

Aerial Spraying House Workgroup
April 1, 6, 7, 2015 Meetings Overview

Rep Witt

Response to HAGNR Hearing 3/26/15

Outcome

Agreements:

- I. Buffers BOF review
- II. Complaints (PARC SOP's)
- III. Database of Restricted Use Pesticides
- IV. Funding
- V. Licensing (with sanctions)
- VI. Penalties (license revocation)

Night One April 1, 2015

Participants: Crag Law Center, Oregon Nurseries Association, Oregon Forest Industries Council, Beyond Toxics, Western Helicopters, Oregon Farm Bureau, Oregonians for Food & Shelter, Oregon Conservation Network, National Pesticide Info Center

1. Restricted Pesticide Listings

Starting Point: Require ODA to develop and publish list of Restricted-Use Pesticides (RUPs) -Make publically accessible.

Final Group Action: Agreement: ODA creates pesticide data base with information from Washington State University (WSU)'s Pesticide Information Center Online (PICOL) Databases.

2. Advance Notification of Aerial Pesticide application

Starting Point:

- Applicator/Operator/Landowner provides written notice via certified mail to adjacent property owners 4 weeks in advance of application.
- Notice includes code for location-specific spray information. Codes and application information centrally housed and available to public by phone, electronically or by some other means.
- Public posting of application at regular access points to area.

Current regulations: Operator in Oregon to notify water system managers at least 15 days prior to application. Owner/Operator provides advance notice of Aerial application to ODF through the Forest Activity Electronic Reporting and Notification System (FERNS) at least 15 days in advance. Individuals can subscribe to receive notifications of operations and information alerts for a fee.

Final Group Action: Information required In advance of next meeting ODF invited to provide information on Forest Activity Electronic Reporting and Notification System (FERNS)

3. Reporting After Application as to Products Used

Starting Point: Owner/Operators/Applicators must report aerial applications to ODF or ODA in a form approved by agencies. Report 4 things to public: Type of Pesticide Used, Day/Time, Location, Weather Conditions

Mandatory reporters for pesticide related health affects (Elected officials)

Current regulation: Oregon's OAR 620- Application Records: location, acreage, brand name, EPA reg. number, carrier used, application rate, date and time, weather conditions, contractor/pilot names. Medical providers and individuals can request application records.

Final Group Action: None. Idea of mandatory reporting "parked" for future consideration

Follow up: Notification/Reporting from Night 1

Option 1:

- A. Adjacent landowners notified by owner/operator/applicator
- B. ODA to work with ODF on improvements to the FERNS system

Option 2: No Action Necessary

- A. Solution looking for a problem
- B. ODA and ODF needs for increased data support
- C. Difficult to do in real time
- D. Peril to employees

Final Group Action: None

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Night Two: 4/6/15 5:00-7:00pm H 278

Participants: Crag Law Center, Oregon Forest Industries Council, Beyond Toxics, Western Helicopters, Oregon Farm Bureau, Oregonians for Food & Shelter, Oregon Conservation Network, OHSU Toxicology Information Center

4. Aerial Applicator Certificate (License)

Starting Point:

A Licensing

1. Aerial Applicator License required for all aerial applicators
2. FAA Commercial Pilot certificate
3. 50 + Hours experience applying pesticides
4. Renewal: 10 hours of continuing education
5. Pass exam similar to NASDA
6. Fee
7. Mandatory Reporting

B. Supervisor (concept from SB683)

Designated supervisor is a licensed applicator

C. License re-exam (concept from SB257)

1. Reexamination if violation occurs
2. ODA may suspend, revoke, refuse to renew

Final Group Action: Agreement: Sections A and C above will form the basis for applicator licensing legislation.

Parked: The idea of mandatory reporting will be held for now.

5. Penalties for Violations

Starting Point:

Increase penalties to \$2,000 for first time offense and \$4,000 for subsequent offenses, \$10,000 penalty for gross negligence and/or willful misconduct (SB 257)

Final Group Action: Agreement: Additionally, the group would like to explore a mechanism facilitate enforcement and collection of fees. Paying the fee could be tied to renewal of licenses.

6. Investigations

Starting Point:

- A. ODA "Hotline".
- B. Process (for investigation)
 - Intake and case file opened
 - Evaluation – decision to investigate or not
 - Referral to PARC partners
 - Interviews
 - Site visit
 - Enforcement

Final Group Action(s): Agreement: Ongoing conversations have led the group to explore using the 211 system as a reporting "hotline."

Follow up required. Rep. Lininger, OHSU Toxicology Information Center and Beyond Toxics to look at the "Coordinated Agency Response" portion of 613 and attempt to blend with the above.

Follow up 4/7: AGREEMENT on Complaint Investigations

Complaints handled by PARC

- A. PARC to develop & maintain SOP's
- B. ODA to lead regular updates of SOP's in coordination with member agencies
- C. Biennial report to legislature
- D. ODA develop "hotline" with 211 system and other state agencies
 - Calls to the hotline trigger PARC response
 - Medical referrals as warranted
 - Poison control center as warranted

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Night Three: 4/07/15 5:00-7:00pm H-470

Participants: Crag Law Center, Oregon Forest Industries Council, Beyond Toxics, Western Helicopters, Oregon Farm Bureau, Oregon Nurseries Association, Oregonians for Food & Shelter, Oregon Conservation Network, OHSU Toxicology Information Center

7. Funding for PARC

- A. Overall PARC Budget of \$623,233 per biennium

B. HB 3434 appropriates funds- \$2 million- 4 new investigators, 1 claims processor and 1 Customer Service Representative. Fully loaded FTE costs, staff supports and laboratory compliance testing costs included.

Final Group Action: Agreement that PARC needs to be funded. Difference of opinion over how to fund. Registered opposition to asking for General Fund dollars. Consideration to look at fee increases as funding vehicle for PARC.

8. Buffers- Aerial Spraying in Forestry

1. Buffer of 100' or label directions (whichever is greater)
2. ODF to investigate buffer standards. Look at the need and appropriate based on the best available science
3. Buffers for homes, schools, drinking water and fish bearing streams

Final Group Action: Follow up required. Registered opposition to evaluating buffers on fish-bearing streams due to this exercise being completed and concern over makeup of the Board of Forestry.

Follow up: Suggested language for inclusion:

“The Oregon Department of Forestry, in consultation with the Oregon Forestry Board, shall analyze and make recommendations to the Oregon Legislature regarding the need for and recommended size of buffer zones to protect schools, homes, drinking water sources, and fish bearing streams from aerially applied pesticide and pesticide drift. In conducting this assessment, ODF shall use best available science and shall focus on the need to protect human health.

The Oregon Legislature hereby grants to ODF all authority necessary ODF to conduct the above work.”