

# Pesticide Use for Experimental or Research Purposes

## Oregon Experimental Use Permit (EUP) Guidance Document



**Oregon**  
Department  
of Agriculture

### HOW DO I KNOW WHETHER I NEED AN OREGON EUP?

An Experimental Use Permit (EUP) is required anytime a substance or combination of substances is used as a pesticide in a manner that is different from current labeling, or if the pesticide to be used is not currently registered with the U.S. EPA and/or the Oregon Department of Agriculture (ODA).

Examples include, but are not limited to, pesticide applications carried out:

- To gather data to add additional crops or use sites.
- To gather data to use a pesticide at a rate higher than what is listed on the label.
- To gather data to apply the pesticide more frequently than what is listed on the label.
- When applying a new formulation of a pesticide that has not been registered with the EPA.
- When gathering data for a FIFRA Section 25(b) pesticide that is not registered with ODA, or
- When conducting experimental pesticide use in Oregon under a Federal EUP.

### WHEN IS AN EUP NOT REQUIRED?

An EUP is not required when the demonstration plots, experiments or research trials only involves pesticides which are:

- Registered by EPA and ODA, or Sec. 25(b) products registered by ODA; and
- When the pesticide is used in a manner consistent with the pesticide product label directions.

Additional exceptions to the EUP requirement are provided in OAR 603-057-160(2). Important - Proper licensing is required even if an EUP is not required.

### EUP APPLICATION COMPONENTS AND REPORTING REQUIREMENTS

- State EUPs can be granted for up to 10 acres. All experiments exceeding 10 acres per product must get a Federal EUP.
- A letter of support from the registrant is required if the trial is being conducted by someone other than an employee of the pesticide registrant.
- A completed EUP application must be submitted to ODA no less than 30 days prior to the beginning of the trial.
- The applicator(s) must have a copy of the ODA signed permit in their possession when pesticide applications are made.
- Any adverse environmental effects must be immediately reported to ODA.
- The permit holder is required to submit a final report to ODA upon the completion of the trial or at the expiration of the permit. The final report should:
  - » Summarize the findings of the experimental trial(s);
  - » Describe any adverse environmental, human, or animal health effects resulting from the pesticide(s) used; and

- » If the pesticide use occurred on a food or feed item, provide documentation of food/feed item destruction. See Crop Disposition section for more information.
- See OAR 603-057-0160 for the full requirements of EUPs.

## **TYPES OF EUP PERMITS**

### **Collective permits**

- A Collective EUP allows a person to apply a pesticide for experimental or research purposes to agricultural or forestry sites without identifying the specific site.
- The permit applicant may use multiple agricultural and forestry sites in Oregon, as long as the total size of all the sites combined DOES NOT exceed one acre per active ingredient.
- A Collective EUP (COEUP) expires on December 31st of the year it was issued.
- Permit applicants must submit a completed application for the COEUP and the person(s) applying the pesticides under the permit must have a copy of the ODA-signed permit in their possession when pesticide applications are made.
- The holder of the EUP must file a summary report of all the experiments and research trials under the permit no later than 30 days after the expiration date of the permit. Future COEUPs and EUPs will not be granted if the summary report has not been submitted.

### **Site-specific permits**

- A Site-Specific EUP allows a person to apply a pesticide for experimental or research purposes to sites that are only specified in the permit and are not covered by a Collective EUP.
- Agricultural and forestry experimental sites that will exceed 1 acre total per active ingredient must apply for a Site-Specific EUP rather than a Collective EUP.
- Non-agricultural and non-forestry sites, regardless of the size of the trial, must use the Site-Specific EUP, rather than Collective EUP. Permissible sites include, but are not limited to aquatic, residential, recreational, structural sites, commodity storage facilities, areas with public access, and ornamental and turf sites.
- Site-Specific EUPs may be issued for 12 months from the date of approval by ODA, or unless otherwise specified, and are subject to the same requirements of Collective EUPs for (a) having the signed permit in possession during the pesticide applications and (b) submitting a summary report.

## **CONDITIONS FOR ALL EUPs**

- Pesticides must be conspicuously labeled “for experimental purposes only and not for sale”, in addition to the labeling requirements of ORS 634.026.
- ODA may monitor any pesticide used for experimental or research purposes.
- All applicable federal and state laws must be followed, including licensing requirements.
- Additional requirements regarding crop disposition requirements are specified below.
- Failure by any person to comply with the provisions of an EUP as determined by ODA, may be subject to one or more of the following enforcement actions:
  - » Revocation, suspension, or refusal to issue an experimental use permit, in accordance with ORS 634.022 or ORS 634.322(6);
  - » Revocation, suspension, or refusal to issue any license of a permit holder or of a person that conducted a pesticide use for experimental or research purposes, in accordance with ORS 634.322(4);
  - » Imposition of a civil penalty, in accordance with ORS 634.900.

## **CROP DISPOSITION**

Crop disposition refers to how food, feed items and their by-products must be destroyed or rendered unusable for food or feed, when a pesticide has been applied that does not have an established tolerance on that particular food or feed crop.

This requirement is for all experimental pesticide use, including but not limited to, conventional, organic, and 25(b) products used in the field, in a greenhouse or other enclosed structures, in a laboratory, or in/on an animal, regardless if an EUP was required or not.

- If the experimental use product is applied to a crop or site that cannot be rendered unusable for food or feed use, then the site cannot be used to produce a food or feed crop for 365 days from the date of the last application. This includes applications made to rangeland and pasture, as well as feed crops used for green chop, hay, seed screenings, silage and straw.
- EPA considers check plots to be part of the research trial and they are therefore also subject to the crop-destroy requirement.
- As a condition of the EUP, ODA requires documentation of the destruction of the food or feed item(s). The crop or use site can also be isolated (fenced) from use.

Exceptions to the crop-destroy requirement would be:

- If there is an established tolerance on that particular food or feed crop, and the experimental use will not exceed the tolerance, or
- If the pesticide is exempt from requirement of a tolerance.

## **LEGAL REQUIREMENTS — EXPERIMENTAL USE PESTICIDE**

- Individuals must be appropriately licensed in Oregon as either a Pesticide Consultant, a Commercial Pesticide Applicator, or a Public Pesticide Applicator. All individuals must at least have the Demonstration and Research license category (OAR 603-057-0110(3)).
- A Commercial Pesticide Operator would need to have the Demonstration and Research license category on their Operator license when experimental and/or research trials are conducted by a Commercial Pesticide Applicator with the Demonstration and Research category while working for the Operator.
- Private Pesticide Applicator licensees may not apply pesticides under an EUP, even if supervised.
- Commonly Asked Questions:
  1. Does a Commercial Pesticide Applicator making applications on behalf of a State, Federal or University researcher, have to have the Demonstration and Research license category? Answer: Yes
  2. May a Private Pesticide Applicator or unlicensed individual make applications on behalf of a State, Federal or University researcher? Answer: No.

## **LICENSING REQUIREMENTS — MAINTENANCE USE PESTICIDE**

Experimental or research plots often need to be maintained with pesticides not directly related to the purpose of the trial. Applicators must be licensed in the relevant and appropriate category to make these maintenance applications. For example, an applicator with the Demonstration and Research license category is evaluating fungicide use in crop plots. To fully evaluate the fungicide, weed populations need to be controlled with an herbicide. The researcher needs to have the “Agriculture - Herbicide” license category in order to make herbicide maintenance applications.

### **Forms and other resources:**

<https://oda.direct/EUPs>

## APPENDIX

### OREGON ADMINISTRATIVE RULES (OAR) REFERRED TO IN THE OREGON EUP GUIDANCE DOCUMENT

#### 603-057-0110

(3) Demonstration and Research: This shall include pesticide operators, pesticide applicators, pesticide trainees, public applicators and public trainees who use or supervise the use of pesticides, or of any substance or mixture of substances that is being evaluated for use as a pesticide, for experiments or research such as for gathering data to satisfy registration requirements of the United States Environmental Protection Agency or of the department.

The uses included in this category must be:

- (a) Authorized by an experimental use permit issued by the United States Environmental Protection Agency;
- (b) Authorized by an experimental use permit issued by the department as provided in OAR 603-057-0160; or
- (c) By a federal or state agency that is exempt from obtaining an experimental use permit as provided in OAR 603-057-0160(2)(b).

Note: The exemption provided manufacturers under subsection (1) of ORS 634.106 only applies to laboratory research.

#### 603-057-0160

##### **Pesticide Use for Experimental or Research Purposes**

(1) Use of any substance or combination of substances as a pesticide with the intent of gathering data needed to satisfy pesticide registration requirements of the United States Environmental Protection Agency (EPA) or of the department shall be considered pesticide use for experimental or research purposes.

- (a) An experimental use permit that is issued by the department constitutes the approval required by ORS 634.022(2).
- (b) The permit requirement in this section is in addition to pesticide licensing requirements.

(2) The requirement to obtain an experimental use permit is not applicable to:

- (a) Experiments or research conducted by federal or state agencies; or
- (b) Experiments or research conducted entirely in one or more greenhouses; or
- (c) Experiments or research that only:
  - (A) Use pesticides that are registered by EPA and the department; and
  - (B) Use pesticides in the manner consistent with the product label.

(3) To obtain an experimental use permit, a person must submit a complete application to the department and be in compliance with subsection (14) of this section. The pesticide use described in the application may not begin until the department issues the experimental use permit.

- (a) The applicant must use a form approved by the department; and
- (b) The application must be submitted to the department at least 30 days prior to intended use.

(4) There are two types of experimental use permits: site-specific and collective.

(5) A site-specific experimental use permit authorizes pesticide use for experimental or research purposes that are at sites specified in the permit and are not covered by a collective experimental use permit.

- (a) Approvable sites include, but are not limited to, aquatic, residential, recreational and structural

sites, areas with public access, commodity storage facilities, and areas exceeding a total of one acre.

(b) Each application for a site-specific experimental use permit will include the following:

(A) The name, address, and telephone numbers of the applicant and of the person responsible for carrying out the provisions of the experimental use permit;

(B) Identification of each pesticide to be used, including;

(i) The name of the pesticide active ingredient;

(ii) The name of the pesticide product, if any; and

(iii) The EPA registration number of the pesticide product, if any.

(C) The name, address, and telephone numbers of the person responsible for carrying out the provisions of the experimental use permit at each specific site, and the number of the pesticide-related license issued to the person by the department, and the means of locating the person in case of an emergency;

(D) The purpose of the experiment or research, including a list of the intended target pest(s), if any;

(E) The approximate date(s) of pesticide use;

(F) The intended crop or site of pesticide use;

(G) Specific description and location of each site where pesticide use may occur, including the size (for example, acres, or square feet) of each site;

(H) Disposition of any food or feed item from the crop or site on which the pesticide will be used;

(I) Application rate(s) of the pesticide, and number of applications;

(J) Method of application;

(K) Timing and duration of the proposed experiment or research;

(L) Total amount of pesticide to be used, diluent, and dilution rate;

(M) Copy of any experimental use permit issued by EPA, if applicable;

(N) A copy of the labeling that will accompany the pesticide in the field; and

(O) Any other information pertinent to the experiment or research specifically requested by the department.

(6) A site-specific experimental use permit may be issued for up to twelve months from the date of approval by the department.

(7) A collective experimental use permit authorizes pesticide use for experiments or research without identifying any specific site. Approvable sites include agricultural and forestry sites.

(a) The applicant may use one or more sites in any location in Oregon provided that the total size of all of the sites used for a particular pesticide does not exceed one acre.

(b) Each application for a collective experimental use permit will include the following:

(A) The name, address, and telephone numbers of the applicant and of the person responsible for carrying out the provisions of the experimental use permit, the number of the pesticide-related license issued to the person by the department, and the means of locating the person in case of an emergency;

(B) A signed statement that all pesticide use will comply with all of the provisions of the collective experimental use permit and of this section; and

(C) Any other information pertinent to the application specifically requested by the department.

(8) A collective experimental use permit will be issued for as long as one calendar year, ending December 31st.

(9) Any person conducting pesticide use for experimental or research purposes must be appropriately

licensed by the department and include the category Demonstration and Research, as specified in OAR 603-057-0110(3), on that license. This licensing requirement applies to all persons making pesticide applications for experimental or research purposes and is not limited to persons conducting pesticide research authorized by an experimental use permit.

(10) Any crop or site on which a pesticide is used for experimental or research purposes shall be under the control of the person authorized to conduct that pesticide use. Said control may include:

- (a) Ownership, rental or lease of the land on which the crop or site is located by the person;
- (b) Ownership, rental or lease of the land on which the crop or site is located by the immediate employer of the person;
- (c) Documented permission for the pesticide use from the owner, renter or leaseholder of the land on which the crop or site is located;
- (d) Documented permission for the pesticide use from the public entity in possession or control of the land on which the crop or site is located.

(11) Any person using pesticides for experimental or research purposes shall prepare, maintain, and provide records in the same manner as in ORS 634.146.

(12) As provided by ORS 634.322(6), the department may deny an application for an experimental use permit or, amend, suspend or revoke any experimental use permit issued by the department.

(13) The department may establish conditions in an experimental use permit approval that the department determines necessary to be consistent with ORS Chapter 634 and this section.

(14) The holder of an experimental use permit shall provide the department a summary report of the experiments and research conducted under the permit no later than 30 days after the expiration date of the permit.

(a) Each summary report must include, at a minimum, the identification number of the experimental use permit, the records required by subsection (11) of this section, any adverse environmental, human, or animal health effects resulting from the pesticides used, and, if any pesticide use occurred on a food or feed item, documentation of food or feed item destruction, crop/site isolation, or other measures taken to prevent the food or feed item from being used or consumed.

(b) If the required summary report is not provided to the department, the department will not issue any future experimental use permit to the applicant.

(15) If information is provided in an experimental use permit application, summary report, or other form that is identified by the applicant as confidential, the department will hold the information confidential to the extent allowed under ORS Chapter 192.

(16) Any food or feed item to which a pesticide used for experimental or research purposes has been applied must be rendered unusable for food or feed unless a tolerance greater than the residues resulting from the use has been established or, if allowed by law, conditions implemented to prevent any use of the treated crop/site for food or feed for a period no less than 365 days. Such food or feed item may include, but is not limited to crop, forage (including grazing rangeland or pasture), green chop, hay, seed screenings, silage, and straw. The department requires documentation of food or feed item destruction or crop/site isolation as a condition of the experimental use permit.

(17) The department may monitor any pesticide used for experimental or research purposes. Monitoring may include, but is not limited to:

- (a) Observing, inspecting, and documenting mixing, loading, transportation, and application activities;
- (b) Inspecting and documenting application equipment;
- (c) Collecting and analyzing samples;
- (d) Interviewing any person that may have knowledge regarding the pesticide use; and
- (e) Reviewing any records.



(18) The permit holder or the person that conducted the pesticide use must immediately report to the department any adverse environmental, human, or animal health effects resulting from pesticides used for experimental or research purposes.

(19) In addition to any other liability or penalty provided by law, any failure by any person to comply with the provisions of this section, as determined by the department, may be used as a basis for one or more of the following actions, if applicable:

(a) To revoke, suspend or refuse to issue an experimental use permit, in accordance with ORS 634.022 or 634.322(6);

(b) To revoke, suspend or refuse to issue any license of a permit holder or of a person that conducted a pesticide use for experimental or research purposes, in accordance with ORS 634.322(4);

(c) To impose a civil penalty, in accordance with ORS 634.900.