



MOSES ORGANIC FACT SHEET

Protecting Your Organic Land from Unwanted Chemical Sprays

There are many aspects of organic production that are out of a farmers' control, including the weather, seed quality and the possibility of damage to the organic integrity of crops by adjoining land uses. While we cannot do anything about climatic conditions, there are some things we can do to lessen the chance of contamination, including building relationships over time with nonorganic neighbors to offer more long term protection.

Public Right of Way

Each state has their own laws governing no-spray agreements with utilities and road crews. However, in all regions, organic farmers can approach these entities and put together a written management agreement to cover multiple years.

Road crews have a legal mandate to keep road sides clear of obstruction that could either block sight or prevent water from flowing through the ditches, which could cause roadside flooding. Most state, county or town governments will not agree to a roadside no-spray agreement unless the landowner agrees to take on some responsibility for brush and noxious weed control in the right-of-way.

Many government entities provide flags for the landowner to use to mark the boundaries of their land and alert the road crews as they travel the roadsides with the spray rig. Flags designate areas where no sprays are allowed. If there are no flags provided, it is still a good idea to put up no spray signs at the property lines and at road intersections. Many times, it is not local personnel doing the roadside spraying, instead, hired crews come from outside the area. Any "reminders," such as signs put up by the property owner, would be helpful. (MOSES sells no-spray signs if you need some.)

As with most agreements, having a clear delineation of responsibilities is good for both parties and lessens the risk that an unwanted spray activity would occur. A statement such as "The property owner agrees to maintain vegetation along the roadway by keeping it mowed (or brush cleared, or noxious weeds removed) so as to allow for clear field of vision by those traveling on the roadway and the unimpeded flow of water through the road ditches. The Town, (county, state) will respect the wishes of the property owner and not spray the roadsides noted on the attached map. If the property owner does not maintain the roadsides as agreed, the Town (county, state) will maintain the roadsides to protect the public health and safety."

Not all government entities will require the property owner mow the roadsides, but most will require that brush and noxious weeds be controlled. The agreement by the property

owner needs to be upheld at all times, since if a local road patrolman sees brush or weeds, they could spray. The written agreement can also request the property owner be notified first of any weed issue before action is taken. Generally the landowner will be given one or two weeks by the local government to take care of a problem before the road crews spray.

Each agreement should be written to fit the needs of whoever is involved. If the road crews accidentally spray, but there is a clear written agreement and the property owner has maintained their side of the bargain, there could be a case for the landowner to receive compensation. Fair compensation would be receiving the organic premium on the now nonorganic buffer zone crop in the organic field that would need to be removed along any sprayed roadside. Again, each state has their own rules on this type of liability, however, when there is a written agreement, the liability is more clearly spelled out and the organic farmer has a better chance of getting a payment for an accidental spray incident.

Utilities

Utilities can be approached by property owners in the same fashion as noted above. In Wisconsin there is a state statute (182.017 (7)(d)) which mandates no herbicides are to be used under electric transmission lines unless there is express written permission by the landowner. If the landowner maintains the brush, then the utility is to reimburse the landowner for this work. Higher voltage transmission lines moving electricity from generation facilities to substations are different from the shorter electric distribution poles that move electricity from homestead to homestead in rural areas. These distribution lines are managed either by private companies or by local rural electric cooperatives. Each of these entities has their own policies regarding no-spray agreements. It would be a good idea to contact these companies sometime in the spring to find out their policies; if they have a standard no-spray agreement you could sign (many have them), or if you could develop your own.

The utility companies actively maintain trees and brush around their lines, monitoring their lines yearly and clearing brush using either chainsaws or spray every couple of years. Utilities may or may not notify you that they are intending to spray. Being prepared ahead of time with a clear agreement is the only way to not have the unpleasant surprise of seeing a swath of dead grass and trees through your organic field. An easement for these utility companies to come onto your land and maintain the distribution lines was part of your deed when you purchased your land. Most of these easements were put on these deeds in the 1920s and 1930s.

Agreements with Neighbors

A friendly discussion with your neighbors concerning sprays or chemical fertilizer applications along the fence line will also be helpful. Most neighbors are willing to work with you, especially if you explain that you are accessing a specialty market (organic) and that there are certain rules you must follow, including protection of your crop from a prohibited spray or fertilizer. You can explain that you have a buffer zone in place, but you would appreciate it if they would spray when the prevailing winds are light or are going away from your land. If the neighbor has a pasture, you can ask them not to spray for weeds within 30 feet of the shared fence line (and offer to cut or dig their weeds if they wish). If they are willing to sign a yearly agreement concerning this no-spray area on their farm, then the organic farmer will not need a buffer zone on their side of the fence. The agreement must be in writing, unless the neighbor's adjoining field is certified organic!

More and more applications of herbicides are being done by custom applicators, who may not be familiar with the area and the various operators of the fields. Putting up signs near field entrances stating that you have an organic farm and no sprays are allowed can be a little bit of insurance to keep a confused custom applicator from directly applying a prohibited substance to your organic field. Any prohibited application, whether a mistake or not, will cause that land to be removed from organic production for 3 years. Signage is especially important if you are renting land away from your home, where you cannot see activities until it is too late. You can also be proactive and notify the local coops and applicators of where your organic land is located. An easy way to do this is to color the organic fields on a photocopy of a plat book map, including your name and phone number, and noting that these are organic fields. These types of maps can also be given to local airport managers to pass on to aerial applicators who may be crop dusting in your region.

State Support

Each state is involved in varying levels of activity to assist organic producers in protecting their fields from stray spray. Many pesticide applicators are aware that organic lands are not to have prohibited substances and some have contacted the state to find out where the organic farms are located so they can avoid them. The State of Iowa maintains both a registry of organic farmers and provides special signage that is placed at a 45 degree angle on a pole, so it is visible from both the ground and air. Contact the Iowa Organic Program for more information.

Various underground pipeline companies have contacted the organic program within the state of Wisconsin to find out where organic farms may be located, so they can avoid them when planning their pipeline routes. While the State of MN has a mitigation plan in place for pipelines going through organic land, in Wisconsin, these mitigation plans are on a case by case basis. It is important for landowners to carefully read any pipeline agreements and if the landowner wishes an organic inspector or other trained person to be present every day there are pipeline activities on their land, this should be clearly stated in the agreement.

GMO Contamination

Lastly, there is the issue of GMO contamination. While an organic farmer does not lose organic certification if there is GMO contamination of their crop, they may lose access to the organic market, especially for crops destined for human consumption. Organic corn and soybeans for human food are tested extensively for GMO presence and if found, are rejected. Most organic livestock feed is not GMO tested. The organic farmer can do a variety of things to lessen the risk of GMO pollen drift, including planting later than conventional neighbors and trying to not grow organic corn directly adjoining GMO corn (work your rotation so you are not growing corn the same year that your neighbor is). If your neighbor is growing GMO corn with the bt gene, they will need to plant some of their acreage with non bt GMO corn in order to prevent the development of insect resistance. They sign a contract with the supplier of the seed where they agree to plant a minimum of 10% of their land to non bt GMO corn as a "refuge." The organic farmer can ask the nonorganic farmer to plant their refuge crops next to the organic land. Many neighbors are willing to do this, since they need to plant this refuge someplace.

If You Experience Pesticide Drift

If an organic farmer has an issue with pesticide drift they need to call your state pesticide enforcement bureau immediately to get someone out to view and document the activity. Insurance companies of custom applicators will usually pay some damages to the victim of the drift, even organic premiums for three years (only the premium, since the crop can be sold as non organic). However, if the crop is of high value, like vegetables, the producer will not usually be able to get full payment for all they have lost. In a recent claim, organic vegetable growers received about 1/3 of the approximately \$400,000 crop value (three years of crops) requested.

As organic farming becomes more and more part of our rural landscape, those who use "prohibited substances" are becoming more aware of their need to respect organic land and work with organic producers. Organic farmers can be proactive and work with various entities with agreements, signage and being part of an organic farmer registry to prevent unwanted applications and protect the organic integrity of their crops.



Visit www.mosesorganic.org for more resources and tools, including our Organic Resource Directory and the Organic Broadcaster Newspaper. Plan to attend our annual Organic Farming Conference in February. To find upcoming events including MOSES trainings and field days visit our web calendar at: www.mosesorganic.org/events.html

-updated May 2009