

OAR 603-057-0545
Proposed Rule

RULE TITLE: Limitations on Pesticide Products Containing Chlorpyrifos

(1) All products that contain any amount of chlorpyrifos (“chlorpyrifos-containing product”) are classified as restricted-use pesticides.

(2) On and after November 1, 2020, the use of a chlorpyrifos-containing product is limited as follows:

(a) Application of such product is prohibited:

(A) For vector control purposes;

(B) On turfgrass on golf courses; and

(C) In an enclosed space production structure, except when one of the following conditions is met and maintained until the expiration of the REI:

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

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

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

(b) The minimum restricted entry interval (REI) is four days for all agricultural plants listed on the pesticide label, under the Worker Protection Standard, 40 CFR 170.

(3) On and after January 1, 2021, the use of a chlorpyrifos-containing product is limited as follows:

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

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

(c) Pre-application activities involving mixing or loading must be conducted by:

(A) A certified and licensed: pesticide applicator, public applicator, or private applicator; or

(B) An individual who has successfully completed a special training conducted or approved by the Oregon Department of Agriculture on the mixing and loading of chlorpyrifos. The training must be completed annually and a record of the training maintained for three years from the date of the training, and available for review and inspection by the department;

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

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

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

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

(e) All private applicators shall prepare and maintain records of applications of chlorpyrifos-containing products for the period of at least three years from the date of application. These records must be available during business hours for review and inspection by the department.

At a minimum, such records must include the following:

(A) The full name and address of the business, firm, or individual who owns or controls the agricultural plants, property or site treated;

(B) The address of the site, or a specific geographic description of the application site (such as circle or field number or name);

(C) The specific agricultural plants, stored product, or site to which the product was applied, as applicable;

(D) The month, day, and year of the application, and the beginning and ending time of the application;

(E) The name of the product applied;

(F) The EPA registration number of the product applied;

(G) The size of the area treated (such as acres, square feet);

(H) Amount of product applied per acre or unit area applied

(I) When applicable, the carrier or diluent; dilution rate; and total amount of solution applied per acre or unit area.

(J) The full name and license number of the private applicator who made the application;

(K) The full name of the individual or business that supplied the product; and

(L) Identification of the type of application equipment used; and if applied aerially, the aircraft registration number assigned by the United States Federal Aviation Administration.

(4) For purposes of this chlorpyrifos rule, "sensitive sites" means areas frequented by non-occupational bystanders (especially children). These include, without limitation, homes and other residential buildings, farmworker housing, residential lawns, schools, daycare centers, nursing homes, hospitals, pedestrian sidewalks, outdoor recreational areas such as school grounds, athletic fields, and parks, and all property associated with buildings occupied by humans for residential or commercial purposes. Non-residential agricultural buildings, including barns, livestock facilities, sheds, and outhouses are not included in this definition. In addition, public and private roadways, including rights of way are not included in this definition.

(5) Buffer Requirements.

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

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

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

(b) When a chlorpyrifos-containing product is applied using aerial application equipment or non-targeted airblast application equipment, it may not be applied within 300 feet of:

(A) Sensitive sites; or

(B) Permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.

(c) When a chlorpyrifos-containing product is applied using a targeted airblast sprayer, such as a tower sprayer, tunnel sprayer or an airblast sprayer with anti-drift panels, it may not be applied within 150 feet of:

(A) Sensitive sites; or

(B) Permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.

(d) When a chlorpyrifos-containing product is applied by chemigation or ground equipment, it may not be applied within 60 feet of:

(A) Sensitive sites, unless it is a granular formulation product that is applied above-ground using ground equipment; or

(B) Permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.

(e) When a granular formulation chlorpyrifos containing-product is applied above-ground using ground equipment, it may not be applied within 60 feet of permanent bodies of water such as rivers, natural ponds, lakes, streams, reservoirs, marshes, estuaries, and commercial fish ponds.

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

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

(b) Formulated as, and used as, a granular product; or

(c) A pest emergency is declared by order of the Director of the Oregon Department of Agriculture authorizing the use of chlorpyrifos, and the use is consistent with such order.

(7) Use of a chlorpyrifos-containing product on cattle ear tags is excluded from the limitations in 603-057-0545 (1) - (6).