

Oregon OSHA Proposes Changes to The Worker Protection Standard In Agriculture, General Industry, and Forest Activities

June 2009

Text proposed to be removed/repealed is in [~~brackets with line through~~].

Text proposed to be added/adopted is in **bold and underlined**.

Division 4/W, Agriculture/Worker Protection Standard

437-004-6000 Adoption by Reference of Federal Standard.

In addition to, and not in lieu of, any other safety and health codes contained in OAR Chapter 437, the Department adopts by reference the following federal regulations printed as part of the Code of Federal Regulations, 40 CFR 170, in the Federal Register on 8/21/92, vol. 57, no. 163:

Subpart A – GENERAL PROVISIONS

- (1) 40 CFR 170.1 Scope and purpose, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (2) 40 CFR 170.3 Definitions, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (3) 40 CFR 170.5 **Removed.** [~~Effective date and compliance dates, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.~~]
- (4) 40 CFR 170.7 General duties and prohibited actions, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (5) 40 CFR 170.9 Violations of this part, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.

Subpart B – STANDARD FOR WORKERS

- (6) 40 CFR 170.102 Applicability of this subpart, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 5/3/95, FR vol. 60, no. 85, p. 21952.

- (7) 40 CFR 170.103 Exceptions, published 8/21/92, Federal Register, vol. 57, p. 38151; 5/3/95, FR vol. 60, no. 85, p. 21952.
- (8) 40 CFR 170.104 Exemptions, published 8/21/92, Federal Register, vol. 57, p. 38151; 5/3/95, FR vol. 60, no. 85, p. 21952; **12/12/08, FR vol.73, no. 240, pp. 75592-75600.**
- (9) 40 CFR 170.110 Restrictions associated with pesticide applications, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (10) 40 CFR 170.112 Entry restrictions, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 6/10/94, FR vol. 59, p. 30264; 5/3/95, FR vol. 60, no. 85, p.21952; 9/1/04, FR vol. 69, no. 169, p.53341; **6/21/06, FR vo. 71, no.119, pp.35543-35547; 6/29/07, FR vol. 72, no. 125, p. 35663; 12/12/08, FR vol. 73, no. 240, pp. 75592-75600.**
- (11) 40 CFR 170.120 Notice of applications, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 6/26/96, FR vol. 61, no. 124, p. 33207.
- (12) 40 CFR 170.122 Providing specific information about applications, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (13) 40 CFR 170.124 Notice of applications to handler employers, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (14) 40 CFR 170.130 Pesticide safety training, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 5/3/95, FR vol. 60, no. 85, p. 21947 and 21952; **12/12/08, FR vol. 73, no. 240, pp. 75592-75600.**
- (15) 40 CFR 170.135 Posted pesticide safety information, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (16) 40 CFR 170.150 Decontamination, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 6/26/96, FR vol. 61, no. 124, p. 33212.
- (17) 40 CFR 170.160 Emergency assistance, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.

Subpart C – STANDARD FOR PESTICIDE HANDLERS

- (18) 40 CFR 170.202 Applicability of this subpart, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (19) 40 CFR 170.203 Exceptions, published 8/21/92, Federal Register, vol. 57, p. 38151; 5/3/95, FR vol. 60, no. 85, p. 21952.
- (20) 40 CFR 170.204 Exemptions, published 8/21/92, Federal Register, vol. 57, p. 38151; 5/3/95, FR vol. 60, no. 85, p. 21953; **12/12/08, FR vol. 73, no. 240, pp. 75592-75600.**
- (21) 40 CFR 170.210 Restrictions during applications, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (22) 40 CFR 170.222 Providing specific information about applications, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (23) 40 CFR 170.224 Notice of applications to agricultural employers, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.
- (24) 40 CFR 170.230 Pesticide safety training, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 5/3/95, FR vol. 60, no. 85, p. 21953

(25) 40 CFR 170.232 Knowledge of labeling and site-specific information, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.

(26) 40 CFR 170.234 Safe operation of equipment, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.

(27) 40 CFR 170.235 Posted pesticide safety information, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.

(28) 40 CFR 170.240 Personal protective equipment, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 6/26/96, FR vol. 61, no. 124, p. 33213; 9/1/04, FR vol. 69, no. 169, p. 53341; OR-OSHA note added with AO 9-2006, filed and effective 9/22/06.

(29) 40 CFR 170.250 Decontamination, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176; 6/26/96, FR vol. 61, no. 124, p. 33213; OR-OSHA note added with AO 9-2006, filed and effective 9/22/06.

(30) 40 CFR 170.260 Emergency assistance, published 8/21/92, Federal Register, vol. 57, no. 163, pp. 38102-38176.

These standards are available at the Oregon Occupational Safety and Health Division, Oregon Department of Consumer and Business Services, and the United States Government Printing Office.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f. 8/28/98, ef. 10/1/98.

OR-OSHA Admin. Order 7-2004, f. 12/30/04, ef. 12/30/04.

OR-OSHA Admin. Order 9-2006, f. 9/22/06, ef. 9/22/06.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

SUBPART A – GENERAL PROVISIONS

§170.5 ~~Removed.~~ [Effective Date and Compliance Dates.]

~~(a) Effective date.~~ The effective date for this part, including §170.112(e), shall be October 20, 1992.

~~NOTE:~~ In Oregon, this effective date will be upon adoption by OR-OSHA.

~~(b) Accelerated provisions.~~ The compliance date shall be April 21, 1993, for:

- ~~(1) Section 170.112(a) through (c)(3);~~
- ~~(2) Section 170.112(d)(1) through (d)(2)(ii);~~
- ~~(3) The requirement of §170.112(c)(3) as referenced in §170.112(d)(2)(iii);~~
- ~~(4) The requirement of §170.112(c)(3) as referenced in §170.112(e)(5);~~
- ~~(5) Section 170.120(a)(3); and~~
- ~~(6) Section 170.120(b)(3).~~

~~(c) All other provisions.~~ The compliance date for all other provisions of this part shall be April 15, 1994.

~~Stat. Auth.:~~ ORS 654.025(2) and 656.726(4).

~~Stats. Implemented:~~ ORS 654.001 through 654.295.

~~Hist:~~ OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.]

SUBPART B – STANDARD FOR WORKERS

§170.104 Exemptions.

The workers listed in this section are exempt from the specified provisions of this subpart.

(a) Owners of agricultural establishments.

(1) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing tasks related to the production of agricultural plants on their own agricultural establishment the protections of:

(i) Section 170.112(c)(5) through (9).

(ii) Section 170.112(c)(5) through (9) as referenced in §§170.112(d)(2)(iii) and 170.112(e).

(iii) Section 170.120.

(iv) Section 170.122.

(v) Section 170.130.

(vi) Section 170.135.

(vii) Section 170.150.

(viii) Section 170.160.

(2) The owner of the agricultural establishment must provide the protections listed in paragraph (a)(1)(i) through (viii) of this section to other workers and other persons who are not members of his immediate family.

(b) Crop advisors.

(1) Provided that the conditions of paragraph (b)(2) of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

(i) Section 170.150.

(ii) Section 170.160.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in paragraphs (b)(2)(iii) and (iv) of this section. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(2) Conditions of exemption.

(i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in §170.230(c)(4).

(ii) Applies only when performing crop advising tasks in the treated area.

(iii) The crop advisor must make specific determinations regarding the appropriate **personal protective equipment [PPE]**, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(iv) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide product and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

~~[(c) Grace period for persons performing crop advisor tasks who are not certified or licensed.~~

~~(1) Provided that the conditions of paragraph (c)(2) of this section are met, a person who is neither certified nor licensed as a crop advisor and any person performing crop advising tasks under his direct supervision is exempt until May 1, 1996, from the requirements of:~~

~~(i) Section 170.130.~~

~~(ii) Section 170.150.~~

~~(iii) Section 170.160.~~

~~(2) Conditions of exemption.~~

~~(i) Applies only when the persons are performing crop advising tasks in the treated area.~~

~~(ii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this~~

~~information to each person under his direct supervision in a language that the person understands.~~

~~(iii) Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under his direct supervision of the active ingredient, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.]~~

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

§170.112 Entry Restrictions.

(a) General restrictions.

(1) After the application of any pesticide **on an agricultural establishment**, ~~[an]~~ **the** agricultural employer shall not allow or direct any worker to enter or to remain in the treated area before the restricted-entry interval specified on the pesticide labeling has expired, except as provided in this section.

(2) Entry-restricted areas in greenhouses are specified in column D in Table 2 under §170.110(c)(4).

(3) When two or more pesticides are applied at the same time, the restricted-entry interval shall be the longest of the applicable intervals.

(4) The agricultural employer shall assure that any worker who enters a treated area under a restricted-entry interval as permitted by paragraphs (c), (d), and (e) of this section uses the personal protective equipment specified in the product labeling for early-entry workers and follows any other requirements on the pesticide labeling regarding early entry.

NOTE: In Oregon, to the extent that the Personal Protective Equipment requirements contained in OAR 437, Division 4/I, are more ~~[stringent]~~ **protective** than the label requirements, they will apply.

(b) Exception for activities with no contact. A worker may enter a treated area during a restricted-entry interval if the agricultural employer assures that both of the following are met:

(1) The worker will have no contact with anything that has been treated with the pesticide to which the restricted-entry interval applies, including, but not limited to, soil, water, air, or surfaces of plants; and

(2) No such entry is allowed until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by §170.110(c)(3) or in the labeling have been met.

(c) Exception for short-term activities. A worker may enter a treated area during a restricted-entry interval for short-term activities if the agricultural employer assures that the following requirements are met:

(1) No hand labor activity is performed.

(2) The time in treated areas under a restricted-entry interval for any worker does not exceed 1-hour in any 24-hour period.

(3) No such entry is allowed for the first 4 hours following the end of the application, and no such entry is allowed thereafter until any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by §170.110(c)(3) or in the labeling have been met.

(4) The personal protective equipment specified on the product labeling for early entry is provided to the worker. Such personal protective equipment shall conform to the following standards:

(i) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(ii) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(iii) When “chemical-resistant” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(iv) When “waterproof” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(v) When a “chemical-resistant suit” is specified by the product labeling, it shall be a loose-fitting, one- or two-piece, chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(vi) When “coveralls” are specified by the product labeling, they shall be a loose-fitting, one- or two-piece garment, such as a cotton or cotton and polyester coverall, that covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over a layer of clothing. If a chemical-resistant suit is substituted for coveralls, it need not be worn over a layer of clothing.

(vii)

(A) Gloves shall be of the type specified on the pesticide product labeling. Gloves made of leather, cotton, or other absorbent materials must not be worn for early-entry activities, unless gloves made of these materials are listed as acceptable for such use on the product labeling. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, leather gloves may be worn on top of chemical-resistant gloves. However, once leather gloves have been worn for this use, they shall not be worn thereafter for any other purpose, and they shall only be worn over chemical-resistant gloves.

(B) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with non-separable absorbent lining materials are prohibited.

(C) If used, separable glove liners must be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners shall not be reused. Contaminated liners must be disposed of in accordance with any Federal, State, or local regulations.

(viii) When “chemical-resistant footwear” is specified by the product labeling, it shall be one of the following types of footwear: chemical-resistant shoes, chemical-resistant boots, or chemical-resistant shoe coverings worn over shoes or boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable for workers, then leather boots may be worn in such terrain.

(ix) When “protective eyewear” is specified by the product labeling, it shall be one of the following types of eyewear: goggles; face shield; safety glasses with front, brow, and temple protection; or a full-face respirator.

NOTE: See also the requirements in OAR 437-004-1035.

(x) When “chemical-resistant headgear” is specified by the product labeling, it shall be either a chemical-resistant hood or a chemical-resistant hat with a wide brim.

(5) The agricultural employer shall assure that the worker, before entering the treated area, either has read the product labeling or has been informed, in a manner that the worker can understand, of all labeling requirements related to human hazards or precautions, first aid, symptoms of poisoning, personal protective equipment specified for early entry, and any other labeling requirements related to safe use.

(6) The agricultural employer shall assure that:

(i) Workers wear the personal protective equipment correctly for its intended purpose and use personal protective equipment according to manufacturer’s instructions.

(ii) Before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(iii) Personal protective equipment that cannot be cleaned properly is disposed of in accordance with any applicable Federal, State, and local regulations.

(iv) All personal protective equipment is cleaned according to manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

(v) Before being stored, all clean personal protective equipment is dried thoroughly or is put in a well-ventilated place to dry.

(vi) Personal protective equipment contaminated with pesticides is kept separately and washed separately from any other clothing or laundry.

(vii) Any person who cleans or launders personal protective equipment is informed that such equipment may be contaminated with pesticides, of the potentially harmful effects of exposure to pesticides, and of the correct way(s) to handle and clean personal protective equipment and to protect themselves when handling equipment contaminated with pesticides.

(viii) All clean personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(ix) Each worker is instructed how to put on, use, and remove the personal protective equipment and is informed about the importance of washing thoroughly after removing personal protective equipment.

(x) Each worker is instructed in the prevention, recognition, and first aid treatment of heat-related illness.

(xi) Workers have a clean place(s) away from pesticide-storage and pesticide-use areas for storing personal clothing not in use; putting on personal protective equipment at the start of any exposure period; and removing personal protective equipment at the end of any exposure period.

(7) When personal protective equipment is required by the labeling of any pesticide for early entry, the agricultural employer shall assure that no worker is allowed or directed to perform the early-entry activity without implementing, when appropriate, measures to prevent heat-related illness.

(8) During any early-entry activity, the agricultural employer shall provide a decontamination site in accordance with §170.150.

(9) The agricultural employer shall not allow or direct any worker to wear home or to take home personal protective equipment contaminated with pesticides.

(d) Exception for an agricultural emergency.

(1) An “agricultural emergency” means a sudden occurrence or set of circumstances which the agricultural employer could not have anticipated and over which the agricultural employer has no control, and which requires entry into a treated area during a restricted-entry interval, when no alternative practices would prevent or mitigate a substantial economic loss. A substantial economic loss means a loss in profitability greater than that which would be expected based on the experience and fluctuations of crop yields in previous years. Only losses caused by the agricultural emergency specific to the affected site and geographic area are considered. The contribution of mismanagement cannot be considered in determining the loss.

(2) A worker may enter a treated area under a restricted-entry interval in an agricultural emergency to perform tasks, including hand labor tasks, necessary to mitigate the effects of the agricultural emergency, if the agricultural employer assures that all the following criteria are met:

(i) A State, Tribal, or Federal Agency having jurisdiction declares the existence of circumstances that could cause an agricultural emergency on that agricultural establishment.

(ii) The agricultural employer determines the agricultural establishment is subject to the circumstances declared under paragraph (d)(2)(i) of this section that result in an agricultural emergency meeting the criteria of paragraph (d)(1) of this section.

(iii) The requirements of paragraphs (c)(3) through (9) of this section are met.

(e) Exception requiring Agency approval. The Agency may, in accordance with paragraphs (e)(1) through (3) of this section, grant an exception from the requirements of this section. An exception may be withdrawn in accordance with paragraph (e)(6) of this section.

NOTE: These exceptions will continue to be handled by the federal Environmental Protection Agency.

(1) ~~Requesting an e~~Exception **requiring agency approval**. A request for an exception must be submitted to the ~~Director,~~ Office of Pesticide Programs’

~~[(H-7501C), Environmental Protection Agency, 401 M Street SW, Washington, DC 20460,]~~ **Document Processing Desk at the appropriate address as set forth in 40 CFR 150.17(a) or (b)** and must be accompanied by two copies of the following information:

NOTE: 40 CFR 150.17(a) and (b) reads:

(a) United States Postal Service mailing address. Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW, Washington DC 20460-0001.

(b) Hand/courier delivery address. Office of Pesticide Programs, Environmental Protection Agency, 2777 S. Crystal Dr., Arlington, VA 22202-4501.

- (i) The name, address, and telephone number of the submitter.
- (ii) The time period for which the exception is requested.
- (iii) A description of the crop(s) and specific crop production task(s) for which the exception is requested. Such a description must include an explanation as to the necessity of applying pesticides of a type and at a frequency such that the restricted-entry interval would interfere with necessary and time-sensitive hand labor tasks for the period for which the exception is sought.
- (iv) A description of the geographic area for which the exception is requested. If the exception request is for a limited geographic area, the explanation must include a description as to why the circumstances of exposure or economic impact resulting from the prohibition of routine hand labor tasks during the restricted-entry interval are unique to the geographic area named in the exception.
- (v) An explanation as to why, for each requested crop-task combination, alternative practices would not be technically or financially viable. Such alternative practices might include: rescheduling the pesticide application or hand labor activity; using a non-chemical pest control alternative; using an alternative to the hand labor tasks, such as machine cultivation; or substituting a pesticide with a shorter restricted-entry interval. This information should include estimates or data on per acre revenue and cost of production for the crop and area for which the exception is requested. These estimates or data should include: the situation prior to implementation of this final rule, the situation after implementation of this final rule if the exception is not granted, the situation after implementation of this final rule if the exception is granted, and specific information on individual factors

which cause differences in revenues and costs among the three situations.

(vi) A description or documentation of the safety and feasibility of such an exception, including, but not limited to, the feasibility of performing the necessary hand labor activity while wearing the personal protective equipment required for early entry for the pesticide(s) expected to be applied, the means of mitigating heat-related illness concerns, the period of time required daily per worker to perform the hand labor activity, any suggested methods of reducing the worker's exposure, and any other mitigating factors, such as the availability of running water for routine and emergency decontamination and mechanical devices that would reduce the workers' contact with the treated surfaces. The information should include the costs associated with early-entry, such as decontamination facilities, special information and training for the workers, heat stress avoidance procedures, and provision, inspection, cleaning, and maintenance of personal protective equipment. EPA will not grant exceptions where the costs of early entry equal or exceed the expected loss in value of crop yield or quality.

(2) Notice of receipt.

(i) When a request for an exception is submitted to the Agency along with all of the information required in paragraph (e)(1) of this section, the Agency shall issue a notice in the Federal Register stating that an exception is being considered, describing the nature of the exception, and allowing at least 30 days for interested parties to comment.

(ii) If a request for an exception is submitted to the Agency without all of the information required in paragraph (e)(1) of this section, the Agency shall return the request to the submitter.

(3) Exception decision. EPA will publish in the Federal Register its decision whether to grant the request for exception. EPA will base its decision on whether the benefits of the exception outweigh the costs, including the value of the health risks attributable to the exception. If the exception is granted, the notice will state the nature of and reasons for the exception.

(4) Presumptive denial.

(i) Except as provided in paragraph (e)(4)(ii) of this section, persons requesting an exception may assume that the exception has been denied if EPA has not issued its decision whether to grant the exception within 9 months from the comment-closure date specified in

the Federal Register notice in which the Agency announced, in accordance with paragraph (e)(2) of this section, that it would consider the exception.

(ii) Persons requesting an exception may not assume that the request has been denied as provided by paragraph (e)(4)(i) of this section if the Agency has taken action to extend its review period for a specified time interval due to the complexity of the exception request or to the number of exception requests concurrently under Agency review. EPA shall state the reason(s) for the delay in issuing a decision on the exception request. A notice of such an action may be published in the Federal Register or persons who requested the exception may be directly notified of the action.

(5) Agricultural employer duties. When a worker enters a treated area during a restricted-entry interval under an exception granted under paragraph (e) of this section, the agricultural employer shall assure that the requirements of paragraphs (c)(3) through (9) of this section are met, unless the notice granting the exception specifically indicates otherwise.

(6) Withdrawing an exception. An exception may be withdrawn by the Agency at any time if the Agency receives poisoning information or other data that indicate that the health risks imposed by this early-entry exception are unacceptable or if the Agency receives other information that indicates that the exception is no longer necessary or prudent. If the Agency determines that an exception should be withdrawn, it will publish a notice in the Federal Register, stating the basis for its determination. Affected parties would then have 30 days to request a hearing on the Agency's determination. The exception, however, would be discontinued as of the date specified by EPA in the notice, which may include any of the 30-day period and the time required for any subsequent hearing process. Thereafter the Agency will decide whether to withdraw the exception and will publish a notice in the Federal Register stating its decision.

(7) List of exceptions granted by EPA. The following administrative exceptions from the requirements of this section have been granted by EPA. Each exception listed in paragraph (e)(7) of this section contains a reference to the Federal Register notice in which EPA has granted the exception and the effective dates of the exception. The terms and conditions of the exception appear in the referenced Federal Register notice.

~~[(i) Exception for hand labor to harvest greenhouse-grown cut roses published in the Federal Register of June 10, 1994, effective from June 10, 1994, to June 10, 1996.]~~

(i[i]) Exception to perform irrigation tasks under specified conditions published in the Federal Register of May 3, 1995.

(ii[i]) Exceptions to perform limited contact tasks under specified conditions published in the Federal Register of May 3, 1995.

~~[(iv) Exception for hand labor to harvest greenhouse-grown roses under specified conditions published in the Federal Register of October 3, 1997, effective December 18, 1996 to October 4, 1999.]~~

NOTE: For the ease of the reader we have printed the conditions of the exceptions for early entry irrigation activities referenced in 170.112(e)(7)(i) and (ii). They are:

1. The pesticide product does not have a statement in the labeling requiring double notification (workers must be notified both verbally and by posting of these high toxicity pesticides);

2. The workers do not enter the area during the first 4 hours, and until applicable ventilation criteria have been met, and until any label specified inhalation exposure level has been reached;

3. Before workers enter a treated area under an REI, the agricultural employer shall give them oral or written notification of the specifics of the exception to early entry. The notification must be in a language that the workers understand;

4. The workers' contact with treated surfaces is minimal and is limited to the feet, lower legs, hands and forearms;

5. Personal protective equipment for early entry is provided to the worker and must either conform with the label requirements or include at least coveralls, chemical resistant gloves, socks, chemical resistant footwear, and eyewear (if eyewear is required by the product labeling);

6. No hand labor activity (such as, hoeing, picking, pruning, etc.) is performed;

7. The time in treated areas under a REI for any worker may not exceed 8 hours in a 24 hour period.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.
OR-OSHA Admin. Order 7-2004, f. 12/30/04, ef. 12/30/04.
OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

§170.130 Pesticide Safety Training for Workers.

(a) General requirement.

(1) Agricultural employer assurance. The agricultural employer shall assure that each worker, required by this section to be trained, has been trained according to this section during the last 5 years, counting from the end of the month in which the training was completed.

(2) Requirement for workers performing early-entry activities. Before a worker enters a treated area on the agricultural establishment during a restricted-entry interval to perform early-entry activities permitted by §170.112 and contacts anything that has been treated with the pesticide to which the restricted-entry interval applies, including but not limited to, soil, water, or surfaces of plants, the agricultural employer shall assure that the worker has been trained.

(3) Requirement for other agricultural workers.

(i) Information before entry. [~~As of January 1, 1996, and e~~ Except as provided in paragraph (a)(2) of this section, before a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or the restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been provided the pesticide safety information specified in paragraph (c) **of this section**, in a manner that agricultural workers can understand, such as by providing written materials or oral communication or by other means. The agricultural employer must be able to verify compliance with this requirement.

(ii) Training before the 6th day of entry. Except as provided in paragraph (a)(2) of this section, before the 6th day that a worker enters any areas on the agricultural establishment where, within the last 30 days a pesticide to which this subpart applies has been applied or a restricted-entry interval for such pesticide has been in effect, the agricultural employer shall assure that the worker has been trained.

(b) Exceptions. The following persons need not be trained under this section:

(1) A worker who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A worker who satisfies the training requirements of part 171 of this chapter.

NOTE: Part 171 is about the certification of pesticide applicators and is administered by the Oregon Department of Agriculture.

(3) A worker who satisfies the handler training requirements of §170.230(c).

(4) A worker who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the information set out in §170.230(c)(4).

NOTE: Where ~~[F]~~the specific requirements of OAR 437-004-9800, Hazard Communication, are ~~[where]~~ more ~~[stringent]~~**protective** than these provisions, ~~[including the exceptions,]~~ will apply.

(c) Pesticide safety information. The pesticide safety information required by paragraph (a)(3)(i) shall be presented to workers in a manner that the workers can understand. At a minimum, the following information shall be provided:

(1) Pesticides may be on or in plants, soil, irrigation water, or drifting from nearby applications.

(2) Prevent pesticides from entering your body by:

(i) Following directions and/or signs about keeping out of treated or restricted areas.

(ii) Washing before eating, drinking, using chewing gum or tobacco, or using the toilet.

(iii) Wearing work clothing that protects the body from pesticide residues.

(iv) Washing/showering with soap and water, shampoo hair, and put on clean clothes after work.

(v) Washing work clothes separately from other clothes before wearing them again.

(vi) Washing immediately in the nearest clean water if pesticides are spilled or sprayed on the body. As soon as possible, shower, shampoo, and change into clean clothes.

(3) Further training will be provided within 5 days.

(d) Training programs.

(1) General pesticide safety information shall be presented to workers either orally from written materials or audiovisually. The information must be presented in a manner that the workers can understand (such as through a translator) using non-technical terms. The presenter also shall respond to workers' questions.

(2) The person who conducts the training shall meet at least one of the following criteria:

(i) Be currently certified as an applicator of restricted-use pesticides under part 171 of this chapter; or

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by a State, Federal, or Tribal agency having jurisdiction; or

(iii) Have completed a pesticide safety train-the-trainer program approved by a State, Federal, or Tribal agency having jurisdiction; or

(iv) Satisfy the training requirements in part 171 of this chapter or in §170.230(c).

NOTE: Part 171 is about certification of pesticide applicators and is administered by the Oregon Department of Agriculture.

(3) Any person who issues an EPA-approved Worker Protection Standard worker training certificate must assure that the worker who receives the training certificate has been trained in accordance with **paragraph** (d)(4) of this section.

(4) The training materials shall convey, at a minimum, the following information:

(i) Where and in what form pesticides may be encountered during work activities.

- (ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.
- (iii) Routes through which pesticides can enter the body.
- (iv) Signs and symptoms of common types of pesticide poisoning.
- (v) Emergency first aid for pesticide injuries or poisonings.
- (vi) How to obtain emergency medical care.
- (vii) Routine and emergency decontamination procedures, including emergency eyeflushing techniques.
- (viii) Hazards from chemigation and drift.
- (ix) Hazards from pesticide residues on clothing.
- (x) Warnings about taking pesticides or pesticide containers home.
- (xi) Requirements of this subpart designed to reduce the risks of illness or injury resulting from workers' occupational exposure to pesticides, including application and entry restrictions, the design of the warning sign, posting of warning signs, oral warnings, the availability of specific information about applications, and the protection against retaliatory acts.

(e) Verification of training.

(1) Except as provided in paragraph (e)(2) of this section, if the agricultural employer assures that a worker possesses an EPA-approved Worker Protection Standard worker training certificate, then the requirements of paragraph (a) and (c) of this section will have been met.

(2) If the agricultural employer is aware or has reason to know that an EPA-approved Worker Protection Standard worker training certificate has not been issued in accordance with this section, or has not been issued to the worker bearing the certificate, or the training was completed more than 5 years before the beginning of the current month, a worker's possession of that certificate does not meet the requirements of paragraph (a) of this section.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

SUBPART C – STANDARD FOR PESTICIDE HANDLERS

§170.204 Exemptions.

The handlers listed in this section are exempt from the specified provisions of this subpart.

(a) Owners of agricultural establishments.

(1) The owner of an agricultural establishment is not required to provide to himself or members of his immediate family who are performing handling tasks on their own agricultural establishment the protections of:

- (i) Section 170.210(b) and (c).
- (ii) Section 170.222.
- (iii) Section 170.230.
- (iv) Section 170.232.
- (v) Section 170.234.
- (vi) Section 170.235.
- (vii) Section 170 240(e) through (g).
- (viii) Section 170.250.
- (ix) Section 170.260.

(2) The owner of the agricultural establishment must provide the protections listed in paragraphs (a)(1)(i) through (ix) of this section to other handlers and other persons who are not members of his immediate family.

(b) Crop advisors.

(1) Provided that the conditions of paragraph (b)(2) of this section are met, a person who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, and persons performing crop advising tasks under such qualified crop advisor's direct supervision, are exempt from the provisions of:

(i) Section 170.232.

(ii) Section 170.240.

(iii) Section 170.250.

(iv) Section 170.260.

A person is under the direct supervision of a crop advisor when the crop advisor exerts the supervisory controls set out in paragraphs (b)(2)(iv) and (v) of this section. Direct supervision does not require that the crop advisor be physically present at all times, but the crop advisor must be readily accessible to the employees at all times.

(2) Conditions of exemption.

(i) The certification or licensing program requires pesticide safety training that includes, at least, all the information in §170.230(c)(4).

(ii) No entry into the treated area occurs until after application ends.

(iii) Applies only when performing crop advising tasks in the treated area.

(iv) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.

(v) Before entering a treated area, the certified or licensed crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.

~~[(c) Grace period for persons performing crop advisor tasks who are not certified or licensed.~~

~~(1) Provided that the conditions of paragraph (c)(2) of this section are met, a person who is neither certified nor licensed as a crop advisor and any person performing crop advising tasks under his direct supervision is exempt until May 1, 1996, from the requirements of:~~

~~(i) Section 170.230.~~

~~(ii) Section 170.232.~~

~~(iii) Section 170.240.~~

~~(iv) Section 170.250.~~

~~(v) Section 170.260.~~

~~(2) Conditions of exemption.~~

~~(i) No entry into the treated area occurs until after application ends.~~

~~(ii) Applies only when the persons are performing crop advising tasks in the treated area.~~

~~(iii) The crop advisor must make specific determinations regarding the appropriate PPE, appropriate decontamination supplies, and how to conduct the tasks safely. The crop advisor must convey this information to each person under his direct supervision in a language that the person understands.~~

~~(iv) Before entering a treated area, the crop advisor must inform, through an established practice of communication, each person under his direct supervision of the pesticide products and active ingredient(s) applied, method of application, time of application, the restricted entry interval, which tasks to undertake, and how to contact the crop advisor.]~~

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

§170.230 Pesticide Safety Training for Handlers.

(a) Requirement. Before any handler performs any handling task, the handler employer shall assure that the handler has been trained in accordance with this section during the last 5 years, counting from the end of the month in which the training was completed.

(b) Exceptions. The following persons need not be trained under this section:

(1) A handler who is currently certified as an applicator of restricted-use pesticides under part 171 of this chapter.

(2) A handler who satisfies the training requirements of part 171 of this chapter.

(3) A handler who is certified or licensed as a crop advisor by a program acknowledged as appropriate in writing by EPA or a State or Tribal lead agency for pesticide enforcement, provided that a requirement for such certification or licensing is pesticide safety training that includes all the information set out in §170.230(c)(4).

NOTE: Where ~~[T]he~~ specific requirements of OAR 437~~[, Division 4/Z,]-004-9800~~, Hazard Communication, ~~[where]are~~ more ~~[stringent]~~**protective** than these provisions, ~~[including the exceptions,]~~**they** will apply.

(c) Training programs.

(1) General pesticide safety information shall be presented to handlers either orally from written materials or audiovisually. The information must be presented in a manner that the handlers can understand (such as through a translator). The presenter also shall respond to handlers' questions.

(2) The person who conducts the training shall meet at least one of the following criteria:

(i) Be currently certified as an applicator of restricted-use pesticides under part 171 of this chapter; or

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by a State, Federal, or Tribal agency having jurisdiction; or

(iii) Have completed a pesticide safety train-the-trainer program approved by a State, Federal, or Tribal agency having jurisdiction.

(3) Any person who issues an EPA-approved Worker Protection Standard handler training certificate must assure that the handler who receives the training certificate has been trained in accordance with paragraph (c)(4) of this section.

(4) The pesticide safety training materials must convey, at a minimum, the following information:

(i) Format and meaning of information contained on pesticide labels and in labeling, including safety information such as precautionary statements about human health hazards.

(ii) Hazards of pesticides resulting from toxicity and exposure, including acute and chronic effects, delayed effects, and sensitization.

(iii) Routes by which pesticides can enter the body.

(iv) Signs and symptoms of common types of pesticide poisoning.

(v) Emergency first aid for pesticide injuries or poisonings.

(vi) How to obtain emergency medical care.

(vii) Routine and emergency decontamination procedures.

(viii) Need for and appropriate use of personal protective equipment.

(ix) Prevention, recognition, and first aid treatment of heat-related illness.

(x) Safety requirements for handling, transporting, storing, and disposing of pesticides, including general procedures for spill cleanup.

(xi) Environmental concerns such as drift, runoff, and wildlife hazards.

(xii) Warnings about taking pesticides or pesticide containers home.

(xiii) Requirements of this subpart that must be followed by handler employers for the protection of handlers and other persons, including the prohibition against applying pesticides in a manner that will cause contact with workers or other persons, the requirement to use personal protective equipment, the provisions for training and decontamination, and the protection against retaliatory acts.

(d) Verification of training.

(1) Except as provided in paragraph (d)(2) of this section, if the handler employer assures that a handler possesses an EPA-approved Worker Protection Standard handler training certificate, then the requirements of paragraph (a) of this section will have been met.

(2) If the handler employer is aware or has reason to know that an EPA-approved Worker Protection Standard handler training certificate has not been issued in accordance with this section, or has not been issued to the handler bearing the certificate, or the handler training was completed more than 5 years before the beginning of the current month, a handler's possession of that certificate does not meet the requirements of paragraph (a) of this section.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

§170.240 Personal Protective Equipment.

(a) Requirement. Any person who performs tasks as a pesticide handler shall use the clothing and personal protective equipment specified on the labeling for use of the product.

NOTE: In Oregon, to the extent that the Personal Protective Equipment requirements contained in OAR 437, Division 4/I, are more stringent than the label requirements, they will apply.

(b) Definition.

(1) Personal protective equipment (PPE) means devices and apparel that are worn to protect the body from contact with pesticides or pesticide residues, including, but not limited to, coveralls, chemical-resistant suits, chemical-resistant gloves, chemical-resistant footwear, respiratory protection devices, chemical-resistant aprons, chemical-resistant headgear, and protective eyewear.

(2) Long-sleeved shirts, short-sleeved shirts, long pants, short pants, shoes, socks, and other items of work clothing are not considered personal protective equipment for the purposes of this section and are not subject to

the requirements of this section, although pesticide labeling may require that such work clothing be worn during some activities.

(c) Provision. When personal protective equipment is specified by the labeling of any pesticide for any handling activity, the handler employer shall provide the appropriate personal protective equipment in clean and operating condition to the handler.

(1) When “chemical-resistant” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of the pesticide being used through the material during use.

(2) When “waterproof” personal protective equipment is specified by the product labeling, it shall be made of material that allows no measurable movement of water or aqueous solutions through the material during use.

(3) When a “chemical-resistant suit” is specified by the product labeling, it shall be a loose-fitting, one- or two-piece chemical-resistant garment that covers, at a minimum, the entire body except head, hands, and feet.

(4) When “coveralls” are specified by the product labeling, they shall be a loose-fitting, one- or two-piece garment, such as a cotton or cotton and polyester coverall, that covers, at a minimum, the entire body except head, hands, and feet. The pesticide product labeling may specify that the coveralls be worn over another layer of clothing.

(5)

(i) Gloves shall be of the type specified on the pesticide product labeling. Gloves made of leather, cotton, or other absorbent materials may not be worn while mixing, loading, applying, or otherwise handling pesticides, unless gloves made of these materials are listed as acceptable for such use on the product labeling.

(ii) Separable glove liners may be worn beneath chemical-resistant gloves, unless the pesticide product labeling specifically prohibits their use. Separable glove liners are defined as separate glove-like hand coverings, made of lightweight material, with or without fingers. Work gloves made from lightweight cotton or poly-type material are considered to be glove liners if worn beneath chemical-resistant gloves. Separable glove liners may not extend outside the chemical-resistant gloves under which they are worn. Chemical-resistant gloves with non-separable absorbent lining materials are prohibited.

(iii) If used, separable glove liners must be discarded immediately after a total of no more than 10 hours of use or within 24 hours of when first put on, whichever comes first. The liners must be replaced immediately if directly contacted by pesticide. Used glove liners shall not be reused. Contaminated liners must be disposed of in accordance with any Federal, State, or local regulations.

(6) When “chemical-resistant footwear” is specified by the product labeling, one of the following types of footwear must be worn:

(i) Chemical-resistant shoes.

(ii) Chemical-resistant boots.

(iii) Chemical-resistant shoe coverings worn over shoes or boots.

NOTE: Also see the requirements of OAR 437-004-1060, Hand and Foot Protection.

(7) When “protective eyewear” is specified by the product labeling, one of the following types of eyewear must be worn:

(i) Goggles.

(ii) Face shield.

(iii) Safety glasses with front, brow, and temple protection.

(iv) Full-face respirator.

NOTE: See also the requirements in 437-004-1035, Eye and Face Protection.

(8) When a “chemical-resistant apron” is specified by the product labeling, an apron that covers the front of the body from mid-chest to the knees shall be worn.

(9) When a respirator is specified by the product labeling, it shall be appropriate for the pesticide product used and for the activity to be performed. The handler employer shall assure that the respirator fits correctly.

(10) When “chemical-resistant headgear” is specified by the product labeling, it shall be either a chemical resistant hood or a chemical-resistant hat with a wide brim.

(d) Exceptions to personal protective equipment specified on product labeling.

(1) Body protection.

(i) A chemical-resistant suit may be substituted for “coveralls,” and any requirement for an additional layer of clothing beneath is waived.

(ii) A chemical-resistant suit may be substituted for “coveralls” and a chemical-resistant apron.

(2) Boots. If chemical-resistant footwear with sufficient durability and a tread appropriate for wear in rough terrain is not obtainable, then leather boots may be worn in such terrain.

(3) Gloves. If chemical-resistant gloves with sufficient durability and suppleness are not obtainable, then during handling activities with roses or other plants with sharp thorns, leather gloves may be worn over chemical-resistant glove liners. However, once leather gloves are worn for this use, thereafter they shall be worn only with chemical-resistant liners and they shall not be worn for any other use.

(4) Closed systems. If handling tasks are performed using properly functioning systems that enclose the pesticide to prevent it from contacting handlers or other persons, and if such systems are used and are maintained in accordance with that manufacturer’s written operating instructions, exceptions to labeling-specified personal protective equipment for the handling activity are permitted as provided in paragraphs (d)(4)(i) and (ii) of this section.

(i) Persons using a closed system to mix or load pesticides with a signal word of DANGER or WARNING may substitute a long-sleeved shirt, long pants, shoes, socks, chemical-resistant apron, and any protective gloves specified on the labeling for handlers for the labeling-specified personal protective equipment.

(ii) Persons using a closed system to mix or load pesticides other than those in paragraph (d)(4)(i) of this section or to perform other handling tasks may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment.

(iii) Persons using a closed system that operates under pressure shall wear protective eyewear.

(iv) Persons using a closed system shall have all labeling-specified personal protective equipment immediately available for use in an emergency.

(5) Enclosed cabs. If handling tasks are performed from inside a cab that has a nonporous barrier which totally surrounds the occupants of the cab and prevents contact with pesticides outside of the cab, exceptions to personal protective equipment specified on the product labeling for that handling activity are permitted as provided in paragraphs (d)(5)(i) through (iv) of this section.

(i) Persons occupying an enclosed cab may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device is specified on the pesticide product labeling for the handling activity, it must be worn.

(ii) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer or by a governmental agency to provide respiratory protection equivalent to or greater than a dust/mist filtering respirator may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If a respiratory protection device other than a dust/mist filtering respirator is specified on the pesticide product labeling, it must be worn.

(iii) Persons occupying an enclosed cab that has a properly functioning ventilation system which is used and maintained in accordance with the manufacturer's written operating instructions and which is declared in writing by the manufacturer or by a governmental agency to provide respiratory protection equivalent to or greater than the vapor- or gas-removing respirator specified on pesticide product labeling may substitute a long-sleeved shirt, long pants, shoes, and socks for the labeling-specified personal protective equipment. If an air-supplying respirator or a self-contained breathing apparatus (SCBA) is specified on the pesticide product labeling, it must be worn.

(iv) Persons occupying an enclosed cab shall have all labeling-specified personal protective equipment immediately available and stored in a chemical-resistant container, such as a plastic bag. They shall wear such personal protective equipment if it is necessary to exit the cab and contact pesticide-treated surfaces in the treated area. Once personal protective equipment is worn in the treated area, it must be removed before reentering the cab.

(6) Aerial applications.

(i) Use of gloves. The wearing of chemical-resistant gloves when entering or leaving an aircraft used to apply pesticides is optional, unless such gloves are required on the pesticide product labeling. If gloves are brought into the cockpit of an aircraft that has been used to apply pesticides, the gloves shall be kept in an enclosed container to prevent contamination of the inside of the cockpit.

(ii) Open cockpit. Persons occupying an open cockpit shall use the personal protective equipment specified in the product labeling for use during application, except that chemical-resistant footwear need not be worn. A helmet may be substituted for chemical-resistant headgear. A visor may be substituted for protective eyewear.

(iii) Enclosed cockpit. Persons occupying an enclosed cockpit may substitute a long-sleeved shirt, long pants, shoes, and socks for labeling-specified personal protective equipment.

(7) Crop advisors. Crop advisors entering treated areas while a restricted-entry interval is in effect may wear the personal protective equipment specified on the pesticide labeling for early-entry activities instead of the personal protective equipment specified on the pesticide labeling for handling activities, provided:

(i) Application has been completed for at least 4 hours.

(ii) Any inhalation exposure level listed in the labeling has been reached or any ventilation criteria established by §170.110(c)(3) or in the labeling have been met.

(e) Use of personal protective equipment.

(1) The handler employer shall assure that personal protective equipment is used correctly for its intended purpose and is used according to the manufacturer's instructions.

(2) The handler employer shall assure that, before each day of use, all personal protective equipment is inspected for leaks, holes, tears, or worn places, and any damaged equipment is repaired or discarded.

(f) Cleaning and maintenance.

(1) The handler employer shall assure that all personal protective equipment is cleaned according to the manufacturer's instructions or pesticide product labeling instructions before each day of reuse. In the absence of any such instructions, it shall be washed thoroughly in detergent and hot water.

(2) If any personal protective equipment cannot be cleaned properly, the handler employer shall dispose of the personal protective equipment in accordance with any applicable Federal, State, and local regulations. Coveralls or other absorbent materials that have been drenched or heavily contaminated with an undiluted pesticide that has the signal word DANGER or WARNING on the label shall not be reused.

(3) The handler employer shall assure that contaminated personal protective equipment is kept separately and washed separately from any other clothing or laundry.

(4) The handler employer shall assure that all clean personal protective equipment shall be either dried thoroughly before being stored or shall be put in a well ventilated place to dry.

(5) The handler employer shall assure that all personal protective equipment is stored separately from personal clothing and apart from pesticide-contaminated areas.

(6) The handler employer shall assure that when dust/mist filtering respirators are used, the filters shall be replaced:

(i) When breathing resistance becomes excessive.

(ii) When the filter element has physical damage or tears.

(iii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iv) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(7) The handler employer shall assure that when gas- or vapor-removing respirators are used, the gas- or vapor-removing canisters or cartridges shall be replaced:

(i) At the first indication of odor, taste, or irritation.

(ii) According to manufacturer's recommendations or pesticide product labeling, whichever is more frequent.

(iii) In the absence of any other instructions or indications of service life, at the end of each day's work period.

(8) The handler employer shall inform any person who cleans or launders personal protective equipment:

- (i) That such equipment may be contaminated with pesticides.
- (ii) Of the potentially harmful effects of exposure to pesticides.
- (iii) Of the correct way(s) to clean personal protective equipment and to protect themselves when handling such equipment.

NOTE: The requirements for a respirator program in OAR 437-004-1041 Respiratory Protection standard would apply.

(9) The handler employer shall assure that handlers have a clean place(s) away from pesticide storage and pesticide use areas where they may:

- (i) Store personal clothing not in use.
- (ii) Put on personal protective equipment at the start of any exposure period.
- (iii) Remove personal protective equipment at the end of any exposure period.

(10) The handler employer shall not allow or direct any handler to wear home or to take home personal protective equipment contaminated with pesticides.

(g) Heat-related illness. When the use of personal protective equipment is specified by the labeling of any pesticide for the handling activity, the handler employer shall assure that no handler is allowed or directed to perform the handling activity unless appropriate measures are taken, if necessary, to prevent heat-related illness.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.

OR-OSHA Admin. Order 7-2004, f. 12/30/04, ef. 12/30/04.

OR-OSHA Admin. Order 9-2006, f. 9/22/06, ef. 9/22/06.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

§170.250 Decontamination.

(a) Requirement. During any handling activity, the handler employer shall provide for handlers, in accordance with this section, decontamination supplies for washing off pesticides and pesticide residues.

(b) General conditions.

NOTE: OAR 437-004-1305~~[(5)(b), (d), and (e)]~~ applies for all mixing or loading work for ~~chemicals~~ **pesticide products** whose key alert word on the product label is “danger” or “danger poison.”

(1) The handler employer shall provide handlers with enough water for routine washing, for emergency eyeflushing, and for washing the entire body in case of an emergency. At all times when the water is available to handlers, the handler employer shall assure that it is of a quality and temperature that will not cause illness or injury when it contacts the skin or eyes or if it is swallowed.

(2) When water stored in a tank is to be used for mixing pesticides, it shall not be used for decontamination or eye flushing, unless the tank is equipped with properly functioning valves or other mechanisms that prevent movement of pesticides into the tank.

(3) The handler employer shall provide soap and single-use towels in quantities sufficient to meet handlers’ needs.

(4) The handler employer shall provide one clean change of clothing, such as coveralls, for use in an emergency.

(c) Location. The decontamination supplies shall be located together and be reasonably accessible to and not more than 1/4-mile from each handler during the handling activity.

(1) Exception for mixing sites. For mixing activities, decontamination supplies shall be at the mixing site.

(2) Exception for pilots. Decontamination supplies for a pilot who is applying pesticides aurally shall be in the airplane or at the aircraft loading site.

(3) Exception for handling pesticides in remote areas. When handling activities are performed more than 1/4-mile from the nearest place of vehicular access:

(i) The soap, single-use towels, clean change of clothing, and water may be at the nearest place of vehicular access.

(ii) The handler employer may permit handlers to use clean water from springs, streams, lakes, or other sources for decontamination at the remote work site, if such water is more accessible than the water located at the nearest place of vehicular access.

(4) Decontamination supplies in treated areas. The decontamination supplies shall not be in an area being treated with pesticides or in an area under a restricted-entry interval, unless:

(i) The decontamination supplies are in the area where the handler is performing handling activities;

(ii) The soap, single-use towels, and clean change of clothing are in enclosed containers; and

(iii) The water is running tap water or is enclosed in a container.

(d) Emergency eyeflushing. To provide for emergency eyeflushing, the handler employer shall assure that at least 1-pint of water is immediately available to each handler who is performing tasks for which the pesticide labeling requires protective eyewear. The eyeflush water shall be carried by the handler, or shall be on the vehicle or aircraft the handler is using, or shall be otherwise immediately accessible.

(e) Decontamination after handling activities. At the end of any exposure period, the handler employer shall provide at the site where handlers remove personal protective equipment, soap, clean towels, and a sufficient amount of water so that the handlers may wash thoroughly.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 4-1998, f/8/28/98, ef. 10/1/98.

OR-OSHA Admin. Order 9-2006, f. 9/22/06, ef. 9/22/06.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

Division 2/Z, General Industry/Toxic and Hazardous Substances

437-002-0170 Worker Protection Standard Oregon OSHA administers and enforces the Worker Protection Standard (40 CFR 170) as adopted in OAR 437-004-6000 in Division 4/W. All parts apply without regard to the scope of Division 4 in addition to, and not instead of, any other part of Division 2, General Industry. Should any of the parts of these two standards conflict, comply with the part offering the most protection to workers.

When a pesticide product with a Worker Protect Standard (WPS) section on the product label is used on plants grown or maintained for sale or resale, e.g., retail nurseries or greenhouses, the WPS applies. Plants include food, feed and fiber plants; ornamental trees and shrubs; turfgrass sod; flowers and seedlings. This is consistent with the Environmental Protection Agency's interpretation and application of the WPS.

A full text of the [Worker Protection Standard is found in Division 4, Agriculture, Subdivision W.](#)

NOTE: 437-002-0170 Worker Protection Standard does not apply when any pesticide is applied in the following circumstances: (See 437-004-6000, 170.103 Exceptions)

- **For mosquito abatement, or similar wide-area public pest control programs sponsored by governmental entities;**
- **To control pests on livestock or other animals, or in or about animal premises;**
- **To control pests on plants not grown for sale or resale such as ornamental plants in or around habitations, home fruit and vegetable gardens, and home greenhouses;**
- **To control pests on plants that are in ornamental gardens, parks, public or private lawns or grounds that are intended only for aesthetic purposes or climatic modification;**
- **By direct injection into plants; (Direct injection does not include pesticides applied through irrigation water or soil-injection.)**
- **For control of structural pests;**
- **For control of vegetation in non-crop areas;**
- **For control of vertebrate pests;**
- **As attractants or repellents in traps.**

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.

Division 7/A, Forest Activities/General Requirements and Definitions

437-007-0010 Worker Protection Standard. Oregon OSHA administers and enforces the Worker Protection Standard (40 CFR 170) **as adopted in OAR 437-004-6000 in Division 4/W.** [~~It is part of this division.~~] All parts apply **without regard to the scope of Division 4** in addition to, and not instead of, any other part of Division 7, Forest Activities. Should any of the parts of these two standards conflict, comply with the part offering the most protection to workers.

Stat. Auth.: ORS 654.025(2) and 656.726(4).

Stats. Implemented: ORS 654.001 through 654.295.

Hist: OR-OSHA Admin. Order 5-2003, f. 6/02/03, ef. 12/01/03.

OR-OSHA Admin. Order 3-2008, f. 3/7/08, ef. 7/1/08.

OR-OSHA Admin. Order X-2009, f. X/XX/09, ef. X/XX/09.