

Maine Board of Pesticides Control

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

www.maine.gov/dacf/php/pesticides/laws.shtml

US EPA: Pesticides - Pro... Office of Informatio... Board of Pesticides ... Welcome to PMF Test Case -Pega Cas... Dev - Pega Case Ma... NPIRS State of Maine Boar...

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Division of Animal and Plant Health

Board of Pesticides Control

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ASK the EXPERT


Board of Pesticides Control

Pesticide Laws, Regulations & Policies

On this page: [State Policy to Minimize Reliance on Pesticides](#) [Federal Pesticide Laws](#) [State Pesticide Statutes](#) [Legislative Bills and Reports](#) [Municipal Ordinances](#) [BPC Regulations](#) [BPC Policies](#)

STATE POLICY; PUBLIC AND PRIVATE INITIATIVES TO MINIMIZE RELIANCE ON PESTICIDES (MRSA 22 §1471-X)

It is the policy of the State to work to find ways to use the minimum amount of pesticides needed to effectively control targeted pests in all areas of application. The agencies of the State involved in the regulation or use of pesticides shall promote the principles and the implementation of integrated pest management and other science-based technology to minimize reliance on pesticides while recognizing that outbreaks of disease, insects and other pests will necessitate fluctuations in pesticide use. These agencies, in cooperation with private interest groups, shall work to educate pesticide users and the general public in the proper use of pesticides and to determine other actions needed to accomplish the state policy.



Federal Pesticide and Related Laws

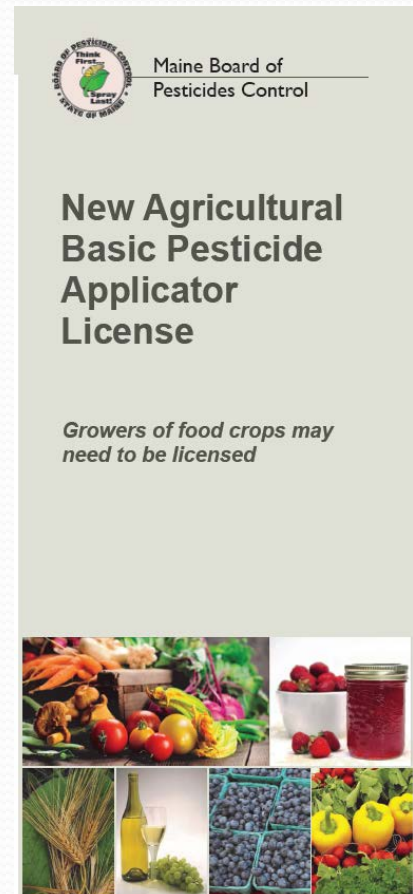
Exam fail wait time

- 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



2,4-D	7
Bentazon	1
Carbaryl	1
Hexazinone	6
Hydroxy Atrazine	1
Imazapyr	3
Imidacloprid	14
MCPA	4
MCPP	5
Metolachlor	2
Prometon	2
Propiconazole	1
Terbacil	3
Triclopyr	2

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

PortlandTribune

Pesticide causes largest mass bumblebee death on record

Created on Friday, 11 June 2013 11:00 | Written by Lutz Dill | 0 Comments

Tall climbs to 50,000, affected 300 wild colonies



Tens of thousands of bumblebees and other pollinators were found dead under trees at the Target store in Wilsonville on Saturday. The discovery was a strange and ironic start to National Pollinator Week, a symbolic annual event that has become a focal point for conservationists across the nation.

Earl Blumenauer proposes moratorium on use of pesticides harming bees

Created on Friday, 12 July 2013 15:30 | Written by @terr Lair | 0 Comments

U.S. Rep. Earl Blumenauer, D-Portland, introduced a bill in the U.S. House of Representatives on Friday that would place a national moratorium on the use of certain pesticides suspected of harming bees.

Blumenauer's measure would restrict use of neonicotinoid pesticides, a class that includes the chemical compound suspected of causing the massive bumblebee deaths near the Target store in Wilsonville last month. An estimated 50,000 bees died on or around European Linden trees near the store that state agriculture inspectors determined had been sprayed with an insecticide known as dinotefuran, sold commercially as Safari.

The ag department later announced temporary restrictions in Oregon on the use of dinotefuran on European Linden trees near the Target store.



by LUTZ DILL: Bees were placed over European Linden trees near Wilsonville Target after massive bumblebee deaths there traced to pesticides.

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, dinotefuran, 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

PROTECTION OF POLLINATORS



APPLICATION RESTRICTIONS EXIST FOR THIS PRODUCT BECAUSE OF RISK TO BEES AND OTHER INSECT POLLINATORS. FOLLOW APPLICATION RESTRICTIONS FOUND IN THE DIRECTIONS FOR USE TO PROTECT POLLINATORS.

Look for the bee hazard icon  in the Directions for Use for each application site for specific use restrictions and instructions to protect bees and other insect pollinators.

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

Maine Department of Agriculture,
Conservation and Forestry

POLLINATOR PROTECTION PLAN
2015

Walter E. Whitcomb, Commissioner
Ellis Additon, Director, Bureau of Agriculture,
Food, and Rural Resources



WPS Background

Original WPS Rule

When: Est. in 1992

What: Improve occupational protections

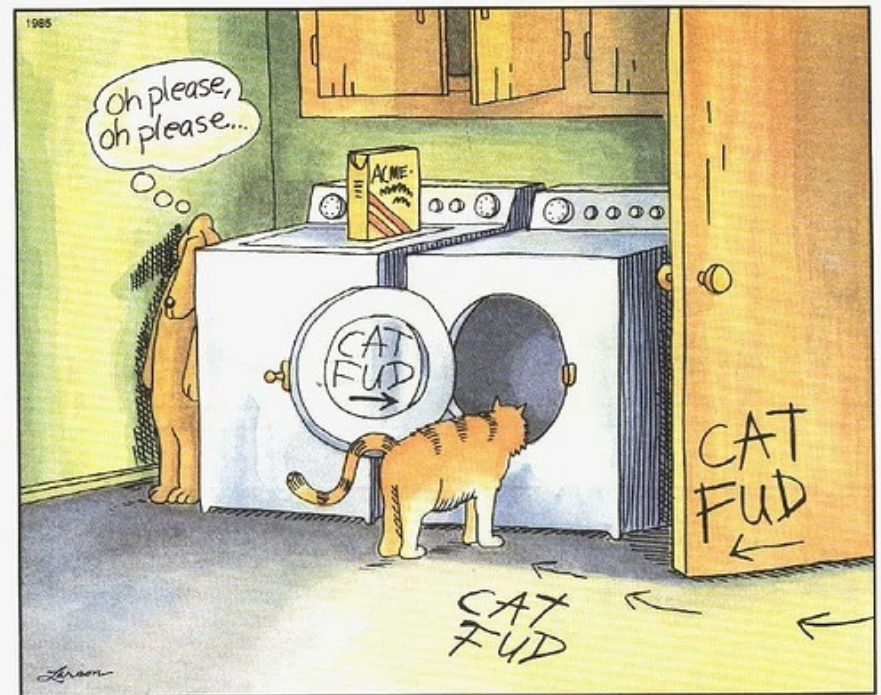
Who: Ag workers and pesticide handlers.



Why?

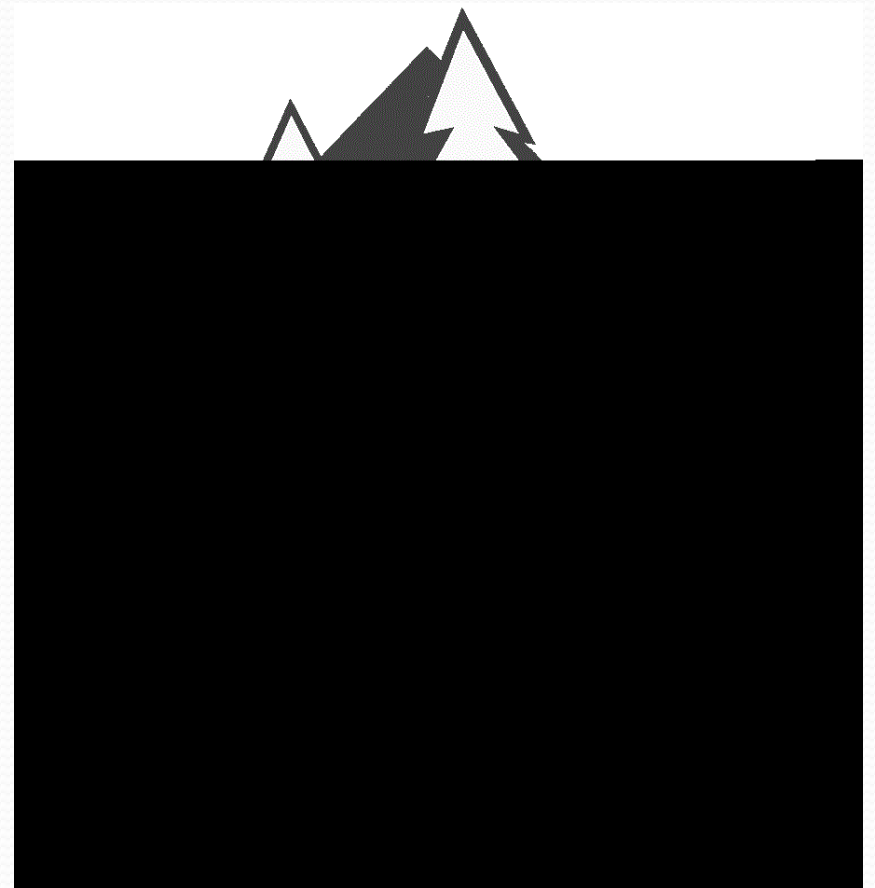
- Eliminate or reduce agricultural employee exposures to pesticides
- Mitigate exposures that occur
- Inform employees of pesticide hazards

Importance of Hazard Communication



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!"

A close-up photograph of several flowers with light pink and white petals and dark pink buds. The flowers are arranged in a cluster, and the background is a soft, out-of-focus green. A semi-transparent white rectangular box is centered over the image, containing the text "WPS Revisions" in a bold, black, sans-serif font.

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

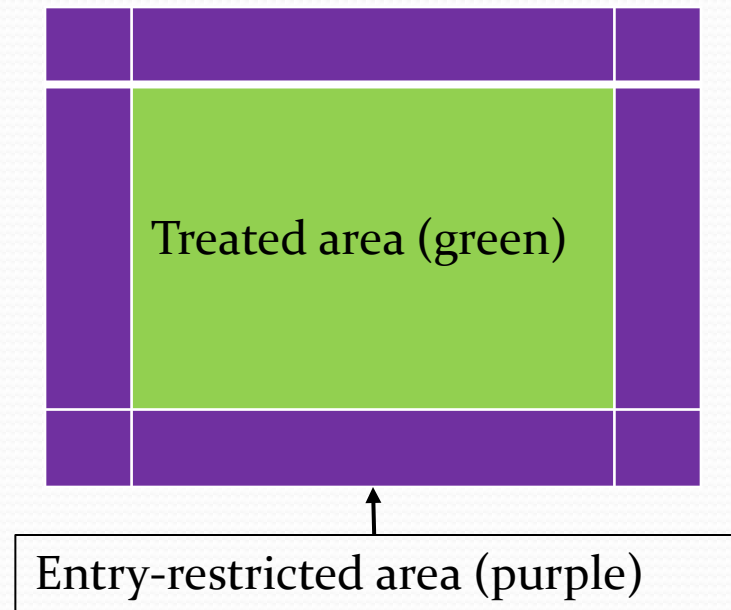
Revision

- 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]



Application exclusion zone (purple)

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

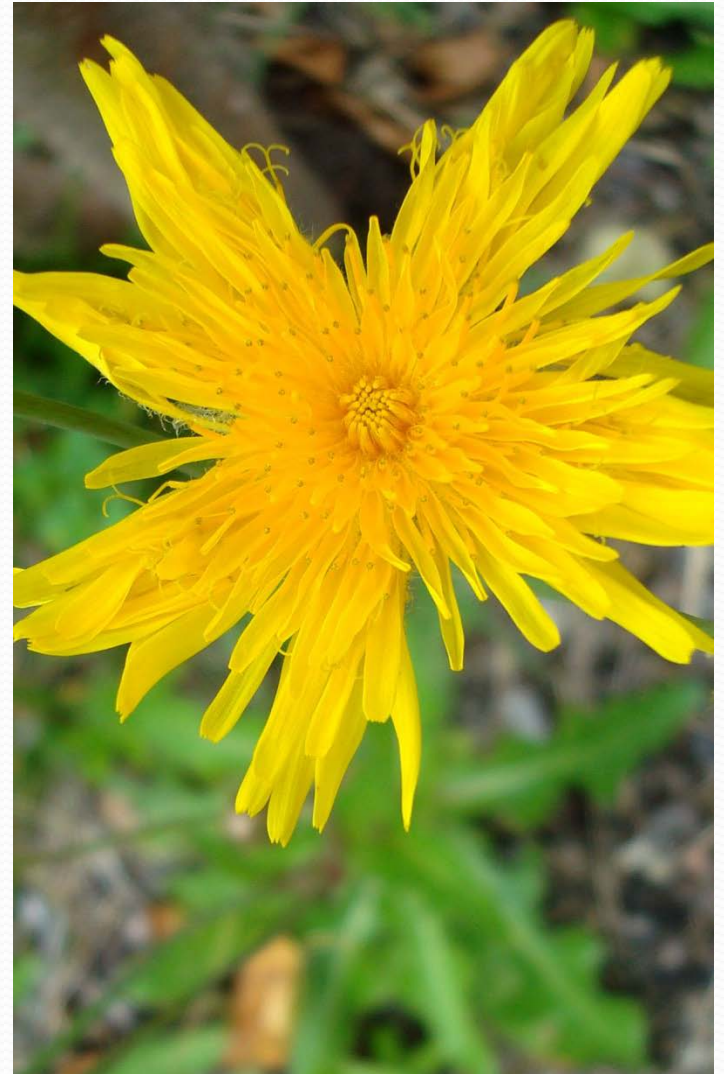
- *Employ* means to obtain, directly or through a labor contractor, the services of a person in exchange for a salary or wages, including piece-rate wages, without regard to who may pay or who may receive the salary or wages. It includes obtaining the services of a self-employed person, an independent 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

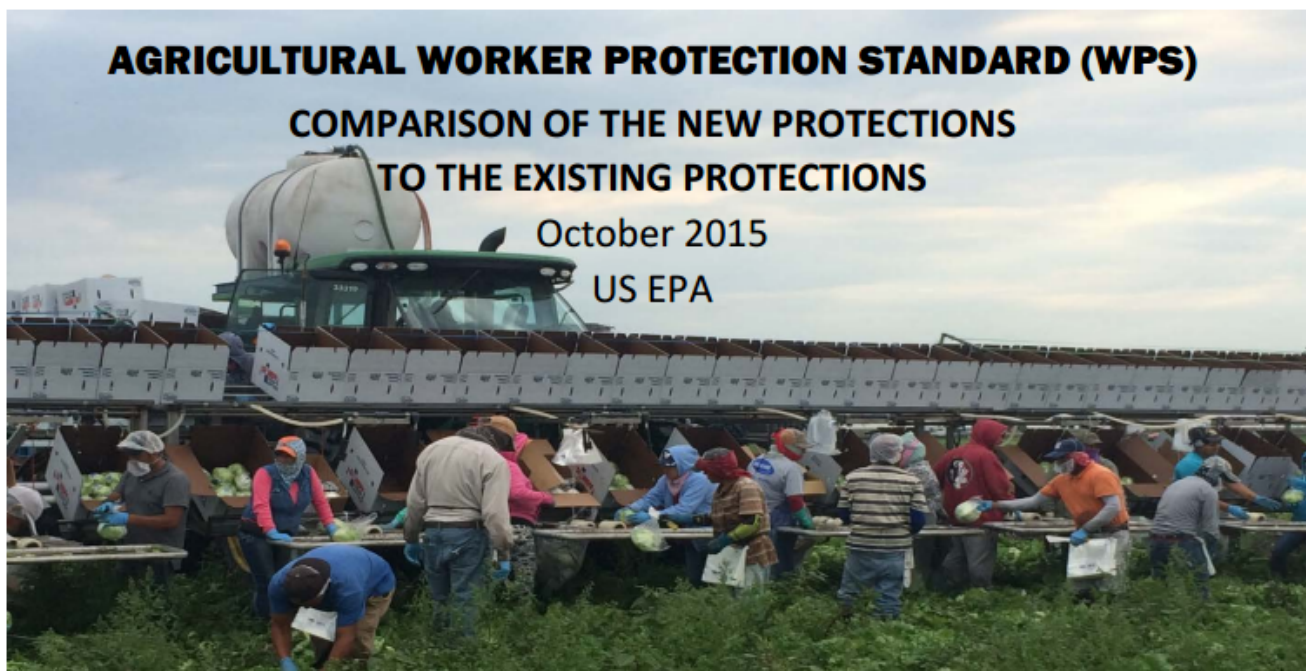
- *Immediate family* is limited to the spouse, parents, stepparents, foster parents, children, stepchildren, foster children, **father-in-law, mother-in-law, sons-in-law, daughters-in-law, grandparents, grandchildren, brothers, sisters, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews,** 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.

Requirement	New 2015 Provision	Current Provision
Training		
Frequency of full training for workers and handlers	Annual training.	Every 5 years.
Training grace period for worker training	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	5-day grace period with abbreviated training.

A photograph of a loon swimming in a lake. The loon is in the lower-left quadrant of the image, facing right. The water is dark with ripples. In the background, there is a dense forest of evergreen trees on a hillside. A white rectangular box with black text is overlaid on the upper part of the image.

Outreach and Implementation Plan

Implementation Timeline

Date	Milestone
September 28, 2015	Revised WPS final rule signed and announced.
November 2, 2015	Revised WPS final rule published in the <i>Federal Register</i> .
January 1, 2016	Revised WPS final rule becomes effective. [Compliance is required with <u>existing</u> WPS during 2016.]
January 2, 2017	Compliance is required with <u>most</u> of the <u>revised</u> WPS requirements.
January 1, 2018	Compliance is required with <u>all</u> of the <u>revised</u> WPS requirements. Last three requirements: <ul style="list-style-type: none">• 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>
- Gary Fish,
gary.fish@maine.gov
- Megan Patterson,
megan.l.patterson@maine.gov
- Handouts provided



That's All Folks

- Questions

