



Reasonable Accommodation Request Form For Pesticide Examinations

Please complete each step listed below to request a reasonable accommodation on a pesticide examination for a disability. The Oregon Department of Agriculture reserves the right to request additional information, if needed.

1. Please provide information about the person seeking an accommodation due to a disability:

Full Legal Name _____

Address _____

City _____ State _____ zip code _____

Telephone Number _____ Email _____

2. Please describe the specific accommodation(s) being requested:

Additional time to complete an exam.

Another accommodation (please describe below):

3. Read the legal definition for “disability” (28 CFR 35.108(a)(1)) on page two of this form.

4. By signing below, I attest that I have a disability as defined in 28 CFR 35.108(a)(1) and that the information provided on this form is true and correct.

Signature _____ Date _____

5. Submit Completed Form to:

Email: pestx@oda.state.or.us

Fax: (503) 986-5378

Mail: Oregon Dept. of Agriculture, Pesticides Program
635 Capitol St. NE, Ste. 100
Salem, OR 97301

Excerpts from Federal and Oregon Law

28 CFR 35.108(a)(1) *Disability* means, with respect to an individual:

- (i) A physical or mental impairment that substantially limits one or more of the major life activities of such individual;
- (ii) A record of such an impairment; or
- (iii) Being regarded as having such an impairment as described in paragraph (f) of this section.

28 CFR 35.108(f) *Is regarded as having such an impairment.* The following principles apply under the “regarded” as prong of the definition of “disability” (paragraph (a)(1)(iii) of this section):

(1) Except as set forth in paragraph (f)(2) of this section, an individual is “regarded as having such an impairment” if the individual is subjected to a prohibited action because of an actual or perceived physical or mental impairment, whether or not that impairment substantially limits, or is perceived to substantially limit, a major life activity, even if the public entity asserts, or may or does ultimately establish, a defense to the action prohibited by the ADA.

(2) An individual is not “regarded as having such an impairment” if the public entity demonstrates that the impairment is, objectively, both “transitory” and “minor.” A public entity may not defeat “regarded as” coverage of an individual simply by demonstrating that it subjectively believed the impairment was transitory and minor; rather, the public entity must demonstrate that the impairment is (in the case of an actual impairment) or would be (in the case of a perceived impairment), objectively, both “transitory” and “minor.” For purposes of this section, “transitory” is defined as lasting or expected to last six months or less.

28 CFR 35.130(b)(6) A public entity may not administer a licensing or certification program in a manner that subjects qualified individuals with disabilities to discrimination on the basis of disability, nor may a public entity establish requirements for the programs or activities of licensees or certified entities that subject qualified individuals with disabilities to discrimination on the basis of disability. The programs or activities of entities that are licensed or certified by a public entity are not, themselves, covered by this part.

28 CFR 35.130(f) A public entity may not place a surcharge on a particular individual with a disability or any group of individuals with disabilities to cover the costs of measures, such as the provision of auxiliary aids or program accessibility, that are required to provide that individual or group with the nondiscriminatory treatment required by the Act or this part.

659A.142(5)

(a) It is an unlawful practice for state government to exclude an individual from participation in or deny an individual the benefits of the services, programs or activities of state government or to make any distinction, discrimination or restriction because the individual has a disability.

(b) Paragraph (a) of this subsection is intended to ensure equal access to available services, programs and activities of state government.

(c) Paragraph (a) of this subsection is not intended to:

(A) Create an independent entitlement to any service, program or activity of state government; or

(B) Require state government to take any action that state government can demonstrate would result in a fundamental alteration in the nature of a service, program or activity of state government or would result in undue financial or administrative burdens on state government.

Statement

The ability to read and understand a pesticide label is an essential eligibility requirement for possessing a public pesticide applicator's license. The Department administers its pesticide certification and licensing program pursuant to a cooperative agreement with the U.S. Environmental Protection Agency (EPA). Federal regulations provide that "a person must be certified by an appropriate certifying authority as having the necessary competency to use restricted use pesticides for pest control in the production of agricultural commodities, which includes the ***ability to read and understand pesticide labeling.***" 40 CFR §171.105. In the 2017 revisions to the pesticide licensing and certification rules, EPA purposefully deleted the provision in the previous rules that had allowed individuals who could not read to take a pesticide exam orally. Federal Register No. 2016-30332.