



HB 2031 -1 Amendment: Oregon Pesticide Certification and Training (C&T)

The Oregon Department of Agriculture (ODA) is the state lead agency in Oregon for regulating the sale and use of pesticides in Oregon while administering the United States Environmental Protection Agency's (EPA) pesticides laws and programs. Through our cooperative agreement with the EPA, ODA administers a certification, licensing, and training program for pesticide applicators.

In 2015, under the Obama Administration, the EPA promulgated rule changes to the pesticide certification and training program, with the final revised rule adopted in 2017. The changes to the Certification of Pesticide applicators rule (40 CFR 171):

- Increases the standards for certifying and training users of restricted-use pesticides.
- Increases protection for noncertified applicators using RUPs under a certified applicator's direct supervision through enhanced pesticide safety training and standards.
- Defines and broadens the scope of applicability of new and existing requirements to include pesticide "use" activities, such as mixing and loading and applications.
- Adds and modifies recordkeeping requirements for pesticide application and sale.

HB 2031 -1 are statutory changes needed for ODA to link up with new EPA rules and maintain a compliant program to administer the certification, licensing, and training program for pesticide applicators.

HB 2031-1 Summary

Section 1

9(a)(A)

- Allows state law to be consistent with federal law regarding pesticide-related activities or "use" of RUPs when using pesticides for others. Previous statute language addressed spraying or applying pesticides.
- Examples of "use" include:
 - Pre-application activities involving mixing and loading the pesticide.
 - Applying the pesticide.
 - Supervising the use of a pesticide by a noncertified individual (*i.e.* pesticide trainee or unlicensed individual).
 - Transporting pesticide containers that have been opened.

Federal Citation: Federal Citation: 40 CFR: 171.303(b)(2); 171.303(b)(3); 171.303(b)(7)(v); 171.1

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Section 1 9(a)(B)

- This language is unchanged from the existing statutory language; the change is for statutory construction purposes only.

Section 1 (9) (c)

- For a pesticide applicator to supervise a noncertified individual who uses a RUP, the definition of "pesticide applicator" needs to encompass supervision of a pesticide "*use*" of RUPs (such as mixing and loading), not just supervision of a pesticide *application* of RUPs.
- Federal Citation: 40 CFR: 171.303(a)(7); 40 CFR 171.201(b)(2)

Section 2 (1)

- ORS 634.306(1) expressly authorizes ODA to adopt rules to establish a pesticide trainee program to *apply* or *spray* pesticides. Still, it doesn't explicitly mention adopting rules to establish a program for a pesticide trainee's non-application "*use*" of pesticides.
- Federal Citation: 40 CFR: 171.303(a)(7)

Section 3 (4)

- ORS 634.322(4) currently authorizes ODA to take license action if a person violates "provisions of this chapter", "this chapter" refers to ORS 634; must include violations of rules adopted to carry out ORS 634. ODA needs authority to suspend or revoke an applicator's license if the applicator (1) gets a criminal conviction under FIFRA, (2) gets a civil penalty for violating FIFRA, or (3) is subject to a final state enforcement action for violating ODA rules relevant to the C&T plan.
- Federal Citation: 40 CFR: 171.303(b)(7)(ii); 171.303(b)(7)(i)

Section 4 (4)

- ODA needs authority to assess civil penalties for violations of any state law or rule relevant to the C&T plan.
- Federal Citation: 40 CFR: 171.303(b)(7)(iii)

Section 5

- This expands the violations that could be considered for criminal penalties for violation of any state law or rule relevant to the certification plan.
- Federal Citation: 40 CFR: 171.303(b)(7)(iii)