

DIVISION 57

PESTICIDE CONTROL

General

- 603-057-0001 Definitions
- 603-057-0006 Pesticide Registration Fees

Operators, Applicators, Dealers, and Consultants

- 603-057-0100 License Fees
- 603-057-0102 Pesticide Operator Financial Responsibility
- 603-057-0106 Immediately Supervised Pesticide or Public Trainee
- 603-057-0110 Pesticide Operator, Applicator, and Trainee Categories
- 603-057-0115 Pesticide Operator, Applicator, and Trainee Subcategories
- 603-057-0120 General Standards of Pesticide Applicator Competence
- 603-057-0125 Special Standards of Pesticide Applicator Competence
- 603-057-0127 Pesticide Trainee and Public Trainee Standards of Competence
- 603-057-0130 Applicator's Records and Reports
- 603-057-0135 Private Applicator Standards of Competence
- 603-057-0140 Pesticide Dealer Records
- 603-057-0145 Pesticide Consultant Standards of Competence
- 603-057-0150 Alternative Requirements for Competence of Pesticide Applicator or Consultant License Renewal
- 603-057-0160 Pesticide Use for Experimental or Research Purposes
- 603-057-0180 Pesticide License Equivalency Provision

General Restrictions on Pesticide Uses

- 603-057-0200 Limitations on Restricted Use Pesticides
- 603-057-0205 Listing of Restricted Use Pesticides
- 603-057-0216 Pesticide Residue Tolerances in Foods

Restrictions and Limitations on Uses or Applications of Pesticides

- 603-057-0300 Specifications for Use of Pesticides Containing Thiram as Animal Repellents

Restrictions on Use of the Pesticide 2,4-D

- 603-057-0301 2,4-D; High Volatile Esters
- 603-057-0305 Areas Affected
- 603-057-0310 Time Period
- 603-057-0315 Prohibited Acts
- 603-057-0320 Permits and Applications

Restrictions on Use or Application of Specific Pesticides

- 603-057-0325 Sodium Cyanide and M-44 Device
- 603-057-0335 Sodium Cyanide and M-44 Device; Restrictions on Use
- 603-057-0350 Sodium Cyanide and the M-44 Device; Records and Reports
- 603-057-0355 Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar
- 603-057-0360 Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar; Restrictions on Use
- 603-057-0365 Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar; Registrant of Livestock Protection Collars
- 603-057-0375 Sodium Fluoroacetate (Compound 1080) and the Livestock Protection Collar; Records and Reports

Restrictions on Microencapsulated Methyl Parathion

- 603-057-0376 Microencapsulated Methyl Parathion
- 603-057-0378 Limitations on Pesticide Products Containing Clopyralid
- 603-057-0384 Persistent, Bioaccumulative and Toxic (PBT) Polutants

Reporting Pesticide Use

- 603-057-0405 General Requirements
- 603-057-0410 Pesticide Users Required to Report
- 603-057-0411 Pesticide User Information
- 603-057-0412 Pesticide Product Identification; Date of Use; Amount
- 603-057-0413 Description of the Type of Site Where the Pesticide Was Used
- 603-057-0414 Description of the Purpose of Pesticide Use
- 603-057-0415 Location of Pesticide Use; Aggregation of Information
- 603-057-0416 Reports of Pesticide Use for Research
- 603-057-0417 Access to Reported Information
- 603-057-0418 Requests for Pesticide Use Information
- 603-057-0420 Civil Penalty Determination for Failure to Comply with Confidentiality Agreement
- 603-057-0425 Household Pesticide Use Information

Civil Penalties for Violations of ORS Chapter 634

- 603-057-0500 Definitions
- 603-057-0502 Civil Penalties Generally
- 603-057-0505 Consolidation of Proceedings
- 603-057-0510 Notice of Violation, Notice of Assessment of Civil Penalties, and Notice of Contested Case Rights and Procedures
- 603-057-0520 Entry of Order and Appeal Rights
- 603-057-0525 Civil Penalties; Magnitude of Violation and Gravity of Effect
- 603-057-0530 Civil Penalty For A Violation Not Resulting From Gross Negligence or Willful Misconduct; Formula for Amount
- 603-057-0532 Civil Penalty For A Violation Resulting From Gross Negligence or Willful Misconduct; Formula for Amount
- 603-057-0535 Pesticide Use on Crops Grown for Seed Production

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," "supervisors," 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 & 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 & 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 & 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 & 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, pes-

ticide 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, pesticide trainees, public applicators and public trainees who use or supervise the use of pesticides, or of any substance or mixture of substances that is being evaluated for use as a pesticide, for experiments or research such as for gathering data to satisfy registration requirements of the United States Environmental Protection Agency or of the department. The exemption provided manufacturers under subsection (1) of ORS 634.106 only applies to laboratory research. The uses included in this category must be:

(a) Authorized by an experimental use permit issued by the United States Environmental Protection Agency;

(b) Authorized by an experimental use permit issued by the department as provided in OAR 603-057-0160; or

(c) By a federal or state agency that is exempt from obtaining an experimental use permit as provided in OAR 603-057-0160(2)(b).

(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 & 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; DOA 8-2009, f. & cert. ef. 7-15-09

**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 nematocides 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 & 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 & 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 & 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 & 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 & 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 & 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 add the category Demonstration and Research, as defined in OAR 603-057-0110 (3), to his/her license following successful completion of the written examination for the Demonstration and Research category.

(4) A pesticide consultant licensed pursuant to this section in the category Demonstration and Research is eligible to be licensed as a pesticide applicator in the category of Demonstration and Research without further examination. An application for such applicator's license, or for the addition of the category to an existing license, and the appropriate fee payment must be made separately from the application for, or the addition to, a pesticide consultant's license.

(5) 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.

(6) An applicant for a pesticide consultant's license renewal shall be required to take and successfully complete 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 reexamination shall be waived.

(7) In the event an applicant for a pesticide consultant's license fails the written examination or reexamination, the applicant shall be qualified to take the examination again upon submitting a new application for the same.

(8) A pesticide consultant licensed pursuant to this section shall also be eligible to be licensed as a private applicator for the purpose of purchasing, using or supervising the use of any restricted use or highly toxic pesticides for the purpose of producing agricultural commodities or forest crops on land owned or leased by the person. An application and fee payment for a private applicator's license must be made separately from the application and fee payment for the pesticide consultant license. The certification date of the Private Applicator license will be consistent with that of the consultant license.

Stat. Auth.: ORS 561 & 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; DOA 8-2009, f. & cert. ef. 7-15-09

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 writ-

ten 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 & 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, cert. ef. 8-9-96; AD 6-1997, f. & cert. ef. 6-11-97

**603-057-0160**

**Pesticide Use for Experimental or Research Purposes**

(1) Use of any substance or combination of substances as a pesticide with the intent of gathering data needed to satisfy pesticide registration requirements of the United States Environmental Protection Agency (EPA) or of the department shall be considered pesticide use for experimental or research purposes.

(a) An experimental use permit that is issued by the department constitutes the approval required by ORS 634.022(2).

(b) The permit requirement in this section is in addition to pesticide licensing requirements.

(2) The requirement to obtain an experimental use permit is not applicable to:

(a) Experiments or research conducted by federal or state agencies; or

(b) Experiments or research conducted entirely in one or more greenhouses; or

(c) Experiments or research that only:

(A) Use pesticides that are registered by EPA and the department; and

(B) Use pesticides in the manner consistent with the product label.

(3) To obtain an experimental use permit, a person must submit a complete application to the department and be in compliance with subsection (14) of this section. The pesticide use described in the application may not begin until the department issues the experimental use permit.

(a) The applicant must use a form approved by the department; and

(b) The application must be submitted to the department at least 30 days prior to intended use.

(4) There are two types of experimental use permits: site-specific and collective.

(5) A site-specific experimental use permit authorizes pesticide use for experimental or research purposes that are at sites specified in the permit and are not covered by a collective experimental use permit.

(a) Approvable sites include, but are not limited to, aquatic, residential, recreational and structural sites, areas with public access, commodity storage facilities, and areas exceeding a total of one acre.

(b) Each application for a site-specific experimental use permit will include the following:

(A) The name, address, and telephone numbers of the applicant and of the person responsible for carrying out the provisions of the experimental use permit;

(B) Identification of each pesticide to be used, including;

(i) The name of the pesticide active ingredient;

(ii) The name of the pesticide product, if any; and

(iii) The EPA registration number of the pesticide product, if any.

(C) The name, address, and telephone numbers of the person responsible for carrying out the provisions of the experimental use permit at each specific site, and the number of the pesticide-related license issued to the person by the department, and the means of locating the person in case of an emergency;

(D) The purpose of the experiment or research, including a list of the intended target pest(s), if any;

(E) The approximate date(s) of pesticide use;

(F) The intended crop or site of pesticide use;

(G) Specific description and location of each site where pesticide use may occur, including the size (for example, acres, or square feet) of each site;

(H) Disposition of any food or feed item from the crop or site on which the pesticide will be used;

(I) Application rate(s) of the pesticide, and number of applications;

(J) Method of application;

(K) Timing and duration of the proposed experiment or research;

(L) Total amount of pesticide to be used, diluent, and dilution rate;

(M) Copy of any experimental use permit issued by EPA, if applicable;

(N) A copy of the labeling that will accompany the pesticide in the field; and

(O) Any other information pertinent to the experiment or research specifically requested by the department.

(6) A site-specific experimental use permit may be issued for up to twelve months from the date of approval by the department.

(7) A collective experimental use permit authorizes pesticide use for experiments or research without identifying any specific site. Approvable sites include agricultural and forestry sites.

(a) The applicant may use one or more sites in any location in Oregon provided that the total size of all of the sites used for a particular pesticide does not exceed one acre.

(b) Each application for a collective experimental use permit will include the following:

(A) The name, address, and telephone numbers of the applicant and of the person responsible for carrying out the provisions of the experimental use permit, the number of the pesticide-related license issued to the person by the department, and the means of locating the person in case of an emergency;

(B) A signed statement that all pesticide use will comply with all of the provisions of the collective experimental use permit and of this section; and

(C) Any other information pertinent to the application specifically requested by the department.

(8) A collective experimental use permit will be issued for as long as one calendar year, ending December 31st.

(9) Any person conducting pesticide use for experimental or research purposes must be appropriately licensed by the department and include the category Demonstration and Research, as specified in OAR 603-057-0110(3), on that license. This licensing requirement applies to all persons making pesticide applications for experimental or research purposes and is not limited to persons conducting pesticide research authorized by an experimental use permit.

(10) Any crop or site on which a pesticide is used for experimental or research purposes shall be under the control of the person authorized to conduct that pesticide use. Said control may include:

(a) Ownership, rental or lease of the land on which the crop or site is located by the person;

(b) Ownership, rental or lease of the land on which the crop or site is located by the immediate employer of the person;

(c) Documented permission for the pesticide use from the owner, renter or leaseholder of the land on which the crop or site is located;

(d) Documented permission for the pesticide use from the public entity in possession or control of the land on which the crop or site is located.

(11) Any person using pesticides for experimental or research purposes shall prepare, maintain, and provide records in the same manner as in ORS 634.146.

(12) As provided by ORS 634.322(6), the department may deny an application for an experimental use permit or, amend, suspend or revoke any experimental use permit issued by the department.

(13) The department may establish conditions in an experimental use permit approval that the department determines necessary to be consistent with ORS Chapter 634 and this section.

(14) The holder of an experimental use permit shall provide the department a summary report of the experiments and research conducted under the permit no later than 30 days after the expiration date of the permit.

(a) Each summary report must include, at a minimum, the identification number of the experimental use permit, the records required by subsection (11) of this section, any adverse environmental, human, or animal health effects resulting from the pesticides used, and, if any pesticide use occurred on a food or feed item, documentation of food or feed item destruction, crop/site isolation, or other measures taken to prevent the food or feed item from being used or consumed.

(b) If the required summary report is not provided to the department, the department will not issue any future experimental use permit to the applicant.

(15) If information is provided in an experimental use permit application, summary report, or other form that is identified by the applicant as confidential, the department will hold the information confidential to the extent allowed under ORS Chapter 192.

(16) Any food or feed item to which a pesticide used for experimental or research purposes has been applied must be rendered unusable for food or feed unless a tolerance greater than the residues resulting from the use has been established or, if allowed by law, conditions implemented to prevent any use of the treated crop/site for food or feed for a period no less than 365 days. Such food or feed item may include, but is not limited to crop, forage (including grazing rangeland or pasture), green chop, hay, seed screenings, silage, and straw. The department requires documentation of food or feed item destruction or crop/site isolation as a condition of the experimental use permit.

(17) The department may monitor any pesticide used for experimental or research purposes. Monitoring may include, but is not limited to:

(a) Observing, inspecting, and documenting mixing, loading, transportation, and application activities;

(b) Inspecting and documenting application equipment;

(c) Collecting and analyzing samples;

(d) Interviewing any person that may have knowledge regarding the pesticide use; and

(e) Reviewing any records.

(18) The permit holder or the person that conducted the pesticide use must immediately report to the department any adverse environmental, human, or animal health effects resulting from pesticides used for experimental or research purposes.

(19) In addition to any other liability or penalty provided by law, any failure by any person to comply with the provisions of this section, as determined by the department, may be used as a basis for one or more of the following actions, if applicable:

(a) To revoke, suspend or refuse to issue an experimental use permit, in accordance with ORS 634.022 or 634.322(6);

(b) To revoke, suspend or refuse to issue any license of a permit holder or of a person that conducted a pesticide use for experimental or research purposes, in accordance with ORS 634.322(4);

(c) To impose a civil penalty, in accordance with ORS 634.900.

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Hist: DOA 8-2009, f. & cert. ef. 7-15-09; DOA 15-2009, f. & cert. ef. 12-7-09

### 603-057-0180

#### Pesticide License Equivalency Provision

A pesticide applicator or public pesticide applicator licensed pursuant to ORS 633.122 in the subcategory Agriculture-Herbicide, or in the subcategory Agriculture-Insecticide/Fungicide, or in the category Forest Pest Control, shall be eligible to be licensed as a Private applicator to purchase, use, and/or supervise 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 licensee or licensee's immediate employer. An application and fee payment for such Private applicator license must be made separately from the application and fee payment for the pesticide applicator or public pesticide applicator license. The certification date of the Private Applicator license will be consistent with that of the pesticide applicator or public pesticide applicator license.

Stat. Auth.: ORS 634

Stats. Implemented: ORS 634

Hist.: DOA 9-2009, f. & cert. ef. 7-15-09

#### 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 & 634

Stats. Implemented: ORS 634.306 & 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: Publications referenced are available from the agency.]

Stat. Auth.: ORS 561.190 & 634

Stats. Implemented: ORS 634.306 & 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.: AD 7-1977, f. & ef. 4-5-77; DOA 9-2007(Temp), f. & cert. ef. 6-7-07 thru 12-1-07; DOA 16-2007, f. & cert. ef. 10-25-07

**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: Exhibits referenced are available from the agency.]  
 Stat. Auth.: ORS 561 & 634  
 Stats. Implemented: ORS 634.306, 634.410, 634.415, 634.420 & 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, 634.306 & 634.322  
 Stats. Implemented: ORS 634.306 & 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, 634.306 & 634.322  
 Stats. Implemented: ORS 634.306 & 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, 634.306 & 634.322  
 Stats. Implemented: ORS 634.306 & 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, 634.306 & 634.322  
 Stats. Implemented: ORS 634.306 & 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 Department 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, 634.306 & 634.322  
 Stats. Implemented: ORS 634.306 & 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 & 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 spec-

ified 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 & 634  
Stats. Implemented: ORS 634.306(13) & 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 & 634  
Stats. Implemented: ORS 634.306(13) & 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 & 634  
Stats. Implemented: ORS 634.306(13) & 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 & 634  
Stats. Implemented: ORS 634.306(13) & 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 & 634  
Stats. Implemented: ORS 634.306(13) & 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 & 634

Stats. Implemented: ORS 634.306(13) & 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 & 634

Stats. Implemented: ORS 634.306 & 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 agricultural, 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) & 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) Pollutants**

(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. & cert. ef. 8-28-00 thru 2-10-01; DOA 31-2000, f. & cert. ef. 11-7-00

### 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 com-

modities 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, 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 con-

fidential 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.

(d) 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, 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, 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 develop-

ing, 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) "Gravity of Effect" is the ranking of a violation with respect to its effect, or potential effect, on the public interests reflected in ORS 634. A violation is ranked as high, medium, or low.

(5) "Gross negligence" means an act or omission that does not reflect an exercise of reasonable care under the circumstances and that is characterized by conscious indifference to or reckless disregard of any purpose of the State Pesticide Control Act.

(6) "Injury" includes, but is not limited to, adulteration.

(7) "Intentionally" means the person acts, or fails to act, with a deliberate or an express purpose. For instance, a person acts intentionally when the person either consciously chooses not to determine whether a pesticide label authorizes use of a pesticide on a particular crop, or when the person knows that a pesticide label does not authorize use of the pesticide on a particular crop but still chooses to apply the pesticide to the crop.

(8) "Knowingly" means the person acts, or fails to act, with a practical understanding of, or a distinct skill in, the general activity that was obtained through such means as instruction, study, practice, or experience.

(9) "Magnitude of Violation" is the categorization of a violation in relation to other types of violations after considering its potential to affect the public interests reflected in ORS 634. A violation is categorized as major, moderate, or minor.

(10) "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.

(11) "Violation" is an act or omission that does not comply with a provision of ORS 634 that relates to pesticide application, sale, or labeling.

(12) "Willfully" means the person acted, or failed to act, after calculating and considering the potential effects and consequences.

(13) "Willful misconduct" means an act or omission that is characterized by or resulting from calculation and consideration of effects and consequences, and with awareness that the act or omission will be incompatible with any purpose of the State Pesticide Control Act.

Stat. Auth.: ORS 561, 634 & 183.335(5)  
 Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915  
 Hist.: AD 4-1990, f. & cert. ef. 3-16-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

**603-057-0502**

**Civil Penalties Generally**

(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.

(2) Where the Director determines that a violation did not result from gross negligence or willful misconduct, or if the violation occurred before June 25, 2007, the Director will determine the amount of any civil penalty for that violation using OAR 603-057-0525 and 603-057-0530. The amount of such civil penalty for a first violation shall not exceed \$1,000, and the amount of such civil penal-

ty for any subsequent violation of the same provision shall not exceed \$2,000.

(3) Where the Director determines that a violation resulted from gross negligence or willful misconduct and occurred on or after June 25, 2007, the Director will determine the amount of any civil penalty for that violation using OAR 603-057-0525 and 603-057-0532. The amount of such civil penalty for a first or a subsequent violation shall not exceed \$10,000.

(4) Where the Director determines that a violation involves a failure to comply with a confidentiality agreement related to the pesticide use reporting program, the Director will determine the amount of any civil penalty for that violation using OAR 603-057-0420. The amount of such civil penalty for a first or subsequent violation of such confidentiality agreement shall not exceed \$10,000.

(5) If a person requests a hearing, nothing in this division of administrative rules prevents the Department from amending the notice to impose civil penalties for the violation under OAR 603-057-0525 and 603-057-0530 and, in the alternative, under OAR 603-057-0525 and 603-057-0532. The amended notice will specify which civil penalty will be assessed if the hearing does not occur for any reason.

(6) A civil penalty imposed under the applicable statutes and these rules may be remitted or reduced upon such terms and conditions as the Director considers proper and consistent with public health and safety.

(7) Civil penalties shall be due and payable ten (10) business days after the order becomes final by operation of law or on appeal. A person may pay a civil penalty before an order becomes final. Payment of a civil penalty before an order becomes final is an admission by the person of all of the allegations in the Notice of Imposition of Civil Penalty.

Stat. Auth.: ORS 561, 634 & 183.335(5)  
 Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, & 634.900 - 634.915  
 Hist.: DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

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

**603-057-0510**

**Notice of Violation, Notice of Assessment of Civil Penalties, and Notice of Contested Case Rights and Procedures**

(1) The Director may determine that a person violated a provision of ORS 634 and decide to not impose a civil penalty. In such circumstances, the Director will issue a written Notice of Violation. The Notice of Violation shall inform a person of the existence of a violation and the consequences of non-compliance.

(2) The Director may determine that a person violated a provision of ORS 634 relating to pesticide application, sale or labeling, and decide to impose a civil penalty. In such circumstances, the Director will issue a written Notice of Imposition of Civil Penalty. The Notice of Imposition of Civil Penalty will inform the person of the existence of a violation, state the amount of the penalty imposed for the violation, and summarize how the penalty was calculated.

(3) Notices of Violation and Notices of Imposition of Civil Penalties shall be served by registered or certified mail.

(4) Notices of Violation and Notices of Imposition of Civil Penalties shall include, but not be limited to:

- (a) A caption with the name of the Department and with the name of the person to whom the notice is issued;
- (b) A reference to the particular sections of the statutes and administrative rules involved;
- (c) A short and plain statement of the matters asserted or charged;

(d) A statement of the person's right to be represented by counsel and that legal aid organizations may be able to assist a person with limited financial resources;

(e) A statement of the person's right to request a hearing;

(f) A statement of the procedure to request a hearing, including but not limited to the following;

(A) Any request for hearing must be in writing;

(B) Any request for hearing must be received by the Department within ten (10) business days of the date the Department mailed the notice; and

(C) The address to which a request for hearing must be sent;

(g) A statement that if a request for hearing is not received by the Department within the time stated in the notice the person will have waived the right to a contested case hearing;

(h) A statement of the authority and jurisdiction under which a hearing will be held on the matters asserted or charged;

(i) A statement that if the person requests a hearing a Notice of Contested Case Rights and Procedures will be provided before any hearing;

(j) A statement indicating whether and under what circumstances an order by default may be entered, including but not limited to, that the notice becomes a final order unless the person makes a timely written request for a hearing; and

(k) Other information required by law.

(5) Notices of Violation and Notices of Imposition of Civil Penalties may also include additional information deemed appropriate by the Director, including but not limited to the following:

(a) A statement that the record of the proceeding to date, including information in the Department's file or files on the subject of the contested case and all materials submitted by a person, automatically become part of the contested case record upon default for the purpose of proving a prima facie case; and

(b) A statement that a collaborative dispute resolution process is available if the person requests a hearing as stated in the notice.

(6) If a person timely requests a hearing for either a Notice of Violation or a Notice of Imposition of Civil Penalty, the Department will mail a written Notice of Contested Case Rights and Procedures to the person before the commencement of the hearing, or request that an administrative law judge inform the person of the rights and procedures.

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915

Hist.: AD 4-1990, f. & cert. ef. 3-16-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

**603-057-0520**

**Entry of Order and Appeal Rights**

(1) If a person, having been served a Notice of Violation or a Notice of Imposition of Civil Penalty, fails to request a hearing as specified in OAR 603-057-0510(4)(f), or if a hearing is not held for any reason, or if after the hearing the person is found to be in violation, an order may be issued by the Director. If a Notice of Imposition of Civil Penalty was served, the order may assess a civil penalty.

(2) The order shall be signed by the Director.

(3) The order, if not appealed as provided in ORS 183.480 to 183.497 or if sustained on appeal, shall constitute a judgment. If any civil penalty has not been paid when due and payable, the order may be recorded with the county clerk in any county of this state. The clerk shall record the name of the person incurring the penalty and the amount of the penalty in the County Clerk Lien Record. Recording the order has the effects provided for in ORS 205.125 and 205.126, including but not limited to the effect of becoming a lien upon the title of any interest in real property located in that county and owned by the person. The Department may enforce the order as provided in ORS 205.125 and 205.126, bring an action in a court of this state to recover the civil penalty, or take any other action authorized by law to enforce the order.

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915

**603-057-0525**

**Civil Penalties; Magnitude of Violation and Gravity of Effect**

(1) The Director will consider the magnitude of the violation and its gravity of effect when calculating a civil penalty for a violation.

(a) Determine the magnitude of the violation as specified in subsection (2) of this section.

(b) Determine the gravity of effect pertinent to the violation as specified in subsection (3) of this section.

(2) Magnitude of Violation: Violations are categorized as to their 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 willfully 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, but are not limited to, 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 license and is otherwise in compliance with the provisions of this chapter (ORS 634.372(10)). No license;

## Chapter 603 Department of Agriculture

(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));

(V) Other violations with a substantially similar potential to affect the public interests reflected in ORS 634.

(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, but are not limited to, 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 manufacturers original unbroken package (ORS 634.372(19));

(J) Other violations with a substantially similar potential to affect the public interests reflected in ORS 634.

(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, but are not limited to, 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;

(C) Other violations with a substantially similar potential to affect the public interests reflected in ORS 634.

(3) Gravity of Effect: The Director shall rank the violation as to its gravity of effect. 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 result in the gravity being ranked high level. Lacking any factor determined to be high level, the existence of one or more factors determined to be of medium level shall result in the gravity being ranked medium level. Lacking any factor determined to be of high or medium level shall result in the gravity being ranked low level:

(a) Rank — 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; or

(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; or

(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); or

(iii) Usage resulted in a pesticide residue or metabolite on a food or feed crop, on a raw agricultural commodity, or on a crop having food or feed by-products, and for which there is no tolerance or exemption from tolerance established, or for which the established tolerance was exceeded.

(b) Rank — 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) Conditions of Usage:

(i) Moderate area of application; or

(ii) Use in area of medium population density.

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 634.915

Hist.: AD 4-1990, f. & cert. ef. 3-16-90; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

**603-057-0530**

**Civil Penalty For A Violation Not Resulting From Gross Negligence or Willful Misconduct; Formula for Amount**

(1) When the Director determines that the violation did not result from gross negligence or willful misconduct, or if the violation occurred before June 25, 2007, the Director will determine the amount of the civil penalty using this section. To determine the amount of the civil penalty, calculate it utilizing the formula:  $NB + [(.1 \times NB) \times (P + H + R + C)] = \text{Penalty Amount}$  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 Director to have committed that violative act;

(b) B = the base penalty determined using the following matrix: [Matrix not included. See ED. NOTE.]

(A) The Magnitude of Violation is determined according to OAR 603-057-0525(2).

(B) The Gravity of Effect is determined according to OAR 603-057-0525(3).

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

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

(B) 0 = 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 or procedures to correct prior violations;

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

(e) R = preventability of violation. 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) 0 = 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) 0 = the person is neither cooperative nor uncooperative;

(D) 1 = the person is generally uncooperative;

(E) 2 = the person is uncooperative.

(2) If the calculation utilizing the formula in this section results in an amount more than \$1,000 for a first violation of any provision of ORS 634, the Director shall assess a civil penalty of \$1,000. If the calculation utilizing the formula in this section results in an amount more than \$2,000 for any subsequent violation of the same provision of ORS 634, the Director shall assess a penalty of \$2,000. In addition, the Director may consider this adjustment if the Director remits or reduces the amount as provided in ORS 634.910 or OAR 603-057-0502(6).

[ED. NOTE: Matrix referenced is available from the agency.]

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, 634.900 - 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; DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

**603-057-0532**

**Civil Penalty For A Violation Resulting From Gross Negligence or Willful Misconduct; Formula for Amount**

(1) When the Director determines that the violation resulted from gross negligence or willful misconduct and that the violation occurred on or after June 25, 2007, the Director will determine the amount of the civil penalty using this section. To determine the amount of the civil penalty, calculate it utilizing the formula:  $NB + [(.1 \times NB) \times (P + H + C)] = \text{Penalty Amount}$  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 Director to have committed that violative act;

(b) B = the base penalty determined using the following matrix: [Matrix not included. See ED. NOTE.]

(A) The Magnitude of Violation is determined according to OAR 603-057-0525(2).

(B) The Gravity of Effect is determined according to OAR 603-057-0525(3).

(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 same manner as described in OAR 603-057-0530(1)(c).

(d) H = History of the person in taking all feasible steps or procedures necessary or appropriate to correct a violative action. H will be weighted from -2 to 2 in the same manner as described in OAR 603-057-0530(1)(d).

(e) 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 same manner as described in OAR 603-057-0530(1)(f).

(2) If the calculation utilizing the formula in this section results in an amount more than \$10,000, the Director will assess a penalty of \$10,000. In addition, the Director may consider this adjustment if the Director remits or reduces the amount as provided in ORS 634.910 or OAR 603-057-0502(6).

[ED. NOTE: Matrix referenced is available from the agency.]

Stat. Auth.: ORS 561, 634 & 183.335(5)

Stats. Implemented: ORS 183.745, 634.006, 634.306, 634.322, 634.372, & 634.900 - 634.915

Hist.: DOA 1-2009(Temp), f. & cert. ef. 1-23-09 thru 7-22-09; DOA 6-2009, f. & cert. ef. 5-7-09

**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 non-food/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 603-056-0431(1)(a), and meeting the labeling requirements of OAR 603-056-0431(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 are available from the agency.]

Stat. Auth.: ORS 561.190 & 634

Stats. Implemented: ORS 634.306 & 634.322

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

