or offer for sale any pesticide which is adulterated (ORS 634.372(16));
 - (S) Make application of pesticides, by aircraft or otherwise, within a protected or restricted area without first obtaining a permit for such application from the committee of the protected or restricted area in which the application is to be made, nor shall such person make such an application contrary to the conditions or terms of the permit so issued (ORS 634.372(20));
 - (T) Use isopropyl ester of 2,4-D, or any other ester of equal or higher volatility with regard to plant damage as determined by the department, without first obtaining a permit for such use as provided in ORS 634.322(10); 634.372(21));
 - (U) Sell, use or remove any pesticide or device subjected to a "stop sale, use or removal" order until the pesticide or device has been released there-from as provided in ORS 634.322(3) (634.372(22)).
- (b) Category II (Moderate):
- (A) Operate a faulty or unsafe spray apparatus, aircraft or other application device or equipment (ORS 634.372(3));
 - (B) As a pesticide dealer refuse or neglect to prepare required records of restricted use and highly toxic pesticide product sales and to maintain those records for at least three years prior to the date of inspection, which include the purchaser's name, address and certification number, sale date, and identification and quantity of product sold (ORS 634.372(5); OAR 603-057-0140). Two or three items of required information missing and/or incorrect;
 - (C) As a pesticide operator, public applicator or pesticide applicator not employed by a pesticide operator, refuse or neglect to prepare required pesticide application records, and to maintain those records for at least three years prior to the date of inspection, which include the name of the employer or customer, the location, date, approximate time application was made, supplier and identity of product applied, amount of product applied, the specific property or the crop to which application was made, type of application equipment used, and the full name of the applicator or trainee who made the application (ORS 634.372(5); 634.146(1); OAR 603-057-0130). Two or three items of required information missing and/or incorrectly recorded;
 - (D) As a pesticide applicator, work or engage in the application of any classes of pesticides without applicator's license, or apply pesticides which are not specifically authorized by such license (ORS 634.372(8)). Inappropriate license;
 - (E) As a pesticide operator, engage in the business of, or represent or advertise as being in the business of, applying pesticides on the property of another, without first obtaining and maintaining a pesticide operator's license, nor shall such person engage in a class of pesticide application business which is not specifically authorized by the license issued by the department. Further, no such person shall employ or use any person to apply or spray pesticides who is not a licensed pesticide applicator or pesticide trainee (ORS 634.372(9)):
 - (i) Firm licensing -- Inappropriate license;
 - (ii) Employee licensing -- Inappropriate license.
 - (F) As a pesticide trainee, work or engage in the application of any class of pesticides without first obtaining and maintaining a pesticide trainee's certificate and is otherwise in compliance with the

- provisions of this chapter (ORS 634.372(10)). Inappropriate license;
- (G) Formulate, deliver, distribute, sell or offer for sale any pesticide which has not been registered as required by ORS 634.016 (634.372(17));
- (H) Formulate, deliver, distribute, sell or offer for sale any powdered pesticide containing arsenic or any highly toxic fluoride which is not distinctly colored (ORS 634.372(18));
- (I) Distribute sell or offer for sale any pesticide except in the manufacturer's original unbroken package (ORS 634.372(19)).
- (c) Category III (Minor):
- (A) As a pesticide dealer refuse or neglect to prepare required records of restricted use and highly toxic pesticide product sales and to maintain those records for at least three years prior to the date of inspection, which include the purchaser's name, address and certification number, sale date, and identification and quantity of product sold (ORS 634.372(5); OAR 603-057-0140). One item of required information missing and/or incorrectly recorded;
- (B) As a pesticide operator, public applicator or pesticide applicator not employed by a pesticide operator, refuse or neglect to prepare required pesticides application records, and to maintain those records for at least three years prior to the date of inspection, which include the name of the employer or customer, the location, date, approximate time application was made, supplier and identity of product applied, amount of product applied, the specific property or the crop to which application was made, type of application equipment used, and the full name of the applicator or trainee who made the application (ORS 634.372(5); 634.146(1); OAR 603-057-0130). One item of required information missing and/or incorrectly recorded.
- (3) Gravity of Violation: In consideration of a civil penalty for any violation of ORS Chapter 634, the Director shall evaluate the violation as to its gravity of effect. Such evaluation shall include, but not be limited to the threat posed to human health and/or the environment, the type of pesticide used or distributed, and if the pesticide was applied, its condition of usage. Following are the factors that may be considered in assigning a gravity ranking to a specific violation. The existence of one or more factors determined to be of high level shall constitute the gravity being considered to be of high level. Lacking any factor determined to be high level, the existence of one or more factors determined to be of medium level shall constitute the gravity being of medium level. Lacking any factor determined to be of high or medium level shall constitute the gravity being of low level:
- (a) Gravity of Effect -- High Level:
- (A) Human Threat Injury or illness occurred which was confirmed by medical evaluation conducted through the Oregon Pesticide Analytical And Response Center to have been caused by the pesticide exposure;
- (B) Environmental Threat:
- (i) Evidence of injury to crops, wildlife, and/or livestock documented by the department or other appropriate federal or state agency;
- (ii) Evidence of surface or groundwater contamination documented by the department or other appropriate federal or state agency.
- (C) Pesticide:
- (i) Designated as restricted use or highly toxic;
- (ii) Use or distribution halted due to emergency suspension.
- (D) Conditions of Usage:
- (i) Wide area of application;
- (ii) Use in area of high population density (e.g., urban, suburban).
- (b) Gravity of Effect -- Medium Level:
- (A) Human Threat Physical irritation occurred which was confirmed by medical evaluation conducted through the Oregon Pesticide Analytical And Response Center to have been caused by pesticide exposure;
- (B) Environmental Threat Symptoms of exposure visible in crops, wildlife, and/or livestock documented by the department or other appropriate federal or state agency;
- (C) Condition of Usage:
- (i) Moderate area of application;
- (ii) Use in area of medium population density.
- (c) Gravity of Effect -- Low Level:
- (A) Human Threat No injury, illness or physical irritation was confirmed by medical evaluation conducted through the Oregon Pesticide Analytical and Response Center;
- (B) Environmental Threat:
- (i) No evidence of injury to crops, wildlife, or livestock documented by the department or other appropriate federal or state agency;
- (ii) No evidence of surface water or groundwater contamination documented by the department or other appropriate federal or state agency.
- (C) Pesticide not Designated as Restricted Use or Highly Toxic;
- (D) Conditions of Usage:
- (i) Small area of application;
- (ii) Use in area of low population density (e.g., remote).
- Stat. Auth.: ORS 561 & ORS 634
Stats. Implemented: ORS 634.306, ORS 634.900 & ORS 634.915
Hist.: AD 4-1990, f. & cert. ef. 3-16-90
- 603-057-0530**
- Civil Penalty Determination Procedure
- In determining the amount of civil penalty to be assessed for any violation of ORS Chapter 634 the Director shall apply the following procedure:
- (1) Determine the magnitude of the violation, as specified in OAR 603-057-0525(2).
- (2) Determine the gravity of effect pertinent to the violation, as specified in OAR 603-057-0525(3).
- (3) Using the magnitude identified and the gravity of effect identified, determine the base penalty (B) utilizing the matrix contained in OAR 603-057-0525(1).
- (4) Calculate the amount of the civil penalty to be assessed utilizing the formula:
- $$NB + [(.1 \times NB)(P + H + R + C)] = \text{Penalty Amount}$$
- where:
- (a) N = the number of times, within a period of three years prior to and including the date of the current violative act, that the person has been determined by the department to have committed that violative act;
- (b) B = Base fine is the primary fine for a given violation derived from the matrix contained in OAR 603-057-0525(1).
- (c) P = Past occurrence of unrelated violations under ORS Chapter 634 for a period of three years prior to the date of the current violative act. P will be weighted from 0 to 6 in the following manner:
- (A) 0 = no prior violation or insufficient evidence on which to base a finding;
- (B) 1 = past occurrence of an unrelated Category III violation;
- (C) 2 = past occurrence of an unrelated Category II violation or two unrelated Category III violations;
- (D) 3 = past occurrence of an unrelated Category I violation, two unrelated Category II violations or three unrelated Category III violations;
- (E) 4 = past occurrence of two unrelated Category I violations, three unrelated Category II violations or four unrelated Category III violations;
- (F) 5 = past occurrence of three unrelated Category I violations, four unrelated Category II violations, or five or more unrelated Category III violations;
- (G) 6 = past occurrence of three or more unrelated Category I violations or five or more unrelated Category II violations.
- (d) H = History of the person in taking all feasible steps or proce-

dures necessary and appropriate to prevent or correct a violative action. H will be weighted from -2 to 2 in the following way:

(A) -2 = the person took all feasible steps to correct any prior violations;

(B) O = there is no prior history or insufficient information on which to base a finding;

(C) 1 = the person took some, but not all feasible steps to correct prior violations;

(D) 2 = the person took no action to correct prior violations.

(e) R = Preventability of violation and whether negligence or misconduct was involved. R will be weighted from -2 to 7 in the following way:

(A) -2 = the person's actions determined to be violative were unavoidable;

(B) O = information is insufficient to make any finding;

(C) 3 = the person's actions determined to be violative were reasonably avoidable;

(D) 7 = the person's actions were flagrant.

(f) C = Cooperativeness on the part of the person to assist the department in its investigation and to the extent possible, rectify the violation. C will be weighted from -2 to 2 in the following way:

(A) -2 = the person is cooperative;

(B) -1 = the person provides limited cooperation;

(C) O = the person is neither cooperative nor uncooperative;

(D) 1 = the person is generally uncooperative;

(E) 2 = the person is uncooperative.

Stat. Auth.: ORS 561 & ORS 634

Stats. Implemented: ORS 634.306, ORS 634.900 & ORS 634.915

Hist.: AD 4-1990, f. & cert. ef. 3-16-90; AD 16-1990(Temp), f. & cert. ef. 8-10-90; AD

22-1990, f. & cert. ef. 12-17-90

603-057-0535

Pesticide Use on Crops Grown for Seed Production

(1) For purposes of pesticide product registration, labeling, distribution and use, certain crops when grown exclusively for seed production with the sole intent of the seed being planted, or with the sole intent of the seed being processed to produce nonedible industrial or nonedible cosmetic oil, shall be considered nonfood/nonfeed sites. If certain conditions are met as specified in this rule, a pesticide residue tolerance is not required to obtain a pesticide registration on the crop. These crops include, but are not limited to: [Table not included. See ED. NOTE.]

(2) Certain crops which may be grown for seed production, shall be considered food/feed sites, and not eligible to obtain a nonfood/nonfeed status. These crops include, but are not limited to: Cereal Grains: including barley, buckwheat, corn, millet, oats, rye, sorghum, triticale, and wheat; Legume Vegetables (succulent and dried): including all peas, beans, chickpeas, and lentils; canola (as defined in OAR 603-052-0860(a)); garlic; potatoes; pumpkins; sunflower.

(3) If the Department receives an application for a FIFRA Section 24(c) registration or a FIFRA Section 18 authorization, and the pesticide product is intended to be used on a seed crop not listed in (1) or (2) above, additional information must be provided to the Department to support a nonfood/nonfeed designation. The Department shall make or deny the nonfood/nonfeed designation based upon evaluation of available information.

(4) In order for a pesticide product to be registered, labeled, distributed and used on a crop grown exclusively for seed production, as identified in (1) above, the following conditions must be met:

(a) The seed conditioner shall maintain a record of each pesticide applied to the seed crop for which there is no established pesticide residue tolerance. This record shall include the date of each application.

(b) No seed produced in Oregon utilizing a pesticide product for which there is no established pesticide residue tolerance on the seed crop may be distributed for human or animal consumption.

(c) All screenings resulting from a seed crop identified in (1) above

shall be disposed of in such a manner that the screenings cannot be distributed or used for food or feed purposes.

(d) No portion of the seed crop to which a pesticide product having no established pesticide residue tolerance for the seed crop has been applied shall be used or distributed for food or feed. This restriction pertains to, but is not limited to, green chop, hay, pellets, meal, whole seed, cracked seed, straw, roots, bulbs, foliage or seed screenings, and to the grazing of the crop field, stubble or regrowth.

(e) The seed conditioner shall keep records of all seed screening disposals for at least three years from the date of disposal and shall furnish these records to the department upon request.

(f) The disposal records required in section (e) above shall consist of documentation verifying shipment to the controlled site where disposal occurred, and shall identify each of the following:

(A) The name, if applicable, and location of the disposal site;

(B) Method of disposal (i.e., burial, composting, or incineration);

(C) Amount and type of material disposed of; and

(D) The date of shipment to the disposal site.

(5) Administrative rules enacted and administered by the Oregon Department of Environmental Quality, contained in OAR 340-100-0010, specify that any portion of a seed crop grown in this state, its foliage, seed chaff, screenings or other crop by-products treated with a pesticide according to label instructions shall not be considered a hazardous waste. Therefore, the requirements for disposal of hazardous waste shall not apply to the disposal of a pesticide treated seed crop or its by-products.

(6) Refusing or neglecting to prepare and maintain the records required to be kept by (4)(a) and (4)(e) of this section shall be considered a prohibited act according to ORS 634.372(5).

(7) Making false, misleading or fraudulent records required by (4)(a) and (4)(e) of this section shall be considered a prohibited act according to ORS 634.372(6).

(8) Any seed from a field treated with a pesticide product having no pesticide residue tolerance shall bear specific and conspicuous container labeling, or if shipped in bulk, on the shipment invoice or bill of lading. Said labeling shall contain the following statement: "This seed was produced using one or more products for which the United States Environmental Protection Agency has not established pesticide residue tolerances. This seed, in whole, as sprouts, or in any form, may not be used for human consumption or animal feed. Failure to comply with this condition may violate requirements of the Federal Food and Drug Administration, the Oregon Department of Agriculture and other regulatory agencies."

(9) All possessors of seed labeled as specified in (8) above, including brokers and dealers, shall prepare and maintain records which include a copy of the seed labeling.

(10) The conditions contained in (1) through (9) of this rule shall not apply to a seed crop, or its by-products, grown in Oregon under the following conditions:

(a) Having no pesticide(s) applied to it; or

(b) Utilizing only pesticides registered and labeled for application to the crop, and having established residue tolerances for the specific crop and its by-products.

(11) The requirements specified in (8) and (9) of this rule shall not apply if the seed is sold or distributed in consumer packets weighing less than 5.0 oz., and is intended for retail sale and noncommercial use.

(12) The restrictions contained in (4)(d) of this rule may be modified by the Department if residue data are provided, and the data and modification are considered acceptable by both the Department and the U.S. Environmental Protection Agency.

(13) If the conditioner has not been provided information as to what pesticides were applied to a field producing a seed crop specified

in (1) above, the field will be considered to have been treated with a pesticide not having a tolerance. In such situations, the seed conditioner will be exempt from the requirements of (4)(a) above. All other requirements of (4)(b) through (9) shall apply.

(14) Any seed grown in Oregon, and conditioned in another state which has a labeling requirement for seed conditioned in that state similar to (8) above, shall be exempt from the labeling requirements contained in (8) above. Seed exported from Oregon under conditions specified in this subsection must be labeled as required in (8) above by the grower, broker or other responsible party.

(15) Any "treated seed" as defined in OAR 603-56-431(1)(a), and meeting the labeling requirements of OAR 603-56-431(1), shall

be exempt from the labeling requirements contained in (8) above. Prior to treatment, the seed must be labeled as required in (8) above.

[ED. NOTE: Tables referenced in this rule are available from the agency.]

Stat. Auth.: ORS 561.190 & ORS 634

Stats. Implemented: ORS 634.306 & ORS 634.322

Hist.: AD 4-1993, f. & cert. ef. 2-12-93; DOA 17-2001, f. 8-16-01, cert. ef. 1-1-02

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State.

**DEPARTMENT OF ENVIRONMENTAL QUALITY
DIVISION 109
HAZARDOUS WASTE MANAGEMENT
Management of Pesticide Waste**

General

340-109-0001

Purpose and Applicability

(1) The purpose of this Division is to specify procedures for managing pesticide residues and empty pesticide containers. This Division does not apply to any federally regulated pesticide waste, including waste regulated under 40 CFR Part 273.

NOTE: Although the permit applicant or permittee will interface primarily with the Department as is indicated by these rules, hazardous waste disposal facility permits are issued by the Environmental Quality Commission while hazardous waste storage and treatment facility permits are issued by the Department.

(2) Persons must also consult 40 CFR Parts 260 - 266, 268, 270, and 124, which are incorporated by reference in OAR 340-100-0002, to determine all applicable hazardous waste management requirements.

NOTE: 40 CFR Part 124 includes requirements applicable to several programs, including UIC, NPDES, 404, etc. Only the provisions of 40 CFR Part 124 Subparts A and B which are applicable to hazardous waste or "RCRA" permits are incorporated by reference in OAR 340-100-0002, as modified by Division 106.

Stat. Auth.: ORS 183.325 - ORS 183.335, 466.02 &, 468.020

Stats Implemented: ORS 466.005 & 466.075,

Hist.: DEQ 7-1984, f. & ef. 4-26-84; DEQ 17-1984, f. & ef. 8-22-84; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 13-2003, f. & cert. ef. 10-24-03

Pesticides

340-109-0010

Pesticide Residue Waste Management

(1) A person producing pesticide-containing material from any pesticide operation or pesticide management shall make every effort to beneficially use or reuse such material to the extent permissible under federal and state law. Persons accumulating pesticide-containing material for use or reuse, shall contain these materials according to industry standards for containing commercial pesticides for use or reuse, and the container shall be labeled as to its contents and marked with the EPA Registration Number(s) for the pesticide(s).

(2) A person producing pesticide residue at a public-use airport, pesticide dealership or other permanent base of operation, and who does not beneficially use or reuse such residue, must manage the pesticide residue:

(a) According to the universal waste management standards in 40 CFR Part 273 and OAR 340 Division 113, and standards in this Division, whereby such residues are designated "waste pesticide." A waste pesticide designation occurs only when the owner or manager of the residue:

- (A) Contains the wastes; and
- (B) Labels the container with the words "waste pesticide," and
- (C) Marks the container(s) with the date the wastes are created, and
- (D) Manages the contained wastes according to the universal waste management standards in 40 CFR Part 273 and OAR 340 Division 113; or

(b) Under a Water Pollution Control Facility (WPCF) permit issued pursuant to OAR 340 Division 14; or

(c) As otherwise authorized by the Department. Such management shall be in conformance with the following performance standards:

- (A) Containment by any one or combination of: physical means (e.g., natural or man-made liners), chemical means (e.g., adsorption-absorption layers), or other equivalent means;
- (B) Detoxification by any one or combination of: physical means (e.g., solar radiation), chemical means (e.g., hydrolysis), biological means (e.g., microbial degradation), or other equivalent means;
- (C) Volume reduction by any one or combination of: evaporation,

evapo-transpiration, use for new product makeup, or other equivalent means; and

(D) Protection of groundwater and surface waters by any one or combination of: system design, construction materials, or a groundwater monitoring program.

(3) Pesticide residue managed other than as specified in this Division, or by the Department remains a hazardous waste and is subject to OAR 340, Divisions 100 to 106 and 142.

(4) Waste pesticide may be managed in:

(a) A RCRA Subtitle C hazardous waste facility meeting the requirements of Division 100 to 106 and 142; or

(b) A permitted RCRA Subtitle D facility meeting the requirements of OAR 340 Division 94 provided either the applicable land disposal concentration-based standards in 40 CFR 268.40 are met for waste pesticide containing any pesticide active ingredient(s) listed in 40 CFR 261.33(e) and (f), or if standards do not exist, the wastes do not fail the "Department of Environmental Quality Aquatic Toxicity Test," whereby a representative sample of a pesticide residue exhibits a 96-hour aquatic toxicity LC 50 equal to or less than 250 mg/l; or

(c) A facility having a Water Pollution Control Facility (WPCF) permit issued pursuant to OAR 340, Division 14; or

(d) As otherwise authorized by the Department. Such management shall be in conformance with the following performance standards:

(A) Containment by any one or combination of: physical means (e.g., natural or man-made liners), chemical means (e.g., adsorption-absorption layers), or other equivalent means, and

(B) Detoxification by any one or combination of: physical means (e.g., solar radiation), chemical means (e.g., hydrolysis), biological means (e.g., microbial degradation), or other equivalent means, and

(C) Volume reduction by any one or combination of: evaporation, evapo-transpiration, use for new product makeup, or other equivalent means, and

(D) Protection of groundwater and surface waters by any one or combination of: system design, construction materials, or a groundwater monitoring program.

(5) A person producing pesticide residue at a temporary base of operation, and who does not beneficially use or reuse such residue, must manage such residue either:

(a) At a permitted facility or site participating in a pesticide collection program; or

(b) By spraying on the ground, provided:

(A) The residue is sprayed under pressure through a nozzle which is moving at a sufficient rate of speed so as not to saturate the ground with waste;

(B) The person doing the spraying owns or controls the management of the ground, or receives permission from the manager, owner, or controller of the ground;

(C) The spray site location will not endanger surface water or groundwater, or pose a hazard to humans, wildlife (game and non-game animals) or domestic animals; and

(D) If applied to agriculture land, the pesticide residue will not result in excessive or prohibited residuals in current or subsequent crops.

(6) A person who spills pesticide residue shall:

(a) Report and clean up such spill in accordance with OAR 340, Division 142.

Stat. Auth.: ORS 183.325 - 183.335, 466.020, 468.020 & 468

Stat Implemented: ORS 466.025 & 466.075

Hist.: DEQ 7-1984, f. & ef. 4-26-84; DEQ 17-1984, f. & ef. 8-22-84; DEQ 12-1996, f. & cert. ef. 7-31-96; DEQ 13-2003, f. & cert. ef. 10-24-03

Empty Containers

340-109-0020

Empty Container Management

(1) Empty rigid pesticide containers, including but not limited to

cans, pails, buckets or drums constructed of metal, plastic, glass, or fiber may be managed as ordinary solid waste and decontaminated, verified and altered as follows:

- (a) Decontamination consists of removing any residual by:
 - (A) Jet or multiple rinsing;
 - (B) Aeration of volatile substances;
COMMENT: For purposes of this rule, all fumigants are considered to be volatile.
 - (C) Chemical washing methods such as those used to recondition metal drums; or
 - (D) Other methods that have been shown in the scientific literature, or by generator tests, to achieve equivalent removal.
- (b) Verification consists of observing no residue on the interior surface of the container, or no turbidity (less than 5 Nephelometric turbidity units) in a sample rinse when a diluent, which does not solubilize the residue, is placed in the container to fill five percent of its volume and agitated for 30 seconds.
- (c) Alteration consists of puncturing or removing both ends and crushing the container except that:
 - (A) 30-gallon or larger containers shall be punctured or have their ends removed but need not be crushed;
 - (B) Containers to be beneficially used or reused need not be altered if alteration would interfere with such use or reuse; and
 - (C) Gas cylinders shall be altered by removing the closure valve or valve stem to ensure venting.
COMMENT: Extreme caution should be exercised in altering containers having held flammable pesticides or solvents.
- (2) Empty non-rigid pesticide containers, including paper, paper-laminated and paper-laminated foil bags, may be managed as ordinary solid waste and disposed as follows:

- (a) In a permitted solid waste landfill; or
- (b) Burned in an incinerator or boiler which has been permitted by the Department; or
- (c) Open burned in less than 50 pound lots on-site on the day of generation or as soon thereafter as feasible provided the site is not a public-use airport, distributorship or other permanent base of operation and the burning does not emit dense smoke, noxious odor or creates a public nuisance. Open burning shall be in compliance with OAR Chapter 340, Division 23, local fire district requirements, and in such a manner as to protect public health and the environment. The ash and foil liners must be buried after burning.
- (3) Farmers may bury empty non-rigid or decontaminated rigid pesticide containers on their own property provided:
 - (a) The containers were generated from their own use; and
 - (b) The burial site is on flat ground, not in a swale, and at least 500 feet from surface water or any well.
- (4) No person shall use or provide for use empty or decontaminated pesticide containers to store food, fiber or water intended for human or animal consumption.

Stat. Auth.: ORS 183, ORS 459 & ORS 468
Stats. Implemented: ORS 466.020 & ORS 466.075
Hist.: DEQ 7-1984, f. & ef. 4-26-84; DEQ 17-1984, f. & ef. 8-22-84

The official copy of an Oregon Administrative Rule is contained in the Administrative Order filed at the Archives Division, 800 Summer St. NE, Salem, Oregon 97310. Any discrepancies with the published version are satisfied in favor of the Administrative Order. The Oregon Administrative Rules and the Oregon Bulletin are copyrighted by the Oregon Secretary of State.