

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).

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.

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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:

(i) The name of the pesticide user; or

(ii) The name of the agency, instrumentality, subdivision, county, city, town, municipal corporation, district, governmental body, school or utility; or

(iii) The name of the employer; or

(iv) 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.

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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.

603-057-0413

Description of the Type of Site Where the Pesticide Was Used

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

(1) Agriculture. This shall include the use of pesticides in the production of agricultural crops and livestock (including Christmas tree plantations and commercial nurseries), or on agricultural commodities before movement into channels of commerce, or on agricultural lands, grasslands, or non-crop agricultural lands

(2) Aquatic. This shall include the use of pesticides in treating standing or running water. Examples of sites include irrigation ditch, lake, or river.

(3) Forestry. This shall include the use of pesticides in the production of forest crops, or on forestry lands (not including Christmas tree plantations or commercial nurseries).

(4) Public health and regulatory pest control. This shall include the use of pesticides for the control of any pest that may be deleterious to the public health, including mosquito and other vector and regulatory pest control.

(5) Right-of-Way. This shall include the use of pesticides in right-of-way areas. Examples of sites include irrigation ditch banks, railroads, road shoulders, or utility lines.

(6) Research. This shall include the use of one or more specific pesticides with the intent of gathering data needed to satisfy registration requirements of the United States Environmental Protection Agency. If the research is not conducted by a government agency, the pesticide use shall be under the authority of an "experimental use permit" issued by the United States Environmental Protection Agency or issued by the Department.

(7) Urban, general indoor sites. This shall include the use of pesticides inside dwellings, non-agricultural buildings, establishments, institutions, schools and commercial transportation vehicles. This shall also include the use of pesticides on commodities, including agricultural commodities stored indoors that have entered into channels of commerce, including commercial warehouses and commercial grain elevators.

(8) Urban, general outdoor sites. This shall include the use of pesticides outside dwellings, non-agricultural buildings, establishments, institutions, or schools for ornamental and turf pest control, including parks, rest areas, and golf courses. This shall also include the use of pesticides on commodities, including agricultural commodities stored outdoors that have entered into channels of commerce.

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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.

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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.

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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.

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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.

603-057-0418

Requests for Pesticide Use Information

(1) An agency seeking confidential information shall make a formal written request to the Department that shall:

(a) Identify the requesting agency.

(b) Identify the Principal Investigator for the agency.

(c) Describe the information sought.

(d) Explain the reason for requesting the information, including the use that will be made of the requested information.

(e) Include a completed and signed confidentiality agreement prepared by the Department.

(f) Identify each person having access to the information, and the position of each person within the agency.

- (g) Identify the person responsible for maintaining the security of the information.
 - (h) Explain the procedures by which the requesting agency will assure the confidentiality of the information.
- (2) A health or environmental researcher acting in an official capacity from an accredited university seeking confidential information shall make a formal written request to the Department that shall:
- (a) Describe the information sought.
 - (b) Describe the research being conducted, including identity of the Principal Investigator, purpose of the research and the use that will be made of the requested information.
 - (c) Include a copy of the university's formal review and signed acceptance of the research project.
 - (d) Include a completed and signed confidentiality agreement prepared by the Department.
 - (e) Identify each person having access to the information, and the position of each person within the university.
 - (f) Describe the procedures by which the requesting researcher and university will assure the confidentiality of the information.
- (3) A health or environmental researcher acting in an official capacity from an accepted research institute seeking access to confidential information shall make a formal written request to the Department which shall be equivalent in content to (2) above.
- (4) The Department will consider each request for pesticide use information, as described in (1), (2) and (3) above, as follows:
- (a) The Department will respond to the request within 30 days of receipt of the request.
 - (b) The Department, in its discretion, may request more detailed explanations in the request for information before considering it.
 - (c) If the request is approved, the requested information may be released to the requestor. The Department will release only the information that is directly pertinent to the research project or agency need. Information will be released in a manner that achieves the highest level of confidentiality but still provides pertinent data.
 - (e) If the request is denied, the requester will be informed of the basis for denial.
- (5) Any breach of the confidentiality agreement as determined by the Department, may result in

a civil penalty as set forth in 603-057-0420.

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: $BN+(0.1 \times BN)(T+D)$ = 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.

603-057-0425

Household Pesticide Use Information

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

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

(a) Be statistically valid such that information obtained from participating households can be used to accurately estimate pesticide use by all households;

(b) Gathers information similar in content to information reported by pesticide users; and

(c) Includes the entire state.

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