2016 BPC Update
287-2731
www.thinkfirstspraylast.org
pesticides@maine.gov
What I plan to cover

- Rule and staff changes
- Ag Basic reminder
- Storm water sampling results
- Pollinator protection plan
- Upcoming WPS changes
Who’s your inspector?

- Amanda Couture—Midcoast
- Eugene Meserve—Southwest
- Heidi Nelson—Downeast
- John Haley—Aroostook County

- Central Maine—Currently vacant, but will be filled for the upcoming season
New BPC rules & policies

- New licensing/certification periods and subsequent credit requirement changes
- Exam fail wait time has changed
Exam fail wait time

- Board changed the exam fail wait time
  - Before it was
    - 14 days first exam fail
    - 30 days subsequent exam fails
  - Now it is
    - 6 days for any exam fail
Private Applicator of General Use Pesticides—Agricultural Basic License

- Public Law 2011, Chapter 169 requires anyone producing and selling over $1,000 worth of agricultural plants or plant products/year for human consumption to obtain a pesticide applicator license by April 1, 2015
- Growers must obtain an Agricultural Basic, or
- Private Pesticide Applicator license
Storm water sampling

- BPC took samples from storm water outflows
- To the right are the active ingredients and number of samples with detects

<table>
<thead>
<tr>
<th>Active Ingredient</th>
<th>Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>2,4-D</td>
<td>7</td>
</tr>
<tr>
<td>Bentazon</td>
<td>1</td>
</tr>
<tr>
<td>Carbaryl</td>
<td>1</td>
</tr>
<tr>
<td>Hexazinone</td>
<td>6</td>
</tr>
<tr>
<td>Hydroxy Atrazine</td>
<td>1</td>
</tr>
<tr>
<td>Imazapyr</td>
<td>3</td>
</tr>
<tr>
<td>Imidacloprid</td>
<td>14</td>
</tr>
<tr>
<td>MCPA</td>
<td>4</td>
</tr>
<tr>
<td>MCPP</td>
<td>5</td>
</tr>
<tr>
<td>Metolachlor</td>
<td>2</td>
</tr>
<tr>
<td>Prometom</td>
<td>2</td>
</tr>
<tr>
<td>Propiconazole</td>
<td>1</td>
</tr>
<tr>
<td>Terbacil</td>
<td>3</td>
</tr>
<tr>
<td>Triclopyr</td>
<td>2</td>
</tr>
</tbody>
</table>
Pollinator Protection

- Bee kills are in the news! Legislators are asking for bans or moratoriums all over the country
- EPA is adding pollinator protection statements to labels
- Growers must be extremely careful
- If crop/weeds in the target area are flowering (or will be soon) or there are flowering plants nearby – think about what you’re doing!

Portland, Oregon

Oregon bans neonic use on linden trees

INDUSTRY NEWS
The Oregon Department of Agriculture has prohibited the application of neonicotinoid insecticides on the *Tilia* genus of trees.

MATT MCCLELLAN | March 5, 2015

The Oregon Department of Agriculture has banned the use of neonicotinoid insecticides on the *Tilia* genus of trees. The rule prohibits the application of the four neonicotinoid insecticides, dinofuran, imidacloprid, thiamethoxam and clothianidin, regardless of application method, on all trees in the *Tilia* genus, which includes linden and basswood trees. The ODA signed the final rule, OAR 603-057-0388, on Feb. 27.
Protect Bees and Other Pollinators

- Mow blooming weeds before treatments
- Reduce drift
- Apply early or late when most pollinators are not foraging
Pollinator protection plan

- The DACF developed a pollinator plan
- It is based on the North Dakota plan
- It stresses voluntary measures such as education, BMPs and communication
- It does not contain any new regulatory requirements
Original WPS Rule

**When:** Est. in 1992

**What:** Improve occupational protections

**Who:** Ag workers and pesticide handlers.
Why?

- Eliminate or reduce agricultural employee exposures to pesticides
- Mitigate exposures that occur
- Inform employees of pesticide hazards
Businesses Responsible

- Agricultural employers on crop-producing establishments
- Commercial pesticide handling establishments
Employees Covered

- Farmworkers – work in the fields to harvest and cultivate
- Pesticide handlers – mix, load, and apply pesticides for use on crops
- Other persons present during pesticide applications
WPS Implementation Timeline

- January 2, 2017—Compliance required for:
  - Most of the revised WPS requirements
WPS Implementation Timeline

- January 1, 2018—Compliance required for:
  - Worker/handler training
  - Pesticide safety information display
  - Application exclusion zone
Pesticide Labeling & WPS

• Pesticide Labeling
  • Length of REI
  • What PPE must be worn

• WPS
  • How to notify workers about the REI (oral or posting)
  • Providing, maintaining, and ensuring proper fit of PPE

"You idiot! I said get the room freshener! That's the insecticide!"
WPS Revisions
Public Comments

• Nearly 2,400 comments received

• Commenters
  • farmworker advocacy
  • pesticide manufacturers
  • grower groups
  • applicators
  • state and tribal lead agencies
  • general public – write in campaigns
Key Points Contained In Revisions

- Retained and expanded exemption for farm owners and immediate family members - over 520,000 agricultural establishments largely unaffected by most WPS provisions

- Delayed compliance dates to give farmers and States time to become familiar with new requirements and prepare for implementation
  - Compliance with most new requirements by Jan 2, 2017
  - Compliance with all requirements by Jan 1, 2018
Goals of the Revised WPS

- Align protections more closely with OSHA regulations
- Reduce acute exposure
- Improve understanding
- Address stakeholder concerns
Pesticide Safety Training

Revision

- Pesticide training every year
- Expand training content
  
  [Delayed implementation]

- Require recordkeeping of training for 2 years
  - Provide worker or handler a copy upon request
- No “grace period”
- Keep certified applicators as trainers
- Train-the-trainer programs must be approved by EPA
Notification

Revision

• Post outdoor treated areas when REI is greater than 48 hours (4 Hr REI for indoor)
• Oral or posted notification (unless label specifies both) for all other
• Early-entry workers must be provided PPE & oral notification of:
  • information about the pesticide application
  • specific task to be performed
  • amount of time that the worker is allowed to remain in the treated area
  • the PPE required by the label
Hazard Communication

Revision

- Hazard information includes the application-specific information and the pesticide safety data sheets (SDSs)
- Post hazard information at central display for 30 days after REI expires and retain for 2 years
- Access available from display period through retention to:
  - Employee (upon oral or written request)
  - Treating medical personnel and persons working under their supervision (oral or written request)
  - Designated representative (written request only)
Pesticide Safety Information

Revision

- Safety information displayed at central location and certain decontamination sites
- Additional information required on display

[Delayed implementation]
Minimum Age for Handlers and Early-Entry Workers

Revision

- Requires a minimum age of 18 for pesticide handlers and early entry workers (who enter field during restricted-entry interval (REI))
  - Members of owner’s immediate family are exempt from this requirement
  - No minimum age in WPS for workers entering field after REI expires
Respirators

Current
- Employers must provide Personal Protective Equipment (PPE) required by labeling & ensure respirator fits correctly

Revision
- Adopts by reference a subset of OSHA’s standard for respirators (including filtering facepieces) - fit test, medical evaluation, training
Exceptions to Personal Protective Equipment Requirements

Current

- Handlers can reduce PPE if a closed system is used. Current rule description requires “no pesticide escape”
- Handlers can reduce PPE when in an enclosed cab under certain conditions. Exception to wearing respirator allowed only if cab is certified by manufacturer to provide protection equivalent to the labeling-required respirator.
Exceptions to Personal Protective Equipment Requirements

Revision

- Establishes a performance standard for closed systems modeled on CA proposal
- For enclosed cabs, maintain same exception for dermal PPE. Handlers in enclosed cabs must wear respirators identified on label, except for particulate filtering facepiece respirator (dust/mist filtering respirator)
Exceptions to Personal Protective Equipment Requirements

Current
- Crop advisors and their employees entering treated area during REI may wear early-entry PPE instead of handler PPE.
- Different than exemption from certain requirements for certified crop advisors and their employees

Revision
- Crop advisors and their employees entering treated area during REI may wear early-entry PPE or standard PPE instead of handler PPE.
  - Coveralls, shoes plus socks, gloves made of any waterproof material and (if required by label) eye protection
Application Exclusion Zones in Outdoor Production

Current

- During pesticide applications, workers and others are prohibited from being in:
  - The treated area - for farms and forests
  - The treated area and areas adjacent to treated areas (entry-restricted areas) – for nurseries
Application Exclusion Zones in Outdoor Production

Revision

- Establishes application exclusion zones (AEZ) based on distance from the application equipment for farms and forests, also applies in nurseries
- Agricultural employers must keep workers and other persons out of the treated area & AEZ that are WITHIN the boundary of the establishment owner’s property
- Handler must suspend application if persons are in AEZ. Requirement to suspend application is NOT limited by the boundary of the establishment owner’s property

[Delayed implementation]
Decontamination Supplies

Current
• Employers must provide “sufficient amount of water so that the workers/handlers may wash thoroughly”

Revision
• Provide 1 gallon of water for each worker and 3 gallons for each handler and each early-entry worker; measured at the beginning of the work period
Decontamination Supplies

**Current**

- If handler is using a product that requires eye protection, one pint of water must be immediately available to each handler.

**Revision**

- If handler is mixing/loading a product that requires eye protection, eyeflush water must be immediately available at the mix/load site for handler eye flushing.
- If applicator is using a product that requires eye protection, one pint of water must be immediately available to each applicator.
Emergency Assistance

Current

• Employers must provide “prompt” transportation to an emergency medical facility for workers or handlers who may have been exposed to pesticides

• Upon request, employers must provide certain information, if available, to the exposed person or medical personnel
Emergency Assistance

Revision

• Retain “prompt” for provision of transportation

• Require employers to provide for each product the SDS and specific information about the product, as well as the circumstances of the application and exposure, to treating medical personnel
Definitions

- Added definitions to rule for the following terms:
  - Application exclusion zone, closed system, commercial pesticide handler employer, designated representative, employ, enclosed cab, enclosed space production, labor contractor, outdoor production, personal protective equipment, safety data sheet, use and worker housing area

- Revised the following key definitions:
  - Agricultural establishment, agricultural plant, handler, immediate family and worker

- Deleted the following definitions:
  - Commercial production (proposed), entry-restricted area (proposed), farm, forest, forest operation (proposed), greenhouse and nursery
Definitions

- *Employ* means to obtain, directly or through a labor contractor, the services of a person in exchange for a salary or wages, including piece-rate wages, without regard to who may pay or who may receive the salary or wages. It includes obtaining the services of a self-employed person, an independent contractor, or a person compensated by a third party, except that it does not include an agricultural employer obtaining the services of a handler through a commercial pesticide handler employer or a commercial pesticide handling establishment.
Definitions

- *Immediate family* is limited to the spouse, parents, stepparents, foster parents, father-in-law, mother-in-law, children, stepchildren, foster children, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. “First cousin” means the child of a parent’s sibling, i.e., the child of an aunt or uncle.
Major Changes Summarized

- Safety training – annual
- Recordkeeping for safety training – 2 years
- Expanded content in safety training
- Post treated areas with REI > 48 hours
- Oral notification for early-entry workers
- Respirator fit test, medical evaluation, training (same requirement; scope changed)
Key Changes between Current and Revised Final Rule

AGRICULTURAL WORKER PROTECTION STANDARD (WPS)
COMPARISON OF THE NEW PROTECTIONS TO THE EXISTING PROTECTIONS
October 2015
US EPA

This table summarizes key provisions in the EPA’s current WPS regulation and the 2015 revisions. It does not cover all of the details in the rule nor does it include all of the information needed to comply with the regulation.

<table>
<thead>
<tr>
<th>Requirement</th>
<th>New 2015 Provision</th>
<th>Current Provision</th>
</tr>
</thead>
<tbody>
<tr>
<td>Frequency of full training for workers and handlers</td>
<td>Annual training.</td>
<td>Every 5 years.</td>
</tr>
<tr>
<td>Training grace period for worker training</td>
<td>No grace period. Workers must be trained before they work in an area where a pesticide has been used or a restricted-entry interval has been in effect in the past</td>
<td>5-day grace period with abbreviated training.</td>
</tr>
</tbody>
</table>
Outreach and Implementation Plan
# Implementation Timeline

<table>
<thead>
<tr>
<th>Date</th>
<th>Milestone</th>
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</thead>
<tbody>
<tr>
<td>September 28, 2015</td>
<td>Revised WPS final rule signed and announced.</td>
</tr>
<tr>
<td>November 2, 2015</td>
<td>Revised WPS final rule published in the <em>Federal Register</em>.</td>
</tr>
<tr>
<td>January 1, 2016</td>
<td>Revised WPS final rule becomes effective. <a href="#">Compliance is required with existing WPS during 2016.</a></td>
</tr>
<tr>
<td>January 2, 2017</td>
<td>Compliance is required with most of the revised WPS requirements.</td>
</tr>
</tbody>
</table>
| January 1, 2018     | Compliance is required with all of the revised WPS requirements. Last three requirements:  
                      • Cover new content in worker and handler training  
                      • Include new content on pesticide safety information display  
                      • Handlers suspend applications if anyone is in the application exclusion zone. |
Outreach and Implementation

- **Education**: webinars, presentations, training, state courses
- **Educational resources**: fact sheets, comparison tables, How to Comply Manual
- **WPS worker and training materials**
- **BPC staff**: Inspectors and all other staff members will be available to answer your questions
More Information?

• Web site: [http://www2.epa.gov/pesticide-worker-safety](http://www2.epa.gov/pesticide-worker-safety)

• Gary Fish, [gary.fish@maine.gov](mailto:gary.fish@maine.gov)

• Megan Patterson, [megan.l.patterson@maine.gov](mailto:megan.l.patterson@maine.gov)

• Handouts provided
That’s All Folks

• Questions