

Secretary of State
Certificate and Order for Filing
TEMPORARY ADMINISTRATIVE RULES
A Statement of Need and Justification accompanies this form.

I certify that the attached copies are true, full and correct copies of the TEMPORARY Rule(s) adopted on September 28, 2018 by the

Department of Agriculture, Natural Resource Program Area, Pesticide Program	Date prior to or same as filing date 603
Agency and Division	Administrative Rules Chapter Number
Sean Fornelli 635	503-986-4758
Rules Coordinator	Telephone

Capitol St. NE, Salem, OR 97301

Address

to become effective upon filing through March 26, 2019.

Date upon filing or later

A maximum of 180 days including the effective date.

RULE CAPTION

Limitations on Pesticide Products Containing Aminocyclopyrachlor

Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.

RULEMAKING ACTION

List each rule number separately, 000-000-0000.

Secure approval of new rule numbers (Adopted rules) with the Administrative Rules Unit prior to filing

ADOPT:

OAR 603-057-0391

AMEND:

SUSPEND:

Stat. Auth.: ORS 561.020; ORS 634.306; ORS 634.322(6); ORS 634.900; and ORS chapter 183

Other Auth.: ORS chapter 634

Stats. Implemented: ORS chapter 634

RULE SUMMARY

It is prohibited to apply any product containing aminocyclopyrachlor on right-of-ways.

Lisa Charpillor Hanson
Authorized Signer

LISA Charpillor Hanson
Printed name

9/28/18
Date

Note: Temporary rulemakings must be submitted by the 15th day of the month to be included in the next month's *Oregon Bulletin* and online *OAR Compilation* updates.

STATEMENT OF NEED AND JUSTIFICATION

A Certificate and Order for Filing Temporary Administrative Rules accompanies this form.

Department of Agriculture, Natural Resource Program Area, Pesticides Program
Agency and Division

603

Administrative Rules Chapter Number

In the Matter of: Adopting OAR 603-057-0391

Rule Caption: (Not more than 15 words that reasonably identifies the subject matter of the agency's intended action.)
Limitations on Pesticide Products Containing Aminocyclopyrachlor

Statutory Authority: ORS 561.020; ORS 634.306; ORS 634.322(6); ORS 634.900; ORS chapter 183

Other Authority: ORS chapter 634

Stats. Implemented: ORS chapter 634

Need for the Temporary Rule(s):

Based on current information, there are at least four locations in central Oregon where ponderosa pine, lodgepole pine, and possibly other valuable tree species have been negatively impacted by the herbicide aminocyclopyrachlor. This herbicide was applied to certain rights-of-way (ROW) for weed control. In November 2014, an Oregon Department of Agriculture (ODA) Pesticide Investigator noticed a moderate number of dead and dying trees on Forest Service property in the Sisters area, near the ROW. In early 2015, a formal pesticide investigation was initiated by ODA; aminocyclopyrachlor was detected during environmental sampling.

The U.S. Department of Agriculture's (USDA) U.S. Forest Service also investigated the dead and damaged trees and prepared a report in 2015. The Forest Service concluded that the tree mortality and dieback was likely caused by application of aminocyclopyrachlor in the ROW. The Forest Service issued an updated report in Spring 2018, in which it reiterated its earlier conclusion that aminocyclopyrachlor was likely the cause of the damage, and found that the severity of the damage has increased substantially since its 2015 report. The areas previously treated with aminocyclopyrachlor continue to decline, and there are increasing numbers of dead trees. The Forest Service has identified 1,454 dead or dying trees along Highway 20 near Sisters. Some of these trees are old-growth ponderosa pines that are 150-300 years old. Because aminocyclopyrachlor is a newer herbicide, it is unknown how many trees stressed from past applications of aminocyclopyrachlor will die in the future.

ODA is also reviewing information provided by U.S. Forest Service personnel regarding observations of valuable trees in Washington and Montana that may also have been affected by the use of aminocyclopyrachlor. Time is required to collect additional data from these locations.

Documents Relied Upon, and where they are available:

Report, June 12, 2015: Dieback and mortality of ponderosa and lodgepole pines associated with herbicide applications along roads on the Deschutes National Forest, by the USDA Forest Service. Available upon request from the Oregon Department of Agriculture.

Report, Spring 2018 Update: Dieback and mortality of ponderosa pine along Highway 20 associated with herbicide applications near Sisters, Oregon, by the USDA Forest Service. Available upon request from the Oregon Department of Agriculture.

Oregon Department of Agriculture Agricultural Use Investigation, Case Name: Hwy 20/USFS, ODOT: Case No.150404. Case No. 140163. Available upon request from the Oregon Department of Agriculture

Justification of Temporary Rule(s):

The Department currently lacks the information needed to fully evaluate the scope of the damage to valuable trees and to develop potential future regulatory measures. Failure to act promptly would result in serious prejudice to the public because additional valuable tree species near ROWs could be damaged by application of aminocyclopyrachlor. This temporary rule will protect desirable trees along and near ROWs while the Department completes its evaluation of aminocyclopyrachlor; collaborates with state, county, and federal partners; and determines potential future regulatory action.


Authorized Signer

Lisa Charpilloz Hanson
Printed name

9/28/18
Date

Administrative Rules Unit, Archives Division, Secretary of State, 800 Summer Street NE, Salem, Oregon 97310.

Limitations on Pesticide Products Containing Aminocyclopyrachlor

OAR 603-057-0391

(1) It is prohibited to apply any product containing aminocyclopyrachlor on rights-of-ways.

(2) Failure to comply with section (1) above may result in one or more of the following actions:

- (a) Revocation, suspension or refusal to issue or renew the license or certification of an applicant, licensee or certificate holder;
- (b) Imposition of a civil penalty;
- (c) Any other enforcement action authorized under any law.