

## Auglaize County OSU Extension Weekly Agriculture Newsletter – July 1, 2020

### Scouting and Latest Information



**Wheat**



**Soybean**

Hello!! Good morning! I pray you are well.

Every Tuesday from 8:30 to 9:30 AM we will be hosting a virtual meeting via Zoom that can also act as a simple conference call for those of you not able to get online to view live. The meeting will be set up to discuss key, timely information for your operation and to open the floor for questions and sharing of information. You may propose topics for the next meeting at anytime during the week by e-mailing or calling me. **Next week's topics will be weather and other.** Please join use every Tuesday for Auglaize County Farm Talk.

If you are a buyer or seller of hay or straw, let me know and I can keep a list to share with others.

List of individuals searching for hay or straw: None

List of individuals selling hay or straw:

1. About 200 3' X 3' wheat straw bales for sale. This same individual is willing to sell his winter cover crops as forage to anyone interested.
2. At least 500 small square wheat straw bales for sale.

Call the OSU Extension office at 701-541-0043 or e-mail me at [stachler.1@osu.edu](mailto:stachler.1@osu.edu) to get the contact information.

I hear some straw prices have come down to about \$75/ton out of the field and \$115 to \$120/ton baled and delivered.

## **Joke: What is a sheep's favorite game??**

## **Agricultural Fun Fact: A pound of corn consists of about 1,300 kernels!**

Rain fell only 4 days this past week. The eastern part of the county is now the driest and some corn was showing stress on Sunday. Rainfall on Friday, June 26<sup>th</sup> ranged from 0" at 10 locations of the county to 0.18" near Kossuth. Rainfall Saturday ranged from 0.1" near St. Rt. 67 and St. Rt. 117 to 0.5" near Uniopolis. Rainfall on Sunday ranged from 0" at 13 locations in the county to 0.16" near Dowty and County Road 66A. Rainfall on Monday ranged from 0" at 16 locations in the county to 0.25" near Sommers and Minster-Ft. Recovery roads. Rainfall for the week ranged from 0.1" near St. Rt. 67 and St. Rt. 117 roads to 0.65" near Sommers and Minster-Ft. Recovery roads. Rainfall for the week averaged 0.35", 0.35" less than last week. It is very likely that we will not see any rain for the next week! If we do it will be small areas.

The average high temperature now is 84 degrees F, just 1 degree more than last week. We are nearing our maximum temperature now. Temperatures were above normal for **1** day of the week and below normal for **5** days of the week. The range in high temperature for the week was 73 to 86 degrees F. The average high temperature for the week was 80 degrees F, which is 2.9 degrees F cooler than last week and 4 degrees F **cooler than** the current normal high temperature. Temperatures for the next 7 days will be near normal.

## **Wheat**





**Wheat development**



**Field of wheat**

Wheat harvest started in the county on Monday! Moisture was 21.7% and test weight only 50.7 pounds per bushel. Yield was in the mid 70's bushels per acre. Most wheat is in the hard dough stage. I did not change the wheat condition again for the week, so it is: 10% excellent, 42% good, 43% fair, 5% poor and 0% very poor. I have not heard any information from elevators yet as to the quality of the wheat coming in.

## **Alfalfa**



**Severe leafhopper burn**



Leafhopper levels are through the roof with most fields showing severe leafhopper burn. Harvest fields early and spray after a little regrowth or find a product with a really short preharvest interval and spray, but most have a two to three week preharvest interval.

## Corn



**Current stage of corn (V9)**



**Corn**



**Potassium deficiency**

Corn is growing fairly quickly now after the moisture and cooler conditions last week. Corn has gained significant green color, but is still chlorotic in some fields. Crop quality improved this week, but the ratings only moved slightly! I'm still not impressed with the crop. I rated the corn crop at 7% excellent, 30% good, 61% fair, 1% poor, and 1% very poor. Last week I rated the corn crop at 8% excellent, 29% good, 59% fair, 4% poor, and 0% very poor. The range in corn is from V1 (first collar visible) to V10 (tenth collar) stage. Most corn is at the V8 (eighth collar) to V9 (ninth collar) stage. The corn is still short for its age! No leaf diseases or insects are present at this time. Most corn has been side-dressed and most postemergence herbicides have been applied as well. I saw corn with potassium deficiency in a few fields.

## Soybean



**Most developed soybean (R2)**



**Field of soybean**





**Somewhat average stage (V5)**

All soybeans are planted now, except for double-crop soybean. With the rain, cooler conditions and nitrogen fixation, the soybean crop improved quite a bit this week! They really picked up a darker green color in the past week. The current condition of soybean in the county is 17% excellent, 41% good, 39% fair, 2% poor, and 1% very poor. Last week's crop condition was 10% excellent, 45% good, 41% fair, 4% poor, and 0% very poor. The range in soybean stage is from emergence to R2 (full bloom) stage, but most are at V5 (5<sup>th</sup> trifoliate leaf unrolled) to R1 (begin flower). I found no leaf diseases and found a red-headed flea beetle causing very minor defoliation. I found a few fields where the soybeans are deficient in potassium, but it was just the field margin.

## **Weeds**



**Still giant ragweed in corn!**



**Large giant ragweed in soybean!**

Dicamba products can no longer be used on Xtend soybean in Ohio. Most herbicides can no longer be used on corn due to the stage and/or height of the corn! The maximum corn stage for most herbicides is from V8 to V10. Weeds are still in soybean in some fields. Get them sprayed soon. Be sure to read my article about scouting fields after postemergence herbicide applications.

### **Insects/Other**



**Red-headed flea beetle**

I found a red-headed flea beetle in a soybean field. There were no western bean cutworm moths in any of the four traps this week.

**With the cancellation of dicamba products applied to dicamba soybean, I did not update the label information below. Not sure of label changes for Tavium (<http://www.syngenta-us.com/herbicides/tavium-tank-mixes>) this week. With the end of Engenia, FeXapan, and XtendiMAX, I deleted the tank-mix information, but since Tavium is still legal, I kept that.** There are 47 herbicides, 101 DRA's, 316 adjuvants, 96 nutritionals, 16, insecticides, 7 fungicides, 8 other products, and 41 nozzles approved for use with Tavium.

**Enlist One and Enlist Duo** for Enlist soybeans and corn also have approved tank-mix partners and nozzles like the dicamba products. **There were changes to the labels this week!** The list of approved tank-mixtures for both of these products has been updated. Please follow these labels online at <https://www.enlist.com/en/herbicides.html> . There are 48 nozzles, 153 herbicides (10 new ones), 20 glyphosate formulations (1 new one), 10 glufosinate formulations (1 new one), 11 Dry AMS products, 85 insecticides, 30 fungicides, 21 plant growth regulators, 645 other products, and 315 fertilizers / nutrients labeled with Enlist One. There are 23 nozzles, 89 herbicides (15 new ones), 51 insecticides (3 new ones), 17 fungicides, 22 plant growth regulators, 8 Dry AMS products, 512 Other products, and 168 fertilizers / nutrients labeled with Enlist Duo.

Other information about the Enlist products include the following:

1. Enlist Duo rate is 4.75 pts/A which only has 1.0 lbs ae/A of glyphosate which is really not enough. You would think you could just add more glyphosate, but you CAN NOT add more glyphosate with Enlist Duo.
2. Enlist One can be mixed with ANY rate of glyphosate, glufosinate and 192 other herbicides.
3. Never use Enlist One alone on Enlist crops and always apply Enlist One at 2 pts/A
4. You CAN NOT add glufosinate with Enlist Duo!
5. When adding a postemergence grass soybean herbicide like quizalofop, clethodim, sethoxydim, or fluazifop to Enlist One add 33% higher rate of these products to reduce the antagonism with grasses OR apply the postemergence grass herbicides 7 days after the Enlist One.

## Upcoming Meetings



1. **Auglaize County Farm Talk.** Every Tuesday from 8:30 to 9:30 AM we will have a virtual agricultural meeting. Next week's topic is the weather and more. The link to get onto the meeting is as follows: <https://osu.zoom.us/j/2119847503> If you just want to call in the phone number and meeting code are as follows: 646-876-9923 2119847503#
2. **The OSU Farm Office is Open.** The OSU Extension Farm Office Team will open our offices online and offer biweekly live office hours on Thursdays from **9:00-10:30 am** EST. Next week there will be a meeting!! Each office session is limited to 500 people and if you miss our office hours, we'll post recordings on [farmoffice.osu.edu](http://farmoffice.osu.edu) the following day. **Register at <https://go.osu.edu/farmofficelive>.**
3. **All OSU Extension face to face meetings have been cancelled or postponed through July 6<sup>th</sup>. Meetings after this date will go on as planned at least until further notice.**

**Answer to joke: Baa-dminton!!**

**Why Scout After Herbicide Applications**



Postemergence herbicide applications have been made in most corn fields and some soybean fields. Scouting before making a postemergence herbicide application is critical to successfully controlling the weeds in a field. Scouting that same field after the herbicide application is just as important. Scouting is necessary to determine whether all weeds were controlled, to determine the cause if not controlled, and to make future plans as necessary.

If contact herbicides were applied, scout fields 5 to 10 days after application. If translocating herbicides were applied scout fields 7 to 14 days after application. Scouting on the early side of each range is preferable to learn the most about the effectiveness of the herbicides, but weeds may not be dead at that time and require a second scouting trip to determine death. If the weather is cold and cloudy it usually takes longer to determine if the weeds will die. Timely scouting is most important for soybeans because there are few options to controlling surviving weeds. Therefore contact herbicides will likely need to be applied.

The number one reason to scouting timely after a postemergence herbicide application is to respond quickly in case a second application is necessary. Waiting to scout too long after the initial application, especially when needing a contact herbicide, will allow the weeds to become too large making it difficult for the second herbicide application to be effective.

If more than a single weed species is present after a herbicide application and the injury symptoms are somewhat uniform, then an incorrect rate, poor application method, or poor weather conditions likely caused the herbicide to be less effective. In this situation, ideally choose a herbicide having a different site of action that will effectively manage the weeds present, although applying the same herbicide may be effective in the second application.



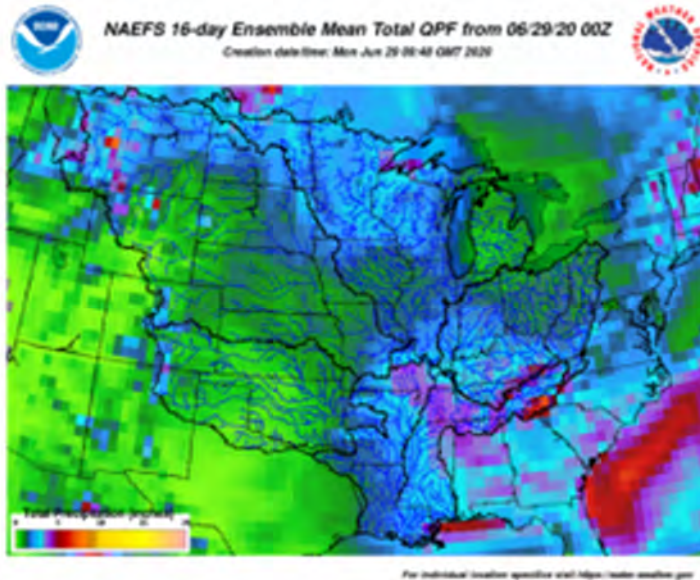
If marehail, waterhemp, giant or common ragweed are present after the postemergence application of glyphosate (Group 9), ALS-inhibitors (Group 2), and/or PPO-inhibitors (Group 14), suspect herbicide resistance. If plants of these species are dead while other plants appear normal and all other plants respond somewhere between dead and near normal, then you can almost guarantee resistant biotypes are present in the field. It is possible to find waterhemp and common and giant ragweed that are resistant to all three of the above herbicide sites of action. When plants are surviving due to resistance, herbicide(s) having an alternative site of action will need to be applied from 14 to 21 days after the initial application. Contact herbicides should be applied at the 14 day interval.

Timely scouting after a postemergence herbicide application is critical to responding quickly with an effective second application.

## **C.O.R.N. Newsletter**

<https://agcrops.osu.edu/newsletter/corn-newsletter>

Warmer weather favored for the rest of the growing season Hotter and drier than normal for much of July



#### *16-day rainfall outlook*

After a cool spring, we are playing catch up fast with a warm June. June will end up being 1-3 degrees above normal with rainfall 50-100% of normal. The warm weather will continue for the rest of the summer. Maximum temperatures will likely be 1-3 degrees above normal in July. However, overnight temperatures will be even warmer, some 3-6 degrees above normal. Expect high temperatures in July to commonly be in the 85-95 range with overnight temperatures in the 65-75 degree range.

Rainfall will be a tougher call for July. The climate models which have been tracking best tend to favor normal or below normal rainfall. Some pockets of above-normal rainfall will occur over small areas and seem to favor southern parts of the state. The driest areas appear to be northwest Ohio. Rain will likely be 50-110% of normal again in July. For the first two weeks of July, expect hot and drier than normal weather. Rainfall for the first two weeks of July will average 0.25 to 1.25 inches while normal is not far from 2 inches for that time.

Therefore, small pockets of drought could develop in July if we remain hot and dry for too long.

August and September continue to favor temperatures several degrees above normal. Rainfall will be scattered with areas of below and above normal driven very much on the local-scale due to thunderstorms.

The early outlook for fall harvest season signals above normal temperatures and rainfall going from below to above normal but averaging close to normal overall. There is no indication of an early freeze this fall at this time.



The NOAA Climate Prediction Center Week 3-4 outlooks can be found here: <https://www.cpc.ncep.noaa.gov/products/predictions/WK34/>  
The 16-day rainfall outlooks can be found on the NOAA/NWS/Ohio River Forecast Center page at: <https://www.weather.gov/images/ohrfc/dynamic/NAEFS16.apcp.mean.total.png>

**Author(s):**  
Jim Noel

## Double Crop Soybean Recommendations



As small grains are harvested across the state, here are some management considerations for double-crop soybean production:

**Relative Maturity.** Relative maturity (RM) has little effect on yield when soybeans are planted during the first three weeks of May. However, the effect of RM can be larger for late planting. When planting soybean late, the latest maturing variety that will reach physiological maturity before the first killing frost is recommended (Table 1). This is to allow the soybean plants to grow vegetatively as long as possible to produce nodes where pods can form before vegetative growth is slowed due to flowering and pod formation.

Table 1. Recommended relative maturity (RM) ranges for soybean varieties planted in June and July in northern, central, and southern Ohio.

	<b>Planting Date</b>	<b>Suitable RM</b>
<b>Northern Ohio</b>	June 1-15	3.2-3.8
	June 15-30	3.1-3.5
	July 1-10	3.0-.3.3
<b>Central Ohio</b>	June 1-15	3.4-4.0
	June 15-30	3.3-3.7
	July 1-10	3.2-3.5
<b>Southern Ohio</b>	June 1-15	3.6-4.2
	June 15-30	3.5-3.9
	July 1-10	3.4-3.7



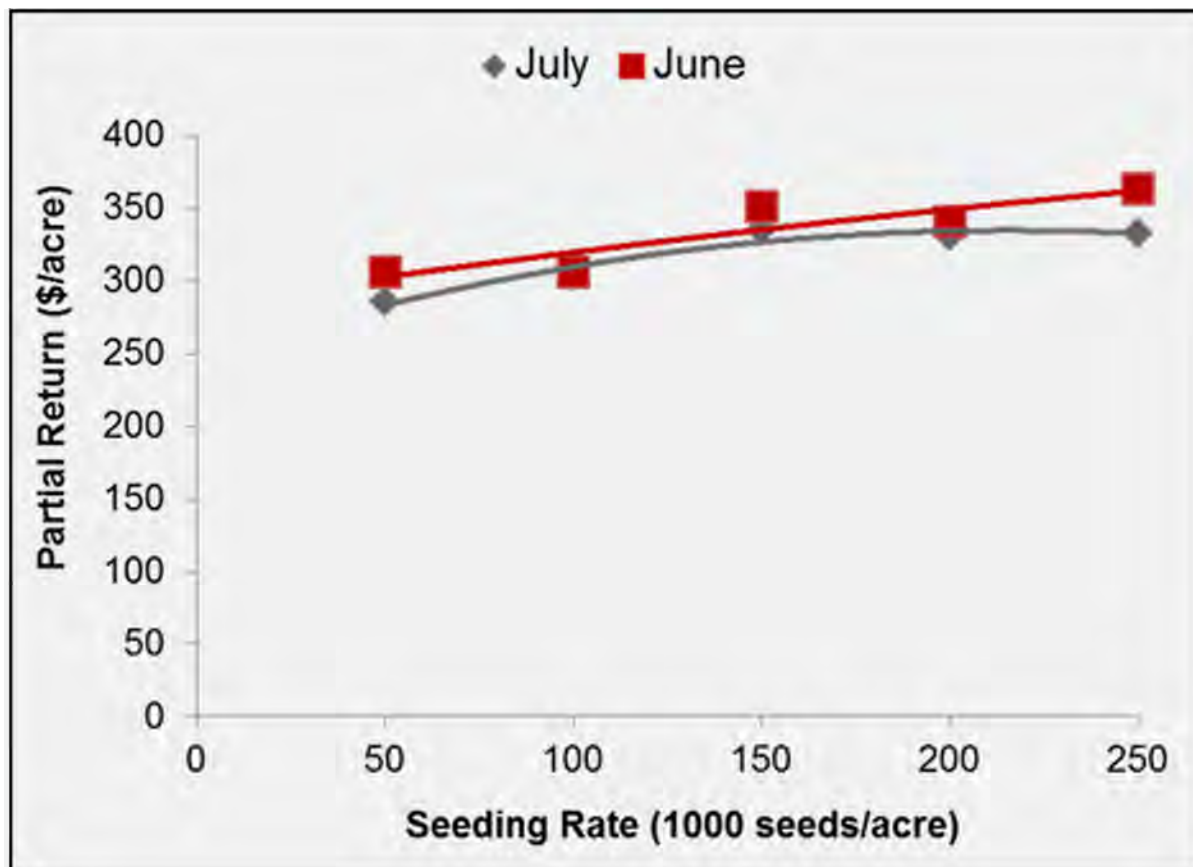


Figure 1. Partial economic return by seeding rate for double-crop soybean planted in Clark County, Ohio.

**Row Spacing.** Double crop soybeans should be produced in narrow rows- 7.5 to 15-inch row spacing. The later in the growing season soybeans are planted, the greater the yield increase due to narrow rows. Soybeans grown in narrow rows produce more grain because they capture more sunlight energy, which drives photosynthesis.

**Seeding Rate.** Harvest population for mid- to late June plantings should be between 130,000 to 150,000 plants/acre. Harvest population for early July plantings should be greater than 180,000 plants/acre. Harvest plant population is a function of seeding rate, quality of the planter operation, and seed germination percentage. It depends on such things as soil moisture conditions, seed-soil contact, and disease pressure. Figure 1 shows the partial economic return by seeding rate (grain price of \$9.44/bu and seed cost of \$0.43/1000 seeds) for double-crop soybean planted in Clark County, Ohio. In June, the optimum seeding rate was >250,000 seeds/acre, while in July, the optimum seeding rate was 213,000 seeds/acre. The average harvest population for soybean planted in June at 250,000 seeds/acre was 143,000 plants/acre (57% of the seeding rate) due to heavy rainfall after planting. The average population for soybean planted in July at 250,000 seeds/acre was 204,000 plants/acre (82% of the seeding rate).

For additional information on double-crop soybean see: <https://stepupsoy.osu.edu/soybean-production/double-crop-soybean-production-guidelines>

**Author(s):**

Laura Lindsey

## Water Quality Extension Associate Services in NW Ohio



### **Our Goal**

Our goal is to engage farmers and their trusted advisors in new production strategies, technologies, and best management practices to improve fertilizer use efficiency and farm profitability while promoting soil health and reducing nutrient and sediment losses within the western Lake Erie basin.

Through education, outreach, and demonstrations highlighting the benefits of practices we hope to encourage widespread practice adoption and sustained practice implementation.

### **What We Need Help With**

- Learning about the unique challenges that face area farmers.
- Finding partners interested in adopting new technologies and conservation practices and understanding their potential water quality, soil health and agronomic benefits.

- Identifying potential sites for on-farm applied research trials and case studies.

### **How We Can Help**

- Assistance with soil test interpretation, new tri-state fertilizer recommendations, and use of On Field Ohio online decision tool for estimating phosphorus losses.
- Consultation on nutrient management practices and technology, including in-field and remote sensing technologies, modern planting and fertilizer application equipment, use of drones for field scouting, mobile applications to support field operations, and data storage and retrieval programs.
- Providing guidance on best management practice selection and implementation including managing cover crops for success.
- Understanding manure nutrient content and utilization as a resource while promoting soil health and reducing water quality impacts.
- Identifying low return on investment (ROI) areas that may be appropriate for conversion to conservation practices.
- Generating cost-return data for conservation and nutrient management practices.
- Referral to shared community resources and funding opportunities.

Water quality extension associates work as a team with faculty, extension specialists, and educators and bring current information, applied research, and resources to the agricultural community: <https://waterquality.osu.edu>

### **Partnerships**

The water quality extension associates are supported through partnerships with the USDA Natural Resources Conservation Service and Cargill.





**Water Quality Associates:**

1. **Jordan Beck - Fulton County Office**
  - Counties: Fulton, Williams, and Lucas
  - Topics of Interest: Manure application, Cover crops, Soil health
  - Background: B.S. Animal Sciences, Livestock Nutrition, Livestock Management & Marketing
  - Contact: office (419) 337-9120 / cell (419) 822-7361, [beck.320@osu.edu](mailto:beck.320@osu.edu)
2. **Rachel Cochran - Paulding County Office**
  - Counties: Paulding, Defiance, and Van Wert
  - Topics of Interest: Soil health, Cover crops, Maximizing efficiency of fertilizer
  - Background: B.S. Sustainable Agriculture, Applied Research in both field and lab settings
  - Contact: office (567) 344-5016 / cell (419) 399-8225, [cochran.474@osu.edu](mailto:cochran.474@osu.edu)
3. **Matthew Romanko - North Central Agricultural Research Station**
  - Counties: Sandusky, Seneca, Erie, Wyandot, and Crawford
  - Topics of Interest: Precision agriculture, Geo-spatial technology, Maximizing efficiency of fertilizer
  - Background: M.S. Geology / Remote Sensing
  - Contact: office (567)-342-7095, [romanko.7@osu.edu](mailto:romanko.7@osu.edu)
4. **Nick Eckel – Henry County Office**
  - Counties: Henry, Wood, and Ottawa
  - Topics of Interest: Soil health, Manure application, Maximizing efficiency of fertilizer
  - Background: B.S. Crop Science/ Agronomy
  - Contact: office (419)-592-0806 / cell (419)-779-2011, [eckel.21@osu.edu](mailto:eckel.21@osu.edu)
5. **Boden Fisher - Putnam County Office**
  - Counties: Putnam, Hancock, and Hardin

- Topics of Interest: Farm profitability/Return on Investment, Soil retention & health, Economic fertilizer use, Cropping systems & rotations
- Background: B.S. Agriculture-Agronomy, Research and Retail Agriculture
- Contact: office 419-523-6294 / cell 567-376-4024, [fisher.1466@osu.edu](mailto:fisher.1466@osu.edu)
- 6. **Brigitte Moneymaker - Auglaize County Office**
- Counties: Auglaize, Mercer, and Allen
- Topics of Interest: Soil health, Watershed management, Sustainability, Remote sensing, Wetland management, Invasive species, Geospatial Information Systems, Environmental adaptation and risk management
- Background: B.S. Environmental Science / Master's Climate Science
- Contact: office (419) 739 6580 / cell (434)-962-3525, [moneymaker.4@osu.edu](mailto:moneymaker.4@osu.edu)

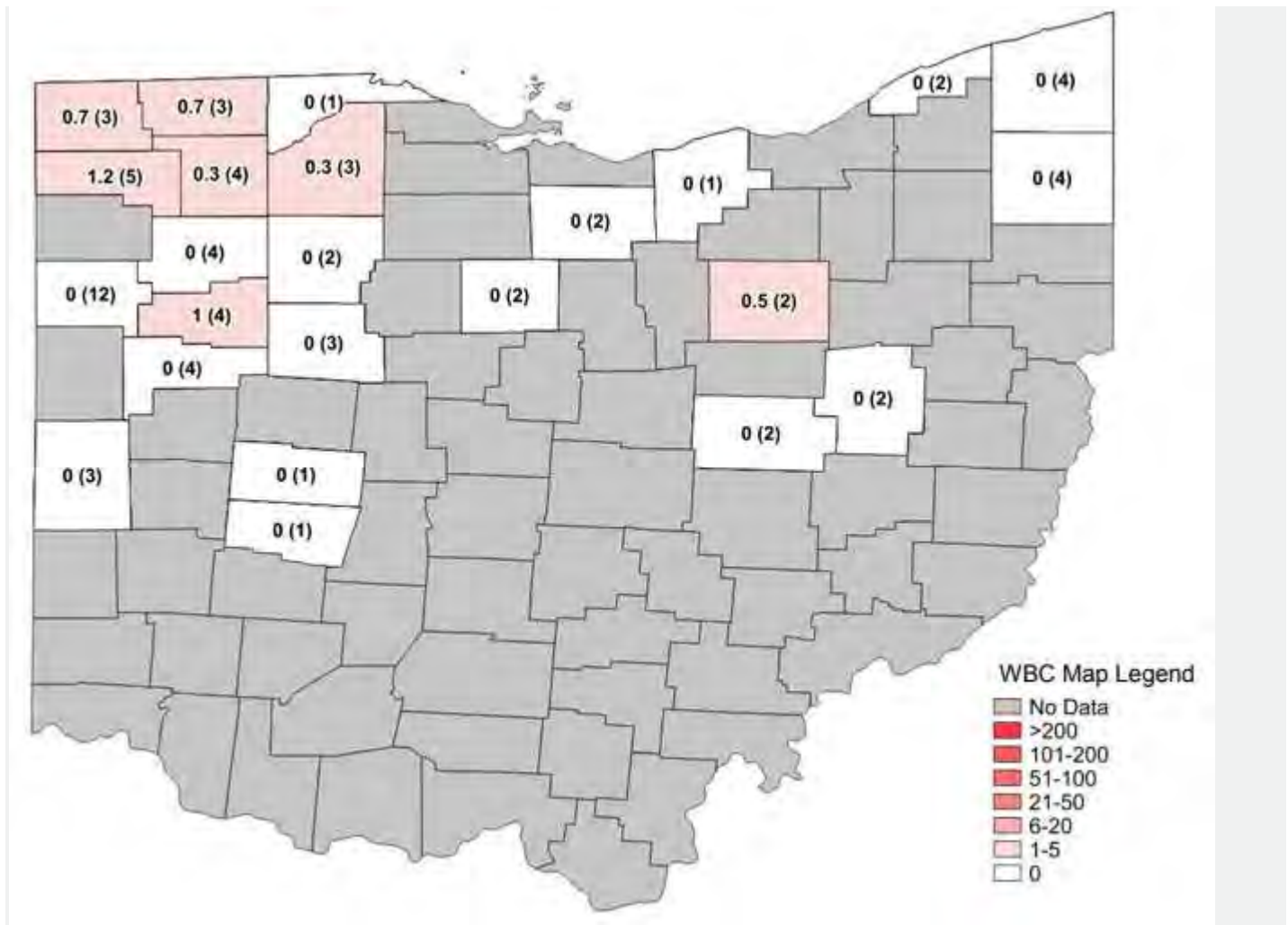
**Author(s):**

Rachel Cochran, Brigitte Moneymaker, Jordan Beck, Nick Eckel, Matthew Romanko, Boden Fisher

## Western Bean Cutworm Monitoring in Ohio



Monitoring for the Western bean cutworm (WBC) began the week of June 22<sup>nd</sup> across Ohio. Currently, WBC adult numbers are low in all monitoring counties. Trap counts for the week of June 22 – 28 resulted in a total of 17 WBC adults (0.23 average moths per trap) (Figure 1). Overall, 24 counties monitored 74 traps across Ohio. No counties reported capturing more than 1 moth / day over the 7-day monitoring period; therefore, all counties currently remain below the recommended levels that indicate scouting for egg masses should begin.



*Western Bean Cutworm County Monitoring*

Figure 1. Average Western bean cutworm adult per trap followed by total number of traps in the county in parentheses for week ending June 28<sup>th</sup>, 2020.

Further information on WBC can be found in our fact sheet: <http://ohioline.osu.edu/factsheet/ENT-40> and a free article in the *Journal of Integrated Pest Management*: <http://jipm.oxfordjournals.org/content/1/1/A1>

**Author(s):**

Amy Raudenbush, Mark Badertscher, Frank Becker, Lee Beers, CCA, Bruce Clevenger, CCA, Sam Custer, Tom Dehaas, Jason Hartschuh, CCA, Andrew Holden, Stephanie Karhoff, Ed Lentz, CCA, Rory Lewandowski, CCA, Cecilia Lokai-Minnich, David Marrison, Eric Richer, CCA, Garth Ruff, Beth



Scheckelhoff, Clint Schroeder, Jeff Stachler, Mike Sunderman, Curtis Young, CCA, Chris Zoller, Andy Michel, Kelley Tilmon, Craig Everett

## Looking for soybean fields with late season waterhemp



*Common waterhemp true leaves without singular hair in the leaf tip notch*

OSU weed scientists and ag engineers are looking for soybean fields that have populations of waterhemp or Palmer amaranth surviving into July and August (after all control with herbicides has been attempted). We have a project involving the use of a drone to identify these weeds in mid to late season when they are evident above the soybean canopy. We need fields with more than just a few surviving plants. Populations consisting of a few good patches up though a disaster are fine. Contact Mark Loux – [loux.1@osu.edu](mailto:loux.1@osu.edu), 614-395-2440. Thanks in advance for your help.

**Author(s):**  
Mark Loux

## Other Articles

The Ag Law Harvest

By: Ellen Essman, Senior Research Associate Friday, June 26th, 2020

Source: <https://farmoffice.osu.edu/blog/fri-06262020-453pm/ag-law-harvest>

Dicamba, Roundup, WOTUS, and ag-gag: although there are important updates, this week's Harvest topics could be considered some of the Ag Law Blog's "greatest hits." In addition to these ongoing issues, a bill that is meant to encourage farmers to participate in carbon markets was recently introduced in the Senate. June has certainly been a busy month.

**Decisions on dicamba.** If you've been following along with our blog posts over the past few weeks, you know that the Ninth Circuit Court of Appeals vacated the registration of several over-the-top dicamba products, and in response, the EPA announced that all such products in farmers' possession must be used before July 31, 2020 (our last post on the topic is available [here](#)). The Ohio Department of Agriculture went a step further, making the final date for dicamba use in the state June 30, 2020, due to the state registrations expiring on that day. Since the Ninth Circuit decision, the companies that produce dicamba products such as Engenia and, FXapan, and XtendiMax have filed numerous motions with the Ninth Circuit. On June 25, the court declined a motion from the BASF Corporation, which makes Engenia, asking the court to pause and withdraw their decision from the beginning of the month. What does this mean? Basically, at this moment, the court's ruling still stands, and use of certain over-the-top products will have to cease on the dates mentioned above. That's the latest on this "volatile" issue.

**Bayer settles Roundup lawsuits, but this probably isn't the end.** Bayer, the German company that purchased Monsanto and now owns rights to many of the former company's famous products, has been fighting lawsuits on multiple fronts. Not only is the company involved in the dicamba battle mentioned above, but over the past few years it has had a slew of lawsuits concerning Roundup. On June 24, Bayer, the German company that now owns the rights to Roundup, [announced](#) that it would settle around 9,500 lawsuits. The lawsuits were from people who claimed that Roundup's main ingredient, glyphosate, had caused health problems including non-Hodgkin's lymphoma. The amount of the settlement will be between 8.8 and 9.6 billion dollars. Some of that money will be saved for future Roundup claims. Although many are involved in this settlement, there are still thousands of claims against Bayer for litigants who did not want to join the settlement.

**Updated WOTUS still not perfect.** As always, there is an update on the continuing saga of the waters of the United States (WOTUS) rule. If you recall, [back in April](#), the Trump administration's "final" WOTUS rule was published. Next, of course, came challenges of the rule from both sides, as we discussed in a previous [Harvest post](#). Well, the rule officially took effect (in most places, we'll get to that) June 22, despite the [efforts](#) of a group of attorneys general from Democratically-controlled states attempting to halt the implementation of the rule. The attorneys general asked the U.S. District Court for the Northern District of California a nationwide preliminary injunction, or pause on implementation of the rule until it could be sorted out in the courts. The district court judge [denied](#) that injunction on June 19. On the very same day, a federal judge in Colorado [granted](#) the state's request to pause the implementation of the rule within the state's territory. Remember that the 2015 rule was implemented in some states and not others for similar reasons. The same trend seemingly continues with Trump's replacement rule. In fact, numerous

lawsuits challenging the rule are ongoing across the country. A number of the suits argue that rule does not go far enough to protect waters. For instance, just this week environmental groups asked for an injunction against the rule in the U.S. District Court for the District of Columbia. Environmental organizations have also challenged the rule in Maryland, Massachusetts, and South Carolina district courts. On the other hand, agricultural groups like the New Mexico Cattle Growers Association have filed lawsuits arguing that the rule is too strict.

**No more ag-gag in NC?** We have mentioned a few times before on the blog that North Carolina's ag-gag law has been embroiled in a lawsuit for several years (posts are available [here](#)). North Carolina's version of "ag-gag" was somewhat different from other states, because the [statute](#) applied to other property owners, not just those involved in agriculture. The basic gist of the law was that an unauthorized person entering into the nonpublic area of a business was liable to the owner or operator if any damages occurred. This included entering recording or surveilling conditions in the nonpublic area, which is a tool the plaintiffs use to further their cause. In a [ruling](#), the U.S. District Court for the Middle District of North Carolina was decided largely in the plaintiffs' (PETA, Animal Legal Defense Fund, etc.) favor. In order to not get into the nitty gritty details of the 73-page ruling, suffice it to say that the judge found that that law *did* violate the plaintiffs' freedom of speech rights under the First Amendment to the U.S. Constitution. Another ag-gag law bites the dust.

**Carbon markets for farmers?** And, now for something completely different. In the beginning of June, a bipartisan group of four U.S. senators introduced the "Growing Climate Solutions Act." On June 24, the Senate Committee on Agriculture, Nutrition, and Forestry held its first [hearing](#) on the new bill, numbered 3894. The text of SB 3894 is not currently available online, but it would create "a certification program at USDA to help solve technical entry barriers that prevent farmer and forest landowner participation in carbon credit markets." The barriers "include[] access to reliable information about markets and access to qualified technical assistance providers and credit protocol verifiers" and "have limited both landowner participation and the adoption of practices that help reduce the costs of developing carbon credits." You can read the Committee's full press release about the bill [here](#). It is backed by several notable businesses and groups, including the American Farm Bureau Federation, the National Corn Growers Association, the Environmental Defense Fund, and McDonalds and Microsoft.

## The Paycheck Protection Program: keeping up with the changes

By: Peggy Kirk Hall, Associate Professor, Agricultural & Resource Law Wednesday, June 24th, 2020  
Source: <https://farmoffice.osu.edu/blog/wed-06242020-1140am/paycheck-protection-program-keeping-changes>





*Written by Peggy Kirk Hall and Barry Ward, Leader, Production Business Management*

Many farmers have utilized the CARES Act's Paycheck Protection Program (PPP) to obtain federal funds to help with payroll and certain non-payroll expenses in the wake of COVID-19. As we've discussed on our Farm Office Live webinars [here](#), Congress revised the PPP with the passage of the **Paycheck Protection Program Flexibility Act** earlier this month. As a result of the new legislation, the Small Business Administration released a series of Interim Final Rules (IFRs) and a new forgiveness application. The IFRs, available [here](#), clarify certain points contained in the bill and provide revisions to previous IFRs. All of these changes affect how farmers can use the funds and how much of the funds can be forgiven from loan repayment requirements.

### **The new PPP provisions**

- The "covered period" that applies to the issuance and use of PPP loan expenditures was to end on June 30, 2020, but the law now extends that date to December 31, 2020. This means that borrowers now have until December 31 to spend PPP loan proceeds.
- The "covered period" for loan forgiveness has also changed. Borrowers will now be able to have up to 24 weeks of costs forgiven and not subject to repayment. But borrowers who received loans prior to June 5, 2020 may choose to use the 8-week period provided in the original PPP. A borrower need not wait until the end of the covered period to apply for forgiveness if the borrower has expended the loan funds prior to the end of the covered period.
- The requirement that 75% of loan proceeds be used for payroll costs in order to receive full forgiveness has been reduced to 60%. This means that forgiveness is not applicable for any portion of non-payroll costs that exceed the 40% maximum for non-payroll. Under the original law, forgivable non-payroll costs could not exceed 25%.
- The amount eligible for forgiveness can equal the full loan amount plus accrued interest, and the IFR revises the eligible costs for both the 8-week and 24-week covered periods as follows:
  - Payroll costs for 24 weeks at a maximum of \$46,154 per employee and for 8-weeks at a maximum of \$15,385 per employee, as well as benefits such as health care costs, state payroll taxes paid by the employer, and retirement contributions. Note that there are limitations to including health insurance contributions made on behalf of self-employed persons, general partners and owner-employees of S-corporations and to including employer retirement payments on behalf of self-employed persons or general partners.

- Owner compensation replacement is calculated according to 2019 net profit. The forgiveness limit for an 8-week covered period is 8/52 of the 2019 net profit, up to \$15,385 and for a 24-week covered period, is restricted to two and a half months or 2.5/12 of 2019 net profit, up to \$20,833.
- Mortgage interest, rent payments on lease agreements, and utility payment costs are eligible to the extent that they would be deductible as business mortgage, rent and utility payments on Form 1040 Schedule F or Schedule C. Note that although this language defines the forgivable portions of these non-payroll costs, such costs are not *actually* deductible if forgiven.
- Employers will have a longer period to rehire employees and restore salaries without reducing the forgiveness amount. This “safe harbor” date for rehiring employees is extended to December 31, 2020.
- An employer who isn’t able to rehire employees by the end of the “safe harbor” period may qualify for an exemption from a corresponding forgiveness reduction that would occur if the employer can document that:
  - The employer is unable to rehire persons who were employees on February 15, 2020 or to rehire similarly qualified persons, or
  - The employer is unable to return to the same level of business activity it was at before February 15 due to COVID-19 standards and requirements.
- For new loans taken out after June 5, loan proceeds that are not forgiven may be repaid in five years rather than two years. Loans prior to June 5 remain at a two-year repayment term, unless the lender agrees otherwise.
- Borrowers can defer repayment of the loan until the date that the lender receives the borrower’s forgiveness amount, or until 10 months from the end of the borrower’s forgiveness period if not applying for forgiveness.
- The original law prohibited borrowers from using the CARES Act provision that allows employers to defer payroll taxes once they received loan forgiveness, but the new law allows borrowers who receive forgiveness to also defer payroll taxes under the CARES Act.

### **The forgiveness application and process**

A new forgiveness application was also released to correspond with the changes in the new PPP Flexibility Act. As laid out in the application instructions, borrowers are eligible to use a shorter “EZ application” for loan forgiveness if they meet one of these criteria:

- Borrower is self-employed and has no employees or
- Borrower didn’t reduce salaries or wages for employees by more than 25% and didn’t reduce numbers or hours of employees or
- Borrower experienced reductions in business activity as the result of health directives related to COVID-19 and did not reduce salaries or wages of employees by more than 25%.

The forgiveness process could take up to five months. It begins with a borrower submitting the application to the lender that provided the loan, who will have 60 days to review the application and send the approved application on to the SBA. The SBA will have up to 90 days to review the application, confirm the amount

to be forgiven and remit to the lender the forgivable amount and any accrued interest, less any advance payments made to the borrower under the Economic Injury Disaster Loan program.

The Loan Forgiveness Application Form is [here](#) and its instructions are [here](#). The Loan Forgiveness Application Form EZ is available [here](#) and its instructions are [here](#).

#### **Uncertainties remain**

Despite the recent changes to PPP, several gray areas and uncertainties remain, such as:

- PPP Loans received prior to June 5, 2020 allow the borrower to choose between an 8 week and a 24 week covered period. Farmers with a loan based on owner compensation replacement and no employees will likely benefit from choosing the 24 week covered period to meet the criteria for full loan forgiveness. One possible downside with choosing the 24 week covered period might be further rule changes that might be unfavorable to the borrower, although this is unlikely. There is still uncertainty as to whether a self-employed person needs to write a check to themselves to qualify for forgiveness based on the owner compensation replacement portion of the PPP Loan. The safe alternative would be to write this check even if the check is deposited back into the same account.
- According to some sources there is ongoing discussion regarding legislation that would grant forgiveness to all PPP loans under \$150,000. This discussion of a safe harbor based on the size of the PPP loan is apparently being advanced by certain banks.

We encourage employers who obtained a PPP loan to talk with their lenders and accountants to capitalize on and comply with the PPP changes and make decisions about the forgiveness options. For those who have not yet applied for a PPP loan, the deadline is soon approaching —applicants have until **June 30, 2020** to apply for a loan.

Read more about the PPP's original provisions in our blog post [here](#).

**Prepared by Jeff Stachler**

**Ohio State University Agriculture and Natural Resources Extension Educator, Auglaize County**  
[stachler.1@osu.edu](mailto:stachler.1@osu.edu) and 701-541-0043