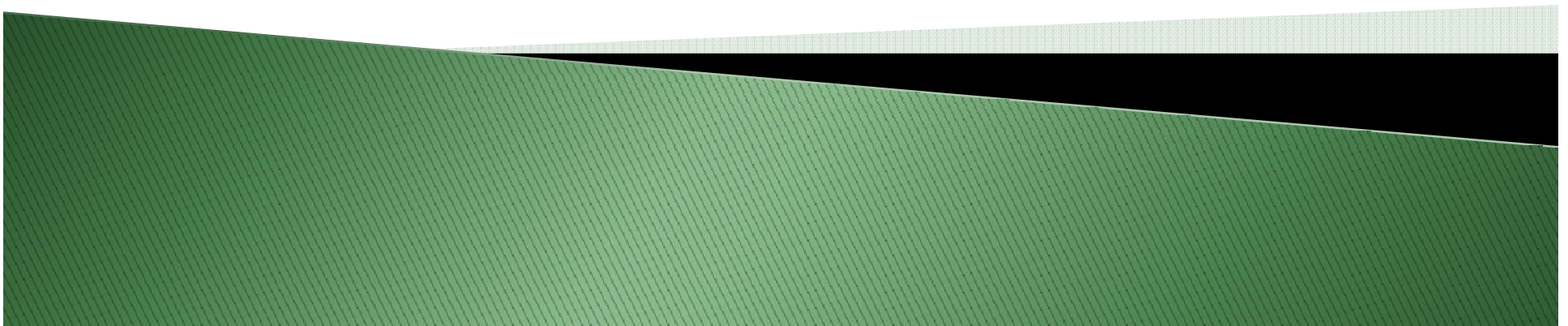


Pesticide Licensing: Proposed Changes

Marjorie Lewis
October 20, 2011



New Mexico Dept. of Agriculture

- ▶ NMSU Board of Regents
 - Director/Secretary of Agriculture
 - Division of Agricultural & Environmental Services
 - Feed, Seed & Fertilizer
 - Entomology & Nursery Industries
 - State Labs (Seed Lab, Feed & Fertilizer Analysis, Pesticide Analysis)
 - ❖ Pesticide Compliance

Pesticide Compliance Section

- ▶ “State Lead Agency” for pesticides in NM
 - Receive EPA funds that support part of our program
 - NMDA has “primacy” with regard to pesticides
 - Report extensively to EPA on our activities
- ▶ Responsible for enforcing state and federal laws regarding pesticides
- ▶ NMDA has “primacy”

Pesticide Compliance Section

- ▶ Product registration (3 persons)
- ▶ Inspection & investigation (6 persons)
- ▶ Applicator certification & licensing (3 persons)

Registration - Section 3, 24C, 18

- ▶ Approx. 11,000 products registered in NM
- ▶ Special registrations – 24c and 18
- ▶ Registration fee supports pesticide disposal program



Pesticide Disposal Program

- ▶ Collection events held around NM since 2007
- ▶ Nearly half a million pounds collected to date; 72,000 lbs in 2010
- ▶ Annual cost averages ~ \$100,000
- ▶ Events in Albuquerque, Artesia this year
- ▶ For information call 575-646-7020




Inspections and Enforcement

5 inspectors:

- ▶ Steve Baca: Albuquerque
- ▶ Nate Abrahamson: Albuquerque, NW
- ▶ Ryan Hiles: Las Cruces, SW
- ▶ Tyler Tatum: Clovis, NE
- ▶ Aaron Robinson: Roswell, SE



Inspections and Enforcement


- ▶ Routine inspections and complaint/tip investigations
 - ▶ Pesticides in schools, daycares, hospitals etc.
 - National focus
 - Off site use of pesticides is major issue – usually by unlicensed maintenance personnel
 - ▶ Inspections at Dealers
 - Verify sales only to licensed applicators
 - Federal Container/Containment
 - Registration status
- 

Inspections may include....

- ▶ License Verification
- ▶ Label Review of pesticides used
- ▶ Samples of mixtures, formulations, residues
- ▶ Pesticide Storage on vehicles & sites
- ▶ Application Equipment
- ▶ Safety Equipment and Supplies
- ▶ Records



Inspections and Enforcement

- ▶ Inspectors may collect samples of formulations, tank mixes, or residues
 - ▶ May take photos, copies of records or other documents, written statements
 - ▶ Any samples collected are itemized on the inspection report
 - ▶ What pesticides are stored & used? Are they all registered in NM? Are Directions for Use and any other label instructions followed? Do applicators have all required PPE?
- 

Inspections and Enforcement

- ▶ Records incomplete
- ▶ Applicator not certified in appropriate category
- ▶ Unlicensed applicators
- ▶ Not using required PPE
- ▶ Drift or other offsite applications
- ▶ Improper disposal of tank mix, containers
- ▶etc.



Applicator Licensing

- ▶ ~ 730 commercial pest control applicators
- ▶ ~ 820 operator/technicians
- ▶ ~ 750 public applicators (employed by government)
- ▶ ~ 2600 private applicators
- ▶ Also 100 noncommercial applicators; 133 RUP dealers; and 65 pest mgt consultants

Certification Exams

- ▶ ~ 2700 exams administered in FY 2010
- ▶ ~ 300 of these were Private App. Exams
- ▶ Exams cover general pesticide safety, pesticide regulation, and 20 pest control categories
- ▶ O & T Weed Control and R-O-W Weed Control are “biggest” single categories, followed closely by the 3 major Structural categories (pests, termites, vertebrate)

Exams continued

- ▶ Structural categories together are most common.
- ▶ Persons certified in:
 - Structural categories – 1,300
 - O & T – 1,100
 - R-O-W – 200
 - Ag – 500
 - Public health – 200
- ▶ Testing in Albuquerque, Las Cruces, Farmington, Clovis & Roswell every month

Study Materials

- ▶ Search for appropriate study material is continual! Out-of-date manuals is a problem in several categories
- ▶ Manuals from other states & national manuals
- ▶ Exams are based on the study materials we can find or develop
- ▶ Exams are updated regularly



Recertification

- ▶ Applicators need 4 hours each year to be eligible to recertify & renew their licenses
 - Plus 4 Termite hours if certified in Cat. 7D
- ▶ Private applicators need 5 hours in 5 years
- ▶ Any applicator can also recertify by testing



Continuing Ed Workshops

- ▶ In 2011 there have already been more than 200 CEU workshops – 2 months to go
- ▶ Offered by many providers – including CES, private trainers, professional organizations



Renewal Time is Near

- ▶ All licenses expire December 31
- ▶ Renewal forms will be mailed in November
- ▶ All commercial, public, noncomm, pmc, & dealers
- ▶ ~ 20% of the privates (this year it's ~500)
- ▶ CE hours must be earned during the license period – BEFORE expiration



NM Pesticide Control Act & Rules

- ▶ Pesticide Control Act authorizes NMDA to pass rules:
 - “Pesticides” – 21 NMAC 17.50
 - “Restricted-Use Pesticides” –17.56
 - “CEUs for Pesticide Applicators” –17.53
 - “Control of Wood Destroying Pests” – 17.51
 - “M-44 Capsules and the LPC” – 17.57

Certification & Licensing

- ▶ Requirements for applicator & dealer licensing, certification and recertification are in ALL FIVE Rules.
- ▶ One goal of amending rules is to put all C & L information in one Rule; similar goals with pesticide use requirements and registration requirements.




Pesticides Rule Changes Planned

- ▶ All licensing, testing, CEU, workshop requirements in one rule
- ▶ Pesticide use requirements in one rule (records, violations, storage, etc.)
- ▶ Much will remain the same but extensive changes will be proposed in certain areas
- ▶ Earliest possible implementation would be late 2012



C & L Rule Proposal

- ▶ Draft Rule posted on NMDA's web site in May; www.nmda.nmsu.edu
 - ▶ Mailed notices of proposed changes to stakeholders (licensees, workshop sponsors, professional associations, etc.)
 - ▶ I am currently reviewing comments we've received so far and changing the draft
 - ▶ Will publish "draft 2" soon – November?
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C & L Rule Proposals

- ▶ Some new definitions
- ▶ New and revised categories
- ▶ Higher passing score (75%)
- ▶ Clarify responsibility of CPA to technicians
- ▶ Increase Continuing Education (CEU) requirements




C & L Rule Proposals

- ▶ New categories under consideration include:
 - New aerial application category
 - Ag & commodity fumigation vs. structural fumigation
 - Wildlife pests vs. structural vertebrate pests
- ▶ Spell out the Commercial Applicator's responsibility to train his Operator/Techs



C & L Rule Proposals

- ▶ CEU requirements to be category-specific for ALL categories, not just 7D
 - ▶ Raise to 4 minimum CEUs per year:
 - One CEU in laws/rules
 - ~~Two~~ *One* CEU in General/Core pesticide education
 - ~~Three~~ *Two* CEUs in *each* certification category *or category group*
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C & L Rule Proposals

- ▶ CEUs would be grouped so an approved educational program may count for several categories – for example, one 3-hour weed control program may get 3 CEUs in 1B, 3 CEUs in 3B, and 3 CEUs in 6B
- ▶ Category groups defined: agricultural, ornamental & turf, and structural



C & L Rule Proposals

- ▶ Applicators could recertify by *either* earning required CEUs *or* by testing
- ▶ Operator/techs would also need CEUs: 1 in laws and 2 in core or category

Proposals that affect Private Applicators

- ▶ Minimum age requirement
- ▶ Shorter license duration
- ▶ More CEUs required
 - Some are category-specific
- ▶ Codify the private categories we are using now
 1. Use of all restricted ag pesticides *except M-44 & LPC*
 2. Use of restricted rodenticides only *no herbicides, etc.*
 3. M-44 devices
 4. LPCs

We are on #3:

1. Draft rule
2. Solicit comments from stakeholders
3. **Revise draft if needed**
4. Circulate draft for public comment
5. Schedule & hold formal public hearings
6. Address public comments
7. Present draft to NMSU Board of Regents for signature
8. Publish in NM Register
9. Rule then takes effect on specified date(s)



How can you comment?

- ▶ Phased-in process likely; earliest possible implementation late 2012
- ▶ Watch the web site!
 - www.nmda.nmsu.edu/pesticides
- ▶ If you have comments, attend hearings
- ▶ Written comments also welcome
 - Email, fax or snail mail

More comments = fewer problems for all



Things to watch for at federal level

- ▶ Changes to Federal certification and worker safety law
- ▶ Cuts in USDA recordkeeping program
- ▶ Product-specific changes to:
 - Fumigants
 - Rodenticides



Federal Worker Safety changes

- ▶ Annual worker/handler training; additional training content for workers/handlers; minimum age; minimum certification requirements for private applicators; specific req. for some specific applications; increased protection for consultants; etc.
- ▶ Look for Federal Register publication in 2012



Rodenticide cancellations

- ▶ *Rozol* cancelled, stop sale & use order issued
- ▶ Several rodenticides will be cancelled soon
- ▶ Other rodenticides have new label requirements
- ▶ Ongoing process – visit EPA’s web site, www.epa.gov/pesticides/mice-and-rats

Contact NMDA

- ▶ Licensing, workshops, CEUs 575-646-2134
- ▶ Products, disposal events 575-646-7020
- ▶ Investigations 575-646-2799

pesticides@nmda.nmsu.edu

www.nmda.nmsu.edu/pesticides



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