

Oregon pesticide fines quadruple in 2016 as Legislature considers tighter rules

OREGON 2016 PESTICIDE VIOLATIONS

Here are the businesses and individuals who were fined during 2016 for pesticide violations.

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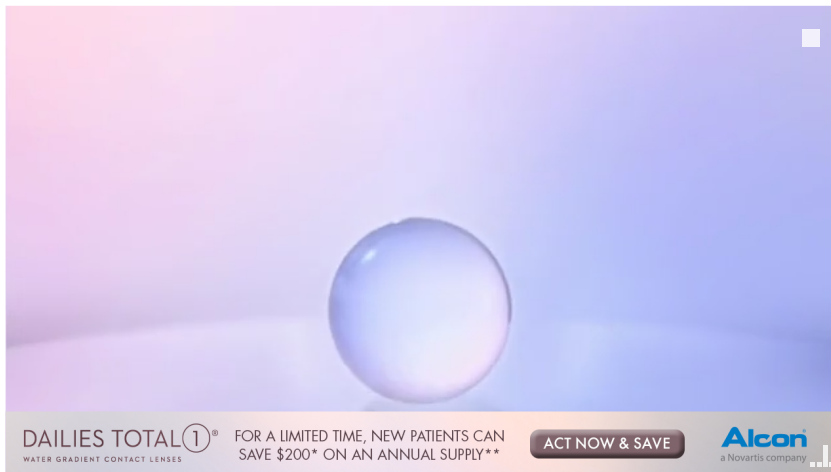
(Photo: Getty Images)

In May 2015, a worker at a Gresham nursery allowed pesticide spray to drift across a road and onto a home. Residents complained they were sickened by the spray, a mixture of four different pesticides.

In July 2015, the president of an Albany aerial spraying company used a plane to apply insecticide to a corn field in Eugene. The insecticide drifted onto a neighboring home, sheep pasture and onto a resident who had been working outside.

In August 2015, workers at a pear orchard near Hood River sprayed three pesticides onto about 30 acres of fruit trees. The pesticides later were detected in farmworkers' residential areas.

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The Oregon Department of Agriculture issued fines in connection with all three incidents in 2016, as well as seven more incidents where people, animals or property were harmed by drift from aerial or ground spraying or improper use of pesticides.

In all, ODA investigated 716 potential violations and levied 37 fines, totaling \$85,938, for pesticide violations last year. It also issued 81 notices of violations, which don't come with fines.

That's up from 532 investigations, and 23 fines totaling \$18,748, in 2015.

The department issued its annual report as the Oregon Legislature considers four bills that would tighten regulations around pesticides.

Two of the bills are related to harm caused to people, animals, and property by pesticide drift.

Several highly publicized incidents during the past few years have drawn attention to problems associated with aerial pesticide spraying and pesticide drift.

In one case, a residential area was improperly sprayed, sickening residents of an entire neighborhood in Gold Beach.

In another, an aerial spraying company failed to take any health or safety precautions for workers, and continued spraying after its license was suspended. That company, Applebee Aviation, and its owner, Michael L. Applebee, were fined a total of \$53,553 in 2016.

[Senate Bill 500 \(https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB500\)](https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB500) would eliminate a requirement that people who think they have been injured by pesticides file a “report of loss” with ODA within 60 days or forfeit their right to sue.

[Senate Bill 892 \(https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB892\)](https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB892) would require aerial pesticide applicators to notify the state of planned applications on privately owned forest land and report on them afterward. It also requires the state to maintain an electronic reporting and notification system with free public access.

Two more bills are related to neonicotinoid pesticides, which can harm bees and other pollinators if used improperly.

Oregon made headlines in 2013 with the nation’s largest mass bee kill. ODA investigators found that a tree service had misapplied neonicotinoid pesticides to linden trees, killing about 50,000 bumblebees in a Wilsonville shopping center parking lot. A similar incident happened in Eugene the following year.

Dale Mitchell, ODA pesticides program manager, said Oregon has not experienced a major bee kill since 2014, when the state banned the application of two neonicotinoid pesticides to linden trees.

[Senate Bill 928 \(https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB928\)](https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB928) would require pesticide products and seed containers that contain neonicotinoids to be clearly labeled. It would deem food misbranded if it is a raw commodity that is a product of soil treated with neonicotinoids unless the container is clearly labeled.

[Senate Bill 929 \(https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB929\)](https://olis.leg.state.or.us/liz/2017R1/Measures/Overview/SB929) would make neonicotinoids “restricted use pesticides,” meaning they could be sold only to people with a special license.

The Committee on Environment and Natural Resources held public hearings on all four bills in late March.

Supporters of the pesticide drift bills said they need more protection from aerial pesticide sprays.

“Rural people like me need your help to feel safe on our property,” said Kathryn Rickard, one of the Gold Beach residents whose property was sprayed in 2013.

And the 60-day deadline to file a report does not allow them to wait for a state investigation to be complete, they said. Neither Washington nor Idaho have such a requirement.

Backers of stricter regulations for neonicotinoids pointed to growing research about the pesticide’s risks.

“While not the only driver in pollinator decline, neonicotinoids are part of the problem and their risks must be mitigated if we are to help both native and managed bee populations,” said Aimee Code, pesticide program director for the Xerces Society for Invertebrate Conservation.

The Oregon Farm Bureau, Oregonians for Food and Shelter, and Oregon Association of Nurseries testified against all four bills, saying current regulations already are sufficient.

The two high-profile bee die-offs should not be taken as evidence of a wider problem with neonicotinoid pesticides, they said.

Providing notification of the exact date of spraying would make it difficult for pesticide applicators to remain flexible in the face of changing weather conditions, they said.

And eliminating the timeline to file a report would encourage “he said/she said” disputes, they said.

“OFB supports the ability to seek damages for any losses from illegal pesticide use,” Oregon Farm Bureau state public policy director Jenny Dresler said. “However, it must be on a level playing field that does not encourage frivolous litigation, where both parties have the chance to conduct an investigation – and benefit from the state’s investigation – before a lawsuit is filed.”

The 2015 Legislature beefed up ODA’s pesticide program, allocating it new money raised by a tax on pesticides.

That allowed the program to add four new pesticide investigators, an additional case reviewer, a new citizen’s advocate position, and a telephone hotline staffed around the clock.

That has helped reduce ODA’s response time to complaints, and helped it to process more cases, said Mitchell, the pesticides program manager.

However, since October 2016, ODA has taken on responsibility for regulating recreational marijuana, along with the Oregon Health Authority and Oregon Liquor Control Commission.

"We're currently probably close to 150 compliance investigations for (pesticide) product use in cannabis," Mitchell said. "That certainly has impacted our investigative staff."

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Pesticide violations

Here are the pesticide fines issued and paid during 2016. See this story at StatesmanJournal.com for a longer description of the incidents and links to enforcement documents.

For performing pesticide application activities in a faulty, careless or negligent manner:

- [Michael L. Applebee \(https://www.documentcloud.org/documents/3533186-Initial-Notice-Order-Applebee-Aviation-150406.html\)](https://www.documentcloud.org/documents/3533186-Initial-Notice-Order-Applebee-Aviation-150406.html), of Banks: \$10,000
- [Columbia Basin Helicopter, Inc \(https://www.documentcloud.org/documents/3533193-Columbia-Basin-Helicopter-Inc.html\)](https://www.documentcloud.org/documents/3533193-Columbia-Basin-Helicopter-Inc.html), of LaGrande: \$1,556
- [David M. McCarty \(https://www.documentcloud.org/documents/3533194-David-M-McCarty.html\)](https://www.documentcloud.org/documents/3533194-David-M-McCarty.html), of La Grande: \$1,443
- [Ekstrom Nursery, Inc \(https://www.documentcloud.org/documents/3533165-Ekstrom-Nursery-Inc.html\)](https://www.documentcloud.org/documents/3533165-Ekstrom-Nursery-Inc.html), of Gresham: \$814
- [Gumercindo Gonzalez \(https://www.documentcloud.org/documents/3533168-Gumercindo-Gonzalez-Jr.html\)](https://www.documentcloud.org/documents/3533168-Gumercindo-Gonzalez-Jr.html), of Cornelius: \$814
- [Hirata Orchards, Inc \(https://www.documentcloud.org/documents/3533171-Hirata-Orchards-Inc.html\)](https://www.documentcloud.org/documents/3533171-Hirata-Orchards-Inc.html), of Parkdale: \$814
- [Jack E. Roher \(https://www.documentcloud.org/documents/3533172-Jack-E-Roher.html\)](https://www.documentcloud.org/documents/3533172-Jack-E-Roher.html), of Gresham: \$814
- [Peter Alan Brawn \(https://www.documentcloud.org/documents/3533178-Peter-Alan-Brawn.html\)](https://www.documentcloud.org/documents/3533178-Peter-Alan-Brawn.html), of Albany: \$407
- [Bill Hirata \(https://www.documentcloud.org/documents/3533161-Bill-Hirata.html\)](https://www.documentcloud.org/documents/3533161-Bill-Hirata.html), of Parkdale: \$407
- [Kelly D. \(https://www.documentcloud.org/documents/3533174-Kelly-D-Kreder.html\)](https://www.documentcloud.org/documents/3533174-Kelly-D-Kreder.html) Kreder
(<https://www.documentcloud.org/documents/3533174-Kelly-D-Kreder.html>), of Dayton: \$407
- [Pedro Solis \(https://www.documentcloud.org/documents/3533177-Pedro-Solis.html\)](https://www.documentcloud.org/documents/3533177-Pedro-Solis.html), of Parkdale: \$407
- [Transag \(https://www.documentcloud.org/documents/3533182-Transag-Inc.html\)](https://www.documentcloud.org/documents/3533182-Transag-Inc.html), Inc.
(<https://www.documentcloud.org/documents/3533182-Transag-Inc.html>), of Albany: \$407

For working without a valid or appropriate pesticide operator license, using unlicensed pesticide applicators, or making commercial applications without an applicator license:

- [Applebee Aviation Inc \(https://www.documentcloud.org/documents/3533186-Initial-Notice-Order-Applebee-Aviation-150406.html\)](https://www.documentcloud.org/documents/3533186-Initial-Notice-Order-Applebee-Aviation-150406.html), of Banks: \$43,552
- [Highlanders Forest, LLC \(https://www.documentcloud.org/documents/3533170-Highlanders-Forest-LLC.html\)](https://www.documentcloud.org/documents/3533170-Highlanders-Forest-LLC.html), of Central Point: \$10,000
- [Jeffrey F. Ricks \(https://www.documentcloud.org/documents/3533173-Jeffrey-F-Ricks-Operating-as-Green-Envy.html\)](https://www.documentcloud.org/documents/3533173-Jeffrey-F-Ricks-Operating-as-Green-Envy.html), of Portland, operating as Green Envy Landscaping: \$1,887
- [Western Ag Improvements, Inc \(https://www.documentcloud.org/documents/3533197-Western-Ag-Improvements-Inc.html\)](https://www.documentcloud.org/documents/3533197-Western-Ag-Improvements-Inc.html), of Dayton: \$666
- [Felipe Cruz \(https://www.documentcloud.org/documents/3533166-Felipe-Cruz.html\)](https://www.documentcloud.org/documents/3533166-Felipe-Cruz.html), of Vancouver, WA: \$629
- [Roberto Vera \(https://www.documentcloud.org/documents/3533179-Roberto-Vera.html\)](https://www.documentcloud.org/documents/3533179-Roberto-Vera.html), of Vancouver, WA: \$629
- [Doug A. Herndon \(https://www.documentcloud.org/documents/3533195-Doug-a-Herndon.html\)](https://www.documentcloud.org/documents/3533195-Doug-a-Herndon.html), of Salem: \$407

For pesticide uses, distributions, or recommendations inconsistent with product labels:

- [Landcare USA LLC \(https://www.documentcloud.org/documents/3533196-Landcare-USA-LLC.html\)](https://www.documentcloud.org/documents/3533196-Landcare-USA-LLC.html), of Tigard: \$1,800
- [Chamberlin Agriculture, Inc. \(https://www.documentcloud.org/documents/3533162-Chamberlin-Agriculture-Inc.html\)](https://www.documentcloud.org/documents/3533162-Chamberlin-Agriculture-Inc.html), of The Dalles: \$1,221
- [Wilbur-Ellis Company \(https://www.documentcloud.org/documents/3533185-Wilbur-Ellis-Company.html\)](https://www.documentcloud.org/documents/3533185-Wilbur-Ellis-Company.html), of Walla Walla, WA: \$814
- [Felipe Cruz \(https://www.documentcloud.org/documents/3533166-Felipe-Cruz.html\)](https://www.documentcloud.org/documents/3533166-Felipe-Cruz.html), of Vancouver, WA: \$629
- [Roberto Vera \(https://www.documentcloud.org/documents/3533179-Roberto-Vera.html\)](https://www.documentcloud.org/documents/3533179-Roberto-Vera.html), of Vancouver, WA: \$629
- [Jeffrey F. Ricks \(https://www.documentcloud.org/documents/3533173-Jeffrey-F-Ricks-Operating-as-Green-Envy.html\)](https://www.documentcloud.org/documents/3533173-Jeffrey-F-Ricks-Operating-as-Green-Envy.html), of Portland operating as Green Envy Landscaping: \$629
- [Timothy Aman \(https://www.documentcloud.org/documents/3533181-Timothy-L-Aman.html\)](https://www.documentcloud.org/documents/3533181-Timothy-L-Aman.html), of Silverton: \$407
- [Grange Cooperative Supply Association \(https://www.documentcloud.org/documents/3533167-Grange-Cooperative-Supply-Associat.html\)](https://www.documentcloud.org/documents/3533167-Grange-Cooperative-Supply-Associat.html), of Central Point: \$407
- [Heesacker Farms, Inc \(https://www.documentcloud.org/documents/3533169-Heesacker-Farms-Inc.html\)](https://www.documentcloud.org/documents/3533169-Heesacker-Farms-Inc.html), of Forest Grove: \$407

- [Steven J. Heesacker \(https://www.documentcloud.org/documents/3533180-Steven-J-Heesacker.html\)](https://www.documentcloud.org/documents/3533180-Steven-J-Heesacker.html), of Forest Grove: \$407
- [Duane Kirkman \(https://www.documentcloud.org/documents/3533164-Duane-Kirkman.html\)](https://www.documentcloud.org/documents/3533164-Duane-Kirkman.html), of Cave Junction: \$407
- [Macy's Flying Service Inc \(https://www.documentcloud.org/documents/3533175-Macy-s-Flying-Service-Inc.html\)](https://www.documentcloud.org/documents/3533175-Macy-s-Flying-Service-Inc.html), of Tulelake, CA: \$407
- [Trees Inc \(https://www.documentcloud.org/documents/3533184-Trees-Inc.html\)](https://www.documentcloud.org/documents/3533184-Trees-Inc.html), of Grants Pass: \$407
- [Monty R. Yancey \(https://www.documentcloud.org/documents/3533176-Monty-R-Yancey.html\)](https://www.documentcloud.org/documents/3533176-Monty-R-Yancey.html), of Klamath Falls: \$407

For marketing or distributing broken and misbranded containers of pesticide products:

- [Dennis' 7 Dees Landscape Inc \(https://www.documentcloud.org/documents/3533163-Dennis-7-Dees-Landscaping-Inc.html\)](https://www.documentcloud.org/documents/3533163-Dennis-7-Dees-Landscaping-Inc.html), of Portland: \$450
- [Travis Smith \(https://www.documentcloud.org/documents/3533183-Travis-Smith.html\)](https://www.documentcloud.org/documents/3533183-Travis-Smith.html), of Portland: \$450

Pesticide reporting

To report a pesticide incident that has impacted people, animals or the environment, contact Theodore Bunch Jr. by email at PARC@oda.state.or.us (<http://PARC@oda.state.or.us>) or by phone at 503-986-6470 (844-688-7272 toll-free). Call 2-1-1 for help after business hours.

You can also fill out a pesticide incident complaint form online at <http://www.oregon.gov/ODA/programs/Pesticides/Pages/PesticideComplaints.aspx> (<http://www.oregon.gov/ODA/programs/Pesticides/Pages/PesticideComplaints.aspx>).

[Oregon hopes 'Samurai wasp' will battle invasive brown marmorated stink bug \(http://www.statesmanjournal.com/story/tech/science/environment/2017/03/22/oregon-hopes-samurai-wasp-battle-invasive-stink-bug/99425196/\)](http://www.statesmanjournal.com/story/tech/science/environment/2017/03/22/oregon-hopes-samurai-wasp-battle-invasive-stink-bug/99425196/)

[Oregon may let farmers sue Monsanto, other GMO patent-holders, for crop contamination \(http://www.statesmanjournal.com/story/news/politics/2017/03/16/oregon-may-let-farmers-sue-monsanto-other-gmo-patent-holders-crop-contamination/99265148/\)](http://www.statesmanjournal.com/story/news/politics/2017/03/16/oregon-may-let-farmers-sue-monsanto-other-gmo-patent-holders-crop-contamination/99265148/)

[Oregon bill would regulate dairy air emissions \(http://www.statesmanjournal.com/story/news/politics/2017/03/08/oregon-bill-would-regulate-dairy-air-emissions/98833348/\)](http://www.statesmanjournal.com/story/news/politics/2017/03/08/oregon-bill-would-regulate-dairy-air-emissions/98833348/)

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