

DRAFT

SUMMARY

Establishes requirements for sending notification to State Forestry Department by operator, timber owner or landowner proposing forest operation involving aerial application of pesticide to nonfederal forestland.

Requires operator, timber owner or landowner to send announcement to department within specified time frame prior to beginning forest operation involving aerial application of pesticide to nonfederal forestland. Requires department to communicate announcement to persons registered to receive notification of forest operations. Requires operator, timber owner or landowner to notify department of forest operation date changes and of forest operation completion.

Requires aerial pesticide applicator to send department report within specified time following completion of aerial application of pesticide to nonfederal forestland. Establishes requirements for department to post and retain information.

A BILL FOR AN ACT

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Relating to the application of pesticide to forestland.

Whereas aerial applications of pesticide are used for vegetation control on large parcels in nonfederal forests; and

Whereas those applications can occur near residences and areas visited by the public; and

Whereas many individuals are concerned that they may be subjected to unintended pesticide spray drift; and

Whereas many individuals want to know when a nearby aerial application of pesticide is about to occur, so that they may make arrangements to remove themselves or their children, pets or livestock from potential exposure; and

Whereas following a nearby aerial application of pesticide, individuals

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 have an interest in knowing which pesticides were used and the weather
2 conditions during the application; and

3 Whereas the State Forestry Department electronic reporting and notifi-
4 cation system, commonly referred to as FERNS, will allow those who are
5 interested to be easily provided with real-time announcement of impending
6 aerial applications of pesticide; and

7 Whereas the electronic reporting and notification system must include
8 recognition that the exact date of an aerial application of pesticide is subject
9 to change due to weather, workload and other factors; and

10 Whereas the legitimate operational requirements of operators, timber
11 owners, landowners and pesticide applicators must be balanced against the
12 legitimate desire of the public for notification and transparency; and

13 Whereas the State Board of Forestry and the State Forester have the ex-
14 pertise and capacity to craft a State Forestry Department program that bal-
15 ances the competing interests, requirements and desires; now, therefore,

16 **Be It Enacted by the People of the State of Oregon:**

17 **SECTION 1. (1) As used in this section and section 2 of this 2019**
18 **Act:**

19 **(a) “Aerial pesticide applicator” means a person certified under ORS**
20 **634.128.**

21 **(b) “Forestland” has the meaning given that term in ORS 527.620.**

22 **(c) “Pesticide” and “pesticide operator” have the meanings given**
23 **those terms in ORS 634.006.**

24 **(2) An operator, timber owner or landowner that proposes to con-**
25 **duct a forest operation involving the aerial application of pesticide to**
26 **nonfederal forestland shall, no later than 12 months prior to the pro-**
27 **posed forest operation, send notification of the proposed forest opera-**
28 **tion to the State Forestry Department as provided under ORS 527.670**
29 **(6) using the electronic reporting and notification system maintained**
30 **by the department. In addition to the information required under ORS**
31 **527.670 (6), the notification required by this subsection must include**

1 **the following in a form acceptable to the department:**

2 **(a) A prominent statement that the proposed forest operation in-**
3 **volves the aerial application of pesticide;**

4 **(b) The tentative date for the aerial application;**

5 **(c) The boundaries of the proposed forest operation; and**

6 **(d) Any other information required by the department by rule.**

7 **(3) An operator, timber owner or landowner that intends to com-**
8 **mence a forest operation involving the aerial application of pesticide**
9 **to nonfederal forestland shall send an announcement to the depart-**
10 **ment no earlier than 48 hours prior to, and no later than 5 p.m. on the**
11 **day prior to, commencing the forest operation. The notification must**
12 **be sent using the electronic reporting and notification system main-**
13 **tained by the department. The department shall promptly communi-**
14 **cate the announcement contents by electronic means to persons that**
15 **have registered to receive notification of forest operations.**

16 **(4) An operator, timber owner or landowner shall send the depart-**
17 **ment notification regarding whether a forest operation involving an**
18 **aerial application of pesticide to nonfederal forestland has been com-**
19 **pleted as scheduled. The notification must be sent using the electronic**
20 **reporting and notification system maintained by the department. The**
21 **notification must be sent no later than 5 p.m. of the day on which the**
22 **forest operation was scheduled for completion. Except as provided in**
23 **this subsection, if the forest operation has commenced but not been**
24 **completed, the operator, timber owner or landowner shall send the**
25 **department an announcement identifying the new expected completion**
26 **date. If the forest operation has not commenced, the operator, timber**
27 **owner or landowner shall send notification under this subsection that**
28 **the forest operation has not commenced and comply with subsection**
29 **(3) of this section prior to commencing the forest operation.**

30 **SECTION 2. (1) No later than seven business days after the com-**
31 **pletion of an aerial application of pesticide to nonfederal forestland,**

1 the aerial pesticide applicator making the aerial application of pesti-
2 cide shall send a report of the aerial application of pesticide to the
3 State Forestry Department using the electronic reporting and notifi-
4 cation system maintained by the department. The report must include
5 the following in a form acceptable to the department:

6 (a) The name and business address of the operator, timber owner
7 or landowner for whom the pesticide was applied;

8 (b) The name and business address of the pesticide operator em-
9 ploying the aerial pesticide applicator;

10 (c) The name of the pesticide product that was applied and any
11 registration number issued for the product by the United States En-
12 vironmental Protection Agency or the State Department of Agricul-
13 ture;

14 (d) The active ingredients in the pesticide product;

15 (e) Any substance in the pesticide product that modifies or en-
16 hances the characteristics of the active ingredients;

17 (f) Any registration number issued for a substance described in
18 paragraph (e) of this subsection by the United States Environmental
19 Protection Agency or the State Department of Agriculture;

20 (g) The total quantity and concentration of pesticide used;

21 (h) The application rate in gallons of spray per acre;

22 (i) The date and time of the application;

23 (j) The application conditions, including but not limited to altitude
24 and air speed during the application;

25 (k) The weather conditions at the time of the application, including
26 but not limited to temperature, wind speed and direction; and

27 (L) Any other information required by the State Forestry Depart-
28 ment by rule.

29 (2) If the aerial pesticide applicator discovers that any required in-
30 formation contained in a report filed under this section is incorrect,
31 the aerial pesticide applicator shall file a new report with corrected

1 **information and shall specifically identify all changes from the infor-**
2 **mation contained in the original report.**

3 **(3) The department shall keep a report filed under this section:**

4 **(a) Accessible for public viewing on the electronic reporting and**
5 **notification system for a period established by State Board of Forestry**
6 **rule, but not less than 90 days; and**

7 **(b) On file with the department and available for public inspection**
8 **for not less than seven years after the filing date of the report.**

9 **SECTION 3. (1) Section 1 of this 2019 Act applies to forest oper-**
10 **ations that an owner, timber operator or landowner proposes to con-**
11 **duct on or after the date 12 months following the effective date of this**
12 **2019 Act.**

13 **(2) Section 2 of this 2019 Act applies to aerial pesticide applications**
14 **made on or after the effective date of this 2019 Act.**

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