

Worker Protection Standards Advisory Committee

Meeting Minutes
August 8, 2017

Location: Oregon OSHA PFO

Meeting Started: 12:34PM

Present:

Adam McCarthy

Ana Molena

Colton Bond

Dave Silen

Emily Green (By Phone)

Eric Smith (By Phone)

Gilbert Uribe

Grant Jackson

Garnet Cooke (Oregon OSHA)

Heather Case (Oregon OSHA)

Janet Fults

Jeff Stone

Kaci Buhl

Kate Suisman

Kathy Keesee (By Phone)

Lisa Arkin

Michael Wood (Oregon OSHA)

Mysti Frost

Mike Doke

Nargess Shadbeh

Reneé Stapleton (Oregon OSHA)

Rose Katchadoorian

Sarah Mitchell

Scott Dhalman

Welcome and Introductions

The group introduced themselves.

Introductory Remarks:

Reneé made some opening remarks and introduced people from Oregon OSHA. She also outlined what happened in our two previous small group discussions. The group then moved into discussion on those topics along with the agenda items.

Discussion:

Overview of AEZ- Tiered Approach: Reneé began the discussion outlining what one small group discussed, which was centering the AEZ (Application Exclusion Zone) around whether or not the pesticide being applied had a label requirement to use a respirator or not. This also moved to discussion of protection against respiratory hazards versus dermal hazards from application. There was some clarification questions asked regarding which kind of application requires a respirator.

Overview of Innovative Ideas: The group also discussed the small group work around encouraging innovations in pesticide application and potentially allowing a reduction in the AEZ if growers implement innovations. Reneé stressed at this time draft language regarding innovations was purposefully kept vague within the rule, as we do not want to restrict potential innovations, or have to change language in the rule regarding innovations every time technology changes. But the idea is that a grower could present an innovation to Oregon OSHA and decisions could be made based on that.

Garnet told the group about the Gold Star Growers program out of North Carolina, which has a similar incentivized system for innovative growers. Information about the Gold Star Grower program was sent to the group. The group was interested in potentially having a program like this within these pesticide application rules.

Discussion of Draft Language: Included within handouts at the meeting was some draft language for a group of rules around the idea of an AEZ. These were simply some of the groups ideas set to paper, not a proposed rule at this point. The group looked through this draft, and at the outset, pointed out that there was no time requirement for the AEZ. The group felt that at some point the amount of time the AEZ is in place would need to be discussed. Also, the group acknowledged that there would need to be more discussions around what would be considered the “treated area”.

Treated Area: Garnet brought the EPA (Environmental Protection Agency)’s definition of treated area and stated she would distribute that to the group. She read it out loud and the group also discussed the REI (Restricted area interval).

Action Item: Distribute EPA definition of treated area to the group.

The group then began moving through the draft language and discussing each part individually.

Definitions: Reneé brought the group’s attention to the fact that the definitions section had been moved around. She also pointed out that the definition for ‘enclosed area’ was less detailed within the definitions section, but more detail was provided within the actual rule language.

Section 2- The Application Exclusion Zone: First the group discussed the idea of the closable area for shoes. Reneé and Michael discussed the unique situation shoes provide, in that even people who are outside of the AEZ can then track in pesticides on their shoes. The idea is that work clothing will be washed, so that is why they are not included in the closable container. The group asked if an employer would be cited for employees not using the closable container. Oregon OSHA clarified that the intent is only that employers provide the containers near the entrance to housing (not yet clear whether that is just inside or just outside the entrance), not that employers will be penalized based on non-use.

The group discussed the idea of closing off windows and doors and turning off air conditioning, which could potentially be a climate issue/heat issue in the hot seasons. This is something to consider if occupants would be required to close ventilation for long periods of time. Even if the occupants are not in the house. Also the group discussed the idea of having children’s toys put away as well, but not in the same area as tools.

The group also discussed and received clarification on the ability of occupants in labor housing to shelter in place during pesticide application as long as the pesticide does not require a respirator. The group clarified the dermal protection aspect and that dermal protection would be provided by the housing as well as the cab of the tractor during application. The group also briefly discussed the idea that this rule would be simply risk reduction, being used in conjunction with the rules against drift happening in the first place.

Criteria for enclosed areas within an AEZ: In section (a) and (b)- the group brought up the language ‘compliance alternative’, which was confusing. In the context of the draft language, it was not clear that compliance alternative meant sheltering in place and that this language was talking about a place where

a person could shelter in place. The group also supported moving away from the words 'protected area' as this gives the idea that the space is 100% protective, which may not be the case. Instead the words 'enclosed area' may be more appropriate.

The group discussed the requirement of enclosed spaces to have walls, ceilings and floors, and sought clarification regarding different housing configurations. The group suggested a requirement that the walls and ceiling must touch, however it was pointed out that there are some structures that have a strip that is uncovered between the wall and the roof under eaves. The group also discussed holes for windows and doors and the need to have all windows and doors close. If there are large holes, then that is not an enclosed space.

The group discussed briefly where people would go if they were evacuated from their housing; however that is not addressed in this rule and at this time anywhere outside the AEZ would be appropriate. The group also discussed areas that people in housing use but that are not necessarily enclosed, for example, washer/dryer, community stove/grill. These are not shelter in place options and our other worker protection rules discuss the rules against drift. Clarification was provided again that this rule would be a redundancy system, and not the primary protection.

Notification System- The group moved on to discuss notification required by growers to occupants before applying pesticides. The group pointed out that there needs to be some discussion of where the notification would be so that people who are not workers, but family members or other occupants will be able to see it, and that that needs to be included in the rule. The group liked the idea that the idea of this language is to facilitate communication between growers and the housing occupants.

In section (c), the group pointed out that there is a huge challenge presented in being required to give training as agricultural workers (as stated in section (c)(A)) to all adult occupants. Growers have no way to either require or incentivize adult occupants who are not their employees to take training. The group discussed that growers would rightfully be resistant to having to pay all adult occupants for training time, but it was hard to see a way to ensure all adult occupants received the training. Growers were also concerned about being cited for adults who are not their employees *not* having received the training. The group suggested that perhaps this could be a part of a Gold Star program, whatever the Oregon OSHA equivalent will be named. Group members also pointed out that if adults complete the training as an Agricultural Worker under OAR 437-004-6401, then they would receive information about the location of pesticide safety information and the location of decontamination supplies. Therefore sections (c)(B) and (c)(C) were redundant.

This led the group to speak to the locations of decontamination places, with the comments that there are washing places next to the labor housing, but not an eye wash. The group suggested the idea that perhaps decontamination stations could be placed near labor housing.

Innovations: Renéé began the discussion on the Innovations section, acknowledging to the group that there is a challenge here in being specific, as not all growers are the same, and not all technologies will be the same. The innovations section would not apply to respirators.

Licensed Applicators: The group discussed the rules surrounding licensing of pesticide applicators, including when there needs to be a licensed applicator and when not. When a restricted use pesticide is used, the group discussed the presence of a licensed applicator. The group also discussed the benefits and challenges to requiring a licensed applicator to be present at the labor housing while pesticide is

being applied. Not all growers are licensed applicators, nor do they have licensed applicators as they do not apply restricted use pesticides (RUPs). The group also acknowledged a challenge of this requirement as it may affect other agencies, including ODA and the EPA.

Additional Handout: The group went over another handout, titled 'Some additional ideas not included:'

In Closing: Before Adjournment, Reneé discussed Oregon OSHA's time constraints. The group still needs to provide feedback to Oregon OSHA regarding the fiscal impact of the potential rule. The group discussed the idea of another meeting, with acceptance of comments via email as well if people could not come to another meeting. The timeline was set: New draft language taking into account comments from this meeting will be provided to the group by Monday August 14th. The group will have until August 25th to get comments in to Reneé or Garnet about the draft language.

Oregon OSHA will host one more meeting on Wednesday, August 30th at 12:30 at the Portland Field Office. If people submit comments by email but cannot make it to the meeting, their comments will be discussed at the meeting.

Meeting Adjourned: 2:44

Next Meeting: Wednesday, August 30, 2017 @ 12:30
Oregon OSHA Portland Field Office,
16760 SW Upper Boones Ferry Rd. Tigard, OR 97224