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DEPARTMENT OF FORESTRY

DIVISION 620

CHEMICAL AND OTHER PETROLEUM PRODUCT RULES

629-620-0000

Purpose

(1) OAR 629-620-0000  through 629-620-0800  shall be known as the chemical and other petroleum product rules. In addition to the application of chemicals, operators should be aware that certain requirements of these rules also apply to the use of other petroleum products, such as fuel and lubricants, on any forest operation.

(2) Operators are encouraged to voluntarily use integrated pest and vegetation management processes. The use of pesticides is one of a variety of integrated pest management strategies that forest landowners may implement to minimize the impact of forest pests in an environmentally and economically sound manner to meet site specific objectives. When properly used, pesticides and other chemicals can be effective tools in the growing and harvesting of forest tree species.

(3) The purpose of the forest practice chemical and other petroleum product rules is to establish requirements that will ensure:

(a) Chemicals and other petroleum products used on forestland do not occur in the soil, air, or waters of the state in quantities that would be injurious to water quality or to the overall maintenance of terrestrial wildlife or aquatic life; and

(b) The vegetative components of riparian management areas and sensitive resource sites receive protection on herbicide operations consistent with the purposes of the reforestation rules, the requirements of the sensitive resource site rules, and the vegetation retention goals of the water protection rules.

(4) All distances listed in the chemical and other petroleum product rules shall be measured horizontally.

(5) Operations involving the use of chemicals and other petroleum products on forestland are also subject to the pesticide control laws administered by the Department of Agriculture, hazardous waste laws administered by the Department of Environmental Quality, hazard communication rules administered by the Occupational Safety and Health Division, and the water use laws administered by the Water Resources Department. Maximum contaminant levels in drinking water for certain pesticides are established by the Health Division.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97; DOF 2-2013, f. 7-11-13, cert. ef. 9-1-13

629-620-0100

Preventing, Controlling, and Reporting Leaks and Spills of Chemicals and Other Petroleum Products

(1) The operator shall maintain equipment used for transportation, on-site storage, or application of chemicals in a leak proof condition. If there is evidence of chemical leakage, the operator shall suspend the further use of such equipment until the deficiency has been corrected.

(2) Operators shall take adequate precautions to prevent leaks or spills of other petroleum products, such as fuel, motor oil, and hydraulic fluid, from entering the waters of the state.

(3) Operators shall take immediate and appropriate action to stop and contain leaks or spills of chemicals and other petroleum products.

(4) The operator shall immediately report to the State Forester any chemical spills and other petroleum product spills resulting from the operation that enter, or may enter, the waters of the state. Such notification will not exempt the operator from any requirements of other local, state, and federal agencies to report chemical or other petroleum product spills.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-620-0200

Protection of Water Quality During Mixing of Chemicals

(1) Whenever water is taken from any stream or water impoundment for use in the mixing of chemicals, the operator shall prevent chemicals from entering the waters of the state by taking at least the following precautions:

- (a) Providing an air gap or reservoir between the water source and the mixing tank; and
- (b) Using pumps, suction hoses, feed hoses, and check valves that are used only for water.

(2) (For information only) When water is to be withdrawn from the waters of the state for use in mixing pesticides or for slash burning, ORS 537.141 requires operators to notify the Water Resources Department and the Department of Fish and Wildlife. Notification to the State Forester does not satisfy this requirement.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-620-0300

Locations of Mixing, Transfer, and Staging Areas for Chemicals and Other Petroleum Products

(1) Operators shall conduct the following activities only in locations where spillage of chemicals or other petroleum products will not enter the waters of the state:

- (a) Mixing chemicals;
- (b) Transferring chemicals or other petroleum products between equipment or containers including, but not limited to, fueling of aircraft or heavy equipment;
- (c) Cleaning tanks or equipment used during chemical applications;
- (d) Landing and staging aircraft.

(2) Notwithstanding section(1), operators shall not locate chemical mixing and staging areas for aerial chemical applications within 100 feet of Type F or Type D streams.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-620-0400

Protection of the Waters of the State and Other Resources When Applying Chemicals

(1) When applying chemicals aerially or from the ground, operators shall protect waters of the state and other forest resources by following the requirements of the chemical product label and by meeting the additional protection measures listed in this rule.

(2) When applying herbicides near or within riparian management areas or waters of the state, operators shall maintain vegetation required to be protected by the water protection rules.

(3) Weather conditions such as temperature, relative humidity, wind speed, wind direction, atmospheric temperature inversions, and precipitation may strongly affect the deposition and drift of chemicals during aerial and pressurized, ground-based chemical applications. Operators shall apply chemicals only under weather conditions which will protect non-target forest resources and comply with the product label and the other sections of this rule.

(4) Except where the product label or sections (2), (6), or (7) apply more stringent requirements, when applying chemicals by aircraft, operators shall not directly apply chemicals within 60 feet of:

- (a) Significant wetlands;
- (b) The aquatic areas of Type F and Type D streams;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(5) Except where the product label or sections (2) or (6) apply more stringent requirements, when applying chemicals from the ground, operators shall not directly apply chemicals within 10 feet of:

- (a) Significant wetlands;
- (b) The aquatic areas of Type F and Type D streams;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(6) Operators shall not directly apply fertilizers within 100 feet of Type D streams and the domestic use portions of Type F streams. For other waters of the state, no untreated strips are required to be left by operators when applying fertilizers, except that operators shall not directly apply fertilizers to:

- (a) The aquatic areas of other Type F streams or to large and medium Type N streams;
- (b) Significant wetlands;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

(7)(a) Except as allowed under subsections (d) and (e), operators shall not directly apply fungicides or non-biological insecticides by aircraft, within 300 feet of:

- (A) Significant wetlands;
- (B) The aquatic areas of Type F and Type D streams;
- (C) The aquatic areas of large lakes;
- (D) The aquatic areas of other lakes with fish use; or
- (E) Other areas of standing open water larger than one-quarter acre at the time of the application.

(b) Operators shall not directly apply fungicides or non-biological insecticides by aircraft within 60 feet of the aquatic areas of Type N streams containing flowing water at the time of application.

(c) For the purpose of this rule, "biological insecticide" means any insecticide containing only naturally occurring active ingredients including, but not limited to, viruses, bacteria, semiochemicals (pheromones), or fungi.

(d) Plans for alternate practices that modify the requirements of subsections (a) and (b) may be approved by the State Forester. Approvals of such plans shall be based on a written finding by the State Forester determining that:

(A) Such a modification is essential to control a fungus or a population of an insect species to reduce damage to, and to better provide for, the overall maintenance of forest resources protected under the Forest Practices Act;

(B) The operational or weather condition constraints placed on the application by the plan for alternate practice, in addition to the requirements of the forest practice rules and the product label, will reduce the potential for the fungicide or non-biological insecticide to drift outside the operation area or to enter the waters of the state; or

(C) Adequate documentation has been submitted by the operator indicating the toxicity to humans, fish populations, or to aquatic invertebrate populations of the fungicide or non-biological insecticide to be applied is lower than the documented toxicity of the fungicide chlorothalonil or the non-biological insecticide carbaryl, as used in forestry prior to September 4, 1996.

(e) The requirements of sections (a) and (b) do not apply to pest eradication programs conducted on forestland by the Department of Agriculture.

(8) The operator shall make all aerial chemical applications parallel to the edge of the water when applying chemicals within 100 feet of:

- (a) Significant wetlands;
- (b) The aquatic areas of Type F and Type D streams;
- (c) The aquatic areas of large lakes;
- (d) The aquatic areas of other lakes with fish use; or
- (e) Other areas of standing open water larger than one-quarter acre at the time of the application.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-620-0500 

Disposal of Chemical Containers

Operators shall dispose of chemical containers in accordance with the Department of Environmental Quality's disposal requirements. Operators may apply flushing solution resulting from cleaning of chemical containers to the operation area.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-620-0600 

Daily Records of Chemical Applications

(1) Whenever pesticides are aerially applied or applied using a pressurized, ground-based, broadcast application system on forestland, the operator shall maintain a daily record of application operations which includes:

- (a) The legal description of the location of the operation area actually treated with chemicals;

- (b) The acreage actually treated with chemicals;
 - (c) Brand name or EPA registration number of the chemicals used, the carrier used, and the application rate;
 - (d) Date and time of application;
 - (e) Air temperature, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
 - (f) Relative humidity, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
 - (g) Wind velocity and direction, to be measured within the operation area and recorded at least hourly for aerial applications and at least at the beginning and end of each day's application for ground applications;
 - (h) The name of the person making the application, including the contractor's name and pilot's name when applied aerially, or the contractor's name and/or employee's name for ground application.
- (2) Whenever pesticides are applied on forestland using methods other than those described in section(1) of this rule, the operator shall maintain a daily record of all information listed in subsections (a), (b), (c), (d), and (h) of section(1).
- (3) Whenever fertilizers are applied on forestland, the operator shall maintain a record of all information listed in subsections (a), (b), (d), and (h) of section(1) of this rule and shall also record the application rate and the formulation used.
- (4) The records required in sections (1), (2) and (3) of this rule shall be maintained by the operator for three years from the date of application and be made available at the request of the State Forester.

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715
Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-620-0700

Chemical and Other Petroleum Product Rules: Effectiveness Monitoring and Evaluation

- (1) In cooperation with state agencies, landowners, and other interested parties, the department shall conduct monitoring to evaluate the effectiveness of the chemical and other petroleum product rules. The monitoring shall determine the effectiveness of the rules to meet the goals of the Forest Practices Act and the purposes stated in the rules, as well as their workability and operability.
- (2) It is the Board of Forestry's intent that the department and its cooperators place a high priority on assessing the monitoring needs and securing adequate resources to conduct the necessary monitoring. The department shall work with its cooperators and the Legislature to secure the necessary resources, funding and coordination for effective monitoring.
- (3) The department shall report to the Board of Forestry annually about current monitoring efforts and, in a timely manner, present findings and recommendations for changes to practices. The Board of Forestry shall consider the findings and recommendations and take appropriate action.

Stat. Auth.: ORS 527.710
Stats. Implemented: ORS 527.715
Hist.: FB 9-1996, f. 12-2-96, cert. ef. 1-1-97

629-620-0800

Notification of Community Water System Managers When Applying Chemicals

- (1) The purpose of this rule is to ensure that community water system managers are appropriately notified of planned chemical operations so that they can coordinate their monitoring activities with planned operations.
- (2) This rule applies to community water systems where the surface water drainage area upstream of their intake is 100 square miles or less. The State Forester shall maintain a list of community water systems for which notification is required. A community water system with a drainage area of more than 100 square miles upstream of its intake may request to be added to the list based upon its ability to conduct effective monitoring in the watershed. The list shall be available at department field offices where notifications are submitted.
- (3) When chemicals will be aerially applied within 100 feet, or applied from the ground within 50 feet of domestic portions of Type F or Type D streams, and the water use is by a community water system as designated under section (2) of this rule, the operator shall notify the water system manager of a planned chemical operation at least 15 days before the operation commences.
- (4) The operator shall provide the following additional information before commencing the operation if requested by the manager of the affected water system at the time of notification required in section (3) above:

- (a) The application technology that will be used;
- (b) Practices that will be followed to minimize drift toward the stream;

(c) Any monitoring efforts that will be conducted by the landowner; and

(d) The planned time schedule for the application.

Stat. Auth.: ORS 527.710

Stats. Implemented: ORS 527.715 & 527.765

Hist.: FB 3-1994, f. 6-15-94, cert. ef. 9-1-94; FB 9-1996, f. 12-2-96, cert. ef. 1-1-97;

Renumbered from 629-024-0211 

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