Regulatory Update

New State and Federal Programs
Overview for VA-Certified Applicators: 2011-2012

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Legal/C&T Issues: Federal
• Soil Fumigant Label Changes*
• Rodenticide Label Changes*
• Pesticides / Clean Water Act*
• Pesticide Status Changes*

Legal/C&T Issues: Virginia
• [ VPDES Permit Status – see Federal Issues section ]*
• Common Violations*
• WPS*
• What OPS does—and does not—regulate*
  (w/ links to more info – non-OPS programs and regulations)
• Certification Manuals and Exams*

Federal Issues

Soil Fumigants*
• Label changes for risk mitigation include:
  • Additional protections for handlers (> 2010)
  • Buffer zones, product-specific training (> 2011)
• For more information:
  • visit EPA’s Soil Fumigant web page:
    http://www.epa.gov/pesticides/reregistration/soil_fumigants/index.htm

Rodenticides*
• Rodenticide Types:
  • first-generation anticoagulants: (multiple dose)
    • warfarin, chlorophacinone, and diphacinone
  • second-generation anticoagulants (SGARs- single dose):
    • brodifacoum, bromadiolone, difenacoum, and difethialone
  • non-anticoagulants / other:
    • bromethalin, cholecalciferol and zinc phosphide
Rodenticide Label Changes*

- Problem: unacceptable risks associated w/ rodenticides—especially single-feeding anticoagulant rodenticides…
  …also known as second-generation anticoagulant rodenticides = SGARs

- SGAR active ingredients (and common trade names):
  - brodifacoum (D-Con, Havoc, Talon…)
  - bromadiolone (Contrac, Just-One-Bite…)
  - difethialone (D-Con, Enforcer, Hombre…)
  - cifenacoum (Di-Kill, Sorexa, Multi-Kill…)

- “Red flags” included:
  - Calls to poison control centers (15,000 reports/yr) and emergency room visits for exposures
  - Poisoning of companion animals
  - Poisoning of non-target wildlife
  - Secondary poisoning of wildlife…primarily predators (including raptors) and scavengers
  - SGARs – highly toxic; time-to-death may be several days and result in multiple feedings and very high residues in carcasses.

Summary of New Rodenticide Restrictions (June 2011)

- “Consumer” Products (≤ 1 pound of bait)
  - No SGARs (second-generation anticoagulants).
  - Loose baits prohibited (ex. no loose pellets).
  - Each retail unit must include a bait station; however, a single retail unit may consist of bait + refills + a station all in one package.
  - All outdoor above-ground use must be in a bait station and applied within 50 feet of buildings.

- Professional Users (Ag and PCO) First Generation Anticoagulants and Non-Anticoagulants
  - Products must contain at least 4 pounds of bait.
  - Labels must indicate that the product may be used only in and around agricultural buildings…and that use in residential sites is prohibited.
  - Bait stations required for all outdoor, above-ground placements…and for indoor use if exposure to children, pets, or non-target animals is possible.
  - All outdoor above-ground bait stations used must be placed within 50 feet of buildings; Distribution to and sales in “consumer” stores—including grocery stores, drug stores, hardware stores, and club stores—is prohibited.

- Second Generation Anticoagulants (SGARs) for Use Around Agricultural Buildings
  - Products must contain at least 8 pounds of bait.
  - May be used only in and around agricultural buildings; use in residential sites is prohibited.
  - Bait stations required for all outdoor, above-ground placements…and for indoor use if exposure to children, pets, or non-target animals is possible.
  - All outdoor above-ground bait stations used must be placed within 50 feet of buildings.
  - Distribution to and sales in “consumer” stores—including grocery stores, drug stores, hardware stores, and club stores—is prohibited.
VFGA’s Herbaceous Perennials
Production Update; Feb. 16, 2012

Summary of New Rodenticide Restrictions (June 2011)

- Second Generation Anticoagulant Products for Professional Applicators
  - Products must contain at least 16 pounds of bait.
  - Bait stations required for all outdoor, above-ground placements…and for indoor use if exposure to children, pets, or non-target animals is possible.
  - All outdoor above-ground bait stations must be placed within 50 feet of buildings.
  - Distribution to and sales "consumer" stores—including grocery stores, drug stores, hardware stores, and club stores—is prohibited.

Rodenticide Label Changes*

- EPA Web Resources:
  - Main Page for Rodenticide Information:
    - http://www.epa.gov/oppsrrd1/reregistration/rodenticides/index.htm
  - Consumer Products:

Pesticides / Clean Water Act*

- Courts ruled that pesticide applications made to/over/near water, even when made in accordance with product label directions, require a National Pollutant Discharge Elimination System (NPDES) permit

Applications Affected*

- Mosquitoes / Flying Insect Pest Control
- Aquatic Weed and Algae Control
  - In Water
  - At Water’s Edge
- Aquatic Animal Pest Control
  - In Water
  - At Water’s Edge
- Forest Canopy Aerial Applications (ex. gypsy moth suppression, pine release)

…and NOT Affected*

- Terrestrial applications to control pests on agricultural crops or forest floors
- Off-target spray drift
- Activities exempt from permitting under the Clean Water Act, including:
  - irrigation return flow and
  - agricultural storm water runoff

NPDES ➜ VPDES*

- VA is an EPA-authorized state
- State lead agency for discharge permits: VA Department of Environmental Quality (DEQ)
- General VPDES Permit for Pesticide Discharges regulation: 9VAC25-800
Pesticide Discharge Management Plan (PDMP) Required IF:

<table>
<thead>
<tr>
<th>Use Pattern</th>
<th>Annual Threshold</th>
</tr>
</thead>
<tbody>
<tr>
<td>Mosquitoes and Forest Canopy</td>
<td>6400 acres</td>
</tr>
<tr>
<td>Weed, Algae, and Pathogen Control</td>
<td>80 acres of treatment area</td>
</tr>
<tr>
<td>Animal Pest Control</td>
<td>20 linear miles of treatment area at water’s edge</td>
</tr>
</tbody>
</table>

NPDES ➔ VPDES*

- VA DEQ Compliance Assistance Information
  - http://www.deq.virginia.gov/vpdes/#PGP
    - 2011 Pesticide Discharges General Permit (VAG87) Regulation (Effective 10/31/2011)
    - 2011 PDGP Fact Sheet
    - Pesticide Discharges General Permit PDMP Template

Pesticide Registration/Status Changes

- Aldicarb*
- Aminocyclopyrachlor* (Imprelis)
- Endosulfan*
- Maneb*
- Methyl Bromide*
- Methyl Parathion*
- Spirotetramat* (Kontos, Movento)

Aminocyclopyrachlor (Imprelis)*

- Issue = off-target tree injury and death (especially Norway spruce and white pine)
  - Primary = turf applications
  - Secondary = grass clippings and trees as mulch

Aminocyclopyrachlor (Imprelis et al.)*

- VA-Registered TURF Products containing aminocyclopyrachlor (as of July 2011):
  - Imprelis (DuPont)
  - Snap Pac Weed & Feed and Turf Builder Weed & Feed (Scotts)

Aminocyclopyrachlor (Imprelis)*

- Imprelis registrant DuPont voluntarily suspended sale
  - August 4, 2011
- EPA stop-sale order issued
  - August 12, 2011
Scotts announced a voluntary recall of Snap Pac Weed & Feed and Turf Builder Weed & Feed. September 6, 2011.

VA-Registered products NOT affected by the stop-sale order or being recalled:
- Method 50SG and 240SL, Perspective*, Streamline*, and Viewpoint* (DuPont)
- Labeled for use on uncultivated agricultural areas, industrial sites, rights-of-way, and natural areas

*Perspective, Streamline, and Viewpoint products contain aminocyclopyrachlor + something else.

Initial EPA registration cancelled due to procedural problems...
Federal registration approved January 2011.

VA-Registered Products:
- Kontos (OHP) / foliar and systemic insect control on ornamentals, fruit and nut trees, and vegetable plants in greenhouses, nurseries and interiorscapes
- Movento (Bayer) / agricultural use for control of certain insects on citrus, grapes, pome fruit, stone fruit, tree nuts, hops, Christmas tree plantations, and vegetables

Pesticide labels can have significant new requirements at any time!

ALWAYS READ THE LABEL!
Common Violations*
01 July 2010 - 30 June 2011

#1: Unregistered Products Offered for Sale
#2: Recordkeeping (mostly out-of-state businesses, as a result of targeted inspections)
#3: No Certification
#4: Misuse
#5: No Business License

What Office of Pesticide Services does NOT regulate*

- VPDES permits for pesticides applied to/near water: DEQ
- Permits for commodity fumigators: DEQ
- Fertilizers: VDACS-Office of Plant Industry Services (OPIS)
- Worker Safety (other than WPS and pesticide label requirements): DL&I
- Posting and notification re: pesticide applications (other than WPS; all of those in force apply to multi-family or multi-unit dwellings): various


Certification Manuals and Exams*

- VA Core (2009)
  MOST changes in Units 1-5
- VA Core (2012) – final review stages
  MOST changes in Units 6-11

Certification Manuals and Exams*

- Core Exam Status (continued)
  VDACS-OPS will notify agents and prospective certified applicators—in advance—before new core-based exams are deployed:
  - Private Applicator
  - Registered Technician
  - Commercial Applicator Core
  - Business License

Core Exam Status
- Questions for Units 1-5 complete
- Questions for Units 6-11 “in the works”

WPS - Fact and Fiction*

- VDACS OPS field investigators find persistent misunderstandings and lack of knowledge during routine inspections
- Examples:
  - Posting and Notification
  - Training
  - Recordkeeping
  - PPE Storage / Access
Worker Protection Standard (WPS)

- It is the EPA regulation that covers pesticides used in the production of agricultural plants on farms, nurseries, greenhouses, and forests.
- Part of FIFRA & 40 CFR Part 170
- Implemented by EPA in October 1995

Where is it Found?

“Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR, Part 170”

Who does it impact?

- The WPS covers every agricultural employer, including livestock producers, who has employees that perform hand labor operations in fields, forests, nurseries, and greenhouses treated with pesticides.
- Unlike other laws and regulations affecting agricultural labor, the WPS does not exempt any employment in commercial agriculture involving hand labor in fields, but owners or operators and immediate family members are specifically exempt from most provisions.

Employees defined as either Workers or Handlers…

WORKERS

A worker is anyone who:

- is employed for any type of compensation and
- is doing tasks such as harvesting, weeding, watering, suckering, etc..., relating to the production of agricultural plants on a farm, forest, nursery, or greenhouse

HANDLERS

- Any employee who is:
  - mixing, loading, transferring, or applying pesticides
  - handling opened containers of pesticides
  - flagging
  - cleaning, adjusting, handling, or repairing any part of pesticide equipment that may contain pesticide residues (i.e. mechanic)
  - incorporating the pesticide
  - entering enclosed area before the inhalation exposure has been reached or one of the WPS ventilation criteria has been met to:
    - operate ventilation equipment,
    - adjust or remove coverings, such as tarps, used in fumigation, or
    - check air concentration levels
Family farm exemption:

- Owners of agricultural establishments and members of their immediate family are exempt from WPS requirements for training, decontamination and display at central area.

WPS Refresher

- Who is responsible for training workers and handlers under the Worker Protection Standard?
  A. The employee (i.e. Worker/Handler)
  B. The crew foreman
  C. The Owner of the establishment/ Employer

WPS Refresher

- How long does an employer have to provide pesticide safety training to untrained workers under WPS?
  a. 24 hours
  b. 5 days
  c. 30 days
  d. 90 days

WPS requires...

- the employer on an agricultural establishment to provide his employees with:
  - information about pesticide exposure
  - protections against exposure to pesticides
  - ways to mitigate exposure to pesticides
- An employer cannot retaliate against an employee who tries to comply with the WPS.

WPS Refresher

- How often is WPS Training required?
  a. Every year
  b. Biannually (2 year cycle)
  c. Every 5 years
  d. Only once, at time of employment
Information

- Pesticide safety training - for workers and handlers
  - Basic pesticide safety information before entering a treated area
  - Complete WPS training within five days
  - Trained by a certified applicator or trained trainer
  - Retrain every five years

OPS Implementation

- CLRT
  - Worker Protection Standard (WPS) Training & Outreach (Talamon Grant)

- Enforcement & Field Operations
  - Investigate Tips & Complaints
  - Inspect agricultural establishments to ensure compliance with WPS.

- Compliance
  - Issue Civil Penalties when violations found

WPS Violation Categories

1. Pesticide Safety Training
2. Central Posting
3. Notice of Application
4. Entry Restrictions
5. Personal Protective Equipment (PPE)
6. Mix or loading, Application Equipment
7. Decontamination
8. Emergency Assistance
9. Information Exchange
10. Retaliation

WPS-Issues From the Field

- Lack of Sufficient Water
- Failure to notify employees about applications
- Incomplete Records
- Training in native language
- PPE stored with pesticides

WPS-Issues From the Field

- Water-Decontamination
  - Provide workers with sufficient water for routine washing and emergency eye flushing.
  - Enough soap and single use towels should be available for workers or handler’s needs.
  - Provide handlers with enough water to wash entire body in case of emergency and a clean change of clothes.

WPS-Issues From the Field

One common violation: Not posting the required information at a central location.

Required Info Includes:
- WPS Safety Poster
- Name, address and telephone number of nearest medical facility
- Records of pesticide applications (to be displayed 30 days beyond REI expiration)
**WPS-Issues From the Field**

- **Recordkeeping**
  - Location of treated site
  - Product Name
  - EPA Reg. No.
  - Active Ingredients
  - Time & Date of Application
  - REI
- **Post before application**
- **Maintain at Central Location for 30 days after REI Expires**

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**WPS-Issues From the Field**

- **Training-Language**
  - Information must be presented in a manner the trainees can understand.
  - Trainer must use non-technical terms

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**Telamon Corporation**

Under an agreement with VDACS, Telamon, Inc. offers FREE WPS training in English and Spanish for employers anywhere in Virginia. For more information contact Luis Coral at Telamon’s Richmond Office at 804.381.6082 or by email at: lcoral@telamon.org

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**WPS-Issues From the Field**

- **PPE Storage**
  - PPE: Apparel and devices worn to protect the body from contact with pesticides or pesticide residues.
  - Thoroughly dry the clean PPE before it is stored, or put it in a well-ventilated place to dry.
  - Store clean PPE separately from personal clothing and away from pesticide-contaminated areas.
  - Discard coveralls or other absorbent materials that have been heavily contaminated

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**WPS - Support**

- Resources from EPA include:
  - How to Comply manual
  - Agency-approved signs, posters, and training materials for workers & handlers (ex. PSU DVDs)
WPS - Support*

- Resources from VDACS / OPS include:
  - Website (http://www.vdacs.virginia.gov/pesticides/wps.shtml)
  - Summary Guide for the EPA Worker Protection Standard for Agricultural Pesticides booklet, which includes a self-inspection checklist
  - WPS Issues from the Field handout (Aug 2010)
  - Telamon, Inc.

Additional WPS Info

For WPS assistance or training material contact:
Micah Raub
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WPS Coordinator
(804)786-4845
Micah.raub@vdacs.virginia.gov

For More Information:

- VDACS Office of Pesticide Services
  www.vdacs.virginia.gov/pesticides
- EPA Office of Pesticide Programs
  http://www.epa.gov/pesticides/
- Virginia Tech Pesticide Programs
  http://www.vtpp.ext.vt.edu/ OR vtpp.org
- Virginia Cooperative Extension
  http://www.ext.vt.edu/