

2014 Tri River Area  
Pest Management Workshop  
Laws & Regulations I

## What's Up?

- Rule changes
- Pollinator language
- PAA Sunset, July 1, 2015

## 2014 Tri River Area Pest Management Workshop

Colorado Department of  
Agriculture

Laws and Regulations

## Rule Changes

- Parts 2.15 and 2.16 have been amended to clarify when solicitations to subcontract incidental pesticide applications can be made by a business that is not acting as and is not licensed as a commercial applicator.

## Rule Changes

- Part 6.03(k) a new Rule to require commercial applicators to maintain a record of any active Endangered Species Bulletin.
  - Only way for Department to verify compliance is by confirming a copy of ES Bulletin has been printed/downloaded
  - Bulletin will only be required to be maintained when there is an active Bulletin for the product, county and month in which the application took place

## Rule Changes

- Part 7.05 clarifies what labeling must be in the applicator's possession when applications are being performed and exempt Endangered Species Bulletins from this requirement.
  - "attached" labeling vs. "associated" labeling - electronic media
  - ES Bulletins - "current official publications" and will not be required to be in the applicator's possession

## Rule Changes

- Parts 8.01(f),(g) and (h) and Part 10.01(b) were changed to clarify which pests may be treated under these categories.
  - Clarify the licensure requirements for controlling vertebrate pests in and out of water
  - In Part 8.01(f), Rangeland; (g) Forest Pest Control; clearly exclude Outdoor Vertebrate Applications
  - Part 8.01(h), Aquatic Pest Control and Part 10.01(b), Outdoor Vertebrate Pest Control. Allow applications for fish in Aquatic, remove from Outdoor Vertebrate.

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### Rule Changes

- Part 10.02 was amended to correctly state the licensure category.
- Amend Part 10.02 to remove the reference to "household pest control" and correctly state the licensure category referenced in Part 10.01(d), Residential/Commercial Pest Control

### Rule Changes

- Update all licensure category descriptions to include license numbers. (i.e.: *Category 101*, Agricultural Insect Control; *Category 207*, Ornamental Pest Control; *Category 304*, Residential Commercial Pest Control, etc.)

### Rule Changes

- Part 15.05 created a Rule requiring that devices that produce a pesticide, such as carbon monoxide, that when used for hire to control a pest requires a commercial applicator license.



### New PERC Rule Development

- Industry concerns and arguments
  - Current label too restrictive
  - Impacts to business when making applications <150 ft. of structures
  - Other states don't have this requirement
  - Impossible for levels to rise to dangerous levels
  - What if I don't use a registered device; make my own
- CDA agreed to write additional Rules to address concerns.

### PERC Rule Concerns

- Unlike other Rules – CDA creating use directions
- EPA generally does risk assessments, determines necessary language for pesticides
- Devices not reviewed by EPA; other than is it a device that requires registration
- CDA liability?? Must base directions for use on expert opinion

### Questions?

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## Pollinators

- EPA release new Pollinator Protection language on August 15, 2013.

Submit a fast-track amendment to revise product labels incorporating the new labeling as described below and in the attachments no later than September 30, 2013.

## Pollinator Language

**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.

**This product can kill bees and other insect pollinators.** Bees and other insect pollinators will forage on plants when they flower, shed pollen, or produce nectar.

Bees and other insect pollinators can be exposed to this pesticide from:

- Direct contact during foraging applications, or contact with residues on plant surfaces after foraging applications
- Ingestion of residues in nectar and pollen when the pesticide is applied as a seed treatment, and the ingestion, as well as for applications

When Using This Product Take Care To:

- Minimize exposure of this product to bees and other insect pollinators when they are foraging on pollinator attractive plants around the application site.
- Minimize drift of this product to beekeepers or off-site pollinator attractive habitat. Drift of this product onto beehives or off-site pollinator attractive habitat can result in bee kills.

Information on protecting bees and other insect pollinators may be found at the Pesticide Environmental Oversight website at: <http://pesticides.ehpa.org/PollinatorProtection/Pages/default.aspx>

For more information on this notice, and other related information, go to [www.epa.gov/pesticides](http://www.epa.gov/pesticides) or contact the National Pesticide Information Center at [www.npic.orst.edu](http://www.npic.orst.edu) or directly to EPA at: [1-800-451-2031](mailto:1-800-451-2031)

## Label Language

### 1. FOR CROPS UNDER CONTRACTED POLLINATION SERVICES

Do not apply this product while bees are foraging. Do not apply this product until flowering is complete and all petals have fallen unless the following condition has been met. If an application must be made when managed bees are at the treatment site, the beekeeper providing the pollination services must be notified no less than 48-hours prior to the time of the planned application so that the bees can be removed, covered or otherwise protected prior to spraying.

## Label Language

### 2. FOR FOOD CROPS AND COMMERCIALY GROWN ORNAMENTALS NOT UNDER CONTRACT FOR POLLINATION SERVICES BUT ARE ATTRACTIVE TO POLLINATORS

Do not apply this product while bees are foraging. Do not apply this product until flowering is complete and all petals have fallen unless one of the following conditions is met:

- The application is made to the target site after sunset
- The application is made to the target site when temperatures are below 55°F
- The application is made in accordance with a government-initiated public health response

## Label Language Cont.

- The application is made in accordance with an active state administered apiary registry program where beekeepers are notified no less than 48-hours prior to the time of the planned application so that the bees can be removed, covered or otherwise protected prior to spraying
- The application is made due to an imminent threat of significant crop loss, and a documented determination consistent with an IPM plan or predetermined economic threshold is met. Every effort should be made to notify beekeepers no less than 48-hours prior to the time of the planned application so that the bees can be removed, covered or otherwise protected prior to spraying.

## Label Language

**Non-Agricultural Products:** Do not apply [insert name of product] while bees are foraging. Do not apply [insert name of product] to plants that are flowering. Only apply after all flower petals have fallen off.

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## Questions?

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## Sunset 2015

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- Department of Regulatory Agencies (DORA) will begin their review of the PAA in November 2013
  - PAA Sunsets in July 1, 2015

### ■ Duties of DORA include:

- **Prepare sunrise reviews.** A sunrise review examines whether or not there is a need to regulate a previously unregulated occupation or profession.
- **Conduct regulatory reform activities.** Evaluate the proposed rule to determine if a cost-benefit analysis should be performed by the agency.
  - The Office analyzes and evaluates the impact of proposed rules and regulations on small businesses, job creation and economic competitiveness.
  - New ...fiscal analysis required now for Rules

## DORA Duties

- **Conduct sunset reviews.** A sunset review discusses whether the agency under review should be continued without changes, continued with changes or terminated.
- **Conduct reviews of advisory committees:** An advisory committee's composition, mission and accomplishments are reviewed to determine whether the committee has fulfilled its statutory mandate(s) and whether there is a need for its continued existence.

## What's The Process?

- DORA will begin meeting with the CDA at the end of 2013
  - Asks for industry contact information
- Overview of what you do
- CDA explains and answers questions about the existing law...DORA must learn and understand current law
- Discuss review timeline and possible suggestions that DORA would make
- Good time to let them know what changes you would like to see, if any

## What's The Process?

- Last Sunset - DORA began meeting with industry/stakeholders from January – June
- DORA sits in on PAC meetings to hear industry concerns
- CDA will meet with industry upon request and present overviews of the sunset process and discuss known issues

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What Does DORA Take Into  
Consideration?

- Sunset reviews are based on the following statutory criteria:
  - (I) Whether regulation by the agency is necessary to protect the public health, safety and welfare; whether the conditions which led to the initial regulation have changed; and whether other conditions have arisen which would warrant more, less or the same degree of regulation;

Review Criteria

- (II) If regulation is necessary, whether the existing statutes and regulations establish the least restrictive form of regulation consistent with the public interest, considering other available regulatory mechanisms and whether agency rules enhance the public interest and are within the scope of legislative intent;

Review Criteria

- (III) Whether the agency operates in the public interest and whether its operation is impeded or enhanced by existing statutes, rules, procedures and practices and any other circumstances, including budgetary, resource and personnel matters;
- (IV) Whether an analysis of agency operations indicates that the agency performs its statutory duties efficiently and effectively;

Review Criteria

- (V) Whether the composition of the agency's board or commission adequately represents the public interest and whether the agency encourages public participation in its decisions rather than participation only by the people it regulates;
- (VI) The economic impact of regulation and, if national economic information is not available, whether the agency stimulates or restricts competition;

Review Criteria

- (VII) Whether complaint, investigation and disciplinary procedures adequately protect the public and whether final dispositions of complaints are in the public interest or self-serving to the profession;
- (VIII) Whether the scope of practice of the regulated occupation contributes to the optimum utilization of personnel and whether entry requirements encourage affirmative action;

Review Criteria

- (IX) Whether administrative and statutory changes are necessary to improve agency operations to enhance the public interest.

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### Probable Timelines

- January – March 2014, CDA suggested sunset recommendations, which will be discussed with the Pesticide Advisory Committee (PAC)
- PAC comments and suggestions will be taken into consideration and formal recommendations will be presented to DORA

### Timelines

- July 2014 DORA begins drafting report of findings and recommendations
- October 2014 - CDA will receive a draft of all recommendations and findings
- October 2014
  - Report will be made public
  - New Statutory language will be drafted based on DORA's recommendations

### Potential Sunset Topics

- State Uniformity
  - Pesticide bans – expanded notification proposed
    - Aspen
    - Durango
    - Denver Public Schools
    - Boulder
  - Home rule ? – additional pesticide applicator requirements to operate within city limits
    - City of Greeley
    - Fort Collins

### Potential Sunset Topics

- Pesticide trespass case – Delta County
- Pollinator protections –
  - Application restrictions
    - Timing
    - Products
  - Beekeeper registry ??
- Pesticide Sensitive Persons

Thank You