

Watershed Ag Journal



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How the SB1010 Agricultural Water Quality Rules are Enforced

By Tim Stevenson, ODA Water Quality Planner

The Oregon Department of Agriculture (ODA) supports the nearly \$4 billion/year agriculture industry in Oregon through both promotion and regulation. Legislation (SB1010) directs the department to work with Oregon agriculture to reduce or eliminate agricultural pollutants to waters of the state. In Coos County, ODA works with the Coos Soil and Water Conservation District and many other partners to fulfill this responsibility through outreach activities, technical assistance to landowners, monitoring, two-year updates of local regulations, and compliance investigations. I hope this article will give you a better understanding of ODA's compliance program, which is just one small piece of Oregon's agricultural water quality improvement efforts.

First, let me say that both a narrative explanation and graphic flow chart are found in the back of the Coos and Coquille Agricultural Water Quality Area Plan (AgWQMP) located in the Coos Soil and Water Conservation District (SWCD) in Coquille. They'll be happy to send you a copy on request. Secondly, I need to emphasize, as the ODA emphasizes, enforcement of the rules is a LAST RESORT when all other communications and voluntary attempts at correcting a valid problem have failed. But the rules do exist for a purpose and ODA has been given the authority to enforce those rules. Thirdly, I have a 45 minute presentation with examples I have given at SWCD and watershed council meetings on this topic. I'd be happy to give it to your group as well.

The following is a summary of what transpires after I get a written complaint alleging pollution of waters of the state from an agricultural operation:

1. Can I see the supposed problem from a road or neighboring property? If so, I can determine whether or not the complaint is valid and falls under ODA jurisdiction. If I can't see it, I'll have to schedule a visit with the landowner even without knowing the validity of the complaint.
2. If it appears valid, I schedule a convenient visit with the landowner by phone. By law, I will never enter someone's private property without their permission or a search warrant. Also, at this point, I will try to make arrangements for someone from the Local Advisory Committee or SWCD to join me on the visit. It has proven to be a benefit to all parties involved.

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The Oregon Conservation Reserve Enhancement Program (CREP) Update for 2005

Agricultural landowners and their federal, state, and local natural resource partners are celebrating across Oregon this month because of some important changes to the Oregon Conservation Reserve Enhancement Program (CREP). Once available only along streams with threatened and endangered fish, CREP is now open to agricultural landowners along streams throughout the state.

USDA and Oregon Department of Agriculture also announced additional improvements to CREP for 2005:

Based on suitability of their land, landowners may now sign up for 5 different Conservation Practices:

- ◆ Filter Strips address water quality problems from agricultural runoff
- ◆ Riparian Forest Buffers restore forested buffer function
- ◆ Wetland Restoration restores manipulated/filled wetlands
- ◆ (New for 2005) Marginal Pastureland Wildlife Habitat Buffers protect bodies of water where trees are not suitable
- ◆ (New for 2005) Marginal Pastureland Wetland Buffers protect existing wetlands

The Oregon CREP makes money available to owners of agricultural land bordering estuaries, streams, wetlands, and other bodies of water. Federal and state agencies and other partners have been working on the statewide eligibility changes for nearly two



years. "We're thrilled to have finalized the changes, because we had landowners lined up to enroll in several counties as soon as they became eligible" says Larry Frey, Oregon Farm Service Agency State Executive Director.

"Entire regions, such as Crook County in central Oregon, were not eligible before because they had no threatened and endangered fish species. Now landowners in Crook County and other areas

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can provide significant benefits to water quality through this program and receive great incentives for doing so.”

In exchange for installing and maintaining vegetation buffers for conservation and water quality protection, landowners receive state and Federal reimbursement of 75% of approved riparian restoration expenses, annual conservation payments, and other financial incentives.

Ten or 15-year contracts are available. Livestock must be excluded from the buffer area and practices maintained for the term of the contract.

“I always meant to fence that creek, but there was always somewhere else to spend the money first.” For most small landowners, the best aspect of the Oregon CREP is receiving cost share money for stewardship practices (keeping livestock out of streams and off muddy banks, for instance) that have been deferred due to expense, but that enhance the overall value of the property and operation.

Other participating landowners have reported that they enjoy being able to establish a conservation legacy on their property with the help of CREP dollars. “I won’t see it in my time here, but someone will.” It may take a decade or more to see the difference new seedlings on the bank make to the health of the stream, or it may take a few seasons to see the benefit of excluding livestock from stream banks, but CREP can be a great start.

“In the meantime, it’s a *lot* of work.” There is no denying that site preparation, seedling planting, and the maintenance required to allow new seedlings to thrive is a big commitment of time and labor. CREP cost shares may be applied toward hiring contractors or cooperating with local watershed associations, or may be cost shared at the current hourly Personal Labor Rate for landowners who prefer to do the work themselves.

Whether landowners choose to perform the labor or to contract with a third party, control and responsibility for the project stay with the landowner.

“The new pasture and rangeland practices will make riparian restoration easier for landowners in areas too wet or too dry to plant to trees,” explains Stephanie Page, CREP coordinator at the Oregon Department of Agriculture. “We expect these new options will be especially popular in coastal areas and in Eastern Oregon.”

If you would like to know more about the Oregon CREP and whether this program fits your needs as a Coos or Curry County landowner, contact Barbara Grant at 541-396-2841 ext. 30 or come by the Coos SWCD office in Coquille.



How the SB1010 Agricultural Water Quality Rules are Enforced *(Continued from page 1)*

3. At the appointed time, we will meet the landowner or manager, talk about the problem, what are the factors behind a particular activity or management strategy, and what the landowner wants to do about it. I'll probably take pictures or take samples upstream and downstream depending on the severity or type of problem. This testing and consultation with technicians is at ODA expense.

4. If, according to the rules for Coos County, pollution has occurred, is occurring, or is likely to occur from an agricultural activity, a letter of compliance, a water quality advisory, or a letter of warning, can be issued which records our conversation and what agreements or actions were done or need to be done to solve the problem. Technically, these letters are not enforcement. All grants and financial assistance programs are still available to the landowner.

At this point, I should note that I have never had to go beyond one or two letters to get a problem solved. There are, however, enforcement mechanisms granted in statute which are technically an order from the agency. Grants or assistance would no longer be available to solve that particular problem.

6. If pollution is continuous or flagrant (both words are defined in rule) then a Notice of Non-Compliance (NoN) can be issued. Along with the NoN, landowner flexibility for solving the problem is lost as a Plan of Correction (PoC) is also issued after consultation with relevant or local technical assistance. In the history of the SB1010 program in all 39 basins in the state of Oregon, only 3 NoN's have been issued. That's how it should be.

If the NoN/PoC is ignored, the director of the ODA has been granted the authority to issue a civil penalty until the problem is resolved. NO civil penalties have yet been issued under the SB1010 program in the state of Oregon. The goal is to protect the resource, not to issue penalties. That's the spirit in which the legislature envisioned the Agricultural Water Quality Program.

The Coos SWCD has offered to be a service to landowners by being the first to respond to water quality concerns. That is, if a local person calls in to the SWCD office, the district representative may offer to be of assistance to the landowner by evaluating the merit of the complaint and offering technical advice to remedy the problem in a timely manner. If there is no interest in fixing the problem, the SWCD will contact the original complainant when possible, and explain the procedure for filing a formal complaint to Salem. The Coos SWCD is offering this very generous service to be a buffer between Coos County landowners and ODA.

I hope that this brief summary gives you a good idea of ODA's compliance investigation process. Although we prefer to resolve water quality issues through education, outreach and technical assistance, the compliance program can be an important tool to correct some problems, and shows the public that Oregon agriculture is committed to protecting water quality and the resources on which we all rely.

Be sure to check the Coos SWCD website (or call the Coquille office at 541-396-6879) for copies of the plans and rules for this area. If you have questions or want to talk to the ODA representative for the Coos County area, call Tim Stevenson at 541-471-7838 in Grants Pass.

Invasive Plant Alert

Have You Seen This Weed?

Paterson's Curse



Echium plantagineum

Common Names: Paterson's Curse, Salvation Jane, and Riverina Bluebell

Impact: Paterson's Curse is poisonous to grazing animals. It can cause chronic liver damage and death to susceptible animals. Paterson's Curse is a prolific seed producer enabling rapid spread and displacement of pasture, range and desirable plants. It is a threat to native habitat with the potential to invade oak woodland, native prairie, and dry upland slopes. First detected in 2003 in Linn County, a second site was confirmed in Douglas County in 2004. Both Oregon sites are under intensive treatment.

Description: An erect annual or biennial, generally 1-3 feet tall. Plants are often multi-branched with an abundance of stout hairs on stem and leaves. Stems erect, light-green, bristly, stout, branching mainly towards the top. Leaves are green to light-green, alternate, hairy, thick and fleshy. Flowers most often blue-purple in color, but may be pink or white. Curved flowering spikes unroll, producing blossoms. Blooming often starts in June and continues through the summer and fall.

Dispersal: Seeds are spread by vehicles, farm implements, humans, animals, water, wind, hay, silage, and as a contaminant of commercial seed. Has been found in wildflower mixes in Oregon.

Please report suspect sites or finds to:
Oregon Department of Agriculture, Noxious Weed Control Program
503-986-4621 * 1-866-INVADER

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Oregon Agriculture Facts

Oregon's 41,000 farmers and ranchers manage over 17 million acres in agricultural production.

Oregon ranks #1 in U.S. production of:
Christmas Trees
Hazelnuts
Logan, Boysen, Young, and Blackberries
Potted florist Azaleas
Black Raspberries
Fescue, Ryegrass, and Orchardgrass seed

More that 140,000 Oregonians are employed in agriculture-related jobs, from farm inputs, to on-farm work, to processing, transportation, and marketing.

98% of Oregon farms are family owned and operated, with 85% being sole proprietors, 7.4% family partnerships, and 5.8 % family owned corporations.

Oregon's Top 10 Commodities:

Greenhouse and Nursery
Cattle and Calves
Hay
Grass Seed
Milk and Dairy Products
Christmas Trees
Wheat
Potatoes
Onions
Pears



Crop Disaster Program

Eligible producers may now sign-up for the Crop Disaster Program (CDP) at their local USDA Service Center. The CDP authorizes crop loss assistance for producers who suffered 2003 or 2004 crop losses from damaging weather.

Eligibility for CDP is similar to that of the 2001-2002 crop disaster program. Producers suffering a greater than 35-percent production loss and/or more than a 20-percent quality loss are eligible. The payment rate for CDP has been increased to 65 percent of the established commodity price for insured crops and noninsured crops, and 60 percent of the price for uninsured commodities. Previous disaster assistance provided payments of 50 percent of the established commodity price for insured and non-insurable crops and 45 percent for uninsured crops. Producers may apply for CDP for any crops that are eligible for coverage under the Federal Crop Insurance or the Noninsured Assistance Program, including grass hay, but excluding pasture loss.

The payment limit is \$80,000 per person for all 2003/2004 CDP payments. The closing date for this sign-up will be announced later. For more information contact your local FSA Office at: (541) 396-4323 ext. 21 or visit <http://disaster.fsa.usda.gov>

District Staff

District Administrator/SB1010 Outreach Coordinator.. Carol Hollister
Watershed Technical Specialist..... Pat Jones
CREP Conservation Technician.....Barbara Grant



Calendar of Events

• Coos SWCD meetings open to the public 7:30 p.m. every 4th Thursday. For information call 396-6879

• Curry SWCD meetings open to the public 7:30 p.m. every 4th Tuesday. For information call 247-2755

• Coquille Watershed Association meetings open to the public 7:00 p.m. every 3rd Monday at the OSU Extension Office, upstairs conference room. For information call 396-2229

• Tenmile Lakes Basin Partnership meetings open to the public, last Thurs. every other month. For information call 759-2414

• Coos Watershed Association meetings open to the public. For information call 888-5922

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