

STAFF REPORT

Agenda Item No:	9
Title and # of Issue:	Forest Regulation - Issue #6
Objective # & Title:	Obj. 2 -Effective and Efficient Implementation of the Forest Practices Act - Overview of Pesticide Programs and Monitoring
Date of Presentation:	March 5, 2008
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SUMMARY

Pursuant to the discussions at the January 2008 Board meeting, the purpose of this agenda item is to discuss the elements in place to manage pesticides, the status of pesticide monitoring, and guidance for OAR 629-605-0150 Notification to the State Forester -- When, Where and How.

CONTEXT

A number of public comments received through the issue scan and delivered at the January 2008 Board meeting focused on pesticides. Related to these comments and the Board discussion, more information is provided by the Department on three pesticides topics:

- Current programs and processes in place to manage pesticides in Oregon.
- The Department's history of pesticide monitoring and its status in the existing monitoring plan.
- Forest practices rules regarding notifications, subscribers, and specifically how changes to notifications are handled when there are subscribers.

BACKGROUND

The Oregon legislature adopted the Oregon Forest Practices Act (FPA) in 1971; the associated forest practice administrative rules followed in 1972. Since that time, the FPA and forest practice rules have been updated based on changes in science or policy. From the onset, the forest practice rules have limited forest pesticide applications above and beyond Environmental Protection Agency (EPA) label requirements in order to protect natural resources. Pesticide application setbacks from fish use streams and certain other waters have always been a prominent element of the rules.

In 1994, the Board of Forestry extended the fish-use designation to many smaller streams that previously had not received the setback protection. In 1997, the Board adopted revised pesticide rules, which extended spray setbacks along fish use streams to 300 feet for application of fungicides and nonbiological insecticides, based on the relative higher toxicity

of these materials to animals as compared to the toxicity of herbicides. This change was a response to results of Department monitoring conducted in 1992 and 1993, which indicated that the earlier, narrower setbacks for use of these materials might not have adequately protected water quality. With the assistance of Oregon State University and Portland State University, the Board determined that, with these and other measures included, public health and the environment would be adequately protected by the chemical rules.

The Board also determined that it had no specific authority under the Oregon Forest Practices Act to restrict pesticide applications near homes or other property, and that it would rely on pesticide product labeling, the Oregon Pesticide Control Law (ORS 634), and OR-OSHA worker safety requirements to minimize direct risks to human health, life, and property.

DISCUSSION

Managing pesticides in Oregon

Federal and state agencies combine to govern the use of pesticides throughout Oregon. A list of entities with significant regulatory, monitoring, education or other responsibilities includes:

- a. Environmental Protection Agency
- b. United States Geological Survey
- c. Oregon Department of Agriculture
- d. Oregon Department of Environmental Quality
- e. Oregon Department of Human Services
- f. Oregon Department of Forestry
- g. Center for Research on Occupational and Environmental Toxicology (CROET)

Attachment 1 provides a brief summary of these organizations and information on their responsibilities related to pesticides.

Status of Oregon Department of Forestry Pesticide Monitoring.

Monitoring priorities for the Department of Forestry Private Forest Program are primarily based on the 2002 Monitoring Program Strategic Plan. This Plan was developed from the previous monitoring strategy, the Oregon Plan for Salmon and Watersheds (OPSW) Workplan, the Forest Practices Advisory Committee final report, and citizen and stakeholder group input in 1994 and 2000. This plan identified eighty-nine key questions within ten categories overall, including five questions within the category of pesticides. A top-priority pesticides question is an assessment of the levels of contamination that would be injurious to aquatic biota. The remaining questions were ranked as moderate to low, with the whole category of pesticides set as moderate priority. Categories ranked as top or high priority include riparian function, structure, and stream temperature of fish use streams; wet weather hauling; OPSW; headwater streams; wildlife; wetlands; and other roads issues.

Attachment 2 has more detailed information about previous studies on pesticide monitoring and on the monitoring program.

Administration of OAR 629-605-150 Notification to the State Forester -- When, Where and How

The Board asked the Department to respond to comments related to the administration of the pesticide rules. Currently the rules are not under consideration for revision. Staff maintains a guidance document to help field staff with the consistent application of the rules. This document is meant for internal use by staff and field, but is also available for public review. This document outlines how to respond to operators who desire to change aspects of their operation. The public comments addressed the very specific case where an operator changes notification information after a subscriber has been notified of an operation. The guidance document outlines the process for the operator to make changes to submitted notifications. It also outlines the process to inform the subscriber of the change in information consistent with the notification rules and with the subscription process.

Attachment 3 has detailed information about these rules and processes.

NEXT STEPS

At the March 5, 2008, staff will be prepared to discuss these topics and other pesticide related questions. Those areas of continuing interest to the board will be prioritized for future, more detailed board discussion.

ATTACHMENTS

- (1) Summary of the Primary National and State Agencies with Pesticide Responsibilities
- (2) Summary of the Oregon Department of Forestry Chemical Monitoring Efforts
- (3) Summary of the Guidance for Administering OAR 629-605-0150