



## Oregon's Right to Farm Law



### Overview

Legislation adopted in 1993 and updated in 1995 and 2001, declares farm and forest practices as critical to the welfare of the Oregon economy, and establishes a right-to-farm law. This law protects growers from court decisions based on customary noises, smells, dust, or other nuisances associated with farming. It also limits local governments, and special districts from administratively declaring certain farm and forest products to be nuisances or trespasses (ORS 30.930).

### Protected land

No farming or forest practiced on a farm located on lands zoned for farm or forest use shall give rise to any private right of action, suit, or claim for relief based upon nuisance or trespass. "Farm" is defined to include any facility, including the land, buildings, watercourses and appurtenances thereto, used in the commercial production of crops, nursery stock, livestock, poultry, livestock products, poultry products, vermiculture products or the propagation and raising of nursery stock.

Pre-existing nonconforming (farm or forest) uses are also afforded this protection provided that the farming or forest use existed before the conflicting non-farm or non-forest use of the real property that gave rise to the claim, and provided that the pre-existing nonconforming farming or forest practice has not significantly increased in size or intensity from November 4, 1993.

Right-to-farm protection is not afforded if claims are based on an action of a producer that results in any of the following:

- Damage to commercial agricultural products of another grower or neighboring property
- Death or serious injury

### **Protected practices**

Protected practices include farming or forest practices that are characterized by one or more of the following:

- Are or may be used on a farm or forestland of similar nature
- Are generally accepted, reasonable, and prudent methods for the operation to obtain profit in money (commercial)
- Comply with applicable law
- Are performed in a reasonable manner

The lawful and proper use of pesticides is considered a protected farming or forest practice.

The law also provides protection for the movement of farm vehicles and livestock on public roads.

Local government and special district ordinances and regulations now in effect or subsequently adopted which are contrary to this law are invalid. In any legal action alleging nuisance or trespass arising from a practice alleged by either side as a farm or forest practice, the prevailing party is awarded attorney fees and costs at the trial and on appeal.

It is important to note that under current law, nuisance and trespass cases taken against farming practices are adjudicated by local Oregon Circuit Courts.

Complainants may want to consider the Oregon Department of Agriculture's Farm Mediation Program before filing any legal action. Call 503-986-4558 or 800-347-7028 for information about the mediation program. Parties are encouraged to talk with legal counsel on the interpretation of the statute.

### **Technical assistance**

#### **Oregon Department of Agriculture**

Land use

Jim Johnson 503-986-4706

Farm Mediation Program  
Stephanie Page 503-986-4558  
Toll free 800-347-7028

### **Additional conflict prevention and resolution strategies**

Even though Right-to-Farm offers certain protections, it is in farmers' and ranchers' best interests to prevent and resolve conflicts where possible and maintain good relationships with neighbors. Below are some tips for conflict prevention and resolution, some of which are from an August, 2004 Oregon Association of Nurseries Digger Magazine article titled "Good-neighbor Policy".

- Communicate early and often. Get to know your neighbors. Talk with them about what you do, what you grow, and what happens on your operation. Most will be interested. Friendships, if they can be developed, lead to easier conversations when concerns are expressed about nuisances.
- Don't assume. Just because someone is living in the country doesn't mean they understand agricultural practices and the customary noises and odors that go with farming, especially if you change a crop, plant something they are unaccustomed to, or bring in animals that weren't there before.
- Educate. Invite neighbors over to pick fruits and vegetables, glean fields, or watch production activities while they happen (with appropriate safety precautions). Most school-age children have science projects – see if there is something you can assist with. Have an open house for customers and neighbors featuring educational and information exhibits, demonstrations, and hands-on activities.
- Build your "goodwill" bank account. One grower stated: "Build a bank account of goodwill within the community you live and work...when things happen that reduce that bank account you will be glad you have it. It can affect the ability of future generations to be able to farm." Some additional ways to create goodwill include donating produce to food banks or food pantries, or nursery stock to charitable causes; or, when operating wide equipment or machinery on public roads, pulling off at safe places to letting traffic pass; also, when possible, moving equipment when there is less traffic.
- Explain your dilemma. Share, in as much detail as possible, the challenges you face (bird depredation, mold or pest problem, etc.). Most people will be understanding.
- Explain the time period. Often the activities that sometimes "offend" are short-lived. Noise cannons or wind fans in orchards, harvesting at night, or spraying may only take a day or two or a couple weeks at most. If they know the ending date, most people are more accepting or tolerant of the situation.
- Share the options. Talk about the various options that might provide a solution to the challenges you face, and the costs associated with each. Invite the other party to share in the cost of resolving the situation.
- Define "Generally accepted, reasonable and prudent": explain how what you are doing is based on best management practices, Extension or other research, and is used on other farms to address this issue.