Laws & Regulations Update

Oregon Department of Agriculture
Urban Pest Management
February 3, 2016
Legislative Actions

Forestry Buffer – Aerial applications of Herbicides
- Operating near an inhabited dwelling or school
- Unsprayed strip of at least 60 feet

Civil Penalty Changes
- Legislature gave ODA the authority to increase the cap for civil penalties

<table>
<thead>
<tr>
<th>Violation</th>
<th>Old Cap</th>
<th>New Cap</th>
</tr>
</thead>
<tbody>
<tr>
<td>First Violation</td>
<td>$1,000.00</td>
<td>$2,000.00</td>
</tr>
<tr>
<td>Subsequent Violation</td>
<td>$2,000.00</td>
<td>$4,000.00</td>
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</tbody>
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- Gross negligence or willful misconduct may not exceed $10,000.00
Legislative Actions

Additional Investigation Staff
- 4 additional investigators
- 1 additional case reviewer
- 1 citizen advocate & liaison

Definition of a “Person”: A person (ORS 174.100), a public body (ORS 174.109) and the federal government or any of its agencies

Aerial Application License
SB 3549 – Modified Pesticide Law ORS 634

- Aerial Pesticide Applicators must be licensed by ODA
- Must pass a national aerial exam
- Must show at least 50 hours of aerial application experience
- Will be required to complete license specific aerial recertification training
Oregon Aerial License

- ODA involved in rulemaking regarding license
  - Fees
  - License Types (fully certified vs. Aerial Trainee)
  - Application experience documentation
  - Supervision requirements of Aerial Trainees
Certification & Training

EPA has proposed changes regarding the certification of pesticide applicators using RUPs

- Increase the competency standards
- Establish certification categories for certain application methods
  - Soil fumigation
  - Non-soil fumigation
  - Aerial applications
3-year certification period

- Must recertify or re-test
- 50% of the recertification hours from last 18 months of the license period

Category specific hours required
- Private - 6 hours of Core and + 3 hours per category
- Commercial – 6 hours of Core + 6 hours per category
Certification & Training

- Require annual pesticide safety training for non-certified applicators using RUPs (Similar to WPS)
- Require *immediate communication* between non-certified applicators and supervising applicator
- Minimum age of 18 for any RUP use
Certification & Training

To learn more about the proposal: http://www2.epa.gov/pesticide-worker-safety/epa-proposes-stronger-standards-people-applying-riskiest-pesticides

Comment period ended January 23, 2016
Slug Baits

- Metaldehyde products
- EPA canceled uses on tree fruit crops, many fruits and vegetables, seed crops (except grass seed), field crops, etc. in 2013, but ...
- Some deleted uses are gradually being reinstated and other new uses added
- Product labels are being **frequently** revised
- Use according to label that is on the product
Most products currently labeled for grass seed, blueberry, caneberry, strawberry, citrus, lettuce/cole crops/leafy greens, tomato, ornamentals

Some labels also include grass forage/hay, mint, corn (field/sweet), celery, chard, rhubarb

New uses expected to be added to some labels in 2016: beans, peas, ginseng, clover (seed/ forage/hay)

Important! Use according to label that is on the product
Restoration Work Licensing

Definition of Restoration: The removal of undesirable plants and replacing with preferred plants for the purpose of enhancing habitat.

Licensing: in all restoration areas Forestry category or Agriculture: Herbicide category is acceptable
If within a right-of-way site then right-of-way category needed

If within a Ornamental & Turf site, then O & T: Herbicide category is acceptable

If an aquatic site – then aquatic category is needed
In October 2015, EPA announced a proposal to revoke all food residue tolerances for the insecticide chlorpyrifos.

According to EPA’s current analysis, there does not appear to be risks from exposure to chlorpyrifos from food but.....

EPA cannot conclude that the risk from possible aggregate exposures meets the FFDCA safety standard.
Chlorpyrifos Residue Tolerances

http://www2.epa.gov/ingredients-used-pesticide-products/proposal-revoke-chlorpyrifos-food-residue-tolerances

• Or, tinyurl

http://tinyurl.com/oau244v
EPA will accept comments on the proposed rule for 60 days after being published in the Federal Register.

Pesticide Complaints

Pesticide Incident Complaint Form

The responsibility of the Oregon Department of Agriculture (ODA) Pesticides Program is to investigate pesticide complaints, determine compliance with the Oregon Pesticide Control Act, and initiate any administrative actions deemed necessary. ODA DOES NOT assist in the pursuit of any damage reimbursement.

ODA's goal is to respond to pesticide use complaints within 48 hours. If an investigation is initiated, it should be completed within 120 days. Submit this form as soon after the incident as possible or at a maximum within 30 days of the incident when damage was first noticed. Complaints received after the 30-day period will be kept on file but the department may not pursue action.

For a copy of the investigation file related to your complaint, send a written request to the Oregon Department of Agriculture, 635 Capitol St. NE, Salem OR 97301-2532. If you have questions, call 503-986-4635.

Complainant Information

Name *
First: 
Last: 

Date *
MM/ DD/ YYYY
Change of Address Form
It's time to check your pesticide credit history report

Now is the time to check your pesticide credit history report (also known as recertification credit hours). You can find it on the Oregon Department of Agriculture's Pesticides Program website, http://go.usa.gov/3Muu3. You will need your license number to access your credit history report. The report will provide a list of all the classes that you have attended for recertification. It also will include a breakdown of how many credit hours you received each year of your recertification period and will also state how many credit hours you need to renew your license. The credit hours needed for each license type are:

- **Commercial Pesticide Applicator:** 40 credit hours in the five-year recertification period. Only 15 credit hours will be applied in any one calendar year.
- **Public Pesticide Applicator:** 40 credit hours in the five-year recertification period. Only 15 credit hours will be applied in any one calendar year.
- **Consultant:** 40 credit hours in the five-year recertification period. Only 15 credit hours will be applied in any one year.
- **Private Pesticide Applicator:** 16 credit hours in the five-year recertification period. Only 8 credit hours will be applied in any one calendar year. Four of the 16 credit hours must be 'Core' credits.
- **Pesticide Apprentice:** 8 credit hours needed on a yearly basis. Four of the eight credit hours must be 'Core' credits.

**PRODUCT REGISTRATION, FEES TO CHANGE**

The Oregon Department of Agriculture (ODA) is initiating changes to the pesticide product registration and renewal process.

- ODA is changing to an all-electronic pesticide product management system. To prepare for our move to the all-electronic product registration system, the current online system for submitting labels and related documents was taken offline as of Sept. 1.
EPA Opens Public Comment Period on the First of Four Preliminary Risk Assessments for Insecticides Potentially Harmful to Bees
Imidacloprid-neonicotinoid insecticide

Comment period end March 15, 2016

regulations.gov

| Preliminary assessment identified a residue level of 25ppb (0.025ppm) as a level “above which effects on pollinator hives are likely to be seen and below which effects are unlikely” |
2015 New WPS Provisions, A Basic Overview

- Who is Covered?
- Training
- Hazard Communication
- Notification of Treated Areas
- Minimum Age
- Entry Restrictions During Application for Outdoor Production
- Basic Pesticide Information
New WPS Requirements

Who is responsible for providing the protections of the rule?
- Agricultural employers on crop-producing establishments
- Commercial pesticide handling establishment employers

Who is protected?
- Farmworkers – work in the fields to harvest and cultivate
- Pesticide handlers – mix, load, and apply pesticides for use on crops
- Other persons during pesticide applications
Implementation for most provisions will be 14 months from publication in Federal Register – November 2, 2015

For more information:
Current Provision
- 5-day grace period with abbreviated training
- Handlers, certified applicators, State/Tribal/Federal approved trainers, and persons completing an approved train-the-trainer course
- No recordkeeping of training. Voluntary verification card system

New 2015 Provision
- Annual training
- No grace period. Workers must be trained before they work in an area where a pesticide has been used or a restricted-entry interval has been in effect in the past 30 days
- Keep records for 2 years. Give copy of record of training to workers and handlers upon request
WPS - Hazard Communication

Current Provision

- Employer must display application-specific information at a central location before application occurs, or, if no workers or handlers are on the establishment. Keep posted for 30 days after REI expires. No recordkeeping.

New 2015 Provision

- Employer must display application information and safety data sheets (SDSs) at central location within 24hrs of end of application and before workers enter that treated area. Display both for 30 days after REI expires. Keep application information and SDS for 2 years from end of REI and make available to workers, handlers, designated representatives (identified in writing) or treating medical personnel upon request.
WPS - Notification of Treated Areas

Current Provision
- Farms, forests, and nurseries: Post Warning sign or give oral notification for any REI, unless label requires both.
- Greenhouses: all applications require signs to be posted

New 2015 Provision
- Post warning sign if REI is greater than 48hrs (outdoor applications) or 4 hours (enclosed space applications e.g., greenhouses), otherwise option for posting or oral notification unless label requires both
Current Provisions
Agricultural employer must provide application information on treated areas the handler may be in (or walk within ¼ mile of). Handler employer must notify of changes to application plans before application begins.

Agricultural employer must provide application information on treated areas the handler may be in (or walk within ¼ of). Handler employer must notify before the application begins for certain changes and within 2 hours of end of application for most other changes.
**WPS - Minimum Age**

**Current Provision**
- No minimum age

**New 2015 Provision**
- Handlers and early-entry workers must be at least 18 years old. (Members of owner’s immediate family are exempt)
WPS - Basic Pesticide Safety Information

Current Provision

- Display a safety poster at central location

New 2015 Provision

- Display pesticide safety information at a central location and at sites where decontamination supplies are at a location with 11 or more workers or handlers
Current Provision

Provide prompt transportation to medical facility and provide any obtainable information about the product, antidote, first aid, and circumstances of exposure to the worker/handler or treating medical personnel.

New 2015 Provision

Provide prompt transportation to medical facility. Promptly provide the SDS, product information (name, EPA Reg No and active ingredient) and circumstances of exposure to treating medical personnel.
**Application Exclusion Zones in Outdoor Production**

**Current**
- During pesticide applications, workers and others are prohibited from being in:
  - The treated area - for farms and forests
  - The treated area and areas adjacent to treated areas (entry-restricted areas) – for nurseries

**Revision**
- Establishes application exclusion zones (AEZ) based on distance from the application equipment for farms and forests, also applies in nurseries
- Agricultural employers must keep workers and other persons out of the AEZ that are WITHIN the boundary of the establishment owner’s property [*same*]
- Handler must suspend application if persons are in AEZ. Requirement to suspend application is NOT limited by the boundary of the establishment owner’s property [*1/2018 implementation*]
How far?

- 100ft for aerial and airblast applications
- 25ft for other applications
Application Exclusion Zones in Outdoor Production

Application exclusion zone is in red
Questions on WPS

ODA
Grant Jackson
Pesticides Program
503-986-4553
gjackson@oda.state.or.us

OR-OHSA
1-800-922-2689 (English)
1-800-843-8086 (Espanol)
http://www.cbs.state.or.us/external/osha/subjects/worker_protection_standard.html
Commercial Pesticide Applicator

Licensing categories needed for cannabis grown for distribution or sale to others (regardless of site):

- Agriculture: Insecticide/Fungicide
- Agriculture: Herbicide
- Agriculture: Soil Fumigation

Cannabis grown for personal use ONLY:

- Ornamental & Turf: Insecticide/Fungicide
- Ornamental & Turf: Herbicide
- Agriculture categories
Private Pesticide Applicators

Licensing requirements will be the same as for any other commodity grower

Pesticides allowed for use – LIST IS AVAILABLE!!
Cannabis and Pesticides

For the purpose of pesticide regulation, Oregon Department of Agriculture (ODA) considers cannabis grown in Oregon to be an agricultural crop.

ODA has issued a news release about the guidance list for pesticides used on cannabis.

As additional resources become available, they will be posted here.

Resources

Alert: Guardian Mite Spray, manufactured by All In Enterprises, temporarily removed from pesticides and cannabis guidelist

Guidelist for Pesticides and Cannabis

The guidelist was updated Jan. 29, 2016, and is sorted by active ingredient then product name. The intent of the list is to assist growers in distinguishing those pesticide products whose labels do not legally prohibit use on cannabis from those that clearly do not allow use. The list is not an endorsement or recommendation to use these products in the production of cannabis in Oregon. Do not hesitate to contact Pesticides staff with questions or for label clarification.

Internal management directive (criteria)

Guidance to ODA staff on how to determine whether a pesticide may be used on cannabis and included on guidelist.

Licensing Requirements for Pesticide Applications to Cannabis
Oregon Health Authority (OHA) and the Oregon Liquor Control Commission (OLCC) are the lead agency’s in charge of medical and recreational marijuana.
Questions?

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