

## PESTICIDE USE REPORTING SYSTEM

Note: Sections 2 to 4, 6, 8 to 11, 15 and 22, chapter 1059, Oregon Laws 1999, provide:

Sec. 2. As used in sections 2 to 11 of this 1999 Act:

(1) "Pesticide" has the meaning given in ORS 634.006, but does not include antimicrobial pesticides as defined in the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. 136 (P.L. 92-516, as amended).

(2) "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.

(3) "Retail pesticide dealer" means a person who sells, offers for sale, handles, displays or distributes any pesticide but is not licensed as a pesticide dealer under ORS 634.112. [1999 c.1059 §2]

Sec. 3. The Legislative Assembly finds and declares that the development of a comprehensive, reliable and cost-effective system for collecting and organizing information on all categories of pesticide use in Oregon is needed by government agencies, researchers, policymakers and the public to ensure the public health and safety and to protect Oregon's water and environment. [1999 c.1059 §3]

Sec. 4. The State Department of Agriculture shall establish and implement a pesticide use reporting system to meet the need described in section 3, chapter 1059, Oregon Laws 1999. In establishing and implementing the system, the department shall:

(1) Design, develop and implement the system in order to collect, evaluate, summarize, retain and report information on the use of pesticides in each major category of use in Oregon, including agriculture, forestry, industrial, urban commercial and urban homeowner uses.

(2) At least one time each year, collect the best data practicable from each major category of pesticide use in a manner that reduces paperwork and reporting costs.

(3) Require all pesticide users to report basic information on their use of pesticides that includes:

(a) The location of use. For pesticide use within an urban area, as defined by the department by rule, the pesticide user shall report the location of use by identifying the five-digit zip code for the location. For pesticide use that is not within an urban area, the pesticide user shall report the location of use by identifying the third-level hydrologic unit for the location. As used in this paragraph, "third-level hydrologic unit" means the basin reporting level of the 12-digit hydrologic unit mapping system developed by the Federal Geographic Data Committee.

(b) The name and United States Environmental Protection Agency registration number for the pesticide product used.

(c) The quantity of pesticide product applied.

(d) The purpose of and type of site of the application.

(e) The month of the application.

(f) Subject to section 8, chapter 1059, Oregon Laws 1999, other data gathered by pesticide applicators that the department considers necessary to achieve the purposes of section 3, chapter 1059, Oregon Laws 1999.

(4) Develop a mechanism to ensure the accuracy, reliability and validity of the database by providing for an independent review of the pesticide use data and collection procedures by data quality assurance specialists.

(5) Develop a specific mechanism to identify household and other urban uses of pesticides. If this mechanism involves sales reporting by retail pesticide dealers, the department shall develop a minimum monthly sales quantity below which the retail pesticide dealer is exempt from reporting. [1999 c.1059 §4; 2005 c.743 §1]

Sec. 6. In carrying out its responsibilities under sections 2 to 9 of this 1999 Act, the State Department of Agriculture shall seek technical assistance as appropriate from at least the following entities:

(1) Oregon Department of Administrative Services;

(2) Department of Environmental Quality;

(3) State Department of Fish and Wildlife;

(4) State Forestry Department;

(5) Department of Human Services;

(6) Occupational Safety and Health Division of the Department of Consumer and Business Services;

(7) Oregon Poison Center;

(8) Pesticide Analytical and Response Center; and

(9) Office of the State Fire Marshal. [1999 c.1059 §6]

Sec. 8. (1) In implementing the pesticide use reporting system, the State Department of Agriculture shall, at a minimum:

(a) Publish an annual report summarizing the pesticide use data reported to the department under section 4, chapter 1059, Oregon Laws 1999. The report shall include:

(A) An analysis of trends in pesticide use;

(B) An assessment of pesticide use reporting data accuracy; and

(C) Pesticide use information summarized by zip code or hydrologic unit as described in section 4 (3)(a), chapter 1059, Oregon Laws 1999.

(b) Establish policy and adopt rules relating to the public release of data about pesticide sales or use consistent with the limitations provided in this section.

(2)(a) Data about pesticide use obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999, are confidential if the data would reveal the identity of the owner or lessee or the specific location of property where a person has applied a pesticide:

(A) For a private agricultural or forestry operation; or

(B) On private property or public property leased to a private person.

(b) Data about pesticide sales obtained under sections 2 to 9, chapter 1059, Oregon Laws 1999, are confidential if the data would reveal a trade secret, as defined in ORS 646.461, of the retail outlet, multiple-outlet retailer or associated group of retailers that reports the data.

(c) The department may not collect pesticide use data under section 4, chapter 1059, Oregon Laws 1999, that would reveal the identity of the owner or lessee or the specific location of property where a person has applied a pesticide.

(3) The policy and rules that the department adopts under this section may not limit access to data for the following purposes:

(a) Information obtained as part of any investigation under any other provision of law;

(b) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws 1999, to any other local, state or federal agency, if the local, state or federal agency has agreed to maintain the confidentiality of any information that is required to be treated as confidential under this section, unless the public interest by clear and convincing evidence requires disclosure in the particular instance; and

(c) To release information obtained exclusively under sections 2 to 9, chapter 1059, Oregon Laws 1999, to a health or environmental researcher acting in an official capacity from an accredited university or accepted research institute who agrees to maintain the confidentiality of any information that is required to be

treated as confidential under this section. [1999 c.1059 §8; 2001 c.915 §2; 2005 c.743 §2]

Sec. 9. (1) In addition to any other liability or penalty provided by law, the Director of Agriculture may impose a civil penalty in an amount of up to \$10,000 on any person for violation of a confidentiality agreement established under section 8 of this 1999 Act.

(2) The State Department of Agriculture shall develop by rule a schedule establishing the amount of civil penalty that may be imposed for a particular violation under subsection (1) of this section. Under the schedule, the amount of the civil penalty shall correlate to the severity of the breach of confidentiality.

(3) Any civil penalty under this section shall be imposed as provided in ORS 183.745. [1999 c.1059 §9]

Sec. 10. Nothing in sections 2 to 9 of this 1999 Act shall be construed to create a new private right of action against any pesticide user or retail pesticide dealer. [1999 c.1059 §10]

Sec. 11. (1) As used in this section, “frivolous” means the matter is not supported by substantial evidence or the matter is initiated without reasonable prospect of prevailing.

(2) If any person files an action against another party as a result of the operation of the pesticide use reporting system created pursuant to sections 2 to 9 of this 1999 Act, and the court finds that the action is frivolous or was filed in bad faith or for the purpose of harassment, the court may impose an appropriate sanction upon the person who filed the action. The sanction may include an order to pay to the other party the amount of the reasonable expenses incurred by reason of the filing of the action, including reasonable attorney fees. [1999 c.1059 §11]

Sec. 15. Notwithstanding the maximum registration fee established under ORS 634.016 (5), for the years beginning January 1, 2002, and ending December 31, 2009:

(1) The registration fee may not exceed \$160 for each pesticide, formula or formulation; and

(2) Up to \$40 in registration fees for each pesticide, formula or formulation may be used by the department for the implementation of the pesticide use reporting system under sections 2 to 9, chapter 1059, Oregon Laws 1999, as long as the Legislative Assembly appropriates an equivalent amount of moneys from the General Fund for the system. [1999 c.1059 §15; 2005 c.743 §3]

Sec. 22. Sections 2 to 4, 6 to 11, 15 and 21 of this 1999 Act are repealed on December 31, 2009. [1999 c.1059 §22]