

County Agent News
Dan Folske
December 7, 2015

Proposed EPA Rules Could Impact Producers

EPA has proposed increased training and exam requirements for chemical applicators. The new rules would impact both private and commercial applicators. The proposed rules are currently in an extended comment period until December 23rd. Here are some of the ramifications of the proposed rules.

Increased training/examination requirements--If the proposals are implemented without change:

- Commercial / public applicators and dealers will have their training hours go from approximately 6-9 hours every three years, to 12-15 hours. (Another 6 or more hours would be added with multiple categories.)
- Private applicators will go from 3.5 to 6 hours every three years. (Another 3 to 6 hours could be added if specialized categories are adopted for grain fumigation, aerial application and soil fumigation.)
- All certified applicators / dealers will need to accumulate at least 50% of their training hours in the first 18 months of the three year certification cycle.
- Exams will be closed book, applicators will not be able to bring reference material into the examination room.
- Non-certified (supervised) applicators, mixers, and loaders will need annual safety training by their certified supervisor and this will need to be documented and the records would be subject to inspection.

There are dozens of other impacts, but these are the top five.

Cost versus Benefit--As part of the regulation development process, EPA was required to evaluate economic impacts. For ND, EPA allocated \$1.12 million to increased costs on an annualized basis for the regulated community and \$5,000 for the cost of implementing the plan. The costs did not take into consideration adequate staff time for developing the plan, a realistic lost opportunity cost for time spent in training versus engaging in business or regular employment responsibilities, cost of providing the training, or the cost accompanying new record keeping and enforcement requirements.

The Texas A&M Extension Service Ag Econ Department developed a model to estimate opportunity cost and the cost of delivering the added training requirement. Using their model, it is estimated that North Dakota would sustain a \$7 million to \$9 million annualized cost. Virginia Poly Tech determined that the opportunity cost in the Texas model was too conservative. If you use the Virginia factor, the cost to North Dakota would be about \$15 million per year. Additionally, developing a plan, implementing it, administering it, and enforcing it will require more resources. This will likely be \$500,000 to \$600,000 on an annualized basis. **So, the total cost to North Dakota would be roughly \$7.5 million on the low end and as high as \$15.6 million annually.**

It is hard to justify making this change when ND already has one of the highest pesticide use compliance rates in the country, over 84% in 2014. Plus, North Dakota has not sustained a pesticide death since the early 1990's.

Applicator Competence--Aside from the costs enumerated above, the adoption of these proposals WILL reduce applicator competence by:

- Reducing participation in trainings and increasing the use of examination as a means of renewing a certificate. Fewer applicators will receive continuing education and the NDDA will not be able to convey important enforcement related information to most applicators as easily.
- The cost of training, coupled with more stringent examination requirements, will lead to fewer people participating in the C&T process.

Finally, the legislature and/or policy makers may decide the cost is too great, thus North Dakota could:

- Cede back their authority to EPA. Thus EPA may be tasked with the entire cost and applicators would no longer have access to localized and customized training / examinations.
- Eliminate the training component entirely allowing for exam only recertification.
- Create a dual system. Users of Restricted Use Pesticides would need to adopt the EPA regulations and the users of general use pesticides would be trained and tested at the existing level.

You can comment on these proposed regulations at:

<http://tinyurl.com/EPA-C-T-Proposal>