

How to Comment on the EPA/NOAA Proposed Disapproval of Oregon's Coastal Nonpoint Pollution Control Program

Focus on Pesticides

Two federal agencies have asked for public comment on their proposal to disapprove Oregon's Coastal Nonpoint Pollution Control Program under the federal law known as "CZARA." This is your opportunity to comment on how well Oregon controls pesticides from in coastal watersheds from affecting aquatic-related uses such as fish, wildlife, and drinking water. Comments are due by March 20, 2014.

What is CZARA?

CZARA is the Coastal Zone Act Reauthorization Amendments, passed by Congress to induce states to reduce nonpoint source pollution in coastal watersheds. Nonpoint source pollution is essentially all run-off that does not come out of a pipe and is therefore not covered by a Clean Water Act discharge permit. CZARA applies to all watersheds in Oregon's North Coast, Mid-Coast, and South Coast Basins and the entirety of the Rogue and Umpqua River Basins.

How is CZARA supposed to work?

CZARA requires states to obtain full approval of their Coastal Nonpoint Pollution Control Program in order to continue to receive federal grant funds. Approval was required by 1996 to avoid penalties – 17 years ago.

What led to the federal government's proposed disapproval of Oregon's program?

Northwest Environmental Advocates (NWEA) sued the U.S. Environmental Protection Agency (EPA) and National Ocean and Atmospheric Administration (NOAA) in 2009. The case was settled on the basis of commitments by the Oregon Department of Environmental Quality (DEQ) to control major sources of nonpoint pollution. Oregon DEQ, however, has walked away from those commitments. The NWEA settlement requires EPA/NOAA to take *final action* on May 15, 2014 after taking public comment on their proposal to disapprove Oregon's program.

What does CZARA require?

First, Oregon must make sure it has in place *basic* nonpoint source controls – called "management measures." Second, if the basic management measures are not adequate to meet water quality standards and protect designated uses, Oregon must have what are called "*additional* management measures." Designated uses include fish and aquatic life, public and private drinking water, wildlife and hunting, fishing and shellfish harvesting.

How have EPA/NOAA treated pesticides in their proposed disapproval action?

EPA/NOAA have found that while Oregon has adequate stream buffers for pesticides use on streams with salmon, the state may not have sufficient protection for non-fish bearing streams sprayed by logging companies (a majority of stream miles). EPA/NOAA informally approved all other pesticide use in Oregon (e.g., for agriculture, urban uses, and roads). EPA/NOAA never evaluated whether *additional* management measures are needed for Oregon agriculture, including pesticides, even though the *basic* agriculture measures do not require spray buffers and no basic management measures, including for logging, require protection of drinking water.

Is the application of pesticides in Oregon still an outstanding issue under CZARA?

In 2004, EPA/NOAA informally approved Oregon's pesticide use in logging based on a court injunction that established spray buffers near streams, an injunction that largely no longer exists. EPA/NOAA now cite favorably the Oregon Department of Forestry's buffer zones for pesticide applications near fish-bearing streams. With regard to non-fish bearing streams, EPA/NOAA "invite public comment." The federal agencies praise Oregon's Water Quality Pesticide Management Plan, which uses water monitoring data to drive so-called adaptive management actions, but note the limited pesticide data in the state, concluding "the State should develop and maintain more robust and targeted studies of the effectiveness of its pesticide monitoring and best management practices." They also laud Oregon's Pesticide Stewardship Partnership Program, despite its complete absence from coastal watersheds.

EPA/NOAA also rely on pesticide labels to provide protection to salmon. However, despite the National Marine Fisheries Service's (NMFS) having made the following effects findings for two "threatened" species of salmon that live in Oregon's coastal watersheds, EPA has not revised its pesticide labels to reflect the restrictions NMFS said were necessary to protect them:

	Oregon coast coho	Southern Oregon/Northern California coho
chlorpyrifos	Jeopardy & Adverse Modification	Jeopardy & Adverse Modification
diazinon	Jeopardy & Adverse Modification	Jeopardy & Adverse Modification
malathion	Jeopardy & Adverse Modification	Jeopardy & Adverse Modification
carbaryl	--	Jeopardy & Adverse Modification
carbofuran	--	Jeopardy & Adverse Modification
methomyl	--	Jeopardy & Adverse Modification
naled	--	Jeopardy & Adverse Modification
phosmet	--	Jeopardy & Adverse Modification
2,4-D	Jeopardy	--

What's important to know when writing CZARA comments?

In preparing your comments, remember the following important points:

- CZARA requires a program, not just a plan. Remember to use your evidence to show that Oregon does not have a program in place.
- Oregon may use voluntary measures to control nonpoint sources but it must also demonstrate the state has both enforceable mechanisms and policies to back-up its voluntary approach, including a commitment to use enforcement where necessary.
- Oregon must show it has a program to meet all the basic management measures and any such *additional* management measures as are needed to meet water quality standards and protect designated uses such as Oregon coast coho, amphibians, and drinking water.

To whom do I address my comments and what's the deadline?

Joelle Gore, Acting Chief, Coastal Programs Division (N/ORM3), Office of Ocean and Coastal Resource Management, National Ocean Service, NOAA, 1305 East-West Highway, Silver Spring, Maryland 20910, email: joelle.gore@noaa.gov **DUE:** March 20, 2014

Where can I obtain more information?

Many documents are available on NWEA's website: <http://northwestenvironmentaladvocates.org/nwea-news/oregon-coast-polluted-runoff/czara-documents/> and EPA/NOAA's website: <http://coastalmanagement.noaa.gov/nonpoint/oregonDocket/default.html>.

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