

SCOPE OF AGRICULTURAL ISSUES (DRAFT)

With Comments Incorporated as of 12/29/03

Agriculture represents a critical part of the economies in Idaho, Oregon, and Washington. There are a number of environmental issues associated with agricultural practices and processes. Some of these issues might benefit if the states and EPA Region 10 took more of a regional approach to dealing with Ag-related issues in public health and environmental protection. Below are four proposed areas that have been identified as potential regional priorities for further development and which could use an innovative regional approach.

Large Confined Animal Operations

As the sheer size of dairies and feed lots (CAFOs) have increased, the problems (such as siting and management) associated with these facilities have also become more of a public issue. Questions as to how to control the facilities and the problems they pose have become a public debate. The following lists some of the environmental and programmatic issues associated with CAFOs:

Environmental:

1. Impact of facilities on air quality (odor, toxics, particulate matter)
2. Impact of facilities on ground water and surface water

Programmatic:

1. Are air quality permits required for large CAFOs?
2. Are wastes that are land applied off site subject to NPDES permit requirements?
3. Are nutrient management plans sufficient to protect surface and ground water resources?
4. Consistent interpretation and application of CAFO rules throughout the region.

There have been suggestions that developing a joint, regional approach for air and water pollution from CAFOs might be beneficial to the states and Region 10. This might include an evaluation of consistency in regulation interpretation and implementation, including regional consistency in implementing EPA's new CAFO rules. There is very little clarity around the regulatory approaches to employ for air emissions. EPA is attempting to negotiate a "safe harbor agreement" for air emissions from 28 of the largest CAFOs in the country. The agreement would include penalties that would help fund studies of the air emissions and development of monitoring protocols. In response to a successful lawsuit filed in another state, all three PNW states are seeing increased use of public disclosure laws to request air emissions data from CAFOs, presumably to set the stage for similar lawsuits. Industry is not anxious to take up this issue, however they are increasingly worried about it and about the possibility of differing local and state approaches. This strategy would need to be approached with due regard to the sensitivity of the issue for industry and local government.

Agricultural Burning

Burning of agricultural field residue is an issue in portions of the Northwest. Burning of grass fields in North Idaho is the subject of citizen lawsuits, and complaints from Canadian communities. General field burning (primarily wheat stubble) in Idaho, Eastern Washington and Oregon can compromise air quality and is the source of many citizen complaints. This practice contributes to regional haze, which will present additional management issues over the next several years. Designing regulatory programs that can control the practice without causing severe economic impacts to agriculture or threatening soil erosion will be a critical but necessary balancing act for Northwest farming communities. This might include reviewing the Regions "Smoke and A/Q strategy" with the intent of making specific changes and/or affirming it as a joint priority.

The new BlueSky-Rains smoke forecasting system will be a better tool for assessing interstate and cross boundary transport. Cross-boundary transport impacts not only Oregon, Washington, and Idaho but also Canada. BlueSky-Rains is also part of the IT strategy currently being developed among several state and federal agencies, so there could be some linkage between these two strategies. Jim Wertz will try to get some more involvement from EPA Region 10 air quality staff to help develop and further scope this issue.

Agricultural Chemicals

There are a wide variety of issues and legal actions driving agency activity relating to the use of herbicides and pesticides in agriculture. The disposal of residues from agricultural chemicals has contaminated ground water in areas surrounding airports and formulation plants. Another issue is the lawsuits (Talent) that require NPDES permits for using herbicides (de-mossing agents) in irrigation canals. Similarly, aerial applicators are vulnerable to citizen lawsuits, unless they do not impact Waters of the U.S., or unless they have an NPDES permit (Forsgren). Hazardous waste recycling into fertilizers can pose a health threat. Progress needs to be made overall on the pesticide applicator permit issue. This may involve a review of legal strategies with EPA HQ in the current court appeal. It might also include a review of how well the general permit process is working in Oregon and Washington, as well as a more effective way of dealing with the issue in Idaho.

Washington has issued several NPDES general permits for aquatic pesticides, though they are not delegated authority for permitting federal facilities. Oregon attempted to issue an NPDES general permit for aquatic pesticides this year but has gotten hung up on mixing zone issues, and as an interim approach is considering going back to their previous use of a mutual agreement order (MOA). Idaho has not been delegated NPDES authority, so has not done anything on either front.

The objective of a regional strategy would be to share information and coordinate on approaches, identify the regulatory gaps, document the need for solutions and perhaps be in a better position to influence EPA HQs. Washington and Oregon agreed to share comments with Idaho on the pesticide issues raised in EPA's Interpretive Statement regarding Pesticide Applications under FIFRA and CWA.

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(although she has not been informed of this regional planning effort by EPA and the states).

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