

**Memorandum of Agreement
between
Oregon Department of Agriculture (ODA)
and
Oregon Department of Consumer and Business Services
Occupational Safety and Health Division (OR-OSHA)
Implementation of the U.S. Environmental Protection Agency's
Worker Protection Standard for Agriculture Pesticides**

This Memorandum of Agreement has been prepared jointly and agreed upon by the Oregon Department of Agriculture (herein referred to as ODA) and the Oregon Department of Consumer and Business Services – Occupational Safety and Health Division (herein referred to as OR-OSHA).

This Memorandum of Agreement supersedes the “Interagency Agreement Relating to Occupational Exposure to Pesticides, Department of Agriculture [ODA] and Department of Insurance and Finance [DIF],” dated 08/08/91 (ODA) and 8/13/91 (DIF), and the “FFY93 Addendum to” that Agreement, dated 09/02/92 (DIF). It also supersedes the “Memorandum of Agreement between Oregon Department of Agriculture (ODA) and Oregon Department of Consumer and Business Services Occupational Safety and Health Division (OR-OSHA)” dated August 2000.

I. Background

The United States Environmental Protection Agency (EPA) adopted the Worker Protection Standard for Agricultural Workers (WPS) in August 1992. The WPS is designed to protect workers and pesticide handlers who conduct activities in or on farms, forests, nurseries, and greenhouses from risks due to exposure to pesticides or pesticide residues. The WPS involves two sets of federal regulations:

- A.** 40 CFR 170 (Code of Federal Regulations, Title 40, Part 170) establishes required workplace practices intended to lessen the risks of exposure, and to deal with the exposures that may occur, and
- B.** 40 CFR 156 Subpart K establishes the labeling requirements for pesticide products which are used in the production of agricultural plants on farms or in forests, nurseries, or greenhouses and which, therefore, require compliance with 40 CFR 170.

II. Purpose

The purpose of this Memorandum of Agreement is to:

- A.** Provide for coordination between regulatory agencies for implementation of a single set of standards, thereby minimizing duplication of effort,
- B.** Minimize misunderstandings among agricultural/forestry/nursery and greenhouse employers regarding activities required for compliance with the WPS.

III. Rules and Authorities

A. Oregon Department of Agriculture (ODA)

- 1.** ODA administers the Oregon Pesticide Control Act, Oregon Revised Statutes Chapter 634, including Oregon Administrative Rules Chapter 603, Division 57, which include:
 - a.** Requirements for annual registration of pesticide products for distribution within Oregon, including requirements for proper labeling of those products and authority to establish limitations on the use of pesticides deemed necessary for protection of human health,
 - b.** Requirements for the certification and licensing of pesticide applicators and consultants, and certification renewal on a five-year cycle, and
 - c.** Authorities for conducting investigations, and taking associated enforcement actions, pertaining to the distribution and use of pesticides.
- 2.** ODA enters into annual cooperative agreements with EPA to administer the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), and its associated federal regulations in Oregon.
- 3.** ODA is the designated Oregon state lead agency for FIFRA enforcement.
- 4.** ODA enters into cooperative agreements with other Oregon agencies regarding the conduct of activities associated with ODA rules and authorities.

B. Oregon Department of Consumer and Business Services – Occupational Safety and Health Division (OR-OSHA)

- 1.** OR-OSHA administers the Oregon Safe Employment Act, Oregon Revised Statutes Chapter 654, through the Oregon Occupational Safety and Health

Code, Oregon Administrative Rules Chapter 437, including the following rules pertaining to agricultural workplace safety and health:

- a. Division 1 - General Administrative Rules
 - b. Division 4 - Agriculture
2. OR-OSHA enters into annual cooperative agreements with the federal Occupational Safety and Health Administration for development, administration, and enforcement of safety and health laws and standards in accordance with the federal Occupational Safety and Health Act, and its associated federal regulations (29 CFR), in Oregon.
 3. OR-OSHA is the designated Oregon state lead agency for the enforcement of the federal Occupational Safety and Health Act.
 4. OR-OSHA is the state lead agency with respect to the employee-employer aspects of the Worker Protection Standard. OR-OSHA has entered into a Memorandum of Agreement with the EPA with regards to enforcement of the employee-employer aspects of the Worker Protection Standard (40 CFR 170).
 5. OR-OSHA enters into cooperative agreements with other Oregon agencies regarding the conduct of activities associated with OR-OSHA rules and authorities.

IV. Specific ODA Activities

- A. ODA will conduct investigations and take enforcement actions associated with 40 CFR 156, Subpart K.
- B. ODA will provide to EPA, on a regular basis, information relating to the investigation and enforcement of 40 CFR 156, Subpart K.
- C. ODA will communicate with OR-OSHA information on the WPS (40 CFR 170) received from EPA.

V. Specific OR-OSHA Activities

- A. OR-OSHA will conduct investigations and take enforcement actions associated with 40 CFR 170, as adopted into Oregon Administrative Rules, chapter 437, Division 4 (437-004-6000).
- B. OR-OSHA will provide ODA an opportunity to review any proposed regulations, rules, or standards relating to occupational exposure to pesticides under the scope and application of 40 CFR 170.

- C.** OR-OSHA will provide directly to EPA, on a quarterly basis, information on activities completed under OR-OSHA's Agricultural Action Plan, specific to pesticides, on the "Pesticide Enforcement & Application Certification Cooperative Agreement Accomplishment Report," (EPA Form 5700-33H), as modified by mutual agreement. Information reporting will be based on closed cases consistent with the federal fiscal year.
- D.** A copy of information provided to EPA will be provided to ODA.

VI. Coordinated ODA/OR-OSHA Activities

ODA and OR-OSHA will:

- A.** Evaluate current procedures for interagency referrals of cases regarding WPS compliance.
- B.** Coordinate enforcement actions where WPS violations are found.
- C.** Exchange information and data concerning WPS training, consultation and enforcement activities.
- D.** Assess the need for specific policies and/or procedures for determining and declaring "agricultural emergencies" (during which entry of workers may be allowed before expiration of the restricted entry interval) and for communicating such declarations to affected employers in a timely manner.
- E.** Provide for periodic cross training of staff members involved in WPS implementation.
- F.** Identify and work to address additional needs/opportunities for outreach and communication about the WPS to the affected population.
- G.** Jointly develop and implement any policies/procedures deemed necessary and appropriate for the above activities.

VII. Conditions of Agreement:


- A.** Nothing in this Memorandum of Agreement is intended to obligate ODA or OR-OSHA to expend funds, transfer funds from one agency to the other, or involve either agency in any contract or other obligations for the future expenditure or transfer of funds.

- B.** This Memorandum of Agreement will remain in effect unless it is replaced by another Memorandum of Agreement or is terminated either by mutual consent of the parties or by giving 30 days' notice of cancellation from one party to the other party. Such termination will be in writing.

- C.** This Memorandum of Agreement may be amended at any time a request for amendment is made in writing from either agency to the other and the requested amendment is discussed, negotiated, and agreed to in writing by appropriate representatives for ODA and OR-OSHA.

AGREED:

Oregon Department of Agriculture (ODA)


Katy Coba
Director, ODA
Date 11/5/06
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AGREED:

Oregon Department of Consumer and
Business Services (DCBS), Occupational
Safety and Health Division (OR-OSHA)


Michael Wood
Administrator, OR-OSHA
Date 9/27/06