

Overview of Pesticide Licensing, HB 4062, and HB 2031

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Implementation of HB 4062 and HB 2031

- Complex topic area, involving many existing regulations and federal requirements
- Good place to start: “Overview of Draft (Pre-Proposal) Rule Changes Needed to Implement HB 4062 and HB 2031”
- Goal for today’s presentations: Background and context





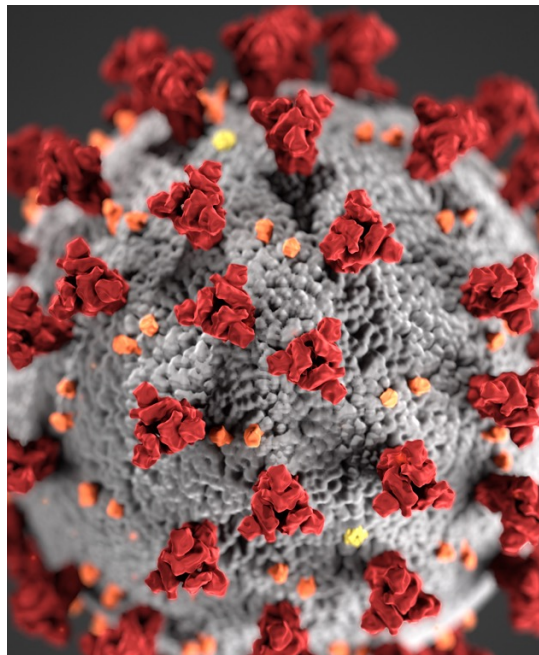
Insecticide



Herbicides



Repellents



Antimicrobials



Molluscicide



Fungicide

What is a Pesticide?

Insecticide

Insect Control

- Ants
- Japanese Beetle
- Fleas

Fungicide

Fungus Control

- Mold
- Powdery Mildew
- Blight

Herbicides

Plant Control

- Weeds
- Invasive plants

Antimicrobials

Microorganisms Control

- Viruses
- Parasites
- Bacteria

Repellents

Repels Pests

- Mosquitos
- Spiders
- Ticks

Molluscicide/ Rodenticide

- Slugs
- Snails
- Rats



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Pesticide Regulation



ORS Chapter 634

Foundational statute for Oregon's pesticide program that governs ODA's enforcement and education authorities

EPA & ODA Cooperative Agreement

Legal agreement that outlines the delegate authorities from EPA to ODA

EPA & FIFRA

Foundational federal law and authority that governs all pesticide use, manufacturing, and sales in all 50 states



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Categories of Pesticides

General Use

- Lawn & Garden
- Pest Control
- Baits
- ~14,500 OR products



RESTRICTED USE PESTICIDE
DUE TO ACUTE TOXICITY
FOR RETAIL SALE TO AND USE ONLY BY CERTIFIED APPLICATORS ONLY- NOT TO BE USED BY
UNCERTIFIED PERSONS WORKING UNDER THE SUPERVISION OF A CERTIFIED APPLICATOR.

Restricted Use

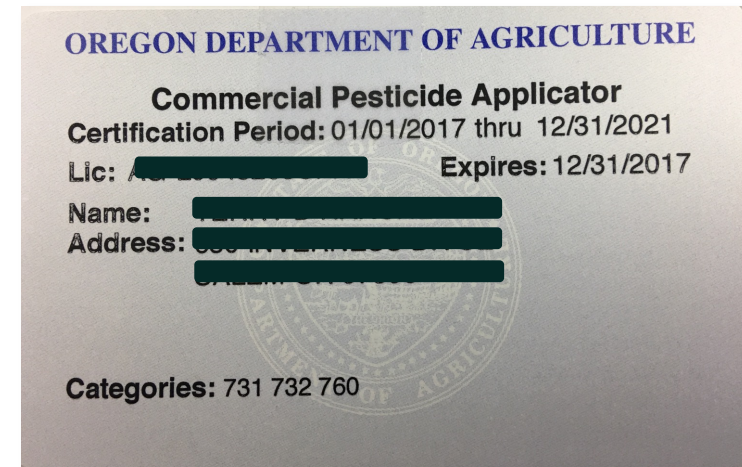
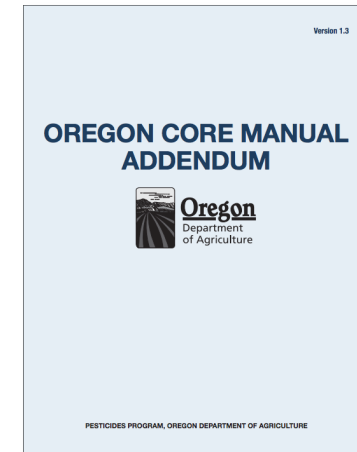
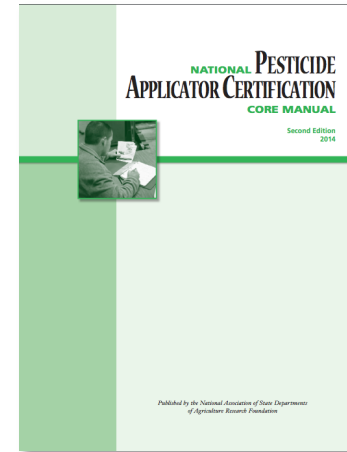
- Licensed Applicators
- Continuing Education
- Additional Regulation
- ~600 OR products



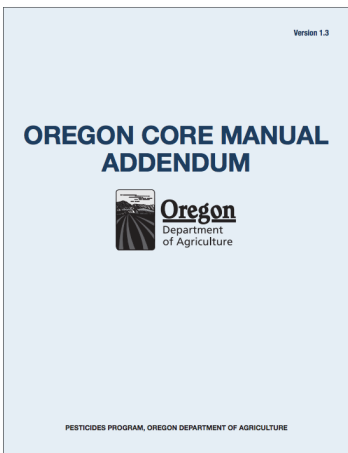
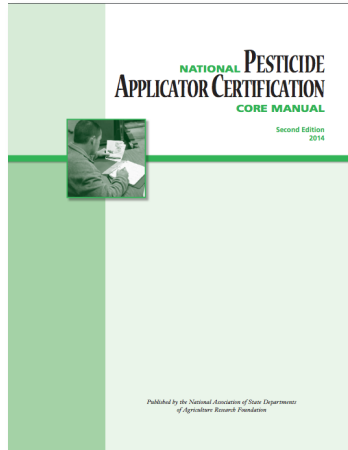
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Oregon: Certification vs. Licensing

- Certification – demonstrating knowledge and skills to apply pesticides legally and without causing harm or damage to themselves, others, or the environment.
- Licensing - permits you to perform certain pesticide-related tasks that would otherwise be prohibited by law.



Exam Requirement - Base Knowledge Standards



- (1) Label and labeling comprehension.
- (2) Safety. Measures to avoid or minimize adverse health effects.
- (3) Environment. The potential environmental consequences of the use and misuse of pesticides; effects of weather, soil, and terrain.
- (4) Pests. The proper identification and effective control of pests
- (5) Characteristics of pesticides – Types, Persistence, Residue Hazards.
- (6) Equipment. Types, Limitations, Maintenance, and Calibration.
- (7) Application methods. Selecting appropriate application methods.
- (8) Laws and regulations. Knowledge of all applicable State, Tribal, and Federal laws and regulations, including understanding the Worker Protection Standard and the circumstances where compliance is required.
- (9) Stewardship – Security and Communication.

Additional Information: <http://oda.direct/ExamsStudyMaterials>



Examples: When Pesticide Licensing is Required

Private Applicator License

Apply or supervise the use of Restricted Use Pesticides (RUPs) on your own/employer's agricultural land (e.g., farmland, ranches, forestland, nurseries, and orchards) to produce an ag. commodity or forest crop.

Commercial Applicator License

Apply or supervise the application of any pesticide to someone else's property or a private school campus; use Restricted Use Pesticides (RUPs).

Public Applicator License

Apply or supervise the application of any pesticide as a public employee using power-driven application equipment, apply any pesticide to a public school campus, or use Restricted Use Pesticides (RUPs).

Aerial Applicator License

Apply any pesticide by aircraft (e.g., fixed-wing, helicopter, unmanned aircraft systems).



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Examples: When Pesticide Licensing is Required

Commercial Operator License (Business License)*

Own or operate a business, non-profit, or organization that advertises pesticide application services or that engages in the application of pesticides upon the property of another.

*Employer of licensed commercial pesticide applicators.

*No exam requirement, but Oregon law requires that operators meet a minimum insurance requirement (ORS 634.116).

Supervised Applicators (“Noncertified”)

Immediately Supervised Trainee License

Supervisor

- Commercial Applicator; or
- Public Applicator

Conditions

- Limited by licensing of supervisor.
- **Supervisor must be on-site and within 5 minutes of application.**

Pesticide Apprentice License

Supervisor

- Commercial Applicator; or
- Public Applicator

Conditions

- Limited by licensing of supervisor.
- **Supervisor must be reasonably available (e.g., mobile phone, 2-way radio).**

Unlicensed Individual

Supervisor

- Private Applicator

Conditions

- Application to agricultural land owned or leased by the Private Applicator or the employer of the Private Applicator.
- Must undergo specific training (requirement of Worker Protection Standard).

License Categories*

- **Agriculture**
 - Herbicide
 - Insecticide/Fungicide
 - Vertebrate Pest
 - Livestock Pest
 - Soil Fumigation
- **Aquatic**
- **Demonstration & Research**
- **Forest**
- **Marine Fouling**
- **Industrial, Institutional, Health, & Structural (IIHS)**
 - General Pest
 - Structural Pest
 - Moss Control
 - Space Fumigation
 - Wood Treatment
- **Ornamental & Turf**
 - Herbicide
 - Insecticide/Fungicide
- **Public Health**
- **Right-of-Way**
- **School Integrated Pest Management (IPM)**
- **Seed Treatment**

**area of pesticide application work*



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Example: Current Licensing Requirements

Farmer/Rancher/Forester

Use

Restricted Use Pesticide (RUP) application on own property for agricultural production.

Applicator

Private Applicator License

If Supervised

Unlicensed employees or co-workers

Business

None

Contracted Applicator

Use

Pesticide application to property of another.

Applicator

Commercial Applicator License*

If Supervised

Pesticide Apprentice License; or
Immediately Supervised Trainee License

Business

Commercial Operator License*

**with appropriate license categories*

Maintaining a Pesticide License

- Earn pesticide credits by attending ODA-accredited continuing education;
- Or
- Retake and pass the required pesticide exams

No credit/exam requirements for:

- Immediately supervised trainee,
- Commercial pesticide operator, and
- Pesticide dealer

Credit Requirements by License Type

Commercial/Public Pesticide Applicators and Consultants (Total of 40 credits):

- Need 40 credits hours of any credit type during 5-year certification period
- A maximum of 15 credits can be awarded per calendar year
- Pesticide credits must be earned during your certification period

Private Applicators (Total of 16 credits):

- Need 16 credits hours during 5-year certification period
- Need 4 core credits hours
- Need 12 additional credits hours of any credit type
- A maximum of 8 credits can be awarded per calendar year
- Pesticide credits must be earned during your certification period

Aerial Pesticide Applicators (Total of 10 credits)

- Need 10 aerial credit hours during 5-year certification period
- Aerial credits can be awarded concurrently to the Commercial or Public Pesticide Applicator license, but not a Private Applicator license.

Pesticide Apprentice (Total of 8 credits):

- Need 8 credits hours during the one-year license period
- Need 4 core credits hours
- Need 4 additional credits hours of any credit type
- Pesticide credits must be earned during your license period

Pesticide Application Recordkeeping Requirements

- **Commercial Pesticide Operators** shall prepare and maintain records containing specific information. (ORS 634.146)
- **Public Pesticide Applicators** shall prepare and maintain the records required of pesticide operators. (OAR 603-057-130)
- **Commercial Pesticide Applicators not employed by an operator** (groundskeeper, etc.) shall prepare and maintain the records required of pesticide operators. (OAR 603-057-130)

Required Record Information		Explanation
1.	The firm or individual for whom the pesticide application was made.	The full name, address and phone number of the business, firm or individual who owns or controls the crop or property sprayed. Do not use initials, nicknames or partial names.
2.	The location of the land or property where the application was made.	The address of the site, or a geographic description of the application site (such as circle number, map number or township/section/range), and the size of the area treated (acres, square feet, linear feet, etc.)
3.	The date and approximate time of application.	The month/day/year of application, and the beginning and ending time of application.
4.	The supplier of pesticide product(s) applied.	The full name of the individual or business that supplied the pesticide to you. Do not use initials, nicknames or partial names.
5.	The trade name and the strength of such pesticides applied.	The EPA registration number of each pesticide product applied or the manufacturer, product name and formulation type of each product applied.
6.	The amount or concentration (pounds or gallons per acre of active ingredient or concentration per approximately 100 gallons).	A. The amount of each pesticide product applied per unit of measure (ounces, pounds, pints, quarts, etc.) B. The type and amount of carrier applied per unit of measure (acre, square feet, etc.) or, where a specific unit of measure is not applicable, the total amount applied the site. C. The amount and type of other material applied (such as spreader/sticker, wetting agent or drift retardant).
7.	The specific property, crop or crops to which the pesticide was applied.	For each pesticide product applied, the specific crop or site of application: Agricultural applications – the specific crop “IIHS – General” and “IIHS Structural” applications – the specific area (exterior wall voids, kitchen cabinets, interior foundation, living room baseboards, etc.) “Ornamental applications” – the general area (front yard, hedge, fruit tree, etc.) Other applications – descriptions similar to the examples above.
8.	The summary information of equipment, device or apparatus used, and, if applied by aircraft, the F.A.A. number.	Identification of the application equipment used (aerosol can, speed sprayer, backpack sprayer, fogger, etc.) and if applied aerially, the “N” number of the aircraft.
9.	Name and license number of applicator(s), apprentice(s), and/or trainee(s) who made application.	The full name and license number of the applicator(s), apprentice(s), and/or trainee(s) who applied the pesticides. Applications made by trainees and/or apprentices must also include the name and license number of the supervising applicator.
10.	Records kept for three years.	Records shall be maintained for at least three years from the date of application.

Pesticide Application Recordkeeping Requirements

Private Applicators

United States Department of Agriculture (USDA) regulations require that private pesticide applicators keep records of their restricted-use pesticide applications.

- The brand or product name and the EPA registration number of the restricted-use pesticide applied
- The total amount of pesticide formulation applied
- The size of the area treated
- The crop, commodity, stored product, or site of application
- The location of the area treated
- The date (month, day, and year) treated
- The licensed applicator's name and license number
- These records must be maintained for at least two years.



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School Integrated Pest Management (IPM) Law (ORS 634.700 - ORS 634.750)

Some Major Elements:

- Adopt an IPM plan (ORS 634.705)
- Designate an IPM plan coordinator (ORS 634.720)
- Adopt a list of “low-impact” pesticides (ORS 634.705)
- • Pesticide licensing requirement – with few exceptions, pesticides may only be applied by a licensed pesticide applicator on a school campus (ORS 634.725)
- Provide written notification and post warning signs (ORS 634.740)
- Retain pesticide application records (ORS 634.750)



Current Licensing Requirements

Private Schools

Applicator

Commercial Applicator License*

If Supervised

Pesticide Apprentice License

Immediately Supervised Trainee License

Business

Commercial Operator License*

Public Schools

Applicator

Public Applicator License*

If Supervised

Pesticide Apprentice License

Immediately Supervised Trainee License

Business

None

Contracted Businesses

Applicator

Commercial Applicator License*

If Supervised

Pesticide Apprentice License

Immediately Supervised Trainee License

Business

Commercial Operator License*

**with appropriate license categories*

Example: Wine Barrel Fumigators



Winery situation	Licenses required	Exams required
Your wine is 100% estate grown <i>and</i> you treat your own barrels <i>and</i> corks on property that you or your employer owns or rents.	Private applicator license	Private applicator exam
Your wine is <i>not</i> 100% estate grown <i>and</i> you treat your own barrels <i>and</i> corks on property that you or your employer owns or rents.	Commercial applicator license	Laws and safety exam <i>and</i> IHS*: Space fumigation exam
Your barrels <i>and</i> corks are treated by someone else on land that you own or rent, or at another location.	The person who treats your barrels and corks must have a commercial applicator license <i>and</i> their business must have a commercial operator license.	Laws and safety exam <i>and</i> IHS*: Space fumigation exam

<https://osha.oregon.gov/OSHAPubs/factsheets/fs73.pdf>



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House Bill 4062

- “Noncommercial pesticide applicator” and “noncommercial pesticide trainee” license types are for:
 - 1) individuals (except government employees) that apply restricted use pesticides (RUP) on property they or their employer owns or leases for purposes other than the production of an agricultural commodity or forest crop (examples: employees of golf courses, wood treatment facilities, wineries); and
 - 2) private school employees or owners that apply any pesticide to their own private school campus.
- Similar to Commercial Pesticide Applicator license type (license fee, knowledge requirements, license duration/expiration).
- Benefit: Employer not required to obtain a commercial pesticide operator license
- House Bill 4062 (2022): <https://oda.fyi/HB4062>

House Bill 4062

	Noncommercial pesticide applicator license	Noncommercial pesticide trainee license
License Fees	Same as commercial applicator	Same as commercial applicator
License Expiration	Same as commercial applicator	Same as commercial applicator
Required to be employed by commercial operator	No	No
Base Knowledge Standards	Nearly identical to commercial applicator; Identical federal requirements	Not established in bill; ODA permitted to adopt in rule.
License Categories	ODA permitted to adopt in rule; Federal requirements apply.	Not Applicable
Continuing Education Requirements	ODA permitted to adopt in rule; Federal requirements apply.	ODA permitted to adopt in rule; Federal requirements apply.
Standards for supervision of noncommercial pesticide trainee	ODA permitted to adopt in rule; Federal requirements apply.	Not Applicable
Pesticide Application Recordkeeping	ODA permitted to adopt in rule; Federal requirements apply.	ODA permitted to adopt in rule.

House Bill 2031

- For many years, the Oregon Department of Agriculture (ODA) has had the authority to assess civil and criminal penalties for certain violations of the Pesticide Control Law (ORS 634.900; ORS 634.992).
- However, additional authority was necessary to bring ODA into compliance with federal regulations (40 CFR 171).
- In part, this bill:
 1. Expands ODA's existing authority to include the option to impose a civil penalty for violations of the State Pesticide Control Law (ORS 634) and associated rules related to restricted use pesticides.
 2. Expands ODA's existing authority in ORS 634.992 (criminal penalties) to include violations of any state rules relating to restricted use pesticides.
- House Bill 2031 (2021): <https://oda.fyi/HB2031>

THANK YOU!

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