

Farm regulators ponder pot oversight

Pesticides, licenses pose quandary for Oregon officials

By MATEUSZ PERKOWSKI
Capital Press

Marijuana legalization in Oregon has farm regulators pondering how cultivation of the psychoactive crop will square with existing rules for agriculture.



Burns

The Oregon Liquor Control Commission has primary jurisdiction over recreational marijuana, which was legalized in Oregon last year with voter approval of Measure 91.

However, some aspects of regulating the crop may come under the authority of the Oregon Department of Agriculture and other state agencies, experts say.

Officials from OLCC are scrambling to write rules for overseeing marijuana production, processing and sales but currently "have no idea" what role other regulators will play, said Steve Marks, OLCC's executive director, during a Feb. 18 Oregon Board of Agriculture meeting.

Possessing and growing limited quantities of marijuana for personal use will become legal in July and OLCC will begin issuing business licenses for commercial growing and processing in early 2016, he said.

Regulating these commercial processes may bear on subjects with which ODA already has expertise — for example, pesticide rules for farmers are enforced by the agency, said Tom Burns, director of OLCC's marijuana programs.

No chemicals are registered for marijuana by the U.S. Environmental Protection Agency, which raises the question of whether ODA would be expected to test the crop for pesticides, he said.

"Who is going to enforce that, if in fact we are going to enforce it?" Burns said.

The Washington State Department of Agriculture may offer some guidance, as the agency compiled a list of 273 pesticides that can be used on recreational marijuana. Voters in that state legalized the crop in 2012.

Marijuana is smoked and extracts from the plant are eaten, which complicates the question of pesticide safety, said Erik Johansen, the agency's policy assistant for registration services.

Also, the EPA is "adamant" there are no allowable tolerances of registered pesticide residues on the crop, which remains illegal under federal law, he said.

For these reasons, WSDA examined chemicals that EPA classifies as organic, biopesticide or "minimal risk" and are thus exempt from tolerance levels or federal registration, Johansen said.

The state agency narrowed that list by identifying pesticides that can be applied to a wide range of crops, he said. "If it's fairly broadly written, it could be interpreted as allowing other uses."

While WSDA can offer advice and guidance to the Washington State Liquor Control Board — which oversees recreational marijuana — farm regulators are not responsible for testing or enforcement of pesticide rules for that crop, Johansen said.

Oregon plans to learn from the experience of regulators in Washington and Colorado, where marijuana was legalized earlier, said Marks.

With alcohol, though, no two states have the same regulations, so Oregon can expect to develop a unique program for marijuana, he said.

The Oregon Department of Agriculture is happy to let OLCC take the lead in setting regulations but hopes to avoid duplicative rules, said Katy Coda, the agency's director.

Commercial kitchens and plant nurseries are already licensed by ODA, but it must still be decided whether the agency will be responsible for licensing marijuana plant producers and manufacturers of edible marijuana products, she said.

OLCC's recreational marijuana rules may also intersect with existing regulations for water quality, overseen by the Oregon Department of Environmental Quality, as well as irrigation, which is under the Oregon Water Resources Department's jurisdiction, said Burns.

Experts say marijuana legalization raises numerous other questions.

Will growing the crop allow landowners to qualify for farm property tax deferrals?

Is marijuana cultivation protected under Oregon's "right to farm" law, which shields growers from certain lawsuits and local ordinances against farming practices?

Another uncertainty is how marijuana operations fit under Oregon's land use rules, said Marks.

Processing facilities, farm stands and promotional events are permitted in exclusive farm use zones, though it's unclear if such uses will be allowable for marijuana, he said.

Farm labor association extends reach into other states

By DAN WHEAT
Capital Press

OLYMPIA, Wash. — The Washington Farm Labor Association has grown dramatically in the past four years, becoming the main provider of H-2A visa foreign guestworkers on Washington farms.

Soon the association will drop Washington from its name and simply go by its acronym, WAFLA, as it aims to become the largest labor and employment consulting service for seasonal ag employers on the West Coast and nation. It may soon surpass the North Carolina Growers Association as the largest provider of H-2A workers.

"We are recognizing that we have slightly under 15 percent of our members in other states, mainly Oregon and California, and that we want to grow in those states," said Dan Fazio, WAFLA director.

The nonprofit will legally change its name in March. It will take effect April 1 or soon thereafter, he said.

WAFLA has its roots in the Washington Farm Bureau, dating back to 2007. By April 2011 it had 60 members. Today it has 615 members. Beyond those in Oregon and California there are a few members in other states, including Nevada and Michigan.

WAFLA operates on a \$5 million annual budget with the vast majority used to bring H-2A workers into Washington.

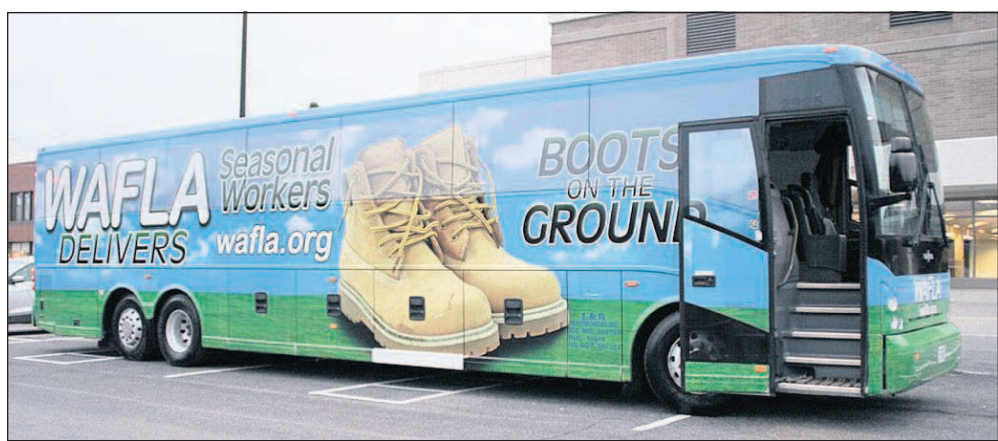
As shortages of farm labor increased several years ago, Fazio saw that farmers, mainly Central Washington tree fruit growers, needed help getting through the cumbersome process of applying to the U.S. Department of Labor for permission to hire H-2A workers and help in recruiting, transporting and managing workers.

WAFLA handles the application, recruits and hires the workers and transports them from Mexico to orchards in Washington and back for \$500 to more than \$1,000 per worker, depending on the type of program.

Employers have to provide housing, demonstrate a lack of domestic workers and hire domestic workers and offer them housing if they apply for jobs.

The number of DOL certified H-2A workers in Washington has grown from 814 in 2006 to 9,077 in 2014. In recent years, WAFLA has handled about 80 percent of them.

The number of DOL certified H-2A workers in Washington has increased by more than 40 percent in each of the past three years. Already everyone who signed up for the program in 2014 has signed up for 2015 and more are joining, Fazio said. He foresees growth this year will slow to 15 percent be-



Dan Wheat/Capital Press

In this photograph is one of several buses WAFLA hires to bring H-2A visa guestworkers from Mexico to work on Washington state orchards and farms. This one was displayed at WAFLA's annual labor conference at the Wenatchee Convention Center on Feb. 11.

Central Washington fairs explain ag jobs

YAKIMA, Wash. — Job fairs intended to attract people and help them advance in agriculture in Central Washington are being held by several organizations.

The Washington Farm Labor Association, state Department of Employment Security WorkSource, Opportunities Industrialization Center of Washington and Roach Law firm of Pasco are holding the fairs to explain job opportunities and advancement in agriculture, immigration reform and how domestic workers can benefit from the H-2A guestworker program. Roach Law will talk about Presi-

dent Barack Obama's executive actions granting work status and explain how to apply.

The fairs are informational, not a sign-up for jobs, said Kim Bresler, deputy director of WAFLA. The fairs will be held from 3 to 6 p.m. at:

- Bridgeport Elementary School cafeteria, 1400 Tacoma Ave., March 3.
- Yakima Southeast Community Center Gymnasium, 1211 S. Seventh St., March 4.
- Kennewick WorkSource Columbia Basin, 815 N. Kellogg St., Suite D, March 5.

— Dan Wheat

cause the apple crop might be smaller, grower returns from the 2014 crop will be down and they won't have as much money to invest in housing and the H-2A minimum wage increased 55 cents an hour. President Barack Obama's executive action giving legal status to domestic workers could impact their availability, he said.

There were only 238 H-2A workers in Oregon last year, but the state is ripe for that number to increase into the thousands because nurseries and growers of cherries, pears, watermelons, wine grapes and Christmas trees all need workers, Fazio said.

However, the state of Oregon believes employers must provide housing not only for H-2A workers but their families, Fazio said. That's a big issue, he said.

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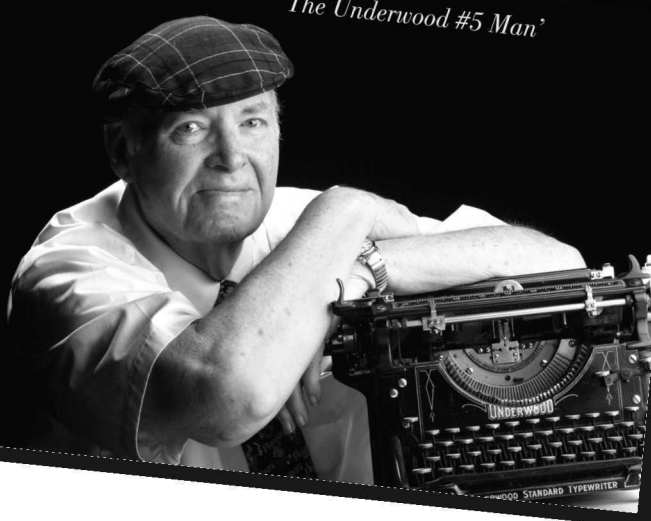
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