



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

September 1, 2023

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff

- The Board, Staff, and Assistant Attorney General Mark Randlett introduced themselves
- Board: Adams, Bohlen, Carlton, Ianni, Jemison, Lajoie

2. Public Hearing on Proposed Rule Amendments to Chapters 20, 31, 32 and 41

The Board will hear testimony on the proposed amendments:

Chapter 20 – Two amendments are proposed

1. Adopting current policy language into rule to make “Proper Identification of Treatment Sites” methods enforceable. Adding language from this policy under subsection 1-4 and creating a new subsection 5 that allows master applicators to submit their own methods for identifying treatment sites.
 2. Adding a section B that outlines penalties if violations occur over a 5-year period.
- Mike Peaslee, Technical Director, Modern Pest Control- Peaslee stated these were the most stringent proposed regulations in New England and other states held the applicator responsible for misapplication. He added that the proposed rule was excessive and unnecessary. Peaslee asked whether the Board had looked into applications regarding property disputes and if those would be considered unauthorized applications even if the company followed all procedures. He told the Board that in the rare instance a misapplication occurred it was because the technician failed to follow procedure. Peaslee explained that the company gave applicators very detailed training and they took this extremely seriously, up to and including termination, but it was always up to the license holder to identify the correct location. He stated that he looked at past consent agreements on the website and this did not seem to be a problem that occurred often. Peaslee stated that under the proposed rule changes there was the opportunity that a disgruntled employee could make unauthorized applications on purpose to close down a business. He concluded that property owners already had legal recourse against companies.

MEGAN PATTERSON, DIRECTOR
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- Scott Conrad – VP Operations, Mosquito Squad- Conrad stated the language as proposed had grey areas that needed clarification. As outlined, the current rules did not specify if multiple offenses must be made by the same applicator or if it pertained to any employee misidentifying property in the company.
- Deven Morrill – Regional Manager, Lucas Tree Experts, Morrill stated that the only way to avoid this scenario was by education and not punishment. He summarized the background of this policy and stated it was added as a policy to allow for amendments and changes with the times. Morrill stated that these enforcement actions were already in statute and putting them in rule only muddled the water. He stated that if the Board chose to implement the proposed language closure should only be for seven days so that small businesses would not suffer. Morrill noted that \$200,000 was earmarked for an education campaign that was never carried out or implemented by staff. He said an education campaign would have much more impact than putting a fourteen year old policy into rule.
- Jesse O'Brien – Maine Ornamental Horticulture Council and IPM Council- O'Brien stated that applicators were concerned by the proposed regulations and the BPC should enforce what was already outlined in regulation. He stated that the Board needed to do more outreach and education. Reaching applicators that do not participate with the Board should be a priority and misapplications to treatment sites were outliers in the industry.
- Heather Spalding – Deputy Director, Maine Organic Farmers and Gardeners Association (MOFGA)- Spalding stated that MOFGA often worked with growers who called about offsite spraying complaints and directed those calls to the BPC. She added that Section A(5) was vague, and phrasing could be changed to include a waiver. Spalding told the Board that Section B was a good measure and keeping licensure at risk would ensure compliance.
- Kyle Kent – Owner, North East Pest Solutions – Kent stated that this seemed like an overreach and that it could cause bargaining issues with commercial master applicators and contractors. He commented that he had never known the BPC to be an entity to take a person's job and ability to eat away, but that seemed like what was being proposed. Kent said that taking a CMA license away opened the door to malice for intentional error.
- Greg England – Owner, Green Shield Pest Solutions- England said he understood the challenge the Board was facing but felt this was an overreach and would have some devastating and unintended consequences. He stated that their company would make this a fireable offense, ending the employee's job and career, which would make it harder to hire individuals. He also echoed the risk from disgruntled employees. England stated that at the end of the day it was a human making that application and people occasionally made mistakes. England suggested the BPC look at what other states have done and said that education would be a better option.
- Patrick Vaillancourt – Owner, Northern Turf Management- Vaillancourt stated that treating the wrong address/property was not acceptable but was also not common among all companies, only a select few repeat offenders. He said the penalty should be harsher on those companies and not all companies. Vaillancourt told the Board that Maine had a short turf/pest management season and closing a company for 45 days during the peak season would be devastating to both the company and the applicators who would be out of work. He also mentioned the feasibility of enforcement action for these infringements, given the already heavy workload on staff. Vaillancourt stated that these proposed regulations would place a heavier burden on large companies that make more applications.

Chapter 31 – Two amendments are proposed

1. Combining categories 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one category 7C Disinfectant and Biocide and retaining language from the other categories under this new category.

2. Combining competency standards for 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one competency standard 7C Disinfectant and Biocide and retaining language from the other competency standard categories to align with language from the category descriptions in Section 2.

Chapter 32 – One amendment is proposed

1. Adding requirements for certified applicators supervising noncertified applicators that align with federal standards outlined in 40 CFR 171.201 (2023). These standards are required by EPA for certification and training program updates.
- Deven Morrill – Regional Manager, Lucas Tree Experts- Morrill stated that Maine should adopt the language that incorporated federally restricted use pesticides from the federal code. He said that this could be incorporated by policy and rulemaking efforts should only be used when needed for enforcement.

Chapter 41 – One amendment is proposed

1. Amend grower requirements and product-specific requirements to broaden the scope from Bt corn to all plant incorporated protectants and delete or amend language regarding refuges that is not relevant to current plant incorporated protectant growing practices.
- Heather Spalding – Deputy Director, Maine Organic Farmer and Grower Association- Spalding stated that MOFGA opposed the use of genetically modified organisms, GMOs, and would like the term GMO used in rule instead of plant-incorporated protectants, PIPs. She added that the notification responsibilities should be on the PIP grower instead of the neighbor.
 - Ben Gilman – Drummond Woodsum/Biotechnology Innovation Organization (BIO)- Gilman stated he was delivering comment submitted by Gene Harrington. He commented that the need for this rule was questioned altogether. Gilman said Maine was the only state in the country with the requirements outlined in this chapter for the planting of *Bt* corn, and that *Bt* corn had not adversely impacted public health and safety or the environment in Maine or any state. Gilman said BIO also supported a repeal to Section E(II), which required dealers distributing PIP sweet corn to sell the seed in quantities large enough to plant one acre or more.

End hearing at 9:40

1. Minutes of the July 21, 2023 and July 27, 2023 Board Meetings

Presentation By: John Pietroski, Acting Director
Action Needed: Amend and/or approve

- **Jemison/Bohlen: Moved and seconded to approve July 21, 2023 minutes as amended**
- **In Favor: Unanimous**
- **Carlton/Jemison: Moved and seconded to approve July 27, 2023 minutes**

○ **In Favor: Unanimous**

4. State of Maine Certification & Training Plan

Since 1974, the Maine Department of Agriculture has been receiving funds from EPA in the form of a program partnership grant. This money supports the regulation of pesticide use in the state. This is an update on efforts to obtain EPA approval for Maine's Certification and Training Plan. While Maine's plan was approved, EPA did provide remarks on the need for ongoing discussion of some plan details.

Presentation By: John Pietroski, Acting Director
Action Needed: Information only

- Pietroski stated that Maine's Certification and Training plan had been accepted by EPA.
- Patterson noted that staff were involved nationally to help get Maine's plan accepted and there would be EPA required rulemaking coming in the next year that needed to be completed.
- Adams thanked the staff for their diligent work on this.

5. LD 1770 Sales & Use Reporting

At the May 10, 2023 work session the Agriculture, Conservation and Forestry Committee voted this bill ought to pass as amended as a resolve directing the Board to act to enter into rulemaking to require applicators and dealers to submit their annual use reports electronically.

Presentation By: John Pietroski, Acting Director
Action Needed: Discussion

- Pietroski stated that the Board needed to report back to the legislature by March 2024 on efforts to implement mandatory electronic sales and use reporting. He added that commercial applicators and general use pesticide dealers had the ability to enter end of year sales and use reports into MePERLS. This functionality allowed for all data points to be queried. Restricted use pesticide dealers could currently upload a static document into MePERLS which did not allow for data points that could be queried. Pietroski stated that there needed to be consideration about how individuals without access to the internet could report electronically. He explained that the Board would need to enter into rulemaking to incorporate this requirement.
- Boyd stated that staff would also need time to complete outreach to the regulated community about this new requirement.
- There was Board discussion about what constituted an electronic entry. If a document was uploaded into MePERLS would that be considered as fulfilling the electronic submission requirement.
- Spalding commented that the purpose of this legislation was to be able to analyze and report on individual data points. She added that this was scaled back so that some information would be received to help the Board and legislature understand what chemicals were being used and what alternatives may exist.
- There was also discussion amongst the Board regarding the timeline of the resolve and that the transition may take some time.
- Adams agreed that the data needed to be captured but posed the question as to whether it should be mandated through MePERLS or entered into the system by a hired staff member.

- Bohlen stated the Board needed to consider how the data would be used, the cost for upgrades, and what was practical. He added that he would be willing to help out with the software solution.
- Adams raised concerns about recording both use and sales reports for identical products and how that data could be inaccurate or duplicative.
- Patterson stated that the Board may consider changing language in rule regarding reporting. She suggested they could have 'site' set to the actual certification category, which might help with classifying the data. Patterson said the Board and staff needed to consider what information was desired and how to make it easier for applicators to report and staff to interpret. She suggested that staff work with applicators already using the system and those who have used other reporting systems.

6. Funding Request for DACF IPM Program

The Integrated Pest Management Program is requesting funds to assist with ongoing efforts for the advancement of IPM in Maine. The Maine IPM Program works closely with the BPC to educate and promote IPM across the entire State of Maine, including giving talks annually for applicator credits across several categories, updating the GotPests website with new factsheets and research, and referring to the BPC website in all presentations and educational materials. While the IPM Program is supported, in part, by grant funding this funding is insufficient to support all outreach opportunities. The IPM Program is requesting a grant of \$24,521 to support outreach and education in calendar year 2024.

Presentation By: Hillary Peterson, Ph.D., IPM Specialist
 Action Needed: Discussion and decision to amend/approve/disapprove funding

- Peterson proposed a blanket request for 2024 funding for the DACF IPM program. She detailed the events and outreach that the IPM coordinator spearheaded and went over the details in the memo, including the three grants she applied for and received.
- Lajoie asked if this had been funded in the past or if it was new.
- Peterson responded that it had been funded in smaller amounts in the past.
- Adams noted that mosquito monitoring for DACF had been funded back in February 2023.
- Gary Fish, DACF State Horticulturalist, stated that the IPM Coordinator position was created by the first director of the BPC in the early 1980's and the funding had always been attached to the budget of the BPC. He added that it had been part of that Board budget for many years, including the salary, which would now be coming from the general fund.
- Adams brought up the last discussion regarding the budget and stated that at this moment the Board there was not a 2024 budget adopted. He added that they could not say for certain at this time whether there was money to fund the request until the 2024 budget was finalized. Adams asked Pietroski to put together a budget workshop for the next meeting.
- Bohlen agreed with Adams and stated there were several requests before the Board and the only way to make sense of them was in the context of the budget.
- Fish suggested the Board look back and see what the BPC had been funding all along. He added that this was attached to Board expenses for 30 years and it was not a new request.
- Bohlen asked where on the budget this was getting charged.
- Patterson stated that in her time as BPC Director there had been specific asks brought forward, such as mosquito monitoring and the rodent academy. She added that Murray had worked on a shoestring budget and this request was an attempt to enable Peterson to spend more time on

outreach. A lot of what Murray worked from was grant money and that was what Hillary was also working toward. Patterson said she was not sure what could be pulled out of the budget to specifically point to what had been allocated to the IPM program.

- The Board would like to see where specific expenses were coming out of the budget.

7. Endangered Species Act (ESA) Changes Approaching for Pesticide Registration and Labeling

In the past few months, EPA has released documents detailing upcoming changes to the Office of Pesticide Program's (OPP) handling of pesticide registration and subsequent labeling practices. OPP is moving to quickly incorporate ESA obligations in pesticide regulation. Presented here are the basic frameworks that describe two of OPP's new approaches: the Vulnerable Species Pilot (VS) and the Herbicide Strategy (HS).

Presentation By: Pamela Bryer, Ph.D., Pesticides Toxicologist

Action Needed: Discussion to determine the need for ongoing conversation

- Bryer stated that the deadline was coming up for the Herbicide Strategy, HS, public comment and the Vulnerable Species Pilot, VS, comment period had ended. The Board could view what other entities had said on docket. Bryer explained it was going to come down to details about how the Board was going to enforce this. She explained ambiguity of interpreting map lines as they translate to fields and stated they needed to decide how to approach drawing the lines on the ground.
- EPA's proposed HS is focused on mitigation measures to reduce movement of herbicides off treated areas and will consider each herbicide's chemical properties, effects on plants in toxicity studies, and the exposure profile for each agricultural use. The current VS prohibits pesticide use in key areas inhabited by species that the U.S. Fish and Wildlife Service has categorized as species with high vulnerability and small defined ranges.
- Adams stated that the HS framework was specifically directed toward agricultural applications.
- Bryer responded that the VS applied to almost all outdoor pesticide applications but HS applied only to agriculture uses. Herbicide use in agriculture by volume is one of the largest pesticide uses, so lowering agricultural herbicide usage potentially effects the greatest magnitude of change in the shortest time.
- Carlton stated that this seemed like a broad brush approach to try to fit as many applications as possible and left the states to answer questions about how to enforce it. He asked Lajoie about the impact of the HS in the county.
- Lajoie estimated it would impact 50,000 to 100,000 acres of farmland.
- There was further Board discussion about HS and VS.
- Bohlen stated that this was a lot of information about practices but he was not clear about legal structure and whether the Board needed to adopt regulations at the state level, and if not would like to know what the Board's role would be.
- Patterson stated that it seemed most changes would be in label language, so enforcement would be on label violations. She added that EPA was still trying to figure out all of the issues.
- Ianni asked if there was any idea on the timeline for implementation once the comment period closed.
- Patterson responded that the comment periods for some parts had closed, but there were several parts to comment on and EPA continued to take feedback and comment.

- Bohlen stated he had concerns about this type of policy at a national level and asked if there were new tasks this would require the Board to take on.
- Carlton agreed.
- Patterson went over some of the proposed mitigation measures and requirements. She noted there was a lot to unpack and it would affect all of agriculture.
- Bryer stated there was a contact at USDA Office of Pest Management Policy, Dr. Cameron Douglas, who might be willing to address the Board. This would allow the Board to pose questions about specific scenarios.
- Patterson said this individual could speak from the federal perspective.
- Adams stated there was a larger amount of content unknown and up for discussion than what was known. He questioned how the Board could be proactive about changes that were not yet spelled out. Adams suggested that if EPA was still fielding questions and asking for comments maybe the Board should be developing their own questions to ask.
- Bryer told the Board she would be attending a meeting about ESA and could bring back other states' perspectives at a later Board meeting.
- Carlton suggested this may be a less daunting task and easier to digest if they took aspects of HS and VS and saw how they would specifically apply to the state of Maine.
- Bryer agreed that a couple of case examples would be helpful.

8. Discussion About Registration of Repellent Clothing

Staff is requesting the Board's guidance in developing a policy for registering or exempting permethrin treated repellent products. Staff have prepared a memo outlining the history of the issue and two possible approaches.

Presentation By: Amanda Couture, Certification and Training Specialist
 Action Needed: Discussion and determination of the need for registration

- Adams asked whose job it was to ensure what was being claimed was accurate and enforceable and also who was protecting the wearer. He stated he was currently of the opinion that these products should have a label and be registered.
- Ianni asked what the pros and cons were of lumping these products together. She suggested that a pro would be that it was more efficient to just register the fabric but the cons somewhere down the line were that the message may not get communicated to the end buyer that permethrin was incorporated into these products.
- Tomlinson explained that the clothes were supposed to have a hang tag that let consumers know that it was a permethrin-treated product. The company producing the product would have their label and then the hang tag from the primary registrant, and the labels were very minimal.
- Ianni asked if the Board currently required registration of other downstream products.
- Tomlinson stated that it was required.
- Bohlen stated he wondered what information was getting to the consumer and who was overseeing that. He asked if registering the products would help enforce that the product would have the hang tag.
- The Board needed more information about this to make a decision.

9. Other Old and New Business

- a. Revised BPC Budget

- Bring back budget with details on IPM program funding.
- b. Obsolete Pesticides Collection Press Release
- Adams asked about the current landscape in Maine of agricultural container recycling.
 - Patterson stated that the Ag Container Recycling Council's, ACRC, mission was to coordinate the recycling of agricultural containers across the country. She noted there was currently question about containers being accepted due to the cleanliness of the containers being submitted. ACRC felt the standard of container cleanliness was not being met. Patterson explained that an interim solution was trying to work with distributors to provide collection points for their own customers but not for all of agriculture. She added that last she knew this was still unresolved.
 - Adams said staff should try to put energy into promoting this in the coming season.
 - Patterson suggested the Board could entertain a conversation with Mark Hudson, Executive Director for ACRC, about the issues.
- c. Update on 2023 Adjuvant Registration
- d. Variance Permit for CMR01-26 Chapter 29, Kennebec Estuary Land Trust
- e. Variance Permit for CMR01-26 Chapter 29, Top Leaf, LLC

10. Schedule of Future Meetings

October 13, 2023, December 1, 2023, January 11, 2024, February 23, 2024 and April 5, 2024 are the next scheduled Board meeting dates. The Board will decide whether to change and/or add dates.

- The Board stated they would like to have the meeting at the Civic Center during the 2024 Agricultural Trade Show if possible.

10. Adjourn

- **Lajoie/Carlton: Moved and seconded to adjourn at 11:45 PM**
- **In Favor: Unanimous**

**BASIS STATEMENT FOR ADOPTION OF
CMR 01-026, CHAPTER 20, 31, 32, AND 41**

Basis Statement

Chapter 20 – Two amendments are proposed:

1. Adopting current policy language into rule to make “Proper Identification of Treatment Sites” methods enforceable. Adding language from this policy under subsection 1-4 and creating a new subsection 5 that allows master applicators to submit their own methods for identifying treatment sites.
2. Adding a section B that outlines penalties if violations occur over a 5-year period.

Chapter 31 – Two amendments are proposed:

1. Combining categories 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one category 7C Disinfectant and Biocide and retaining language from the other categories under this new category.
2. Combining competency standards for 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one competency standard 7C Disinfectant and Biocide and retaining language from the other competency standard categories to align with language from the category descriptions in Section 2.

Chapter 32 – One amendment is proposed:

1. Adding requirements for certified applicators supervising noncertified applicators that align with federal standards outlined in 40 CFR 171.201 (2023). These standards are required by EPA for certification and training program updates.

Chapter 41 – One amendment is proposed:

1. Amend grower requirements and product-specific requirements to broaden the scope from Bt corn to all plant incorporated protectants and delete or amend language regarding refuges that is not relevant to current plant incorporated protectant growing practices.

The amendments to the proposed rule are in response to several needs BPC has identified in its rules. The amendments to Chapter 20 are for enforcement purposes, as the current policy regarding proper identification of treatment sites is not sufficient for violations, additionally the Board has added provisions where licensure suspension can be considered for violations of the new rules. The amendments to Chapter 31 are for administrative purposes, combining 7C: Disinfectant and Biocide subcategories 1. Disinfectant and Biocide Treatments, 2. Swimming Pool & Spa Treatments, and 3. Mold Remediation into one category 7C: Disinfectant and Biocide will reduce confusion among applicators on what testing is need for their licensure. This change also comes as a new manual for all three groups has been updated and will be easier to

distribute if all are considered the same category. The amendments to Chapter 32 are requirements for updates to Maine's Certification and Training Plan, as mandated by the United States Environmental Protection Agency (EPA). Amendments to Chapter 41 are in response to the need to modernize the language regarding Bt Corn. The Board decided to change the language to reflect all plant-incorporated protectants (PIP) that may be included in this chapter. The Board also changed the requirements for training certificates, removing the requirement for new trainings every three years.

Fifteen comments were received. Comments received for Chapter 20 included a concern for the strictness of the amendments, with an emphasis on the impact of small and large businesses. Many agreed that there is an issue of identifying the correct treatment sites in Maine. Commenters discussed the length of the penalties, asked for additional clarity and if there were licensure categories that would be exempt from these amendments, and discussed customer confidentiality. For Chapter 32, commenters wanted clarity in the rule that these federal requirements applied to restricted-use pesticides. Comments received for Chapter 41 included detailed history of how Maine was the last state to allow the use of plant-incorporated protectants. Additionally, commenters agreed with the new amendments that only require training and a certificate issuance once for continued licensure. There were concerns regarding the requirement for dealers to sell at least one acre of product, as this could be difficult for small, diverse farms to adopt.

Impact on Small Business

In accordance with 5 MRSA §8052, sub-§5-A, a statement of the impact on small business has been prepared. Information is available upon request from the Maine Board of Pesticides Control office, State House Station #28, Augusta, Maine 04333-0028, telephone 207-287-2731.

Rulemaking Statement of Impact on Small Business

5 MRSA §8052, sub-§5-A

Agency

Department of Agriculture, Conservation and Forestry—Maine Board of Pesticides Control

Chapter Number and Title of Rule

CMR 01-026, Chapter 20—Special Provisions

CMR 01-026, Chapter 31

CMR 01-026, Chapter 32

CMR 01-026, Chapter 41

Identification of the Types and an Estimate of the Number of the Small Businesses Subject to the Proposed Rule

Chapter 20:

Currently, 306 active spray contracting firms have pesticide applicator licensure in Maine. They will all be affected by this amendment:

1. Spray contracting firms will be required to submit their methods of proper site identification that they use to the Board by March 1, 2024
2. Applicators may be subject to additional penalties if they are found to violate the new amendments to the rule. If the Board wishes, they may suspend the commercial operator licensure for the first offense, the commercial operator and the master operator licensure for the second offense, and the commercial operator, master operator, and firm licensure for the third offense over a five-year period. Firms cannot operate if the master-level and firm-level licensure is suspended until the suspension period is concluded.

Chapter 31:

Currently, there are 92 applicators in the 7C categories. They will be unaffected by this amendment, other than their licensure would change to 7C. Additionally, new applicators seeking this licensure would all receive one manual.

Chapter 32:

Currently, there are 1,476 private applicators. This rule would apply to private applicators that are supervising non-certified applicators 16 and older who are immediate family members.

Chapter 41:

Currently, there are between 75 - 100 applicators that maintain certificates for Bt corn. These applicators would be affected, as they would not need to renew their training to receive certificates every three years.

Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, including the Type of Professional Skills Necessary for Preparation of the Report or Record

Chapter 20:

No additional skills will be necessary for the reporting and recordkeeping required by this new rule, these will be additional steps that spray contracting firms should already have on record and be following according to Board policy. Required reporting includes:

1. Maintaining records of methods of proper identification of treatment sites on file and available for the Board or inspectors to review, and
2. Submitting methods of proper identification of treatment sites to the Board by March 1, 2024

Chapter 31:

No additional skills will be needed for this rule. This changes the category that licensure would be held under.

Chapter 32:

No additional skills will be needed for this rule. These changes incorporate the new federal standards.

Chapter 41:

The changes to this rule reduce the burdens associated with reporting and recordkeeping, applicators would only need training and to obtain a certificate once instead of renewing the certificate every three years.

Brief Statement of the Probable Impact on Affected Small Businesses

Chapter 20:

The amendments will result in companies keeping methods of identifying their treatment sites on record and submitting those to the Board. If companies violate this rule, there will be an additional violation of improper identification of a treatment site. If the Board wishes, they may extend a suspension as outlined in Chapter 20 to businesses, which could result in licensure suspension at the operator, master operator, or firm level. Licensure suspension would have a financial impact on small businesses, where they would not be able to apply pesticides commercially for up to 45 days, resulting in lost profit during that period.

Chapter 31:

The amendments to this chapter will have minimum impact on small businesses. It changes the title of categories, but competency standards have not changed.

Chapter 32:

The amendments to this chapter will impact small farms with applicators who hold private licensure. Applicators can now employ immediate family members to use restricted-use pesticides under their direct supervision. These changes were made at the federal level and are incorporated by reference.

Chapter 41:

The amendments to this chapter will modernize language to reflect planting practices currently in place. It will reduce the burden and cost for applicators to renew certificates, by changing the requirement from every three years to one time. It changes the language from Bt corn to all plant-incorporated protectants, which will include more varieties of crops.

Description of Any Less Intrusive or Less Costly, Reasonable Alternative Methods of Achieving the Purposes of the Proposed Rule

Chapter 20:

The penalties for these amendments could be removed, which would make this rule less intrusive to businesses. In this instance, the policy incorporated into Section 7 would be enforceable but would not have additional licensure suspension penalties. It would follow the same requirements as 7 M.R.S.A. §616-A.

Chapter 31:

Alternatively, these categories could remain separate, which means that staff have different categories that all require the same manual and test. Combining these categories is for administrative purposes and to reduce confusing for test takers.

Chapter 32:

There are no alternative methods for achieving this rule. These changes must be made as they were a part of the conditional approval of the Maine State Certification and Training Plan as mandated by the Environmental Protection Agency. These changes are required for Maine to keep its primacy over pesticide regulation.

Chapter 41:

The Board could keep its current rules, however, they do require applicators to seek new certificates every three years. They could also choose to remove the plant-incorporated protectant portion, and keep this section of the rule only to include corn crops and not all plant-incorporated protectants. Alternatively, the BPC could also strike this section of rule as was suggested by commentors.

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**026 BOARD OF PESTICIDES CONTROL****Chapter 20: SPECIAL PROVISIONS**

SUMMARY: These provisions regulate the use, storage and disposal of pesticides with specific emphasis on registered pesticides, right of way and aquatic applications and employer/employee requirements.

Section 1. Registered Pesticides**A. Definitions**

“Perfluoroalkyl and Polyfluoroalkyl Substances” or “PFAS” means substances that include any member of the class of fluorinated organic chemicals containing at least one fully fluorinated carbon atom.

- B.** The use of any pesticide not registered by the Maine Board of Pesticides Control in accordance with Title 7 M.R.S.A. §601 is prohibited except as otherwise provided in this chapter or by FIFRA, Section 2(ee).
- C.** The use of registered pesticides for other than registered uses, or at greater than registered dosages, or at more frequent than registered intervals is prohibited, provided that application or use of unregistered pesticides and unregistered applications or uses of registered pesticides may be made for experimental purposes if in accordance with requirements of the Maine Board of Pesticides Control, and the U.S. Environmental Protection Agency.
- D.** Retailers and end users of pesticides no longer registered in Maine may continue to sell and use those items provided they were properly registered when obtained and such distribution and use is not prohibited by FIFRA or other Federal law.
- E.** In conducting review of registration or re-registration pursuant to 7 M.R.S.A. §607-A, the Board may consider the potential for environmental damage by the pesticide through direct application on or off-target or by reason of drift. If the Board finds that the use of the pesticide is anticipated to result in significant adverse impacts on the environment, whether on or off-target, which cannot be avoided or adequately mitigated, registration or re-registration will not be granted unless the Board finds that anticipated benefits of registration clearly outweigh the risks. In any case where the Board may request data in connection with registration or re-registration of any pesticide, such data may include that concerning pesticide residues, propensity for drift and testing therefor. Such data, if requested, shall provide information regarding residues and residue effects on plant tissues, soil and water and other potential deposition sites, and shall take into consideration differences in plants, soils, climatic conditions at the time of application and application techniques.

- F. In conducting review of registration or reregistration pursuant to 7 M.R.S.A §607-A, the Board shall require submission of the confidential statement of formula as defined in 7 M.R.S.A. §607 (5-A) and the following affidavits:
1. a completed and signed form provided by the Board at the time of application for product registration review or reregistration which attests that the pesticide has or has never been stored, distributed, or packaged in a fluorinated container; and
 2. a completed and signed form provided by the Board at the time of application for product registration review or reregistration which attests that the pesticide formulation does or does not contain perfluoroalkyl or polyfluoroalkyl substances as defined by the Board for this purpose of this section.

Section 2. Right-of-Way

Deciduous growth over six feet in height and evergreen growth over three feet in height shall not be sprayed with a herbicide within the right-of-way of any public way except that deciduous growth which has been cut to the ground and which has grown more than six feet during the growing season following the cutting, may be sprayed that following season. In addition, chemical pruning of single limbs of trees over the prescribed heights may be performed.

Section 3. Pesticide Storage and Disposal

- A. Unused pesticides, whether in sealed or open containers, must be kept in a secure enclosure and otherwise maintained so as to prevent unauthorized use, mishandling or loss; and so as to prevent contamination of the environment and risk to public health.
- B. Obsolete, expired, illegal, physically or chemically altered or unusable pesticides, except household pesticide products, shall be either:
1. stored in a secure, safe place under conditions that will prevent deterioration of containers or any contamination of the environment or risk to public health, or
 2. returned to the manufacturer or formulator for recycling, destruction, or disposal as appropriate, or
 3. disposed of in a licensed hazardous waste facility or other approved disposal site that meets or exceeds all current requirements of the Maine Department of Environmental Protection and the U.S. Environmental Protection Agency for facilities receiving such waste.

Section 4. Aquatic Applications

No person, firm, corporation or other legal entity shall, for the purpose of controlling aquatic pests, apply any pesticide to or in any waters of the state as defined in 38 M.R.S.A. §361-A(7) without approval of the Maine Department of Environmental Protection.

Section 5. Employer/Employee Requirements

- A. Any person applying pesticide shall instruct their employees and those working under their direction about the hazards involved in the handling of pesticides to be employed as set forth on the pesticide label and shall instruct such persons as to the proper steps to be taken to avoid such hazards.
- B. Any person applying pesticides shall provide and maintain, for the protection of their employees and persons working under their direction, the necessary safety equipment as set forth on the label of the pesticide to be used.

Section 6. Authorization for Pesticide Applications

- A. Authorization to apply pesticides to private property is not required when a pesticide application is made by or on behalf of the holder of an easement or right of way, for the purposes of establishing or maintaining such easement or right of way.
- B. When the Maine Center for Disease Control and Prevention (CDC) has identified that an organism is a vector of human disease and the vector and disease are present in an area, a government entity shall obtain authorization for ground-based applications by:
 - 1. Sending a written notice to the person(s) owning property or using residential rental, commercial or institutional buildings within the intended target site at least three days but not more than 60 days before the commencement of the intended spray applications. For absentee property owners who are difficult to locate, mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice; and
 - 2. Implementing an “opt out” option whereby residents and property owners may request that their property be excluded from the application by submitting written notice to the government entity at least 24 hours before spraying is scheduled to commence. Authorization is considered given for any property for which written notice was submitted and no “opt out” request was received by the sponsoring government entity.
- C. When the Maine Center for Disease Control and Prevention (CDC) recommends control of disease vectors, government entities are not required to receive prior authorization to apply pesticides to private property, provided that the government entity sponsoring the vector control program:
 - 1. Provides advance notice to residents about vector control programs using multiple forms of publicity which may include, but is not limited to, signs, newspaper, television or radio notices, direct mailings, electronic communication or other effective methods; and
 - 2. Implements an “opt out” option whereby residents and property owners may request that their property be excluded from any ground based control program and the government entity makes a reasonable effort to honor such requests; and

3. If aerial applications are made, takes affirmative steps, to the extent feasible, to avoid applications to exclusion areas as identified by Board policy.
- D. **General Provisions.** For any pesticide application not described in Chapter 20.6(A),(B) or (C), the following provision apply:
1. No person may contract with, or otherwise engage, a pesticide applicator to make any pesticide application to property unless that person is the owner, manager, or legal occupant of the property to which the pesticide is to be applied, or that person has the authorization of the owner, manager or legal occupant to enter into an agreement for pesticide applications to be made to that property. The term “legal occupant” includes tenants of rented property.
 2. No person may apply a pesticide to a property of another unless prior authorization for the pesticide application has been obtained from the owner, manager or legal occupant of that property. The term “legal occupant” includes tenants of rented property.
 3. No commercial applicator may perform ongoing, periodic non-agricultural pesticide applications to a property unless:
 - i. there is a signed, written agreement with the property owner, manager or legal occupant that explicitly states that such pesticide applications shall continue until a termination date specified in the agreement, unless sooner terminated by the applicator or property owner, manager or legal occupant; or
 - ii. the commercial applicator utilizes another system of verifiable authorization approved by the Board that provides substantially equivalent assurance that the customer is aware of the services to be provided and the terms of the agreement.

Section 7. **Positive Identification of Proper Treatment Site**

- A. Commercial applicators making outdoor treatments to residential properties must implement a system, based on Board approved methods, to positively identify the property of their customers. ~~The Board shall adopt a policy listing approved methods of positive identification of the proper treatment site.~~ After December 31, 2023, the master applicator responsible for the supervision of certified and noncertified applicators at each branch location must ensure that all applicators under their supervision are trained, annually, on positive identification of proper treatment sites. This master applicator must maintain records of the method of positive identification of proper treatment sites as adopted by the branch location. Appropriate positive identification methods that must be employed include at least one of the following:
1. Obtain the customer’s electric meter number in advance of the treatment, list it on the work order or invoice, and require the applicator to check for that number before initiating the treatment.

2. Visit the customer in advance of the treatment, and using a global positioning system (GPS), identify the coordinates of each property to be treated. Include the coordinates on the work order or invoice, equip the applicator with a GPS unit, and require that employee to check for those coordinates before initiating any treatment.
3. Visit the customer in advance of the treatment and take a digital time/date stamped photo of the home and any distinctive features of the property. Include the photo on the work order or invoice and require the applicator to carefully check the photo before initiating any treatment.
4. Visit the customer in advance of the treatment and attach a company logo or other unique identifying tag on the property. Include the location of the logo/tag on the work order or invoice and require the applicator to carefully check for its presence before initiating any treatment.
5. Any methods that were submitted in writing to the Board prior to March 1, 2024. Any methods submitted after this date may be subject to approval by staff.

B. Violations of Chapter 20, Section 7 is grounds for the suspension of certification or licensure under 22 M.R.S.A §1471-D(7).

1. For a first violation the applicators license/certification may be suspended;
2. For a second violation within a five-year period the applicator's and master's licensure/certification may be suspended; and
3. For a third violation within a five-year period the applicator's, master's, and firm's licensure/certification may be suspended.

Penalties may also be imposed pursuant to 7 M.R.S.A. § 616-A (2) for violations of Chapter 20, Section 7 in addition to any suspensions imposed under Chapter 20, Section 7 (B)(1), (2) or (3). Nothing in this subsection may be construed as prohibiting the Board from seeking license or certification revocation pursuant to 22 M.R.S.A. §§ 1471-D(6) and 1471-J where the Board determines revocation is warranted under the circumstances.

STATUTORY AUTHORITY:

Title 22 M.R.S.A., Chapter 258-A

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December 12, 2012 – emergency filing expires, chapter reverts to January 1, 2008 version

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01 **DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

026 **BOARD OF PESTICIDES CONTROL**

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

SUMMARY: These regulations describe the requirements for certification and licensing of commercial applicators.

1. Individual Certification and Company/Agency Licensing Requirements

- A. Any commercial applicator must be either:
 - I. licensed as a commercial applicator/master; or
 - II. licensed as a commercial applicator/operator; or
 - III. supervised on-site by either a licensed commercial applicator/master or a commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator. This supervision must include visual and voice contact. Visual contact must be continuous except when topography obstructs visual observation for less than five minutes. Video contact does not constitute visual observation. The voice contact requirement may be satisfied by real time radio or telephone contact. In lawn care and other situations where both the licensed and unlicensed applicator are operating off the same application equipment, the licensed applicator may move to an adjoining property on the same side of the street and start another application so long as he or she is able to maintain continuous visual and voice contact with the unlicensed applicator.
- B. All commercial applicators responsible for the supervision of noncertified applicators of restricted use pesticides must ensure compliance with training, record keeping, and all other requirements as indicated in 40 CFR 171.201(c) "Supervision of Noncertified Applicators" (2017).
- C. All commercial applicator licenses shall be affiliated with a company/agency and shall terminate when the employee leaves the employment of that company or agency.
- D. Individuals certified as commercial applicators are eligible to license with one or more companies/agencies upon submission of the application and fee as described in Section 6 of this regulation. The individual's certification remains in force for the duration of the certification period as described in Section 5 of this regulation.
- E. Each branch office of any company, agency, organization or self-employed individual ("employing entity") required to have personnel licensed commercially under state pesticide law shall have in its employment at least one master applicator. This Master

must be licensed in all categories which the branch office of the company or agency performs applications and any Operators must also be licensed in the categories in which they perform or supervise pesticide applications. This master applicator must actively supervise persons applying pesticides within such employing entity and have the ability to be on site to assist such persons within six (6) hours driving time. Whenever an out-of-state employing entity is conducting a major application project they must have a master applicator within the state.

F. **Exemptions**

- I. Persons applying pesticides to household pets and other non agricultural domestic animals are exempt from commercial applicator licensing.
- II. Swimming pool and spa operators that are certified by the National Swimming Pool Foundation, National Spa and Pool Institute or other organization approved by the Board are exempt from commercial applicator licensing. However, these persons must still comply with all provisions of C.M.R. 10-144, Chapter 202 – *Rules Relating to Public Swimming Pools and Spas*, administered by the Maine Department of Health and Human Services, Division of Environmental Health..
- III. Certified or licensed Wastewater or Drinking Water Operators applying registered disinfectants to waste or drinking water as part of their employment.
- VI. Adults applying repellents to children with the consent of parents/guardians.
- VII. Persons installing antimicrobial metal hardware.

2. **Categories of Commercial Applicators**

- A. All commercial applicators shall be categorized according to the type of work performed as outlined below:

I. **Agricultural Animal and Plant Pest Control**

- a. **Agricultural Animal** - This subcategory includes commercial applicators using or supervising the use of pesticides on animals and to places on or in which animals are confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire as pesticide applicators are included in this subcategory; however, those persons applying pesticides as drugs or medication during the course of their normal practice are not included.
- b. **Agricultural Plant** - This subcategory includes commercial applicators using or supervising the use of pesticides in the production of crops including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.

Option I - Limited Commercial Blueberry - This option includes commercial applicators using or supervising the use of pesticides in the production of blueberries only.

Option II - Chemigation - This option includes commercial applicators using or supervising the use of pesticides applied through irrigation equipment in the production of crops.

Option III - Agricultural Fumigation - This option includes commercial applicators using or supervising the use of fumigant pesticides in the production of crops.

Option IV - Post Harvest Treatment - This option includes commercial applicators using or supervising the use of pesticides in the post harvest treatment of food crops.

II. **Forest Pest Management**

This category includes commercial applicators using or supervising the use of pesticides in forests, forest nurseries, Christmas trees, and forest seed producing areas.

III. **Ornamental and Turf Pest Control**

- a. **Outdoor Ornamentals** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of outdoor ornamental trees, shrubs and flowers.
- b. **Turf** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of turf, such as at turf farms, golf courses, parks, cemeteries, athletic fields and lawns.
- c. **Indoor Ornamentals** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of live plants in shopping malls, businesses, residences and institutions.

IV. **Seed Treatment**

This category includes commercial applicators using or supervising the use of pesticides on seeds.

V. **Aquatic Pest Control**

- a. **General Aquatic** - This subcategory includes commercial applicators using or supervising the use of pesticides applied directly to surface water, including but not limited to outdoor application to public drinking water supplies, golf course ponds, rivers, streams and wetlands. Excluding applicators engaged in public health related activities included in categories VII(e) and VIII below.

- b. **Sewer Root Control** - This subcategory includes commercial applicators using or supervising the use of pesticides applied to sewers to control root growth in sewer pipes.

VI. **Vegetation Management**

- a. **Rights-of-Way Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation on utility, roadside and railroad rights-of-way.
- b. **General Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation (including invasive plants) on sites not included in category VI a including, but not limited to, municipal and other publicly owned properties, industrial or commercial plants and buildings, lumber yards, airports, tank farms, storage areas, parking lots, sidewalks, and trails.

VII. **Industrial, Institutional, Structural and Health Related Pest Control**

- a. **General** - This subcategory includes commercial applicators using or supervising the use of pesticides in, on or around human dwellings, office buildings, institutions such as schools and hospitals, stores, restaurants, industrial establishments (other than in Category 6) including factories, warehouses, food processing plants, food or feed transportation facilities and other structures, vehicles, railroad cars, ships, aircraft and adjacent areas; and for the protection of stored, processed or manufactured products. This subcategory also includes commercial applicators using or supervising the use of pesticides to control rodents on refuse areas and to control other pests, including but not limited to birds and mammals.
- b. **Fumigation** - This subcategory includes commercial applicators using or supervising the use of fumigants or fumigation techniques in any type of structure or transportation device.
- c. **Disinfectant and Biocide** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems, to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems, and in swimming pools and spas.
 - 1. ~~**Disinfectant and Biocide Treatments**~~ - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems.
 - 2. ~~**Swimming Pool & Spa**~~ - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in swimming pools and spas.

~~3. **Mold Remediation** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems.~~

- d. **Wood Preserving** - This subcategory includes commercial applicators using or supervising the use of restricted use pesticides to treat lumber, poles, railroad ties and other types of wooden structures including bridges, shops and homes. It also includes commercial applicators applying general use pesticides for remedial treatment to utility poles.
- e. **Biting Fly & other Arthropod Vectors** - This subcategory includes commercial applicators and non-public health governmental officials using or supervising the use of pesticides in management and control of biting flies & other arthropod vectors of public health and public nuisance importance including, but not limited to, ticks, mosquitoes, black flies, midges, and members of the horsefly family.
- f. **Termite Pests** - This subcategory includes commercial applicators using or supervising the use of pesticides to control termites.

VIII. **Public Health Pest Control**

- a. **Biting Fly Pests** - This subcategory includes governmental officials using pesticides in management and control of potential disease vectors or other pests having medical and public health importance including, but not limited to, mosquitoes, black flies, midges, and members of the horsefly family.
- b. **Other Pests** - This subcategory includes governmental officials using pesticides in programs for controlling other pests of concern to public health including, but not limited to, ticks and birds and mammal vectors of human disease.

IX. **Regulatory Pest Control**

This category includes governmental employees using pesticides in the control of pests regulated by the U.S. Animal and Plant Health Inspection Service or some other governmental agency.

X. **Demonstration and Research Pest Control**

This category includes all individuals who (1) demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration, (2) conduct field research with pesticides, and in doing so, use or supervise the use of pesticides. Individuals who conduct only laboratory-type research are not included. Applicants seeking certification in this category must also become certified in whatever category/subcategory they plan to make applications under; e.g., Categories I - IX.

XI. **Aerial Pest Control**

This category includes commercial applicators, including pilots and co-pilots, applying or supervising the application of pesticides by means of any aircraft. Applicants seeking certification in this category must also become certified in whatever category/subcategory they plan to make applications under; e.g., Categories I - IX.

3. **Competency Standards for Certification of Commercial Applicators**

- A. Applicants seeking commercial certification must establish competency in the general principles of safe pest control by demonstrating knowledge of basic subjects including, but not limited to, pesticide labeling, safety, environmental concerns, pest organisms, pesticides, equipment, application techniques and applicable laws and regulations. (Core Exam).
- B. Applicants seeking commercial certification must demonstrate competency in each applicable category or subcategory. (Category Exam). Competency in the applicable category or subcategory shall be established as follows:

I. **Agricultural Animal and Plant Pest Control**

- a. **Agricultural Animals.** Applicants seeking certification in the subcategory of Animal Pest Control as described in Section 2(A)(I)(a) must demonstrate knowledge of animals, their associated pests, and methods of pest control. Areas of practical knowledge shall include specific toxicity, residue potential, relative hazards of different formulations, application techniques, and hazards associated with age of animals, stress, and extent of treatment.
- b. **Agricultural Plant.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

II. **Forest Pest Management**

Applicants seeking certification in the category of Forest Pest Management as described in Section 2(A)(II) must demonstrate practical knowledge of forest vegetation management, forest tree biology and associated pests. Such required knowledge shall include population dynamics of pest species, pesticide-organism interactions, integration of pesticide use with other pest control methods, environmental contamination, pesticide effects on non-target organisms, and use of specialized equipment. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

III. **Ornamental and Turf Pest Control**

- a. **Outdoor Ornamentals.** Applicants seeking certification in the Outdoor Ornamental subcategory as defined in Section 2(A)(III)(a) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of trees, shrubs and floral plantings. Such knowledge shall include potential phytotoxicity, undue pesticide persistence, and application methods, with particular reference to techniques used in proximity to human habitations. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- b. **Turf.** Applicants seeking certification in the Turf subcategory as described in Section 2(A)(III)(b) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of turf. Such knowledge shall include potential phytotoxicity, undue pesticide persistence, and application methods, with particular reference to techniques used in proximity to human habitations. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- c. **Indoor Ornamentals.** Applicants seeking certification in the Indoor Ornamental subcategory described in Section 2(A)(III)(c) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of indoor ornamental plantings. Such knowledge shall include pest recognition, proper pesticide selection, undue pesticide persistence, and application methods with particular reference to techniques used in proximity to human presence.

IV. **Seed Treatment**

Applicants seeking certification in the category of Seed Treatment as described in Section 2(A)(IV) must demonstrate practical knowledge of seed types and problems requiring chemical treatment. Such knowledge shall include seed coloring agents, carriers and binders which may affect germination, hazards associated with handling, sorting, and mixing in the treatment process, hazards of introduction of treated seed into food and feed channels, and proper disposal of unused treated seeds.

V. **Aquatic Pest Control**

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- b. **Sewer Root Control** - Applicants seeking certification in the subcategory of Sewer Root Control as described in Section 2(A)(V)(b) must demonstrate practical knowledge of proper methods of sewer root control pesticide application, application to pipes, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include potential effects on water treatment plants, movement of pesticides into off target pipes or buildings and the hazards of sewer gases.

VI. **Vegetation Management**

Applicants seeking certification in the subcategories under Vegetation Management as described in Section 2(A)(VI) (a-b) must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include an ability to recognize target organisms and circumstances specific to the subcategory, awareness of problems of runoff, root pickup and aesthetic considerations associated with excessive foliage destruction and "brown-out", and an understanding of the mode of action of herbicides, and reasons for the choice of particular chemicals for particular problems, importance of the assessment of potential impact of spraying on adjacent public and private properties and activities, and effects of spraying on fish and wildlife species and

their habitat. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

VII. Industrial, Institutional, Structural and Health Related Pest

- a. **General.** Applicants seeking certification in the subcategory of General Pest Control as described in Section 2(A)(VII)(a) must demonstrate a practical knowledge of a wide variety of pests and methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.
- b. **Fumigation.** Applicants seeking certification in the subcategory Fumigation as described in Section 2(A)(VII)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees and customers.
- c. **Disinfectant and Biocide.** Applicants seeking certification in the subcategory of Disinfectant, Biocide, Pools and Spas, Mold Remediation, and Water Damage Restoration as described in Section 2(A)(VII)(c) must demonstrate practical knowledge of water organisms and their life cycles, pool and spa design systems, drinking water treatment plant designs, cooling water system designs, mold and problematic microbial organisms, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
 1. ~~**Disinfectant and Biocide Treatments.**~~ Applicants seeking certification in the subcategory of Disinfectant and Biocide Treatments as described in Section 2(A)(VII)(c)(1) must demonstrate practical knowledge of water organisms and their life cycles, drinking water treatment plant designs, cooling water system designs, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
 2. ~~**Swimming Pool & Spa.**~~ Applicants seeking certification in the subcategory of Swimming Pool & Spa as described in Section 2(A)(VII)(c)(2) must demonstrate practical knowledge of water organisms and their life cycles, pool and spa design systems, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.

3. **Mold Remediation.** Applicants seeking certification in the subcategory of Mold Remediation as described in Section 2(A)(VII)(c)(3) must demonstrate practical knowledge of mold and problematic microbial organisms, their life cycles, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
- d. **Wood Preserving.** Applicants seeking certification in the Wood Preserving Subcategory described in Section 2(A)(VII)(d) must demonstrate practical knowledge in wood destroying organisms and their life cycles, nonchemical control methods, pesticides appropriate for wood preservation, hazards associated with their use, proper handling of the finished product, proper disposal of waste preservatives, and proper application techniques to assure adequate control while minimizing exposure to humans, livestock and the environment.
- e. **Biting Fly and Other Arthropod Vector Pests.** Applicants seeking certification in the subcategory of Biting Fly and Other Arthropod Vector Pest control as described in Section 2(A)(VII)(e) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- f. **Termite Pests.** Applicants seeking certification in this subcategory must demonstrate a practical knowledge of Termite pests and methods for their control. Such knowledge shall include identification of termites and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

VIII. Public Health Pest Control

- a. **Biting Fly and Other Arthropod Vector Pests.** Applicants seeking certification in the subcategory of Biting Fly and Other Arthropod Vector Pest Control as described in Section 2(A)(VIII)(a) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the

importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

- b. **Other Pests.** Applicants seeking certification in the subcategory of Other Pest Control as described in Section 2(A)(VIII)(b) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

IX. **Regulatory Pest Control**

Applicants seeking certification in the category of Regulatory Pest Control as described in Section 2(A)(IX) must demonstrate practical knowledge of regulated pests and applicable laws relating to quarantine and other regulations of pests. Such knowledge shall also include environmental impact of pesticide use in eradication and suppression programs, and factors influencing introduction, spread, and population dynamics of relevant pests. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

X. **Demonstration and Research Pest Control**

Applicants seeking certification in the category of Demonstration and Research Pest Control as described in Section 2(A)(X) must demonstrate practical knowledge in the broad spectrum of activities involved in advising other applicators and the public as to the safe and effective use of pesticides. Persons involved specifically in demonstration activities will be required to demonstrate knowledge of pesticide-organism interactions, the importance of integrating chemical and non-chemical control methods, and a grasp of the pests, life cycles and problems appropriate to the particular demonstration situation. Field researchers will be required to demonstrate general knowledge of pesticides and pesticide safety, as well as a familiarity with the specific standards of this Section which apply to their particular areas of experimentation. All individuals certified in this category must also be certified in one or more of the previous categories or subcategories which represent at least 80% of their practice. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

XI. **Aerial Pest Control**

Applicants seeking certification in the category of Aerial Pest Control as described in Section 2(A)(XI) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Applicants must also demonstrate competency in the specific category or subcategory in which applications will be made, as described in paragraphs I, II, VI and VIII herein. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

4. **Competency Standards for Certification of Commercial Applicator/Master**

- A. **Regulations Exam.** An applicant seeking certification as a commercial applicator/master must successfully complete a closed book exam on the appropriate chapters of the Board's regulations. The passing grade shall be 80%. An applicant must successfully complete the regulations exam before being allowed to proceed to the master exam. The staff may waive the requirements for the closed book regulation exam if it determines that a pest management emergency exists necessitating the issuance of a nonresident license pursuant to Section 6 B. of this chapter, provided that the staff verbally reviews the pertinent regulations with the applicant prior to issuing a nonresident license.
- B. **Master Exam.** An applicant seeking certification as a commercial applicator/master must also demonstrate practical knowledge in ecological and environmental concerns, pesticide container and rinsate disposal, spill and accident mitigation, pesticide storage and on site security, employee safety and training, potential chronic effects of exposure to pesticides, pesticide registration and special review, the potential for groundwater contamination, principles of pesticide drift and measures to reduce drift, protection of public health, minimizing public exposure and use of non pesticide control methods. In addition, applicant must demonstrate the ability to interact with a concerned public.

5. **Certification Procedures for Commercial Applicators**

- A. **Initial Certification.** Individuals attempting to certify as a commercial applicator must be at least 18 years of age.
 - I. **Application for Exams.** Individuals applying to take exams must submit a completed application and associated fees. All fees are waived for governmental employees.
 - a. Information shall include name, home address, company address, name and telephone number of supervisor and categories for which certification is desired.

- b. A non-refundable fee of \$10.00 for each core, category or subcategory exam shall accompany the application.
- c. Study materials for other than the regulations exam are available through the University of Maine Cooperative Extension Pest Management Office for a fee.
- d. A non-refundable fee of \$10.00 for the regulations exam and \$40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulations exam will be sent to the applicant upon receipt of their application and the required fees.

II. **Appointment for Exams**

- a. Exams will be scheduled by Board staff. It is the responsibility of the applicant to reschedule if necessary.
- b. All exam fees shall be forfeited if an applicant fails to notify the Board that he/she cannot sit for the exams on the scheduled date at least 24 hours in advance of the scheduled exam. Applicants who cancel their exam appointment two times in a row shall also forfeit their exam fees. Re-application shall require an additional \$15.00 fee.
- c. Exams will be available year-round on an appointment basis at the Board's office in Augusta.
- d. Exams may also be offered at other locations designated by the Board staff. Appointments for these exams should be arranged by application with the Board's office in Augusta.

III. **Exams**

- a. Applicants shall take a closed book core exam plus a closed book category technical exam on each applicable category or subcategory for which they anticipate making pesticide applications.
- b. In addition to the exams described above in sections (a), applicants for commercial applicator/master certification must complete a closed book written regulations exam as well as a master exam. Applicants for commercial applicator/master must successfully complete the core and at least one category exam or the combined exam before being eligible to take the master exams. Applicants must also successfully complete the regulations exam before being allowed to commence on the master exam.

IV. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.

- a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.

- b. Applicants should be present and ready to take the exams at the appointed time.
- c. Applicants shall not talk during the examination period.
- d. Applicants shall not be allowed to bring any books, papers, cellular telephones, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.
- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.

V. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.

- a. An applicant who fails the core exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.
- b. An applicant who fails a category exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.
- c. An applicant who passes the core and one category exam shall be considered eligible for operator level licensing in that particular category so long as that person will be working under the supervision of a Master applicator. If at a later date the applicant wishes to add another category, only the appropriate category exam shall be required.
- d. An applicant who fails a master exam must re-apply and pay all required fees and may not retake the examination prior to 6 days after the date of such failed examination.
- e. Any applicant must pass both the core and at least one category exam by December 31 of the third year from the date on which the first exam was passed.
- f. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retaking.

VI. **Expiration.** Certification under this Section will expire on December 31st of the third year after the date of successful completion of required exams and on December 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.

- VII. An applicant's original certification period shall not be extended due to the applicant qualifying for another category or upgrading to the master level.

B. Recertification of Applicators

- I. Persons with current valid certification may renew that certification by either providing documentation from a substantially equivalent professional certification program approved by the board or by accumulating recertification credits during the certification period described in Section 5(A)VI according to the following schedule:
- a. **Master level** - 9 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.
 - b. **Operator level** - 6 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.
- II. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
- a. Board staff will review program agendas and monitor programs as time permits.
- III. Credit will be allowed for topics including, but not limited to:
- a. Applicable laws and regulations.
 - b. Environmental hazards.
 - c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
- IV. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting with details of the agenda. Board staff will review program agendas and assign credit values.
- a. One credit will be assigned for each 1 hour of presentation on appropriate topics.

- b. An individual who conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
 - c. An individual who organizes a meeting shall be required to maintain a sign up sheet and supervise the signing of the sheet by all applicators attending the program. That individual shall submit the sign up sheet to the Board at the same time the verification attendance forms are collected and submitted to the Board.
- V. For in state programs, applicants must submit verification of attendance at approved programs to the Board. For out of state programs, applicators must submit verification of attendance; they may also be asked to provide documentation such as an agenda or descriptions of the presentations attended.
- VI. A person who fails to accumulate the necessary credits during their first three year certification period will have to retake and pass all exam(s) required for initial certification. If a person fails to accumulate the necessary credits again that person must retake and pass all exam(s) required for initial certification and within one year thereafter, obtain the balance of the recertification credits which that person failed to accumulate during the previous certification period. If that person does not obtain the balance of credits needed, the Board will not renew their license until the make- up credits are accrued.
- VII. Applicants must attend the entire approved program(s) for which recertification credit is sought. No other person may complete or sign a verification form on another applicator's behalf. Any form that is completed or signed by a person other than the applicator will be deemed a fraudulent report and will not be approved by the Board for recertification credit(s). Any credit(s) approved by the Board pursuant to an attendance verification form which is subsequently determined by the Board to have been completed or signed by a person other than the applicator shall be void and may not be counted towards the applicator's recertification requirements; and any recertification issued on the basis of such credits shall be void.

6. Licensing

- A. All Commercial Applicators required to be certified under this chapter and state pesticide law shall be licensed before using or supervising the use of pesticides as described in Section 1(A).
- B. **Nonresident licenses.** When the staff determines that a pest management emergency exists which necessitates the use of aerial application and for which there are not sufficient qualified Maine licensees, it may issue a license without examination to nonresidents who are licensed or certified by another state or the Federal Government substantially in accordance with the provisions of this chapter. Nonresident licenses issued pursuant to this section are effective until December 31 of the year in which they are issued.
- C. **Application.** Application for a commercial applicator license shall be on forms provided by the Board.

- I. The completed application must include the name of the company or agency employing the applicant.
 - II. Unless the applicant is the owner of a company, the completed application must be signed by both the applicant and that person's supervisor to verify the applicant is an employee of the company/agency.
- D. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
- I. For a commercial applicator license - \$105.00 per person.
- E. Commercial applicators who apply pesticides for hire (custom applicators) and operate a company that is incorporated or which employs more than one applicator (licensed or unlicensed) must comply with Chapter 35, *Certification & Licensing Provisions/Spray Contracting Firms* which requires an additional Spray Contracting Firm License.
- F. **Insurance.** Commercial applicators who spray for hire (custom applicators) shall be required to have liability insurance in force at any time they make a pesticide application.
- I. Applicators shall submit a completed and signed form provided by the Board at the time they apply for their license which attests that they will have the required amounts of insurance coverage in effect when they make pesticide treatments. The information submitted on the form must be true and correct.
 - II. Insurance coverage must meet or exceed the following minimum levels of liability:
 - a. **Ground applicators**

Public liability	\$100,000 each person \$300,000 each occurrence
Property damage	\$100,000 each occurrence
 - b. **Aircraft applicators**

Public liability	\$100,000 each person \$300,000 each occurrence
Property damage	\$100,000 each occurrence
- G. **Reports.** Annual Summary Reports described in Chapter 50, Section 2(A) must be submitted for each calendar year by January 31 of the following year. In the event a required report is not received by the due date, the person's license is temporarily suspended until the proper report is received or until a decision is rendered at a formal hearing as described in 22 MRSA §1471-D (7).

H. **Expiration**

- I. All licenses will expire at the end of the certification period as determined in Section 5(A)VI or when an individual licensee terminates employment with the company/agency with which the individual's license is affiliated.
- II. The licensee or a company/agency representative shall notify the Board in writing within 10 days after a licensee is terminated from employment.
- III. Also, all licenses within a company/agency are suspended if the licensed Master is terminated from employment or dies.

- I. **Decision.** Within 60 days of receipt of application by the Board, unless the applicant agrees to a longer period of time, the Director shall issue, renew or deny the license. The Director's decision shall be considered final agency action for purposes of 5 M.R.S.A. §11001 *et seq.*

- J. **Credentials Contact.** Licenses issued under this rule will include the following information:

- I. Full name of applicator
 - II. License number
 - III. Categories
 - IV. Expiration date
 - V. Maine statute under which license is issued.
-

STATUTORY AUTHORITY: 22 M.R.S.A., Section 1471-D

EFFECTIVE DATE:

January 1, 1983 (filed with Secretary of State August 13, 1982)

AMENDED:

December 29, 1982

January 1, 1984

January 1, 1984 - Section 7

May 20, 1984 - Section 6

May 13, 1985 - Section 5

Emergency amendment effective April 18, 1986 - Section 6

August 3, 1986 - Section 6

November 30, 1986 - Section 3

May 23, 1987 - Section 1

April 27, 1988

April 29, 1990

January 1, 1996 (adopted by Board October 7, 1994 - see Section 8 for transition dates)

October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

December 28, 1999 -- also converted to MS Word

March 5, 2003

July 3, 2005 – filing 2005-267

March 4, 2007 – filing 2007-69

July 2, 2009 – filing 2009-318 (EMERGENCY, later reverted to pre-emergency status)

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

December 9, 2014 – filing 2014-280

September 23, 2015 – filing 2015-168

July 23, 2019 – filing 2019-131

SUMMARY: These regulations describe the requirements for certification and licensing of private applicators.

1. Competency Standards for Certification - Private Applicator

- A. No person shall be certified as a private applicator unless he has fulfilled requirements demonstrating his knowledge of basic subjects including pesticide label comprehension, ability to read and understand pesticide labeling, safety, environmental concerns, stewardship, pest organisms, pesticides, equipment, application techniques, responsibilities for supervisors of non-certified applicators, and applicable laws and regulations. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans (core exam).
- B. No person shall be certified as a private applicator unless he has demonstrated knowledge of the general principles of pest control for his major commodity, including specific pests of the crop, their life cycle, and proper timing of control measures to be efficacious (Commodity Exam).

2. Certification Procedures for Private Applicators

A. Initial Certification

- 1. Any person attempting to certify as a private applicator must be at least 18 years of age.
- 2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.
- 3. Exams may be taken at cooperating County University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.
- 4. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.
 - a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.

- b. Applicants should be present and ready to take the exams at the appointed time.
- c. Applicants shall not talk during the examination period.
- d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.
- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.

5. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.

- a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
- b. An applicant who fails the exam in the area of his primary commodity may not retake the that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
- c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.
- d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.

6. Certification under this section will expire on October 31st of the third year after the date of successful completion of the exams and on October 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.

B. **Supplemental Certification.** Private applicators who are certified as described in Section 2(A), and intend to conduct soil fumigation, non-soil fumigation or aerial applications must be certified in the appropriate supplemental category. Certification is obtained by passing a written exam with a minimum score of 80.

- 1. Supplemental category exams shall be closed book.
- 2. Supplemental category exams will be available year-round on an appointment basis at the Board's office in Augusta.
- 3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.

4. **Categories for Supplemental Certification of Private Applicators**

- a. **Soil Fumigation.** This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.
- b. **Non-soil Fumigation.** This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device.
- c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft.

5. **Competency Standards for Supplemental Certification of Private Applicators**

Applicants seeking supplemental private certification must demonstrate competency in each applicable category (Category Exam). Competency in the applicable category shall be established as follows:

- a. **Soil Fumigation.** Applicants seeking supplemental certification in the category of Soil Fumigation as described in Section 2(B)(4)(a) must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (d) (2017).
- b. **Non-soil Fumigation.** Applicants seeking supplemental certification in the category of Structural Fumigation as described in Section 2(B)(4)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (e) (2017).
- c. **Aerial Pest Control.** Applicants seeking supplemental certification in the category of Aerial Pest Control as described in Section 2(B)(4)(c) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical

dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (f) (2017).

- C. **Requirements for Noncertified Applicators.** A certified applicator directly supervising a noncertified applicator to use restricted use pesticides must follow the provisions in 40 CFR 171.201 (2023).

B.D. Recertification

1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Section 2(A)6.
2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.
 - c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.

- a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.
 - b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
- 5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.
- 6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

3. Licensing

- A. **Application.** Application for a private applicator license, shall be on forms provided by the Board. Information shall include name; Social Security number; mailing address; farm name, location and telephone number; and major crop(s).
- B. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
 - 1. For a private applicator license - \$15.00 per person.
 - 2. For replacement or alteration - \$5.00.
- C. **Expiration.** Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited and that person must retake and pass both the core and commodity exams to again be eligible for licensing.
- D. **Decision.** Within 60 days of receipt of application by the Board, unless the applicant agrees to a longer period of time, the Director shall issue, renew or deny the license. The Director's decision shall be considered final agency action for purposes of 5 M.R.S.A. §11001 *et seq.*

- E. **License Issued.** Licenses issued under this rule will include the following information:
- I. Full name of applicator
 - II. License number
 - III. Commodities and categories
 - IV. Expiration date
 - V. Maine statute under which license is issued
-

STATUTORY AUTHORITY: 22 M.R.S. §1471-D

EFFECTIVE DATE:

January 1, 1983

AMENDMENT EFFECTIVE:

December 6, 1987

August 17, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

August 25, 1997 – fees

January 4, 2005 – filing 2004-605, Section 3.C.

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

December 9, 2014 – Section 2(A)(4)(a, b), filing 2014-281

July 23, 2019 – filing 2019-132

SUMMARY: This chapter describes special limitations placed upon the use of (1) aldicarb (Temik 15G) in proximity to potable water bodies; (2) trichlorfon (Dylox, Proxol); (3) hexazinone (Velpar, Pronone), (4) aquatic herbicides in the State of Maine; (5) plant-incorporated protectants; (6) neonicotinoids (dinotefuran, clothianidin, imidacloprid, thiamethoxam); and (7) chlorpyrifos (Dursban, Lorsban).

Section 1. ALDICARB (TEMIK®)

The registration of aldicarb (Temik 15G) is subject to the following buffer zone requirements:

- A. Aldicarb (Temik 15G) shall not be applied within 50 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in the range of one to ten parts per billion (ppb). The 50 foot buffer would be mandatory for one year with a required retesting of the water at the end of the period.
- B. Aldicarb (Temik 15G) shall not be applied within 100 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in excess of 10 ppb. The 100 foot buffer would be mandatory for one year with a required retesting of the water at the end of this period.

Section 2. TRICHLORFON (DYLOX, PROXOL)

The registration of trichlorfon (Dylox, Proxol) is subject to the following requirements:

- A. Trichlorfon shall only be used for control of subsurface insects on turf.
- B. Prior to application the target pest must be identified and the severity of the infestation must be determined, including the extent of the damage.
- C. Only infested areas shall be treated with trichlorfon. Broadcast treatments of the entire turf area are prohibited.
- D. Following application, the trichlorfon must be watered into the soil with at least ½ inch of water and according to the label directions. The applicator must assure that the appropriate watering will take place prior to re-entry by any unprotected person.

Section 3. HEXAZINONE (VELPAR, PRONONE)

The registration of hexazinone is subject to the following limitations and conditions.

A. Licenses Required

No person shall use or supervise the use of any pesticide containing the active ingredient hexazinone unless they have obtained an applicators license in accordance with 22 M.R.S. §1471-D.

Section 4. AQUATIC HERBICIDES

The registration of pesticides for which there is an aquatic herbicide use on the product label shall be subject to the following limitations and conditions.

A. Board Publication of List

The Board of Pesticides Control will publish by May 23, 2003 and by March 15th of each year thereafter a list of herbicide products registered in Maine for which the manufacturer has verified that there is an aquatic use on the pesticide label. Based on available information, the Board may exempt from this list pesticides that it determines are not for use in the control of aquatic vegetation. Pesticides labeled solely for use in aquariums and antifouling paints, are specifically exempt from this list.

B. Licenses Required

- I. Unless exempted under Chapter 41, Section 4 (B) (III), no person shall purchase, use or supervise the use of any aquatic herbicides identified on the Board's annual listing unless they have obtained a private or commercial pesticide applicator's license from the Board.
- II. No person shall:
 - a. Distribute any aquatic herbicides identified on the Board's annual listing without a restricted use pesticide dealer's license from the Board; or
 - b. Unless exempted under Chapter 41, Section 4 (B) (III), distribute any aquatic herbicides identified on the Board's annual listing to any person who is not licensed as a private or commercial applicator by the Board.
- III. Registered herbicides containing only the active ingredients erioglaucine (Acid Blue 9 or FD&C Number 1, CAS Registry No. 1934-21-0) and/or tartrazine (Acid Yellow 23 or FD&C Yellow Number 5, CAS Registry No. 2650-18-2 (trisodium salt) or 3844-45-9 (triammonium salt)) are exempt from the applicator licensing requirements described in Chapter 41, Section 4 (B) (I) and Chapter 41, Section 4 (B) (II) (b).

C. Disclosure

The Board will make a disclosure form available to dealers distributing any aquatic herbicides identified on the Board's annual listing. The Board requests that dealers present to customers the disclosure form that advises purchasers that, (1) an aquatic discharge license must be obtained from the Maine Department of Environmental Protection before any application may be made to any surface waters of the State as defined in 38 M.R.S.A. Section 361-A(7) including any private ponds that may flow into such a body of water at any time of year, (2) that Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection on the use of aquatic herbicides are available.

D. Records and Reporting

Dealers distributing any aquatic herbicides identified on the Board's annual listing shall keep records of such sales and provide reports to the Board as described for restricted use pesticides in Chapter 50, "Record Keeping and Reporting Requirements."

E. Use of Best Management Practices

Aquatic herbicides applied to private ponds and not subject to an aquatic discharge permit may only be applied consistent with Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection.

Section 5. PLANT-INCORPORATED PROTECTANTS

The registration, distribution and use of plant-incorporated protectants are subject to the following limitations and conditions:

A. Definitions

"Plant-incorporated protectant" means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance.

B. License Required

No person shall distribute any plant-incorporated protectant without either a general use pesticide dealer license or a (restricted or limited use) pesticide dealer license from the Board.

C. Dealer Requirements

Dealers distributing plant-incorporated protectants are subject to the following requirements:

- I. General use and (restricted or limited use) pesticide dealers shall notify the Board of their intent to distribute plant-incorporated protectants on all initial license and license renewal application forms provided by the Board.
- II. General use and (restricted or limited use) pesticide dealers shall maintain sales records showing the list of the names and addresses of all purchasers of plants, plant parts or seeds containing plant-incorporated protectants. These records must be made available to representatives of the Board for inspection at reasonable times, upon request, and must be maintained for two calendar years from the date of sale.
- III. Any general use and (restricted or limited use) pesticide dealer who discontinues the sale of plant-incorporated protectants shall notify the Board in writing and shall provide the Board, upon request, with all records required by Section 5(C)II of this chapter.

D. Grower Requirements

- I. All users of plant-incorporated protectants shall maintain the records listed below for a period of two years from the date of planting. Such records shall be kept current by recording all the required information on the same day the crop is planted. These records shall be maintained at the primary place of business and shall be available for inspection by representatives of the Board at reasonable times, upon request.
 - a. Site and planting information, including town and field location, a map showing crop location and refuge configuration in relation to adjacent crops within 500 feet that may be susceptible to cross-pollination;
 - b. Total acres planted with the plant-incorporated protectant and seeding rate;
 - c. Total acres planted as refuge and seeding rate;
 - d. Detailed application information on any pesticide applied to the refuge as described in Section 1(A) of Chapter 50, "Record Keeping and Reporting Requirements"; and
 - e. Planting information for each distinct site including:
 - i. date and time of planting; and
 - ii. brand name of the plant-incorporated protectant used.
- II. There are no annual reporting requirements for growers.

E. Product-Specific Requirements

- I. Requirements for plant-incorporated protectants ~~corn containing *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production.~~
 - a. Prior to planting plant-incorporated protectants ~~corn containing any *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for~~

~~its production~~, the grower must have completed a Board-approved training course available on-line, pass an exam, and acquire an appropriate and possess a valid product-specific training certificate.

- b. ~~Product-specific training certificates shall be issued following each Board-approved session. The certificates will remain valid until December 31 of the third year after issuance.~~
- eb. ~~Non-Bt corn~~ plant-incorporated protectant growers whose crops are or will be located within 500 feet of a prospective ~~Bt corn~~ plant-incorporated protectant planting site can request that the ~~Bt corn~~ plant-incorporated protectant grower protect the non-~~Bt corn~~ plant-incorporated protectant crop from pollen drift.
 - i. the request must be made prior to planting of the ~~Bt corn~~ plant-incorporated protectant crop;
 - ii. the request must identify the non-~~Bt corn~~ plant-incorporated protectant crop to be protected; and
 - iii. the growers may agree on any method for protection but, if an agreement cannot be reached,
 - 1. If a refuge is required, the Bt corn plant-incorporated protectant grower must plant any refuge required by the - Bt corn plant-incorporated protectant grower agreement, grower guide or product label in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt corn plant-incorporated protectant crop; or
 - 2. if no refuge is required, the Bt corn plant-incorporated protectant grower shall maintain at least a 300-foot Bt plant-incorporated protectant corn-free buffer to non-Bt corn plant-incorporated protectant crops.
- dc. ~~Bt corn~~ plant-incorporated protectant growers are encouraged to follow all best management practices developed by the Board or the Department of Agriculture, Conservation and Forestry.
- II. Dealers distributing ~~Bt plant-incorporated protectant~~ sweet corn shall only sell the seed in quantities large enough to plant one acre or more.

F. Confidentiality

Any person providing information to the Board in connection with the record-keeping and reporting requirements of Section 5 of this chapter may designate that information as confidential in accordance with 7 M.R.S.A. §20.

Section 6. NEONICOTINOIDS (DINOTEFURAN, CLOTHIANIDIN, IMIDACLOPRID, OR THIAMETHOXAM)

The registration of pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam for which there is an outdoor ornamental plant or turf use on the product label shall be subject to the following limitations and conditions.

A. Definitions

- I. “Emerging Invasive Invertebrate Pests” means any invertebrate, including its eggs or other biological material capable of propagating that species that occurs outside of its eco-region and its introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health, to include:
 - a. Species both known now and unknown now but showing up at a later date;
 - b. Species that occur outside of their eco-region (level III) as defined by EPA; and
 - c. Species on a Board approved list.
- II. “Ornamental Plants” means shrubs, trees and related vegetation excluding turf and lawn, in and around residences.

B. Board Publication of Product List

The Board of Pesticides Control will publish within 30 days of adoption and by March 15th of each year thereafter a list of insecticide products containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam registered in Maine for which the manufacturer has verified that there is an outdoor ornamental plant or turf use on the pesticide label. Based on available information, the Board may exempt from this list pesticides that it determines are not for use in the control of invertebrate pests on outdoor ornamental plants or turf. Pesticides labeled solely for use in preserving wood, managing indoor pests, managing structural pests within five (5) feet of a human dwelling, and treating pets are specifically exempt from this list.

C. Licenses Required

- I. No person shall purchase, use, or supervise the use of any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam identified on the Board's annual listing unless they have obtained a private or commercial pesticide applicator's license from the Board.
- II. Unless exempted under Chapter 41, Section 6 (C) (IV) no person shall purchase, use or supervise the use of any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam in outdoor residential landscapes to include ornamental plants and turf.

- III. No person shall distribute any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam identified on the Board's annual listing without a restricted use pesticide dealer's license from the Board.
- IV. Registered pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam and identified on the Board's annual listing are exempt from the prohibition of use described in Chapter 41, Section 6 (C) (II) where by:
 - a. The applicator obtains an emergency permit from the Board; or
 - b. The use of these products is for management of emerging invasive invertebrate pests on ornamental plants in outdoor residential landscapes.
- V. No person shall use any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam identified on the Board's annual listing for the purposes of managing turf and lawn in outdoor residential landscapes.

D. Records and Reporting

Dealers distributing any pesticides containing dinotefuran, clothianidin, imidacloprid or thiamethoxam identified on the Board's annual listing shall keep records of such sales and provide reports to the Board as described for restricted use pesticides in Chapter 50, "Record Keeping and Reporting Requirements."

E. Emergencies

The Board's staff may grant an emergency permit authorizing neonicotinoid use in compliance with Sections 6(C) of this chapter if the restrictions in this chapter prevent efficacious application of pesticide(s) and the staff determines that an emergency situation exists as outlined in Chapter 51(VII)(B)(1).

- I. No variance may be granted if the emergency is the result of an unjustifiable delay created by the person seeking the variance or the person requesting the pesticide application.
- II. If the staff does not grant the variance, the applicator or the person requesting the pesticide application may petition the Board for exemption following the requirements set forth in 22 M.R.S.A. §1471-T, "Exemption".

F. Emergency Use Permits

Emergency use permit applications shall be made on such forms as the Board provides and shall include at least the following information:

- I. The name, address and telephone number of the applicant;
- II. The area(s) where pesticides will be applied;
- IV. The purpose for which the pesticide application(s) will be made;
- V. The approximate application date(s);

- VI. The type(s) of application equipment to be employed;
- VII. The approved pest species for which the application is being made as defined in policy or by the board; and
- VIII. The particular reasons why the applicant seeks a variance from the requirements of this section, including a detailed description of the techniques to be employed to assure that a reasonably equivalent degree of protection of surrounding nontarget vegetation will be obtained.

Within 30 days after a complete application is submitted, the Board or its staff shall issue a permit if it finds that the application meets requirements of Section 6 (E). The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as required by the permit, the applicant shall undertake the application in accordance with all of the conditions described in their request and all other applicable legal standards. Permits issued by the Board under this section shall not be transferable or assignable except with further written approval of the Board and shall be valid only for the period specified in the permit.

Section 7. CHLORPYRIFOS (DURSBAN, LORSBAN)

The registration of chlorpyrifos (Dursban, Lorsban) is subject to the following limitations and conditions.

- A. No person shall use or supervise the use of any pesticide containing the active ingredient chlorpyrifos unless they have obtained a private or commercial applicator's license from the Board, possess the pesticide in the State before January 1, 2022, and obtain a temporary use authorization permit from the Board.
- B. Permit applications shall be made on such forms as the Board provides and shall include at least the following information:
 - I. The name, address and telephone number of the applicant;
 - II. The brand name of the pesticides to be applied;
 - III. The date on which the pesticides were purchased;
 - IV. The approximate quantity of the pesticides possessed;
 - V. The purpose for which the pesticide application(s) will be made; and
 - VI. The duration for which the applications will take place or until the product is gone.
- C. Within 30 days after a complete application is submitted, the Board or its staff shall issue a permit if:
 - I. The permit application is received prior to December 31, 2022;

- II. The applicant possesses a valid pesticide applicator license issued by the State;
- III. The pesticides proposed for use were purchased prior to January 1, 2022;

The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as required by the permit, the applicant shall undertake the application in accordance with all of the conditions described in their request and all other applicable legal standards. Permits issued by the Board under this section shall not be transferable or assignable except with further written approval of the Board and shall be valid only for the period specified in the permit.

STATUTORY AUTHORITY:

5 M.R.S.A. §§ 8051 *et seq.*

7 M.R.S.A. §§ 601-610

22 M.R.S.A. §§ 1471-A, 1471-B, 1471-C, 1471-D, 1471-M

EFFECTIVE DATE:

March 8, 1981 (Captan)

AMENDED:

May 7, 1981 (Trichlorfon)

January 2, 1984 (Aldicarb)

May 8, 1988 (Trichlorfon)

August 5, 1990 (Captan)

August 17, 1996 (Hexazinone)

October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

May 7, 1997 - Section 3(B)(II)

CONVERTED TO MS WORD:

March 11, 2003

AMENDED:

May 12, 2003 - Section 4 added

NON-SUBSTANTIVE CORRECTIONS:

June 24, 2003 - summary only

AMENDED:

February 2, 2004 - Section 4, 1st paragraph and sub-section A, filing 2004-31

April 30, 2007 – filing 2007-154

February 3, 2008 – filing 2008-36

July 16, 2009 – filing 2009-253 (final adoption, major substantive)

May 3, 2012 – filing 2012-99 (final adoption, major substantive)

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

December 9, 2014 – Section 3, filing 2014-283

September 20, 2022 – filing 2022-181

Summary of Comments Received Regarding Procedures and Penalties of Proper Identification of Treatment Sites

Board of Pesticides Control CMR26-01 Chapter 20

#	Name	Summary	Response
1	Deven Morrill – Regional Manager, Lucas Tree Experts Jesse O’Brien – Ornamental Horticulture Council	Instead of enforcement, the issue of applying pesticides to incorrect treatment sites requires education to companies to avoid future misapplications.	The Board of Pesticides Control (BPC) is aware that considerable outreach is needed to educate applicators on BPC rules and BPMs in the industry. BPC currently educates applicators on rules, regulations, and enforcement activities through recertification credit courses, presentations and meetings, and through its monthly updates to applicators.
2	Mike Peaslee – Technical Director, Modern Pest Services Scott McLean – Sales & Service Coordinator, Davey Tree Expert Company	The proposed regulations are too harsh, severe, strict, or cause a burden on companies.	BPC will consider the impact the proposed changes would have on companies and businesses.
3	Kyle Kent – Owner, North East Pest Solutions Greg England – Owner, Green Shield Pest Solutions	- These proposed rules are a regulatory overreach by BPC that will have devastating effects on Maine. - Rogue or disgruntled employees could use this as a tactic to shut down companies – by targeting the commercial master applicator license and spray contracting firm license penalties. If an applicator loses their license, then companies will fire them. Companies will not give applicators a second chance when the penalties include losing the Master Applicator’s licensure or the firm’s licensure. Disgruntled employees may take advantage of the proposed rules by violating the rule and leaving a “going-	- BPC has the authority to add these proposed changes under 22 M.R.S.A §1471-M. - Disgruntled employees could always find ways to break rules and cause legal issues for companies. Penalties would be issued after an inspector investigation and consultation with the BPC’s Assistant Attorney General. The proposed language as written includes “may” which gives the Board discretion concerning suspensions. - How companies choose to discipline

		away gift” that will be devastating to the company.	their employees is not something the Board can weigh in on.
4	Scott McLean – Sales & Service Coordinator, Davey Tree Expert Company Gregory England – Owner, Green Shield Pest Solutions	• These rules create a disadvantage to companies that self-report violations, increasing the incentives for companies to cover up accidents rather than admitting fault. • Companies will not self-report if it means shutting down their company.	• BPC recognizes that companies could be negatively impacted when trying to self-report accidents and issues. The rule uses the language “may” which gives the Board discretion when making suspension decisions for violations of this rule. • Efforts made by companies to self-report will be weighed in any of the Board’s decisions for enforcement. After a claim is made, a Board inspector will visit the site of the incident, conduct interviews with all parties, and complete a case file that will be reviewed by staff to determine the appropriate enforcement actions.
5	Mike Peaslee – Technical Director, Modern Pest Services	• Most companies already have standard operating procedures (SOPs) that are sufficient. • Even if all procedures are followed, misapplications can still occur as accidents. • Technician should be at fault, not the company. • Companies cannot force their technicians to follow SOPs, but try to ensure that they are followed.	• Companies that have SOPs wouldn’t need to establish new protocols but would need to provide their current SOPs to Board staff prior to March 1, 2024. • The purpose of the proposed rules is to reduce misapplications, whether accidental or intentional. • The BPC agrees that individual employees could be at fault. The BPC also acknowledges that companies are responsible for the technicians they

			hire and proper training of BPC rules, regardless of the incident. Companies must require that their staff adhere to SOPs and provide the proper training to employees regarding the importance and reasoning for following SOPs.
	Scott Conrad – VP Operations, Mosquito Squad	As outlined, the current rules do not specify if the multiple offense penalty must be made by the same applicator or if it pertains to any employee misidentifying property in the company.	The rules as proposed refer to any employee misidentifying property in the company.
	Deven Morrill – Regional Manager, Lucas Tree Experts	- Companies that do not have their own policy and are not following the Board’s policy will fail to follow these new guidelines. - These rules present more of a regulatory burden that takes too much of staff’s time. - All violations already follow statute. - Suspensions should be a max of 7 days and violations should only look back 2 years to keep with the reporting requirements. - Public education campaign for IPM was voted for by the Board and an RFP was drafted, but ultimately it was never implemented. An IPM education campaign would help reduce violations.	- The Board agrees that companies will continue to violate this rule if they do not already follow BPC policies. However, the new rule makes these guidelines enforceable, which will make violations more impactful. - Staff agrees that the addition of these penalties will add require more resources to prepare and document these violations. - The Board will take the length of suspension and recordkeeping into consideration for this rule. Under statute, - The Board agrees that an IPM campaign should be a priority. However, given recent financial burdens, the BPC cannot commit to an IPM campaign until sufficient funds are found. - There has been development on regulation videos through a

			contractor tailored to applicators and homeowners that has IPM themes that will aid in the outreach effort.
	Jesse O'Brien – Ornamental Horticulture Council	• Applicators are concerned by proposed regulations, BPC should enforce what they already have for regulations. • Reaching applicators that do not participate with the Board should be a priority. • Misapplications to treatment sites are expensive outliers in the industry.	• The BPC is aware that there are some concerns about the proposed regulations and will consider all comments before making its final determination. • BPC agrees that outreach to applicators to get more of the industry engaged is essential. BPC reaches applicators through its website, presentations at meetings, and recertification credit courses. Additionally, BPC has implemented new monthly updates to all applicators, which summarize new regulations and proposed rules, IPM news, credit meeting schedules, and EPA updates. • BPC will take the frequency of these violations into account when it finalizes its rulemaking determination. These violations occur enough that the Board has collectively agreed additional enforcement actions are warranted.
	Heather Spalding – Deputy Director, Maine Organic Farmers and Gardeners Association (MOFGA)	• MOFGA often works with growers that call about offsite spraying complaints and directs those calls to BPC. • A (5) is vague, and phrasing could be changed to include a waiver. • Section B is a good measure. Keeping licensure at risk will ensure compliance.	• The BPC appreciates MOFGA's support in directing complaints to the Board. • The Board appreciates the feedback and will take this into consideration.
	Kyle Kent – Owner, North East	• This could cause bargaining issues with the	• The Board understands that licensure

Pest Solutions	commercial master applicator and contractors. Most companies do not conduct an application if they cannot verify their treatment sites.	suspension could cause delays. The Board has seen violations where this is not the case. In some instances, there are similar properties adjacent to one another, an improper record of the house or meter number, no prior visits to the property, or GPS/Satellite information is not accurate or verified.
Greg England – Owner, Green Shield Pest Solutions	- Employee’s careers will be ended in an instant, which will have impacts on their families and the community. - Fewer employees entering this industry due to the harsh penalties will lead to longer lead times, higher prices, more layoffs, etc., unless the company is large enough to weather a 45-day shutdown, broken agreements, and potential legal costs. - One suggestion is to look at what other states have done, and if there is something to learn from the process in other states. - There is a better option, do not pass this proposed amendment.	- BPC is aware that these rules could have effects throughout the industry and will consider economic impact. - The proposed changes as written include “may” which gives the Board discretion over penalties. The Board will consider company hardships as it moves forward with the rulemaking. - The Board is reaching out to state partners to identify if similar penalties exist. - The Board will consider public comment before making its final rulemaking determination.
Gustave Nothstein – Statewide Vegetation Manager, Bureau of Maintenance & Operations, State of Maine Department of Transportation	- Maine DOT has a set of policies that would cover the proposed rules. We have no spray zones, a list of buffer zones that go above regulations, and training programs. - We are using new techniques to create paper maps that show the voluntary no-spray zones where organic farms and landowners sign up and manage their own ROW. - We are also implementing Garmin GPS units that beep when near a zone and plan on implementing this technology next year. - Maine DOT has several questions regarding the	- BPC appreciates that Maine DOT has proper SOPs in place. - BPC appreciates that Maine DOT is using new technologies and techniques to maintain their no-spray agreements. - All of these proper forms of identification can be submitted in accordance with the proposed rules which will give Maine DOT methods on file for how they identify treatment sites. - BPC has answers to DOTs questions

		proposed rules: ○ Do these rule changes to Chapter 20 have an effect on 6A applicators (Right-of-Way)? If not, please make exemptions clear. ○ If they do affect 6A licensure, how would this affect Maine Department of Transportation and its contractors? ○ Would a complaint of misapplication be a violation of the proposed rule? ○ How would the actions of malicious actors be overcome since we can cover hundreds of miles in a day with various crews? ● A person or group observes our crews go by, and does damage to an area with pesticides. Combine this with the a freedom of information request to find out what we were targeting, what chemicals we use, including rates, and the state could be shut down repeatedly.	regarding the proposed rules: ○ As currently written, Chapter 20 does not have exemptions in place and would affect all applicators including 6A categories. ○ Maine Department of Transportation and its contractors would need to have proper identification of treatment sites methods on file and provide those methods to the Board by March 1, 2023. In the event that an improper site is treated with pesticides, the state and contractors would be subject to the penalties of Chapter 20, Section 7 (B). ○ Complaints would be investigated by inspectors to validate if there is evidence that an incorrect property was treated. ○ Investigations would look at all parties involved to determine if the application was on purpose, a mistake, or otherwise. ● BPC inspectors would investigate the incidents to determine if suspension is warranted or if there is reason to believe that the state is being targeted, as they would any investigation.
	Scott McLean – Sales & Service	● The proposed language is detrimental to larger	● BPC understands that larger companies

Coordinator, Davey Tree Expert Company	companies, given that more technicians give more opportunities for mistakes. ○ We perform 8,000 pesticide applications per year, in 5 years we will complete 40,000 applications, our margin of error would need to be one hundredth of a percent to continue operating. • Our company has a dedicated legal team, diagnostic lab, researcher, strict training programs, and approved protocols to ensure applicators are prepared. ○ Our company is a leader in the green industry, and often uses holistic pest management and low-risk control methods first. If our licenses are revoked, we will be unable to provide these resources to our clients.	may have more opportunities for violations given their employment size. The Board will take this into consideration moving forward. • We appreciate that some companies have large teams dedicated to ensuring pesticide applications are done properly. • BPC supports IPM which utilizes mechanical, cultural, and biological tactics to tackle pest problems, which also reduce need for chemical pesticides. We appreciate when companies use these methods in their business practices. The Board also has a policy under 22 M.R.S.A. §1471-X whereby it is the policy of the state to work to find ways to use the minimum amount of pesticides needed to effectively control targeted pests in all areas of application.
Patrick Vaillancourt – Owner, Northern Turf Management	• Treating the wrong address/property is not acceptable but is not common among all companies, only a select few repeat offenders. The penalty should be harsher on these companies and not all companies. • When electronic systems are in place, such as GPS coordinates, screenshots of satellite measurements, property descriptors, etc. they are often available on electronic devices that require cell/WiFi service to be used. In the areas of Maine where cell/WiFi service is spotty, and technicians cannot access this information, it is	• BPC agrees that treating the wrong property is not acceptable. The proposed rules are designed to give harsher penalties to those that violate offenses more than once. In other portions of statute, penalties increase as violations are repeated by the same entity as outlined in 7 M.R.S.A. §616-A. • Electronic systems are a good tool for applicators to use but geographic distribution of penalties haven't shown trends in violations in areas that have

		not fair to face them with stiff initial penalties for violations. • Enforcement for these required methods does not seem feasible. Staff already have a heavy workload, and this addition will not be easy for staff to take on. There are also confidentiality concerns when it comes to verifying all applicator customer databases for positive ID methods. • There are several questions regarding the process of investigations: ○ What is the process for investigating alleged misapplications? ○ When does the 45-day suspension of licensure begin, after the investigation is completed or at the initial complaint? • Maine has a short turf/pest management season, and 45 days during the peak season could be devastating to both the company and the applicator who would be out of work. • These proposed regulations place a burden on large companies. • A licensure suspension penalty of 45 days is extreme for an honest or rogue mistake. • How would these new rules be reasonably enforced?	less access to cellular or WiFi access. Many applicators have used non-electronic methods prior to the availability of electronic systems with no violations. Applicators have the responsibility to confirm their records and properly identify treatment sites whether they have cellular/WiFi access or not. • Workload for the enforcement of these methods is not expected to increase since it requires companies to provide BPC with their methods. The BPC is not looking at applicator or customer data, rather requiring that companies file their process for ensuring that proper treatment sites are identified, and BPC will be keeping that information on file, no confidential information should be included in the methods sent to the Board. • BPC has answers regarding questions: ○ The process for investigating alleged misapplications includes inspector interviews with all parties involved, collecting samples and potential testing of samples, BPC staff review of offenses to evaluate seriousness of those offenses, then cases or consent agreements are brought forward to the Board for review. Upon review by the
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			Board, a suspension could be considered as outlined in the proposed rules. ○ As outlined above, suspensions would be considered after investigations and the “may” language in the proposed rule leaves this decision up to Board enforcement discretion. • BPC is aware that this could cause additional burdens to companies and will take this into consideration. These proposed rules intend for applicators to put procedures in place to reduce mis-applications. • BPC will take the time of the suspension into consideration. The suspension language uses “may”, which gives the Board discretion for suspensions and suspension length. • Rules will be enforced as they have been, with improper identification of treatment sites added as an additional penalty during violation investigations. Prior to the proposed rule, the policy on proper identification of treatment sites was not an enforceable offense.
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Summary of Comments Received Regarding Certification and Licensing Provisions For Commercial Applicators

Board of Pesticides Control CMR26-01 Chapter 31

#	Name	Summary	Response
		No public comments were received	

Summary of Comments Received Regarding Certification and Licensing Provisions For Private Applicators

Board of Pesticides Control CMR26-01 Chapter 32

#	Name	Summary	Response
1	Devin Morrill – Lucas Tree Experts	• Maine should adopt the language that incorporates federally restricted use pesticides from the federal code. • This may be incorporated by policy, rulemaking efforts should only be used when needed for enforcement.	• The proposed language relates to new EPA certification and training plan requirements. In Maine, this is under the Ag Basic licensure as it pertains to restricted use pesticides. If supervisors have private licensure, then non-certified applicators that meet requirements can apply restricted use pesticides as outlined in 40 CFR 171.201 (2023). Incorporating this language by reference ensures that future changes will be included in BPC's rules. • During Maine's amendments to its Certification and Training Plan, EPA indicated that policy would not be suitable for these changes as it is not enforceable, and the plan would not be accepted if requirements were not put into rule. Although this adds additional rulemaking efforts, it ensures that BPC will keep its agreement with EPA. Maine has received approval under the conditions that some additional rulemaking would need to be incorporated.

Summary of Comments Received Regarding Special Restrictions on Pesticide Use

Board of Pesticides Control CMR26-01 Chapter 41

#	Name	Summary	Response
	Heather Spalding – Deputy Director, Maine Organic Farmer and Grower Association	• MOFGA opposes the use of Genetically Modified Organisms (GMOs) and would like the term GMO used instead of Plant-incorporated protectants (PIPs). • The notification responsibilities should be on the plant-incorporated protectant grower instead of the neighbor. ○ Neighbors should not have to request notification from growers. • There are concerning implications for soil microorganisms when it comes to GMO plantings.	• The proposed rules only address PIPs. PIPs are regulated by EPA as pesticides, and BPC has regulatory authority to regulate PIPs in Maine as BPC has been granted primacy over pesticides by EPA. • Notification requirements would not be subject to change as part of this proposed rulemaking. Notification requirements are outlined in rule (CMR01-26 Chapter 28). • BPC is unaware of negative effects of soil health with the use of PIPs.
1	Pat Miller – Director, State Affairs, American Seed Trade Association (ASTA)	• ASTA is one of the oldest trade organizations in the United States and represents all types of seed companies and technologies and represents every seed company that would be affected by this proposed rulemaking. • EPA has regulatory oversight authority over all plant incorporated protectants (PIPs), both through genetic engineering and conventional breeding. • Conventional breeding is exempt from almost all EPA pesticide requirements,	• BPC appreciates that seed companies are giving comment on the proposed rulemaking. • PIPs are regulated by EPA as pesticides, and BPC has regulatory authority to regulate PIPs in Maine as BPC has been granted primacy over pesticides by EPA. • BPC agrees the proposed changes apply to PIPs that undergo EPA's registration requirements and as co-regulators, the BPC also has oversight of PIPs registered in Maine.

		but PIPs are subject to several regulatory requirements including: ○ Mandatory pre-market review and authorization ○ Post-market monitoring and resistance management compliance ○ EPA Pesticide Registration and periodic review of registration status • There is no scientific justification for additional oversight of PIPs at the state level. These requirements are not justified by any risk assessment on the cost associated with implementation of these requirements, which also do not confer additional safety benefits to plants, animals, people, or the environment. • The proposed language is too broad and will subject conventionally bred PIPs to these requirements. • The proposed language presents legal and practical concerns and penalizes Maine farmers and consumers.	• The proposed rulemaking was initiated to modernize PIP requirements and reduce burdens that did not make sense given modern PIP technologies. • The BPC has had regulatory oversight of PIPs since 2007. The rules that have existed since then ensure that growers are informed about PIPs and have historically had requirements for resistance management. • The BPC did not add additional language to include conventionally bred PIPs and does not interpret the proposed language to include this group. The definition in rule remains: "Plant-incorporated protectant" means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance. • The proposed change reduces the burden on farmers but does not deviate from language that has existed since the initial 2007 integration of PIP rules into this chapter.
	Ben Gilman – Drummond Woodsum/Biotechnology	• Maine is the only state in the country with the requirements outlined in this	• Maine is proposing these changes to Chapter 41 to modernize the language to

Innovation Organization (BIO) Gene Harrington – Senior Director, State and Government Affairs, Biotechnology Innovation Organization (BIO)	chapter for the planting of <i>Bt</i> corn. The planting of <i>Bt</i> corn has not adversely impacted public health and safety or the environment in Maine or any state. • The Board initially implemented it's rule in 2007 and was the last in the US to do so. The rulemaking called for trainings, recordkeeping, and various stipulations regarding the planting of Bt corn. In 2011, the rule was amended to: ○ Extend the retaining interval to three years after determining there was not sufficient information to warrant retaining every two years ○ Changed the timing of the required training on the use of Bt corn from before a farmer purchased Bt corn seed to prior to planting the seed; and ○ Repealed the requirement that seed distributors verify training prior to selling affected products. • Under the proposed rulemaking, farmers will save time and travel costs as the trainings and certificate will be available on-line and eliminates the three year refresher course. BIO supports these changes. • BIO also supports a repeal to E. II, which requires dealers distributing plant	reflect planting practices and reduce burdens to growers. • The Board appreciates the overview of its actions and has worked overtime to amend this language to reflect planting practices. • The Board appreciates BIOs comments and support on the proposed rulemaking. • The Board has considered minimum area required to plant and initially determined it would be wise to keep the one-acre requirement for resistance management. The Board will take these comments into consideration. • It is unclear how many small farms use PIPs, and the Board does not have evidence of requiring one acre negatively impacting farms. The Board will consider the amount of seed required at purchase.
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		incorporated protectant sweet corn to sell the seed in quantities large enough to plant one acre or more. ○ Refuge-in-a-bag greatly reduces potential resistance, we question the risk of impactful resistance with populations of insects in small plots that are less than one acre. ● Maine has had a resurgence in small diversified farms, which may plant less than one acre. We question whether it is sound or fair to prohibit these growers from accessing this technology and forcing them to rely only on chemical pesticides alone. We question the value, fairness, need for, and enforceability of this provision and hope the Board will see fit to strike it.	
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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

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JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

Memorandum

To: Board of Pesticides Control
From: John Pietroski, Acting Director
Subject: LD 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

October 13, 2023

Background:

On June 23, 2023, LD 1770 “Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data” was signed by the governor. This resolve directs BPC to conduct rulemaking requiring electronic submission of annual commercial applicator reports and pesticide dealer reports. The Board is also obligated to submit a report to the legislature by March 2024 that reports on the progress made on the implementation of this resolve.

L.D. 1770 Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

Sec. 1. Board of Pesticides Control; pesticides sales and use data. Resolved: That, pursuant to the Maine Revised Statutes, Title 22, section 1471-M, subsection 2, paragraph D, the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall adopt any rules necessary to implement the transition from paper to electronic format of reports required to be submitted to the board as required by Title 22, section 1471-G. The board shall implement a system of electronic data collection that is efficient for those required to submit reports to the board under Title 22, section 1471-G and useful to the board and members of the public. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Report. Resolved: That, no later than March 1, 2024, the director of the Board of Pesticides Control within the Department of Agriculture, Conservation and Forestry shall submit a report regarding rulemaking and implementation of electronic reporting under section 1 to the Joint Standing Committee on Agriculture, Conservation and Forestry,

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which may report out a bill to the Second Regular Session of the 131st Legislature based on the report.

The Board has appointed a member to engage with staff, stakeholders and developers to discuss changes to BPC's existing software solution, MEPERLS.

Potential Rulemaking

The Board may need to engage in rulemaking to implement LD 1770 in Chapter 50: Recordkeeping & Reporting. The Board may want to consider:

1. Adding language that makes reports submitted electronically through a portal
2. Creating a timeline for implementation and start year that electronic reports will be required; and
3. Additional language for the transition from paper to electronic reports, especially for individuals that do not have computer or broadband access.

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

SUMMARY: These regulations describe the types of records and reports which commercial applicators, commercial agricultural producers, limited/restricted use pesticide dealers, spray contracting firms and monitors must maintain and submit to the Board.

Section 1. Records

A. Pesticide Application Records

- I. Commercial agricultural producers and commercial applicators shall maintain pesticide application records consistent with paragraph II. below for a period of two years from the date of application. Such records shall be kept current by recording all the required information on the same day the application is performed. These records shall be maintained at the primary place of business and available for inspection by representatives of the Board at reasonable times, upon request.
- II. Pesticide application records shall include, at a minimum:
 - a. Site information including town and location, crop or site treated, target organism, customer and customer address_(where applicable); and
 - i. for broadcast applications, size of treated area (when completed);
 - ii. for volumetric applications as described on the label, the volume treated;
 - iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).
 - b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

- c. **Rate information.** For each distinct site, application rate information must be maintained as follows:
 - i. **Restricted Use Pesticides.** For restricted use pesticides, applicators shall record the total amount of pesticide applied (undiluted).
 - ii. **General Use Pesticides.** For general use pesticides, applicators shall record:
 - (1) rate information as described in (i.) above; or
 - (2) the mix ratio and the total mix applied; or
 - (3) the mix ratio and the mix per unit area applied.
- d. For outdoor applications, except those listed below, weather conditions including wind speed and direction, air temperature and sky conditions recorded such as sunny, partly cloudy, overcast, foggy or rainy. No weather condition records need be kept for outdoor applications involving:
 - i. pesticides placed in bait stations;
 - ii. pesticide-impregnated devices placed on animals, such as ear tags; or
 - iii. pesticides injected into trees or utility poles.
- e. For TBT applications to marine vessels, applicators must also record the vessel identification and size, and the disposition of TBT wastes including chips/dust removed prior to application and empty containers.

B. **Limited Use/Restricted Use Pesticide Sales Records**

- I. Licensed pesticide dealers shall maintain records of each sale of a restricted/limited use pesticide on their sales slips and the customer's name, and license number must be recorded on every invoice or electronic record involving that individual. Licensed pesticide dealers must also maintain records to verify that sales of restricted/limited use pesticides to unlicensed purchasers are only made where a licensed applicator is employed to supervise the use of the restricted/limited use products. These records must include the name, address, license number, issuing agency, expiration date, and categories of certification (if applicable) of each person to whom the restricted use pesticide was distributed or sold. These records are to be available for inspection by representatives of the Board at reasonable times, upon request, and are to be maintained for two calendar years from the date of sale.
- II. Pesticide dealer records shall also include the signature of purchaser or his/her agent, the product name, the EPA registration number, state special local need registration (SLN) number (if applicable), the quantity and size of containers purchased, and the date of purchase.

- III. Any pesticide dealer who discontinues the sales of restricted/limited use pesticides shall notify the Board in writing and shall provide the Board, upon request, with all required records including a final sales report up to the date of discontinuance.

Section 2. Reports

- A. **Annual Summary Reports by Commercial Applicators.** Annual summary reports must be electronically submitted for each calendar year by January 31 of the following year through a Board-approved software solution. In the event a required report is not received by the due date, the person's license may be temporarily suspended until the proper report is received or until a decision is tendered at a formal hearing as described in 22 M.R.S.A. §1471-D(7). The report filed with the Board by or on behalf of commercial applicators shall contain the following information for each site or crop treated: quantity of each pesticide used, EPA registration number and total area treated (where applicable) for each pesticide.
- B. **Annual Pesticide Sales Reports.** Pesticide dealers licensed to sell limited and restricted use pesticides must provide the Board with a calendar year-end report of total sales of all limited, restricted and general use pesticides electronically through a Board-approved software solution before their pesticide dealer license can be renewed. ~~The Board will furnish report forms.~~
- C. **Spray Incident Reports**
- I. Commercial agricultural producers, commercial applicators, spray contracting firms and licensed pesticide dealers shall be responsible for telephoning a spray incident report to the Board as soon as practicable after emergency health care has been obtained for injured parties and efforts have been initiated to contain any spills.
- II. A reportable spray incident is any significant misapplication or accidental discharge of a pesticide. Such incidents shall include: fires involving pesticides; vehicle and aircraft accidents resulting in a spill or human contamination; failure to turn off spray booms or other spray equipment resulting in application to sensitive areas (such as water bodies, accidentally applying pesticides to the wrong site or places of human habitation) when such application is a violation of label instructions or other law; overfilling of spray equipment resulting in risk of contamination of water; and any other equipment breakage or malfunction or pesticide handling activity which causes a pesticide release which may result in a threat to human health or the environment.
-

STATUTORY AUTHORITY: Title 22 M.R.S. Chapter 258-A §1471-G, M and R

EFFECTIVE DATE:

July 6, 1979 - as "Reporting Requirements," filing 79-338

AMENDED:

August 12, 1985 - filing 85-275

REPEALED AND REPLACED:

April 5, 1995 - as "Record Keeping and Reporting Requirements," filing 95-149

AMENDED:

October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

November 11, 2001 - filing 2001-483

March 5, 2003 - filing 2003-61

January 4, 2005 – filing 2004-606 affecting Section 1.A.I.

December 23, 2012 – filing 2012-348 affecting Section 1.B.II.

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

July 23, 2019 – filing 2019-133

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BOARD OF PESTICIDES CONTROL - SUMMARY					
014-01A-0287-01 CASH REPORT					
ACTUAL FY2023; PROJECTIONS FOR FY2024, FY2025 AND FY2026					
AS OF: September 29, 2023					
Fiscal Year July 1, to June 30.					
		ACTUAL	ESTIMATED	ESTIMATED	ESTIMATED
		FY2023	FY2024	FY2025	FY2026
BALANCE FORWARD			1,754,990.62	1,967,470.89	2,121,981.09
Revenues:					
1407	REG INSECT & FUNGICIDES	1,726,880.00	2,463,685.00	2,463,685.00	2,463,685.00
1448	SPECIAL LICENSES & LEASES	152,190.03	155,000.00	155,000.00	155,000.00
2690	RECOVERED COST	100.00			
2953	ADJ OF ALL OTHER BALANCE FWD	185.12			
2968	REG TRANSFER UNALLOCATED	(25,000.00)	(25,000.00)	-	-
2978	DICAP TRANSFER	(245,212.32)	(272,080.13)	(282,460.30)	(289,804.86)
2979	TRANSFER FOR INDIRECT COST	-			
2981	LEGIS TRANSFER OF REVENUE	(200,000.00)	(200,000.00)	(200,000.00)	(200,000.00)
TOTAL REVENUES		1,409,142.83	2,121,604.87	2,136,224.70	2,128,880.14
Difference		(327,388.52)	212,480.27	154,510.20	95,804.12
Expenditures:					
31-39	TOTAL SALARY & FRINGE	1,342,977.85	1,263,449.24	1,317,719.36	1,356,780.37
40	PROF. SERVICES, NOT BY STATE	68,452.37	83,635.00	68,612.00	68,612.00
42	TRAVEL EXPENSES, IN STATE	1,107.07	1,500.00	1,500.00	1,500.00
43	TRAVEL EXPENSES, OUT OF STATE	5,200.23	7,500.00	8,500.00	9,500.00
46	RENTS	14,272.53	16,500.00	17,325.00	18,191.25
48	INSURANCE	3,811.61	4,200.00	4,410.00	4,630.50
49	GENERAL OPERATIONS	48,069.39	50,430.28	50,535.28	50,783.03
50	EMPLOYEE TRAINING	131.34	500.00	500.00	500.00
51	COMMODITIES - FOOD	133.75	450.00	450.00	450.00
53	TECHNOLOGY	136,281.92	378,003.00	405,432.00	412,596.00
55	EQUIPMENT AND TECHNOLOGY	3,847.67	4,200.00	4,410.00	4,630.50
56	OFFICE & OTHER SUPPLIES	3,799.13	3,500.00	3,675.00	3,858.75
64	GRANTS TO PUB AND PRIV ORGNS	6,432.00	6,432.00	6,432.00	6,432.00
82	ADMINISTRATIVE CHARGES AND FEE	-			
85	TRANSFERS	101,999.67	88,825.09	92,213.87	94,611.63
90	CHARGES TO ASSETS AND LIAB.	14.82			
TOTAL EXPENDITURES		1,736,531.35	1,909,124.61	1,981,714.51	2,033,076.02
CURRENT CASH BALANCE		1,754,990.62	1,967,470.89	2,121,981.09	2,217,785.20

		Expenditures			
		Year			
	Item	2023	2024	2025	2026
4003	Obsoletes	\$35,000.00	\$35,000.00	\$35,000.00	\$35,000.00
Peterson	DACF Mosquito	\$10,310.40	\$11,000.00	\$11,000.00	\$11,000.00
rev	CDC Mosquito	\$25,000.00	???	???	???
4003	Maine Mobile Health	\$6,432.00	\$6,500.00	\$6,500.00	\$6,500.00
Peterson	DACF IPM		\$14,621.00	\$14,621.00	\$14,621.00
rev	Bernard funding	\$65,000.00	\$65,000.00	\$65,000.00	\$65,000.00
rev	UMCE Funding	\$135,000.00	\$135,000.00	\$135,000.00	\$135,000.00
	Education Outreach		\$300,000.00		



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DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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AMANDA E. BEAL
COMMISSIONER

Memorandum

To: Board of Pesticides Control

From: Staff

Subject: Additional Materials Regarding Repellent Treated Clothing

Date: October 13, 2023

Background

Previously, BPC staff approached the Board for guidance on *the appropriate minimum registerable unit* for clothing and gear that has been “factory treated” with insecticide for the purpose of repelling ticks and mosquitoes as part of a vector-borne disease prevention strategy. The Board requested more information on the topic; in response, this document, and supporting materials, have been provided for the Board’s consideration.

Introduction

There is a growing market for insecticide impregnated clothing and gear to repel mosquitoes and ticks. Currently, BPC holds six registrations for these types of products. Staff are requesting guidance on how to process products of different varieties of the basic product. The Board has the option to register only the factory treated fabric or the Board can register each factory treated garment and type of gear. This later approach could include differentiating between men’s and women’s clothing, or differing colors and sizes.

Some product categories currently are registered in a way that captures the different forms the product may take. For example, when registering flea and tick collars for dogs and cats the size categories of the pet require separate registrations. Products with differing scents (e.g., vanilla vs

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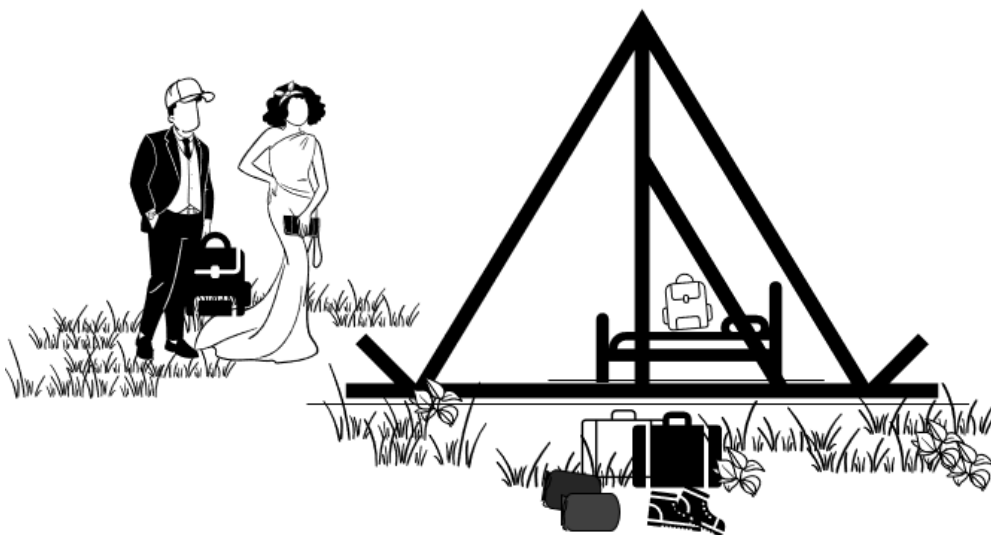
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ocean breeze) are also registered separately. However, different size containers, with identical labels in all other ways, are not registered uniquely. In Maine, currently registration practice is that staff, “register the label” meaning if a product with one EPA registration number is rebranded into seven different products, staff register each product uniquely.

Example of how alternate brand names (ABNs) are registered in our system:

Company Name	EPA Product Registration Number	Product Name	Maine Product Registration Number
ELANCO US INC	11556-155	SERESTO SMALL DOG COLLAR	2012001175
		SERESTO LARGE DOG COLLAR	2012001176
		SERESTO CAT COLLAR	2012001177
		ELANCO SERESTO SMALL DOG (UP TO 18 LBS)	2022000378
		ELANCO SERESTO LARGE DOG (ABOVE 18 LBS)	2022000379
		ELANCO SERESTO CAT	2022000380

Examples of the multiple types of articles constructed with permethrin impregnated fabric.



Wearables:

Scarf
Hat
Tops
Pants
Socks
Shoes
Gaiters

Horse blankets
Dog scarves

Non-Wearables:

Tents
Backpack
Ground cloth
Luggage
Sleeping bags
Netting

Feedback From Other States

BPC staff reached out to colleagues in other states to investigate different approaches to registering these products. Following are some screenshots from guidance found on the state's webpages or documents that were provided to BPC.

Idaho

PESTICIDE IMPREGNATED MATERIALS (WEARABLE AND NOT WEARABLE)

- Two (2) categories, Wearables and Non-wearables (both sec. 3 and sec 25(b) impregnated materials) (25(b) materials will also be subject to the 25(b) registration requirements)
 - Wearables
 - Anything that will come in direct contact with humans, including but not limited to hats, shirts, pants, shorts, shoes, boots, socks, jackets/vests and gloves.
 - Non-wearables
 - Including but not limited to bedding, tents, shelters, chairs, pet clothing, horse blankets, backpacks and luggage.
- Each category will require a separate registration.
- Each item will be required to have a hang tag attached to the product as long as it is being sold
 - Hang tag will be required to have the product name and EPA Reg. No., signal word, hazard statement, graphic material and any other information required by federal law. EPA Reg No., Signal Word and Hazard Statement, graphic material and any other information required by federal law, and the label will be available and readily viewable on websites selling Pesticide Impregnated Materials.
 - Hang tag can only be removed after purchase
 - Hang tag must be replaced if product is returned to distributor prior to being returned to the sales area.
- Efficacy data proving efficacy of the product over multiple washes must be provided prior to application for registration will be approved.
- Alternate Brand Names (ABNs) will require separate registration.
 - Notice of Supplemental Distribution of a Registered Pesticide (EPA form 8570-5) may be required depending on who is registering the ABN.

Indiana

A. WHAT DOES NOT REQUIRE REGISTRATION IN THE STATE OF INDIANA?

OISC does not register simple mechanical devices, such as: barriers, traps, or adhesives, or other simple contrivances. As examples, the following are exempt from registration

- Snap traps for mice
- Glue traps for insects
- Fabric barriers for weeds

A pheromone trap is exempt from registration when the purpose of the trap is for monitoring the number of pests in an area.

B. WHAT DOES REQUIRE REGISTRATION IN THE STATE OF INDIANA?

The above-mentioned products (Devices.A) are not exempt from registration in Indiana when they include a substance (pheromone or food bait). A pheromone trap sold with the purpose of mitigating/removing the pest requires registration in Indiana.

OISC requires the registration of any device that makes a pesticidal claim (outside of those identified above). If your device includes replacement filters or light bulbs that impact the efficacy of the product (ie: HEPA filters, UVC light bulbs), these require their own registration as well.

7. MY PRODUCT IS SOLD AND MARKETING IN DIFFERENT COLORS. DOES EACH COLOR REQUIRE REGISTRATION?

Yes, if your product is sold and marketed in different colors it would require registration in Indiana. If your product is sold in different colors but is not marketed for the different colors, these would not require different registrations.

An example of marketing different colors would include - A device that is sold in white and black. The container labeling for the device specifies the color and/or the supplemental marketing (i.e.: online websites) allow for the consumer to purchase a specific color.

An example of not marketing different colors would be when a color selection would vary. An example of online marketing language for a product that would not require different colors to be registered would say something like "colors vary" or "different colors provided by random selection". In a retail setting, this would happen where the labeling does not clearly identify the different colors.

An instance where different colors would not require registration is if the products are custom made. If this is specific to your products, we recommend that you request confirmation on what requires registration.

https://oisc.purdue.edu/pesticide/pdf/pest_products_faq_022522.pdf

Indiana continued...

Office of Indiana State Chemist (OISC) is providing Industry with clarification on what are considered different pesticide products in the state of Indiana. Additional details can be located in our FAQ document, posted on the OISC Pesticide Products & Devices website (https://oisc.purdue.edu/pesticide/pesticide_products.html).

According to IC 15-16-4-56: "For more than one (1) pesticide product to be considered the same pesticide product, each pesticide product must exhibit the same: (1) product name; (2) registrant name; (3) United States Environmental Protection Agency registration number; (4) labeling, claims, and branding; and (5) ingredient statement."

1. When do Registrants need to submit additional applications for products?

Here are some examples of when an additional application is required for registration in Indiana:

- a. Label Revisions include changes to:
 - i. Company name
 - ii. Product name
 - iii. Branding
- b. Products in the marketplace include:
 - i. labels with different Directions for Use
 - ii. different application equipment (i.e. Different hoses/dispensers, hose attachments, etc.)
 - iii. different users (commercial vs homeowner) or sites (ornamental vs lawn)
 - iv. kit/co-pack with multiple products (i.e. different scents, pesticides, and/or non-pesticides)
- c. Products are specifically sold
 - i. as different colors (i.e. air purifier sold in black, white or red)
 - ii. for a different size, location, or site (i.e. 1) small dog, medium dog, large dog; 2) small room, large room)

https://oisc.purdue.edu/pesticide/pdf/products_considered_different_022522.pdf

Registration Database Searches Comparing Number of Registered Permethrin Treated Products

Indiana

Searching National Pesticide Information Retrieval System (NPIRS) for the products registered in Indiana returns the same six registrations we have in Maine when searching for ‘permethrin’, ‘human clothing’, and ‘No Signal Word’. See the table (below) titled, “Summary of registrations for permethrin treated human clothing in 2023,” for registration details.

Missouri

Missouri reports registering fabric but not the constructed clothing and gear. Searching the Kelly Solutions Pesticide Registration Database shows registration for five different products similar to the registered products in other states. See the table(below) titled, “Summary of registrations for permethrin treated human clothing in 2023,” for registration details.

North Carolina

North Carolina registers constructed articles and fabric (unclear if separated by color). See the table (below) titled, “Summary of registrations for permethrin treated human clothing in 2023,” for registration details.

Washington

Searching the Washington/Oregon PICOL database returns nine registrations for permethrin impregnated material. The three registrations not included in the Maine registration database are: Insect Defense System (EPA Reg No 83588-1 by International Textile Group; Active Guard Mattress Liner (EPA Reg No 82123-1) by Allergy Technology LLC; and Pramex Long Lasting Insecticidal Net (EPA Reg No 1021-2756) by McLaughlin Gormley King (MGK). See the table (below) titled, “Summary of registrations for permethrin treated human clothing in 2023,” for registration details.

Summary of registrations for permethrin treated human clothing in 2023.

Product Name	Registration Number	Company Name	States				
PERIMETER INSECT GUARD INSECT REPELLENT APPAREL	82392-1	PINEBELT PROCESSING INC	ME	IN	MO	NC	WA
INSECT SHIELD REPELLENT APPAREL	74843-2	INSECT SHIELD LLC			MO		WA
NO FLY ZONE APPAREL	83588-1	INTERNATIONAL TEXTILE GROUP INC	ME	IN		NC	WA
NO FLY ZONE /DOG & HORSE GEAR	83588-1	INTERNATIONAL TEXTILE GROUP INC	ME	IN	MO		WA
NO FLY ZONE INSECT REPELLENT TECHNOLOGY (DOG-HORSE)	83588-1	INTERNATIONAL TEXTILE GROUP INC	ME	IN	MO	NC	
NO FLY ZONE APPAREL THAT REPELS INSECTS (GARMENTS)	83588-1	INTERNATIONAL TEXTILE GROUP INC	ME	IN			
ACTIVE GUARD MATTRESS LINER	82123-1	ALLERGY TECHNOLOGY LLC					WA
SKINTEX MR III INSECT REPELLENT APPAREL	86110-2	PULCRA CHEMICAL	ME	IN	MO	NC	WA
PRAMEX LONG LASTING INSECTICIDAL NET	1021-2756	MCLAUGHLIN GORMLEY KING (MGK)					WA
INSECT DEFENSE SYSTEM	83588-1	INTERNATIONAL TEXTILE GROUP INC					WA
INSECT SHIELD REPELLENT GEAR	74843-5	INSECT SHIELD LLC					WA

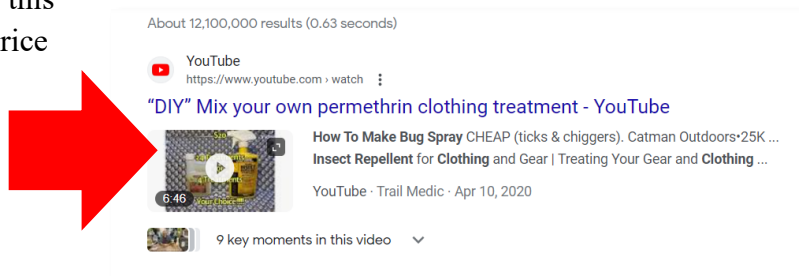
WA data are taken from their state pesticide registration databases while the Maine, Indiana, and North Carolina data were taken from National Pesticide Information Retrieval System (NPIRS); MO data were retrieved from the Kelly Solutions Pesticide Registration Database.

-The Following Material is Tangential Discussion to the Registration Topic-

During the course of researching this topic, staff became aware of the large volume of information on the internet geared toward treating clothing for tick and mosquito repellency. For example, the US CDC currently has instructions on their webpage demonstrating how people can treat their own clothes (document included in the board packet). While some of the information is accurate and helpful for consumers, some of the material is incorrect.

Do It Yourself (DIY) Treatment of Clothing and Gear

Treating one's own clothing and gear is significantly cheaper than buying new clothing or sending clothes to a company offering treatment services. There are scores of products available to consumers for treating their own clothing and gear. Despite the availability of registered products made specifically for this use, many people balk at the price of these permethrin products geared toward treating clothing knowing there are cheaper permethrin products available on the market for agricultural uses.



Searching the internet for how to 'DIY' treat one's clothing pulls up many instructional websites and videos that show how to make cheaper permethrin mixtures, as shown above. The video referenced in the screenshot (above) is a top result from a Google search and it demonstrated how to make a dilution and what products to buy, the individual does not wear PPE, and many comments mentioned how stinky clothing is after treatment. The public is getting a significant bit of information from sources like this one.

Treatment Services and Clothing Drop-Off Stations

There is a newly growing trend for services treating clothes and gear for others. There are mail-in and drop-off services, including ones that companies run for their employees who work outdoors. The commercial activity of creating pesticide treated clothing falls into the realm of manufacturing pesticides and is regulated by the EPA. Those offering treatment services (dips and/or sprays of individual's clothing) should be registered with EPA as a pesticide producer establishment. There is a complete list of Maine's pesticide producer establishments below. Only companies on this list would be allowed to perform this treatment.

Table. Pesticide Producer Establishments Currently Registered with US EPA located in Maine.

COMPANY NAME	CITY	ESTABLISHMENT NAME
KICTEAM INC.	AUBURN	KICTEAM INC.
SAVAGE SERVICES CORPORATION	AUBURN	SAVAGE SAFE HANDLING, INC.
SIAMDUTCH MOSQUITO NETTING CO LTD	JACKMAN	SIAMDUTCH MOSQUITO NETTING CO LTD
Gelardi Design LLC	BIDDEFORD	G-PRO INDUSTRIAL SERVICES, INC
CROP PRODUCTION SERVICES INC.	Detroit	Nutrien Ag Solutions 4195
Corning Life Sciences	KENNEBUNK	CORNING LIFE SCIENCES
CROP PRODUCTION SERVICES INC.	Mapleton	Nutrien Ag Solutions 2527
-	POLAND	OLDCASTLE LAWN & GARDEN INC
GLOBAL BIOTECHNOLOGIES	PORTLAND	GLOBAL BIOTECHNOLOGIES
Dasco Inc	PRESQUE ISLE	DASCO INC
York Manufacturing, Inc	SANFORD	YORK MFG INC
DOG NOT GONE VISIBILITY PRODUCTS	SKOWHEGAN	MAINE STITCHING SPECIALITIES
PE-PA, LLC	SPRUCE HEAD	PE-PA, LLC
OCEAN ORGANICS CORP.	WALDOBORO	OCEAN ORGANICS CORP.
GVS S.P.A.	SANFORD	GVS SPA

What is a Pesticide Establishment?

The following inset is from the EPA's webpage describing and detailing the role of pesticide establishments. More information is available at their webpage:

<https://www.epa.gov/compliance/pesticide-establishment-registration-and-reporting>.

Pesticide Establishment Registration and Reporting

The [Federal Insecticide, Fungicide, and Rodenticide Act \(FIFRA\) Section 7](#) requires that production of pesticides, active [ingredients](#) or devices be conducted in a registered pesticide-producing or device-producing establishment. ("Production" includes formulation, packaging, repackaging, labeling and relabeling.) Production in an unregistered establishment is a violation of the law. Information on pesticide establishments is tracked through the Section Seven Tracking System. A [list of active EPA-registered foreign and domestic pesticide-producing and device-producing establishments](#) is available. Additional limited information on establishments is available through a FOIA request.

Establishments that produce pesticides, active ingredients or devices, including companies or establishments that import into the United States, must **first** obtain a company number; **second**, register the establishment, **then file** initial and annual production reports with EPA.



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Related Topics: Insect Repellents <<https://epa.gov/insect-repellents>>

CONTACT US <<https://epa.gov/insect-repellents/forms/contact-us-about-insect-repellents>>

Repellent-Treated Clothing

On this page:

- [Factory-treated clothing to repel insects](#)
- [Safety of permethrin in factory-treated clothing](#)
- [Effectiveness of factory-treated clothing](#)
- [Meaning of EPA registration and status of permethrin](#)
- [Treating your own clothing](#)
- [For more information](#)

Factory-Treated Clothing to Repel Insects

The only insect repellent currently used for factory treatment of clothing is permethrin. Permethrin is a broad spectrum, non-systemic, synthetic pyrethroid insecticide that targets adults and larvae of many species of biting, chewing, scaling, soil, and flying invertebrates. Permethrin is registered by the EPA as an insecticide for use in a variety of settings. When used to pre-treat clothing, it is an insect repellent.

Permethrin has been registered since 1979. It was first registered in 1990 for use as a repellent on clothing by the military. At about the same time, we also approved permethrin as a spray for use on clothing and gear by consumers, as well as for commercial factory treatment of clothing and various types of gear. In 2003, we first registered consumer-oriented, permethrin factory-treated clothing products. More products have been approved since then.

Safety of Permethrin in Factory-Treated Clothing

When evaluating these products in the pesticide registration process, we follow normal risk assessment procedures to determine safety. Our 2009 revised exposure and risk assessment evaluated multiple exposure scenarios for permethrin factory-treated clothing, including toddlers wearing or mouthing the clothing, and military personnel who wear permethrin-treated uniforms on a daily basis. All exposure scenarios showed that permethrin factory-treated clothing is unlikely to pose any significant immediate or long-term hazard to people wearing the clothing.

The amount of permethrin allowed in clothing is very low, and scientific studies indicate that human exposure resulting from wearing permethrin factory-treated clothing also is low. Available data show that permethrin is poorly absorbed through the skin.

Women Who are Pregnant or Nursing

Based on our review of scientific studies, there is no evidence of reproductive or developmental effects to mother or child following exposure to permethrin.

Safe Use: Follow the Label

Clothing factory-treated with permethrin is considered a pesticide product, and as with any pesticide product, it must be marketed with a pesticide use label. The pesticide use label on such clothing is in the form of a "hang-tag," which is typically attached to the outside of the clothing. As with any pesticide product, consumers must follow the directions and precautions on the "hang-tag" label that accompanies this clothing.

Use of Factory-Treated Clothing in Conjunction with Insect Repellents

When wearing permethrin factory-treated clothing to repel insects, only the skin surface covered with the factory-treated clothing is protected from the pests listed on the label. Treat other exposed parts of the body with an insect repellent labeled for use on human skin for more complete protection.

Why the Label Calls for Washing Clothes Separately

Small amounts of permethrin can come off in the wash, as shown by available scientific studies. Only outer clothing is treated with permethrin, as outer clothing is most likely to come into direct contact with the listed pests. Permethrin repellent products used for factory-treatment of clothing or as spray-ons for clothing are not to be applied to certain clothing such as underwear. For this reason, the label instructs consumers to wash permethrin-treated clothing separately from non-treated clothing.

Effectiveness of Factory-Treated Clothing

We require manufacturers of all pesticides to provide data demonstrating that the product will work to control pests as claimed on the label. In the case of pests of public health concern, such as mosquitoes and ticks, the manufacturer must submit these efficacy studies for review and approval by EPA. We have reviewed these data for permethrin factory-treated clothing and found that the clothing is effective in repelling target pests.

Meaning of EPA Registration and Status of Permethrin

Federal law requires that before selling or distributing a pesticide in the United States, a person or company must obtain a registration <https://epa.gov/pesticide-registration>, or license, from EPA. Before registering a new pesticide or *new use* for a registered

pesticide, we must first ensure that the pesticide, when used according to label directions, meets the safety standard set by law.

In evaluating pesticides for registration, we require the manufacturers to provide a variety of studies on the health and environmental effects of each chemical and product. We use these studies to decide whether a product and its intended uses meet our safety standard and whether specific use restrictions are warranted for the safe use of the product. As part of the review and risk assessment process, we consider individuals of varying ages who could be exposed to a pesticide under different use scenarios.

We periodically reevaluate all registered pesticides to ensure continued compliance with current scientific and safety standards.

- We completed the most recent comprehensive human health risk assessment for all registered uses of permethrin in February 2006 in support of the pesticide's reregistration.
- In revising this assessment in April 2009, we evaluated several factory-treated clothing exposure scenarios including short-term and long-term cancer risks to adults, youth, and toddlers wearing permethrin-treated clothing. We also evaluated toddler object-to-mouth activity on factory-treated clothing. All scenarios resulted in risk estimates below our level of concern.
- In June 2011, we initiated a new review of all permethrin uses, called registration review, opening docket EPA-HQ-OPP-2011-0039. We expect to complete the registration review of permethrin in 2017.

Treating Your Own Clothing

We also register products that consumers can spray on clothing to repel mosquitoes and ticks. The products that are currently available contain DEET, permethrin or picaridin. Be sure to read and follow label directions if you use one of these products.

For More Information

- Permethrin

- Permethrin registration review docket - EPA-HQ-OPP-2011-0039 [↗](https://www.regulations.gov/docket/epa-hq-opp-2011-0039)
<<https://www.regulations.gov/docket/epa-hq-opp-2011-0039>>
- Mosquito control <<https://epa.gov/mosquitocontrol>>
- Pyrethroids and Pyrethrins <<https://epa.gov/ingredients-used-pesticide-products/registration-review-pyrethrins-and-pyrethroids>>

Contact Us <<https://epa.gov/insect-repellents/forms/contact-us-about-insect-repellents>> to ask a question, provide feedback, or report a problem.

LAST UPDATED ON APRIL 3, 2023

2023 Permethrin Registrations in Maine With 'Human Clothing' or 'Human Clothing (Footwear)' Listed as a Site

REGISTRATION NUMBER	PRODUCT NAME	TOXIC	COMPANY NAME
1021-1740-56575	INSECT REPELLENT PERMETHRIN BEN'S COMPLETE CLOTHING & GEAR	CAUTION	TENDER CORPORATION D/B/A ADVENTURE READY BRANDS
1021-1746-55809	CRC FR CLOTHING INSECT REPELLENT	CAUTION	CRC INDUSTRIES, INC.
1021-1746-56575	BEN'S CLOTHING & GEAR INSECT TREATMENT UNSCENTED	CAUTION	TENDER CORPORATION D/B/A ADVENTURE READY BRANDS
1021-1746-74843	INSECT SHIELD PERMETHRIN INSECT REPELLENT FOR CLOTHING & GEAR	CAUTION	INSECT SHIELD, LLC
1021-1746-79533	COLEMAN INSECT TREATMENT GEAR AND CLOTHING	CAUTION	WISCONSIN PHARMACAL COMPANY, LLC
1021-2685-73470	RID HOME LICE, BEDBUG & DUST MITE SPRAY	CAUTION	BAYER HEALTHCARE LLC
1021-2685-73470	RID MAX COMPLETE LICE REMOVAL KIT	CAUTION	BAYER HEALTHCARE LLC
1021-2685-98143	RID HOME LICE, BEDBUG, & DUST MITE SPRAY	CAUTION	Oystershell Consumer Health, Inc.
10807-161-40849	ENFORCER DUAL ACTION INSECT KILLER		ZEP COMMERCIAL SALES & SERVICE
10900-86-22946	CVS PHARMACY LICE, BEDBUG, & MITE SPRAY		CVS PHARMACY, INC.
10900-86-43428	WALGREENS STOP LICE IN-HOME LICE, BEDBUG & MITE SPRAY		WALGREEN COMPANY
10900-86-5741	SPARTAN BED BUG AND LICE KILLER		SPARTAN CHEMICAL COMPANY, INC.
11556-171	CATRON IV	CAUTION	ELANCO US INC.
11556-171	ELANCO CATRON IV	CAUTION	ELANCO US INC.
1769-371-66114	DROP DEAD FLYING AND CRAWLING INSECT KILLER		DM RESOURCES INC
2724-483	ZODIAC FLEATROL CARPET & UPHOLSTERY AERO SPRAY	CAUTION	WELLMARK INTERNATIONAL
305-55	REPEL PERMETHRIN CLOTHING & GEAR INSECT REPELLENT	CAUTION	UNITED INDUSTRIES CORP.
305-55-8845	HOT SHOT FLEA, TICK & LICE KILLER WITH ODOR NEUTRALIZER		SPECTRUM GROUP
4-393-53883	VIPER RTU INSECTICIDE COUNTRY FRESH FRAGRANCE		CONTROL SOLUTIONS, INC.
47000-100	PROZAP SCREW WORM-EAR TICK AEROSOL	CAUTION	CHEM-TECH, LTD.
47000-100-12281	DURVET SCREW WORM AEROSOL MULTI-PURPOSE INSECTICIDE SPRAY		DURVET INC
47000-103-12281	DURVET PERMETHRIN 10% RAPID KILL INSECTICIDE CONCENTRATE	WARNING	DURVET INC
498-174	CHAMPION SPRAYON MULTI-PURPOSE INSECTICIDE & LICE KILLER	CAUTION	CHASE PRODUCTS CO.
498-174	SPRAYPAK FLYING & CRAWLING INSECT KILLER	CAUTION	CHASE PRODUCTS CO.
498-174-1475	SLA REEFER-GALLER CEDAR SCENTED SPRAY III		WILLERT HOME PRODUCTS, INC.
50404-3-13283	RAINBOW TICK & MOSQUITO REPELLENT FOR FR CLOTHING		RAINBOW TECHNOLOGY CORPORATION
50404-3-58188	SAWYER PREMIUM INSECT REPELLENT CLOTHING, GEAR & TENTS TRIGGER SPRAY	CAUTION	SAWYER PRODUCTS
50404-3-58188	SAWYER PREMIUM INSECT REPELLENT A TREATMENT FOR CLOTHING, GEAR & TENTS (TRIGGER SPRAY)	CAUTION	SAWYER PRODUCTS
50404-6-58188	SAWYER PREMIUM INSECT REPELLENT CLOTHING, GEAR & CONVENIENT SPRAY	CAUTION	SAWYER PRODUCTS
50404-6-58188	SAWYER PREMIUM INSECT REPELLENT A TREATMENT FOR CLOTHING & GEAR (AEROSOL SPRAY)	CAUTION	SAWYER PRODUCTS
68543-32	BENGAL CRAWLING INSECT KILLER	CAUTION	BENGAL PRODUCTS INC
71-1	GOOD SENSE IN-HOME LICE, BEDBUG & DUST MITE SPRAY STEP 3	CAUTION	L. PERRIGO COMPANY
71-1-18489	RITE AID HOME LICE BEDBUG & DUST MITE SPRAY (STEP 3)		RITE AID CORP
71-1-40020	FAMILY WELLNESS HOME LICE, BEDBUG & DUST MITE SPRAY		MIDWOOD BRANDS, LLC
71-1-41348	EQUATE HOME LICE, BEDBUG & DUST MITE SPRAY (3 CONTROL)		WAL-MART STORES INC
71-1-6165	TOPCARE HOME LICE, BEDBUG & DUST MITE SPRAY (STEP 3 SPRAY)		TOPCO ASSOCIATES, LLC
71-1-62590	GOOD NEIGHBOR PHARMACY HOME LICE, BEDBUG & DUST MITE SPRAY		AMERISOURCEBERGEN
71-1-69713	SUNMARK HOME LICE, BEDBUG & DUST MITE SPRAY		MCKESSON CORPORATION
74843-2	INSECT SHIELD REPELLENT APPAREL	CAUTION	INSECT SHIELD, LLC
81402-1-58007	3M ULTRATHON CLOTHING AND GEAR INSECT REPELLENT	CAUTION	3M
82392-1	PERIMETER INSECT GUARD, INSECT REPELLENT APPAREL	NO SIGNAL WORD	PINEBELT PROCESSING, INC.
83588-1	NO FLY ZONE APPAREL THAT REPELS INSECTS (GARMENTS)	NO SIGNAL WORD	ELEVATE TEXTILES
83588-1	NO FLY ZONE INSECT REPELLENT TECHNOLOGY (DOG-HORSE)	NO SIGNAL WORD	ELEVATE TEXTILES
83588-1	NO FLY ZONE	NO SIGNAL WORD	ELEVATE TEXTILES
83588-1	NO FLY ZONE (DOG & HORSE)	NO SIGNAL WORD	ELEVATE TEXTILES
86110-2	SKINTEX MRIII INSECT REPELLENT APPAREL	NO SIGNAL WORD	PULCRA CHEMICALS, LLC

Federal Registrations Permethrin Products -No Signal Word

REGISTRATION NUMBER	PRODUCT NAME	COMPANY NAME
50404-10	DURANON PREMIUM INSECT REPELLENT APPAREL	COULSTON PRODUCTS INC
80203-1	GO AWAY	STARENSIER, INC.
81041-1	EXPEL	BIKEL INTERNATIONAL, INC.
81041-1-66306	IGUANA POP-UP BEDNETS	SUNSECT, INC.
81041-1-88329	EXPEL	PERFECT FIT INDUSTRIES LLC
81041-1-90867	LITEFIGHTER SHELTERS	LITEFIGHTER SYSTEMS, LLC
81041-1-91240	INSECT AMOUR	AMERICAN RECREATION PRODUCTS, LLC.
82392-1	PERIMETER INSECT GUARD INSECT REPELLANT APPAREL	PINEBELT PROCESSING, INC.
83122-1	PRO-TEK 50 FABRIC/APPAREL (GARMENT) TREATMENT	GARNIK INDUSTRIES, LLC
83122-1-2596	HARTZ BUGDANA FOR DOGS ONLY	THE HARTZ MOUNTAIN CORPORATION
83122-1-85005	Q-TEK	QUARTEK CORPORATION
83122-1-86352	SWEEP UNDER MATTRESS PAD	ERGON, LLC C/TO JEFFREY HOME
83122-2	BOND-IT INSECT REPELLENT FABRIC TREATMENT	GARNIK INDUSTRIES, LLC
83588-1	NO FLY ZONE	ELEVATE TEXTILES
86110-2	SKINTEX MR III APPAREL	PULCRA CHEMICALS, LLC
86110-2-81446	HeiQ Bug Guard Apparel	HEIQ CHEM-TEX INC.
86468-2	REPELZ BY BRITTANY	BRITTANY GLOBAL TECHNOLOGIES CORP.
91733-1	LOFT Insect Repellent Fabric Treatment	BROOKWOOD COMPANIES INCORPORATED
93511-3	Vital Protection TA	HHL GROUP LIMITED



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460**

**OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION**

August 2, 2019

Micah T. Reynolds
Regulatory Consultant
International Textile Group, Inc.
804 Green Valley Rd., Suite 300
Greensboro, NC 2748

Subject: Notification per PRN 98-10 – Adding alternate statements and company image/logo
Product Name: NO FLY ZONE
EPA Registration Number: 83588-1
Application Date: 17 April 2019
Decision Number: 550870

Dear Mr. Reynolds:

The Agency is in receipt of your Application for Pesticide Notification under Pesticide Registration Notice (PRN) 98-10 for the above referenced product. The Registration Division (RD) has conducted a review of this request for its applicability under PRN 98-10 and finds that the action requested falls within the scope of PRN 98-10. The label submitted with the application has been stamped "Notification" and will be placed in our records.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance.

If you have any questions, you may contact Dr. Helen Hull-Sanders at 703-347-0243 or via email at hull-sanders.helen@epa.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Elizabeth Fertich". The signature is fluid and cursive, with the first name "Elizabeth" and last name "Fertich" clearly distinguishable.

Elizabeth Fertich
Product Manager 04
Invertebrate & Vertebrate Branch 1
Registration Division (7505P)
Office of Pesticide Programs

(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

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No Fly Zone™

(MASTER LABEL)

Sublabel A:	Permethrin-Treated Fabric uses for Garments and Gear
Sublabel B:	Permethrin-Treated Fabric uses for Dog & Horse Products/Gear
Sublabel C:	Affixed Tag/Label - ALL Garments, Gear, or Dog/Horse Products
Sublabel D:	Labels for Military Use Only – Hang-tag and Sewn-in
Optional Label Claims	

EPA Reg. No.: 83588-1

EPA Establishment No.: TBD

Manufactured [by] [for]:

International Textile Group, Inc.
804 Green Valley Road, Suite 300
Greensboro, NC 27408 USA

NOTIFICATION

83588-1

The applicant has certified that no changes, other than those reported to the Agency have been made to the labeling. The Agency acknowledges this notification by letter dated:

08/02/2019

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

(SUBLABEL A: MASTER LABEL – GARMENTS and GEAR)

(Note to Reviewer: the following **garments** may be made from No Fly Zone™ fabric: *men's and women's shirts, pants, shorts, cargo shorts, hats, bonnies, bonnie hats, bush hats, jackets, pullovers, scarves, bandanas, socks, shoe coverings, and vests*. Their names may be used in place of the word "garment" in the text of the marketplace label. The following **gear articles** may be made from No Fly Zone™ fabric: *tents, tent mesh, tent netting, tent liner, umbrella, bivouac sack, bivy sack, bivy bag, bivi bag, bivi, sleeping bag covers, backpacks, tarps, drapes/curtains, table cloths, placemats, picnic blankets, tent ground cloths, outdoor furniture covers, outdoor furniture cushion covers, camping chairs, patio umbrella covers, hats, bonnies, bonnie hat, bush hats*. Their names may be used in place of the word "gear" in the text of the marketplace label.)



(Alternate Brand Names: **Mity-Tex, Mity Tex, NFZ, NFZ NOFLYZONE, NFZ NO-FLYZONE, Insect Defense, Insect Defense System**)

[Insect Repellent Technology] [Insect Defense System] [Insect Defense]

Manufactured [by] [for]:
International Textile Group, Inc.
804 Green Valley Road, Suite 300
Greensboro, NC 27408 USA
[XXX-XXX-XXXX]

Active Ingredient:	% by weight
Permethrin.....	0.52%
Other Ingredient (Garment/Gear fabric).....	99.48%
TOTAL	100.00%

EPA Reg. No. 83588-1
EPA Est. No.

- The fabric in this [garment/gear] has been treated with the active ingredient Permethrin.
- Permethrin repels mosquitoes, ants, ticks, chiggers, flies, and midges.
- Permethrin in this [garment/gear] is bound to the fabric and remains effective for [70] [50] [25] washings [for washable garments/gear]
- For protection of exposed skin, use in conjunction with an insect repellent registered for direct application to skin.

Directions for Use

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling. [Hangtag/Package] must not be removed, except by consumer after purchase. Keep this [hangtag/package] for future reference on how to properly handle this [garment/gear]. DO NOT DRY CLEAN [GARMENT/GEAR] (dry cleaning removes the Permethrin active ingredient). DO NOT RETREAT [GARMENT/GEAR] with other permethrin insect repellent products.

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

- International Textile Group, Inc. cannot guarantee complete protection from insects, insect bites, related diseases or reactions.

STORAGE & DISPOSAL

- Do not contaminate water, food, or feed by storage or disposal.
- Disposal: discard in trash when [garment/gear] is worn out.
- Do not use or reuse [garment/gear] for purposes other than originally intended.

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

(SUBLABEL B: MASTER LABEL – DOG & HORSE PRODUCTS/GEAR)

(Note to Reviewer: the following dog/horse products/gear may be made from No Fly Zone™ fabric: *dog bedding, dog blanket, dog rug, kennel covers, horse blankets, flysheets and fly rugs (light horsewear), stall covers, dog shirts, dog hats, dog bandanas, dog collars, garment(s)*. Their names may be used in place of the word “dog/horse product/gear” in the text of the marketplace label.)



(Alternate Brand Names: **Mity-Tex, Mity Tex, NFZ, NFZ NOFLYZONE, NFZ NO-FLYZONE, Insect Defense, Insect Defense System**)
[Insect Repellent Technology] [Insect Defense System] [Insect Defense]

Manufactured [by] [for]:
International Textile Group, Inc.
804 Green Valley Road, Suite 300
Greensboro, NC 27408 USA
[XXX-XXX-XXXX]

Active Ingredient:	% by weight
Permethrin.....	0.52%
Other Ingredient [(Dog/Horse Product/Gear)].....	99.48%
TOTAL	100.00%

EPA Reg. No. 83588-1
EPA Est. No.

- The fabric in this [dog/horse product/gear] has been treated with the active ingredient Permethrin.
- Permethrin repels mosquitoes, ants, ticks, chiggers, flies, and midges.
- Permethrin in this [dog/horse product/gear] is bound to the fabric and remains effective for [70] [50] [25] washings [for washable dog/horse products/gear].

Directions for Use

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling. [Hangtag/Packagage] must not be removed, except by consumer after purchase. Keep this [hangtag/packagage] for future reference on how to properly handle this [dog/horse product/gear]. DO NOT DRY CLEAN [dog product/apparel] (dry cleaning removes the Permethrin active ingredient). DO NOT RETREAT THIS [dog/horse product/gear] with other permethrin insect repellent products.

- International Textile Group, Inc. cannot guarantee complete protection from insects, insect bites, related diseases or reactions.

STORAGE & DISPOSAL

- Do not contaminate water, food, or feed by storage or disposal.
- Disposal: discard in trash when [dog/horse product/gear] is worn out.
- Do not use or reuse [dog/horse product/gear] for purposes other than originally intended.

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

**(SUBLABEL C: MASTER LABEL – AFFIXED GARMENT,
GEAR, or DOG/HORSE PRODUCT/GEAR TAG)**

No Fly Zone™

(Alternate Brand Names: **Mity-Tex, Mity Tex, NFZ, NFZ NOFLYZONE,
NFZ NO-FLYZONE, Insect Defense, Insect Defense System**)
[Insect Repellent Technology] [Insect Defense System] [Insect Defense]

ACTIVE INGREDIENT	%W/W
Permethrin.....	0.52%
OTHER INGREDIENTS: (Garment/Gear)....	99.48%
TOTAL.....	100.00%

[Contains Permethrin that] repels mosquitoes, ants, ticks, chiggers, flies and midges.

Active ingredient remains effective for [70] [50] [25] washings [for washable gear] [for washable garments] [for washable dog/horse products/gear].

It is a violation of Federal law to use this product in a manner inconsistent with its labeling.

Do Not Dry Clean. Dry cleaning removes active ingredient. Do not retreat with other permethrin products.

Dispose of worn out [gear] [garment] [dog/horse product/gear] in trash.

EPA Reg. No. 83588-1

EPA Est. No.

Refer to [hangtag/package] for detailed information.

THIS TAG MUST NOT BE REMOVED.

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

(SUBLABEL D: LABELS FOR MILITARY USE ONLY)

(Note to Reviewer: the following sublabel text is for military use garments and gear only that may be made from No Fly Zone™ fabric.)

(HANG-TAG LABEL)



(Alternate Brand Names: **Mity-Tex, Mity Tex, NFZ, NFZ NOFLYZONE, NFZ NO-FLYZONE, Insect Defense, Insect Defense System**)

[Insect Repellent Technology] [Insect Defense System] [Insect Defense]

[COAT, ARMY COMBAT UNIFORM] [TROUSERS, ARMY COMBAT UNIFORM]

Manufactured [by][for]:
International Textile Group, Inc.
804 Green Valley Road, Suite 300
Greensboro, NC 27408 USA

Active Ingredient:	% by weight
Permethrin.....	0.52%
Other Ingredient (Garment/Gear).....	99.48%
TOTAL	100.00%

EPA Reg. No. 83588-1 EPA Est. No.

- The fabric in this garment has been treated with the active ingredient, Permethrin.
- Permethrin repels mosquitoes, ants, ticks, chiggers, flies, and midges.
- Permethrin in this garment is bound to the fabric and remains effective for [70 [50] [25] washings.
- For protection of exposed skin, use in conjunction with an insect repellent registered for direct application to the skin.

Directions for Use

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling. [Hangtag/Package] must not be removed except by consumer, after purchase. Do Not Dry Clean – Dry cleaning removes the Permethrin active ingredient. Do not retreat this [garment/gear] with other permethrin insect repellent products. Wash treated [garment/gear] separately from other [garments/gear]. Only launder permethrin treated and untreated [garments/gear] together under field or combat conditions. Keep this [hangtag/package] for future reference on how to properly handle this [garment/gear].

Storage and Disposal

- Do not contaminate water, food, or feed by storage or disposal.
- Disposal: discard in trash when [garment/gear] is worn out. [Remove [Identify Friend or Foe] [IFF] tape first.] (Note to reviewer: IFF tape removal statement only relevant for coat.)
- Do not use or reuse [garment/gear] for purposes other than originally intended.

International Textile Group, Inc. cannot guarantee complete protection from insects, insect bites, related diseases or reactions.

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Deleted: November 6, 2015

(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

**(SUBLABEL D: LABELS FOR MILITARY USE ONLY,
Continued)**

(SEWN-IN LABEL)

**NO FLY ZONE
INSECT REPELLENT APPAREL**

Refer to [hangtag/package] for more information

[Coat: Army Combat Uniform]

[Trouser: Army Combat Uniform]

Contractor Name: International Textile Group, Inc.

Contract Number: [W911QY-14-F-0148]

EPA REG. NO.: 83588-1

EPA EST. NO.:

- Do Not Dry Clean
- Dry Cleaning removes active ingredient
- Wash separate from other clothing
- In military field operations, garment may be washed with other garments.
- Do Not Re-treat with other permethrin products
- Dispose of garment in trash in accordance with Army regulations

Repels mosquitoes, ticks, ants, flies, chiggers and midges

Repellency remains effective for [70] [50] [25] washings

ACTIVE INGREDIENT	%W/W
Permethrin.....	0.52%
OTHER INGREDIENTS: (Garment/Gear)....	99.48%
TOTAL.....	100.00%

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling

DO NOT REMOVE THIS LABEL

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

Optional Label Claims and Marketing Statements for Garment/Gear or Dog/Horse Product/Gear Hang Tags AND/OR Tag affixed to Garment/Gear Article, or Dog/Horse Product:

- [Apparel that repels insects]
- [Garments that repel insects]
- [Garment that repels insects]
- [Gear that repels insects]
- [Insect repellent clothing]
- [Insect repellent apparel]
- [Insect repellent gear]
- [Clothing that repels insects]
- [Insect repellent protection [in a] [clothing] [garment] [jacket] [shirt] [pair of pants] [pair of shorts] [hat]]
- [Repels mosquitoes]
- [Repels ticks]
- [Built-in insect repellent technology [that lasts through [70] [50] [25] washes]]
- [Insect Defense System]
- [Insect Defense]
- [[Tents] [Tent mesh] [Tent liner] [Umbrella] [Bivouac sack] [Bivy Sack] [Bivvy Bag] [Bivi Bag] [Bivy] [Sleeping bag cover] [Backpack] [Outdoor furniture] that repels insects]
- [No Fly Zone™ Technology converts [gear] [garments] into long-lasting, effective and convenient insect protection.]
- [No Fly Zone™ Technology converts [gear] [garments] into long-lasting, effective and convenient tick and mosquito protection.]
- [Proven to repel mosquitoes, ants, ticks, chiggers, flies and midges.]
- [Treated with the active ingredient Permethrin for [long-lasting] [effective] fly, mosquito, ant, tick, chigger, and midge [protection] [repellency].]
- [No Fly Zone™ remains effective for [70] [50] [25] washings.]

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

- [Fly protection for a calm and happy horse]
- [Odorless [and] Invisible [Protection]]
- [Effective [mosquito] [ant] [tick] [chigger] [fly] [midge] protection]
- [Effective, [Odorless], [Invisible] Protection]
- [Flysheet [treated] with No Fly Zone™.]
- [Fly rug [treated] with No Fly Zone™.]
(Note to reviewer: a flysheet/fly rug is a lighter horsewear garment.)
- [Bug buster repellency]
- [Fly buster repellency]
- [Bug buster]
- [Fly buster]
- [Vamoose fly protection]
- [Vamoose]
- [SmartPak]
- [Rambo Fly Buster]
- [Amigo Bug Buster]
- [Insect Defense for your family]
- [Insect Repellent Technology]
- [Insect protection [for] [from] pesky insects]
- [An invisible barrier that protects you from multiple species of pesky insects]

- [Treated with Burlington® Labs No Fly Zone™ Insect Repellent Technology]

- **[No Fly Zone]** [Insect Defense System] creates an odorless, invisible, and long lasting, effective protection against mosquitoes, ticks, chiggers, flies, ants, and midges. This achieves what you need – a defense that protects you while enjoying your outdoor adventures.]

- [© 20XX International Textile Group, Inc. No Fly Zone™, and Burlington® are registered trademarks owned or held under license by International Textile Group, Inc.]

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(Note to Reviewer: [bracketed text] is optional or alternate wording; (parenthetical text) is informational.)

Optional Logos and Pictograms for Hang Tag:

- Pictogram(s) of target insects (mosquito, ant, tick, chigger, fly, and/or midge)

- Burlington Labs logo

- Technology by  Burlington®



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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

July 3, 2017

Ana Rodriguez-Koster
Agent for Pulcra Chemicals, LLC
Lewis and Harrison
122 C Street, N.W. Suite 505
Washington, DC 20001

Subject: PRIA Label Amendment – Revise marketing claim
Product Name: SKINTEX MR III APPAREL
EPA Registration Number: 86110-2
Application Date: 03/03/2017
Decision Number: 527036

Dear Ms. Rodriguez-Koster:

The amended label referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide and Rodenticide Act, as amended, is acceptable. This approval does not affect any conditions that were previously imposed on this registration. You continue to be subject to existing conditions on your registration and any deadlines connected with them.

A stamped copy of your labeling is enclosed for your records. This labeling supersedes all previously accepted labeling. You must submit one copy of the final printed labeling before you release the product for shipment with the new labeling. In accordance with 40 CFR 152.130(c), you may distribute or sell this product under the previously approved labeling for 18 months from the date of this letter. After 18 months, you may only distribute or sell this product if it bears this new revised labeling or subsequently approved labeling. "To distribute or sell" is defined under FIFRA section 2(gg) and its implementing regulation at 40 CFR 152.3.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance.

Your release for shipment of the product constitutes acceptance of these conditions. If these conditions are not complied with, the registration will be subject to cancellation in accordance with FIFRA section 6. If you have any questions, you may contact Elizabeth Fertich at 703-347-8560 or via email at fertich.elizabeth@epa.gov.

Sincerely,

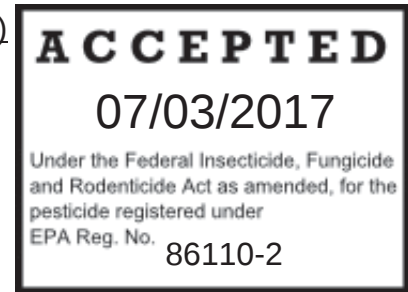
A handwritten signature in black ink, appearing to read 'Kable Bo Davis', enclosed within a large, loopy oval shape.

Kable Bo Davis
Product Manager 04
Invertebrate & Vertebrate Branch 1
Registration Division (7505P)
Office of Pesticide Programs

Enclosure

Hang-tag on outside of item (removable by consumer)
Text in [] is optional.

Skintex MR III Apparel
[Skintex MR III Insect Repellent Apparel]
[Skintex MR III Insect Repellent Gear]



- Uses microencapsulation technology.
- This [garment] [item] has been treated with Skintex MR III encapsulated permethrin insect repellent.
- Repels [mosquitoes [that may carry West Nile Virus]] [ticks [that may carry Lyme disease]] [ants] [flies] [chiggers] [and] [or] [midges].
- Repels mosquitos that may carry (the) Zika (virus).
- Provides protection against mosquitoes that may carry (the) Zika (virus).
- Effective protection from mosquitoes that may carry (the) Zika (virus).
- Do not dry clean. Dry cleaning removes active ingredient.
- Repellency effectively remains for 50 washings for washable items: [apparel] [sleeping bag covers] [backpacks] [outdoor furniture covers] [outdoor furniture cushion covers] [netting] [ground cloths] [horse blankets] [pet bedding].
- Repellency effectively remains for 6 months of exposure to weathering for non-washable items: [tents] [tarps] [awnings] [patio umbrella covers] [kennel covers] [stall covers].
- Do not re-treat [garment] [item] with other permethrin insect repellent products.
- To protect exposed skin, use in conjunction with an insect repellent approved for direct application to the skin.
- When washing, wash treated [garment] [item] separate from other clothing or washables.
- [Skintex MR III Apparel] [Skintex MR III Insect Repellent Apparel] [Skintex MR III Insect Repellent Gear] uses a durable carrier to bind the permethrin in to the [garment] [item]. [Skintex MR III Apparel] [Skintex MR III Insect Repellent Apparel] [Skintex MR III Insect Repellent Gear] does not change the [garment's] [item's] original hand and drape.

Active Ingredient:

Permethrin	0.52%
Other Ingredients:	99.48%
TOTAL:	100.00%

It is a violation of federal law to use this product in a manner inconsistent with its labeling.

STORAGE AND DISPOSAL

Do not contaminate water, food, or feed for storage or disposal.

Disposal: Discard in trash when [clothing] [item] is worn out. Do not reuse [clothing] [item] for other purposes.

RETAIN THIS TAG FOR FUTURE REFERENCE ON PROPER HANDLING OF THIS [GARMENT] [ITEM]. THIS TAG NOT TO BE REMOVED EXCEPT BY CONSUMER.

EPA Reg. No. 86110-2

EPA Est. No. _____

Batch Code: _____



Pulcra Chemicals, LLC
474 Bryant Blvd.
Rock Hill, SC 29732

Permanent Garment/Item Label

Skintex MR III Apparel
[Skintex MR III Insect Repellent Apparel]
[Skintex MR III Insect Repellent Gear]

- Do not dry clean
- Repels [mosquitoes] [ticks] [ants] [flies] [chiggers] [and] [or] [midges].
- Repels mosquitos that may carry (the) Zika (virus).
- Provides protection against mosquitoes that may carry (the) Zika (virus).
- Effective protection from mosquitoes that may carry (the) Zika (virus).
- [Repellency effectively remains for 50 washings for washable items: [apparel] [sleeping bag covers] [backpacks] [outdoor furniture covers] [outdoor furniture cushion covers] [netting] [ground cloths] [horse blankets] [pet bedding].]
- [Repellency effectively remains for 6 months of exposure to weathering for non-washable items: [tents] [tarps] [awnings] [patio umbrella covers] [kennel covers] [stall covers].]

Active Ingredient: Permethrin 0.52% w/w

EPA Reg. No. 86110-2

EPA Est. No. _____

Wash separately from other clothing.

Dispose of [garment] [item] in trash.

For more information, refer to hang tag.

Pulcra Chemicals, LLC cannot guarantee complete protection from insects, insect bites, or related reactions.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, DC 20460

OFFICE OF CHEMICAL SAFETY
AND POLLUTION PREVENTION

April 25, 2016

Henry Jacoby
Regulatory Consultant for PineBelt Processing, Inc.
6709 Ilex Court
New Market, MD 21774

Subject: Label Amendment – Addition of marketing claims
Product Name: PERIMETER INSECT GUARD INSECT REPELLANT
APPAREL
EPA Registration Number: 82392-1
Application Date: 05/25/2015
Decision Number: 505583

Dear Mr. Jacoby:

The amended label referred to above, submitted in connection with registration under the Federal Insecticide, Fungicide and Rodenticide Act, as amended, is acceptable. This approval does not affect any conditions that were previously imposed on this registration. You continue to be subject to existing conditions on your registration and any deadlines connected with them.

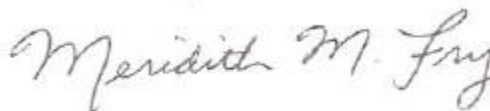
A stamped copy of your labeling is enclosed for your records. This labeling supersedes all previously accepted labeling. You must submit one copy of the final printed labeling before you release the product for shipment with the new labeling. In accordance with 40 CFR 152.130(c), you may distribute or sell this product under the previously approved labeling for 18 months from the date of this letter. After 18 months, you may only distribute or sell this product if it bears this new revised labeling or subsequently approved labeling. "To distribute or sell" is defined under FIFRA section 2(gg) and its implementing regulation at 40 CFR 152.3.

Should you wish to add/retain a reference to the company's website on your label, then please be aware that the website becomes labeling under the Federal Insecticide Fungicide and Rodenticide Act and is subject to review by the Agency. If the website is false or misleading, the product would be misbranded and unlawful to sell or distribute under FIFRA section 12(a)(1)(E). 40 CFR 156.10(a)(5) list examples of statements EPA may consider false or misleading. In addition, regardless of whether a website is referenced on your product's label, claims made on the website may not substantially differ from those claims approved through the registration process. Therefore, should the Agency find or if it is brought to our attention that a website contains false or misleading statements or claims substantially differing from the EPA approved registration, the website will be referred to the EPA's Office of Enforcement and Compliance.

Your release for shipment of the product constitutes acceptance of these conditions. If these conditions are not complied with, the registration will be subject to cancellation in accordance

with FIFRA section 6. If you have any questions, you may contact Elizabeth Fertich at 703-347-8560 or via email at fertich.elizabeth@epa.gov.

Sincerely,

A handwritten signature in dark ink, reading "Meredith M. Fry". The signature is written in a cursive style with a large, stylized "M" and "F".

Meridith M. Fry, Ph.D., Product Manager 4
Invertebrate & Vertebrate Branch 1 (IVB1)
Registration Division (7505P)
Office of Pesticide Programs

Enclosure

Draft Master label

4/19/2016

Hang-tag placed outside of [treated article*] (removable by consumer)

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling.

PERIMETER INSECT GUARD

INSECT REPELLANT FABRIC, GEAR TENTING, NETTING, AND APPAREL*

- REPELS MOSQUITOES, TICKS, ANTS, SPIDERS, FLEAS, FLIES, CHIGGERS, AND MIDGES.
- REPELLENCY REMAINS EFFECTIVE FOR 50 [25] WASHINGS.
- REPELLENCY REMAINS EFFECTIVE FOR 6 MONTHS OF EXPOSURE TO WEATHERING FOR NON-WASHABLE ITEMS (i.e., TENTS, SHELTERS, TRUCK COVERS, AWNINGS, HUNTING BLINDS, KENNEL/STALL COVERINGS).

ACCEPTED

Apr 25, 2016

Under the Federal Insecticide, Fungicide
and Rodenticide Act as amended, for the
pesticide registered under
EPA Reg. No. 82392-1

Active Ingredient

Permethrin.....0.52%

Other Ingredients*99.48%

*(identify the treated article) 100.00%

Manufactured by PineBelt Processing, Inc.
Stonewall, MS 39636

EPA Reg. No. 82392-1

EPA Est. No. 82392-MS-1

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling.

RETAIN THIS TAG FOR FUTURE REFERENCE ON PROPER HANDLING OF THIS TREATED ARTICLE. THIS TAG IS NOT TO BE REMOVED EXCEPT BY CONSUMER

- THIS ARTICLE HAS BEEN TREATED WITH PERMANONE (PERMETHRIN) INSECT REPELLENT
- DO NOT RE-TREAT ARTICLE WITH OTHER PERMETHRIN INSECT REPELLENT PRODUCTS.
- DO NOT DRYCLEAN. DRYCLEANING REMOVES ACTIVE INGREDIENT.

- **FOR PROTECTION OF EXPOSED SKIN, USE IN CONJUNCTION WITH AN INSECT REPELLENT REGISTERED FOR DIRECT SKIN APPLICATION.**
- **WASH TREATED ARTICLES SEPARATELY FROM OTHER ARTICLES OR CLOTHING.**
- **[IN MILITARY FIELD OPERATIONS GARMENT MAY BE LAUNDERED WITH OTHER CLOTHING.]**

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal

Disposal: Discard clothing and other treated articles when worn out. Do not reuse clothing for other purposes than as a garment.

RETAIN THIS TAG FOR FUTURE REFERENCE ON PROPER HANDLING OF THIS TREATED ARTICLE. THIS TAG IS NOT TO BE REMOVED EXCEPT BY CONSUMER.

* Because of the different markets, the label will reflect the type of article treated. That is “Insect repellent horse blanket” or “Insect repellent garment” or “Insect repellent tent.”

Treating articles may be the following: Textile Fabrics of fiber blends consisting of natural fibers, synthetic fibers, and combination fiber blends thereof, tents, shelters, truck covers, awnings, hunting blinds and netting; outer wear garments or field clothing (i.e., coats, jackets, coveralls, gaiters, chaps, hat bands, bibs and vests; and domestic animal [dogs, cats, horses] care products (such as pet bedding, blankets, rugs, netting and kennel/stall coverings) as a repellent against ticks, mosquitoes, spiders, ants, fleas, flies and other listed flying and crawling insects.

[] indicates alternate language as required by some military organizations.

4/19/2016

Treated article label to be sewn into a seam of treated article – 2 7/8” x 3 1/4” as care label material



Insect Repellant Treated [article designation]

Refer to hang tag for more information.

[article designation will go here]

PERMETHRIN CONTRACT No.: (only for military contract)
PINEBELT PROCESSING, INC.
PERIMETER INSECT GUARD
EPA REG. NO. 82392-1
EPA EST. NO. 82392-MS-

- Repels mosquitoes, ticks, ants, flies, chiggers, and midges.
- [Repellency remains effective for [25] 50 washings.]
- [Repellency remains effective for 6 months exposure to weathering for non-washable items.]

ACTIVE INGREDIENT: %W/W

Permethrin.....0.52%

OTHER INGREDIENTS: (GARMENT)..... 99.48%

TOTAL.....100.00%

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling.

- 1) **Do Not Dry Clean, Dry Cleaning removes active ingredient.**
- 2) **Wash separately from other clothing.**
- 3) **[In military field operations garment may be laundered with other garments.]**
- 4) **Refer to hang tag for more information.**
- 5) **Do Not Re-treat with a permethrin product.**
- 6) **Dispose of garment in trash.**
- 7) **Do not remove this label.**



Skintex[®] MR III

Insect Repellent Apparel

This garment has been treated with Skintex[®] MR III microencapsulated permethrin insect repellent.

Repels mosquitoes, ticks, ants, flies, chiggers and/or midges (Mosquitoes may carry Malaria and West Nile Virus and ticks may carry Lyme Disease)

Repellency remains effective for numerous launderings

Pulcra Chemicals LLC
474 Bryant Blvd Rock Hill SC 29732
www.pulcra-chemicals.com

MAY 13 2014
DATE REVIEWER *NEW*

OR 861102

- ▶ Do not re-treat garment with other permethrin insect repellent products.
- ▶ Do not dry clean. Dry cleaning removes active ingredient.
- ▶ To protect exposed skin, use in conjunction with an insect repellent approved for direct application to the skin.
- ▶ When washing, wash treated garments separate from other clothing.
- ▶ Skintex MR III uses a durable carrier to bind the permethrin into the garment.
- ▶ Skintex MR III does not change the garment's original hand and drape.

Active Ingredient

Permethrin	0.52%
Other Ingredients	99.48%
Total	100.00%

It is a violation of Federal Law to use this product in a manner inconsistent with its labeling.

Storage and Disposal

Do not contaminate water, food, or feed by storage or disposal.

Disposal: Discard in trash when clothing is worn out. Do not reuse clothing for other purposes than as a garment.

Retain this tag for future reference on proper handling of this garment. This tag not to be removed except by consumer.

EPA Reg. No. 86110-2
EPA Est. No.



Skintex MR III Permanent Label

SKINTEX MR III

Machine wash separately from other clothing

Use only non-chlorine bleach when needed

Tumble dry low or line dry

Do not dry clean

Dispose of garment in trash

Repels mosquitoes, ticks, spiders, flies, chiggers, and/or midges

Repellency effectively remains for 25 washings

Active ingredient: permethrin 0.52% w/w

EPA Reg. No. 86110-2

EPA Est. No. 088076-NC-001



Ticks

Preventing tick bites

Tick exposure can occur year-round, but ticks are most active during warmer months (April-September). Know [which ticks are most common in your area](#).

Before You Go Outdoors

- **Know where to expect ticks.** Ticks live in grassy, brushy, or wooded areas, or even on animals. Spending time outside walking your dog, camping, gardening, or hunting could bring you in close contact with ticks. Many people get ticks in their own yard or neighborhood.
- **Treat clothing and gear** with products containing 0.5% permethrin. Permethrin can be used to treat boots, clothing and camping gear and remain protective through several washings. Alternatively, you can buy permethrin-treated clothing and gear.
- **Use [Environmental Protection Agency \(EPA\)-registered insect repellents](#)** [↗](#) containing DEET, picaridin, IR3535, Oil of Lemon Eucalyptus (OLE), para-menthane-diol (PMD), or 2-undecanone. EPA's helpful [search tool](#) [↗](#) can help you find the product that best suits your needs. Always follow product instructions. Do not use products containing OLE or PMD on children under 3 years old.
- **Avoid Contact with Ticks**
 - Avoid wooded and brushy areas with high grass and leaf litter.
 - Walk in the center of trails.

After You Come Indoors

Check your clothing for ticks. Ticks may be carried into the house on clothing. Any ticks that are found should be removed. Tumble dry clothes in a dryer on high heat for 10 minutes to kill ticks on dry clothing after you come indoors. If the clothes are damp, additional time may be needed. If the clothes require washing first, hot water is recommended. Cold and medium temperature water will not kill ticks.

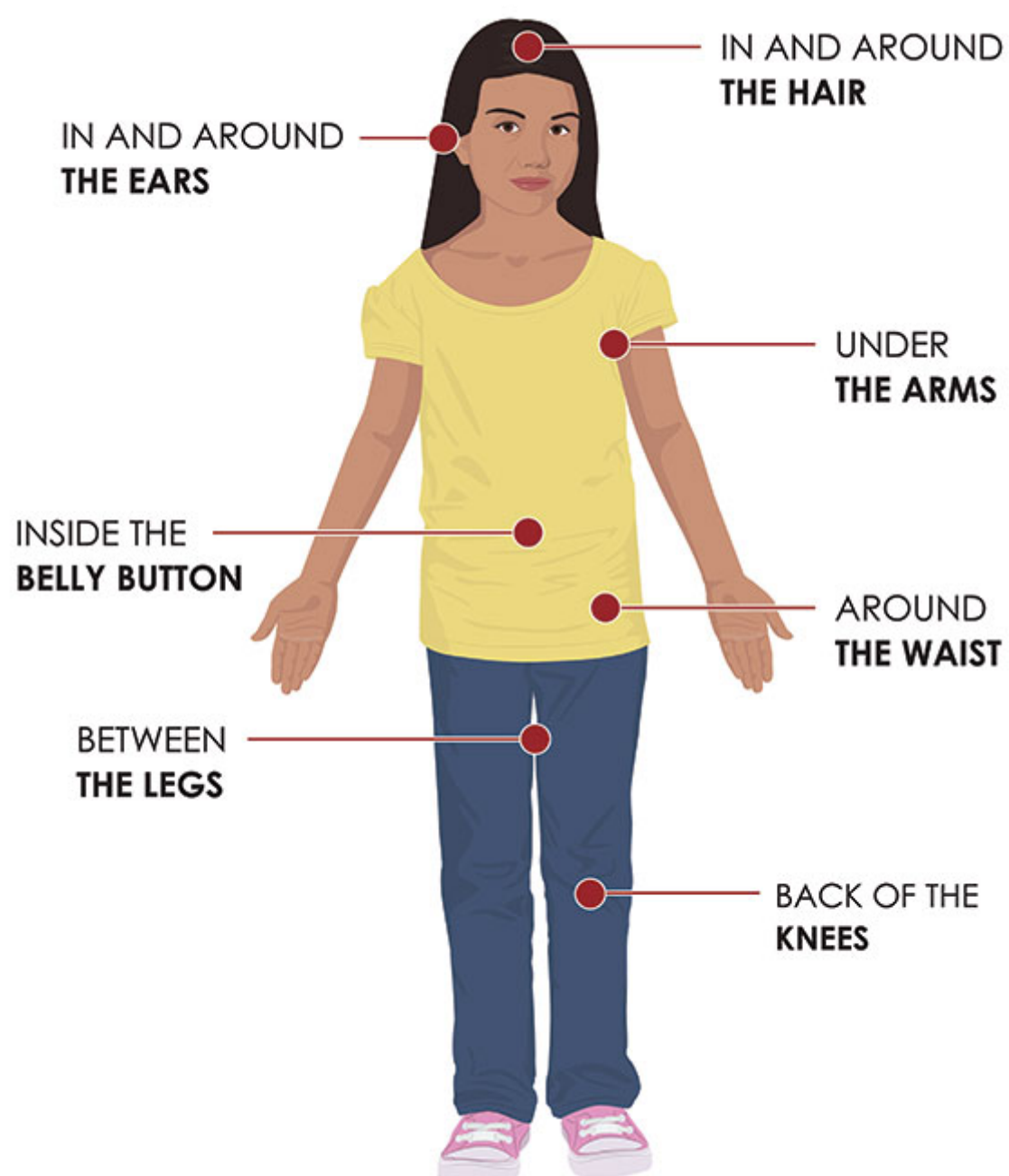
Examine gear and pets. Ticks can ride into the home on clothing and pets, then attach to a person later, so carefully examine pets, coats, and daypacks.

Shower soon after being outdoors. Showering within two hours of coming indoors has been shown to reduce your risk of getting Lyme disease and may be effective in reducing the risk of other tickborne diseases. Showering may help wash off unattached ticks and it is a good opportunity to do a tick check.

Check your body for ticks after being outdoors. Conduct a full body check upon return from potentially tick-infested areas, including your own backyard. Use a hand-held or full-length mirror to view all parts of your body. Check these parts of your body and your child's body for ticks:

- Under the arms
- In and around the ears
- Inside belly button
- Back of the knees

- In and around the hair
- Between the legs
- Around the waist



Page last reviewed: July 1, 2020



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

7

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

Date: October 13, 2023
To: Board Members
From: John Pietroski
Subject: Mark Hudson, Ag Container Recycling Council

Staff reached out to Executive Director, Mark Hudson of the Ag Container Recycling Council, ACRC. The following is a summary of Mark Hudson's comments concerning current pesticide container recycling in Maine. Hudson stated that he had:

- evaluated various options for maximizing consolidated collection in Maine via two options:
 - storage location at Green4Maine (formerly known as Loring AFB), and
 - on site storage at the 3 primary retailers in northern Maine (CaroVail, Helena and Nutrien)
- been in regular contact with the above three retailers regarding the preference of approach here,
- distributed rinsing best practices and container acceptance criteria to the grower community through the Maine Potato Board and the above three retailers last spring, in anticipation of the growing/container collection season,
- provided educational materials to United Ag and Turf/John Deere in Presque Isle for their annual Sprayer Clinic held in June 2023., (BPC staff were able to participate in this and further share our message with growers),
- moved forward with an on-site storage approach at the retail level using shipping containers, and
- ARC provided 12 rolls of large plastic bags that were sent to the three retailers for temporary collection and storage of empty triple-rinsed jugs until the shipping containers are in place.

- ACRC will be in Maine the week of October 16, 2023, and has communicated its schedule with the following:
 - Nutrien – Mapleton
 - Helena – Presque Isle
 - CaroVail – Houlton
 - Cherryfield Farms
- ACRC provided the BPC with sample documents, including:
 - Inspection Checklists (30)
 - Rinsing Best Practices (30)
 - 8-page brochures (5)
 - CLEAN means CLEAN posters (3)

Summary

In regard to on-site storage at the retail level using storage containers ACRC has contacted multiple vendors and received quotes which were presented CaroVail, Helena and Nutrien and to the ACRC board for review. Hudson has also been asked to give a presentation at the 2024 Agricultural Trade Show in January 2024.

Mark Hudson has offered to give an update on pesticide container recycling and answer Board questions at the December 1, 2023, Board of Pesticide Control Meeting.

Maine Department of Environmental Protection

[Home](#) → [Waste Management](#) → [Recycling](#) → Extended Producer Responsibility

Extended Producer Responsibility Program for Packaging

In July 2021, the Maine legislature passed a law establishing a [stewardship program for packaging](https://legislature.maine.gov/statutes/38/title38sec2146.html) (<https://legislature.maine.gov/statutes/38/title38sec2146.html>). The program's purpose is to reduce the volume and toxicity and increase the recycling of packaging material. Producers of products will pay into a fund based on the amount and the recyclability of packaging associated with their products. These funds will be used to reimburse municipalities for eligible recycling and waste management costs, make investments in recycling infrastructure, and help Maine citizens understand how to recycle. The program will be operated by a stewardship organization ("SO") that will be selected by the Department following a competitive bidding process. The SO will be responsible for day-to-day operation of the program with the Department providing oversight. Costs to fund the SO and Department oversight will be funded by producer payments. In addition to sharing information via the website, the Department is issuing periodic newsletters to update interested parties. To be added to the Department's distribution list, please email MainePackagingEPR@maine.gov (<mailto:MainePackagingEPR@maine.gov>).

Anticipated Schedule for Implementation

The schedule for implementation will afford several years to coordinate Maine's program with programs anticipated in other states and for product manufacturers to begin to adjust packaging. This schedule will be revised as needed to reflect changes as program development progresses.

- July 2022 – Funding for program administration available - Hire staff for program development and oversight
- July 2022 – December 2023 - Stakeholder outreach for rule development
- December 31, 2023 – Deadline to initiate rulemaking with the Board of Environmental Protection
- Summer 2024 – Anticipated adoption of routine/technical rules and provisional adoption of major substantive rules by Board of Environmental Protection
- February 15, 2025 – First program update report due to legislature
- January 2025 – Submittal of major/substantive rules to the legislature for approval
- Spring/Summer 2025 – Anticipated final adoption of major substantive rules by the Board
- Fall 2025 – Issue RFP for stewardship organization
- 2026 – Selection of stewardship organization
- 2026 – First producer payments, payments due no more than 180 days after effective date of Stewardship organization contract
- 2027 – First payments to municipalities
- February 15, 2028 – Program report to legislature requiring comprehensive review of the rules and outlining any proposed changes to rules and law
- July 2035 – Reissue Bid for stewardship organization

Funding for the program positions was allocated by the legislature beginning in July of 2022. During 2023 and 2024 the Department will engage in a robust stakeholder outreach program to develop program rules. The program will not go into effect until the rules outlining the details of the program as described in the authorizing legislation are in place and a contract is established with the stewardship organization.

Stakeholder Meeting Schedule

The rulemaking for the EPR for packaging program will be extensive. To solicit input from stakeholders in an organized manner, the Department has divided the rulemaking topics outlined in statute among a series of stakeholder meetings. A minimum of two meetings will be held on each topic. The commentary in Meeting 1 will allow all stakeholders to become familiar with each other's perspectives and needs as everyone who has RSVP to share comments will be given time to do so. Meeting 2 will allow for discussion on how varying needs shared in Meeting 1 can be appropriately considered during rulemaking. For more complex topics, the Department anticipates additional focus-meetings may be necessary and plans to schedule those as needed. [Stakeholder meeting and registration information](https://content.govdelivery.com/accounts/MEDEP/bulletins/347ea10) (<https://content.govdelivery.com/accounts/MEDEP/bulletins/347ea10>).

What does this law do?

This law shifts the cost of managing packaging waste from municipalities and citizens to producers of the products we buy. It places a fee on producers based on their packaging choices. Payments by producers will be based on the net amount of packaging sold into the state and will consider toxicity and whether the packaging is readily recyclable. This will provide incentives for producers to choose more readily recyclable packaging and use less packaging.

Municipalities are eligible to receive reimbursement payments from the stewardship fund that reflect the average cost of managing packaging material, thereby providing incentives for more recycling and improved efficiency in recycling programs.

Additionally, the stewardship organization will conduct statewide assessments to identify potential improvements to recycling infrastructure and education. Money paid into the packaging stewardship fund by producers and not used for municipal reimbursements and program administration will be used to support

Stakeholder Updates

- [EPR Conceptual Draft Rules - Part 1](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (September 1, 2023)
- [Background information on alternative collection programs for the EPR stakeholder meeting](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (August 1, 2023)
- [DEP provides background information on producer payments and reporting for EPR stakeholder meetings](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (June 29, 2023)
- [Regarding the May 9th EPR stakeholder meeting](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (May 2, 2023)
- [Background information for EPR stakeholder meetings on education and investment](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (April 25, 2023)
- [March EPR Stakeholder Meetings Rescheduled](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (March 13, 2023)
- [EPR stakeholder meetings on readily recyclable, audits, and program goals](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (March 9, 2023)
- [EPR focus-meeting for municipal reimbursement](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (March 7, 2023)
- [DEP will host an EPR-related focus meeting for Municipal Reimbursement](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (February 10, 2023)
- [Background Information for Municipality Reimbursement](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (December 23, 2022)
- [Packaging Stakeholder Meeting - Schedule and Producer Exemptions Planning](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) (Nov. 16, 2022)
- [DEP sets timeline for Packaging Stakeholder meetings](https://content.govdelivery.com/accounts/MEDEP/bulletin) (<https://content.govdelivery.com/accounts/MEDEP/bulletin>) *correction notice: the education and investment meetings are scheduled for May 2023* (Sept. 23, 2022)

[Stakeholder Meetings \(javascript:;\) + \(javascript:;\)](#)

[\(javascript:;\)](#)

[Rule Concepts](https://www.maine.gov/dep/ftp/temp/epr/rule-concepts/) (<https://www.maine.gov/dep/ftp/temp/epr/rule-concepts/>)

[Background Information](https://www.maine.gov/dep/ftp/temp/epr/background/) (<https://www.maine.gov/dep/ftp/temp/epr/background/>)

[Comments](https://www.maine.gov/dep/ftp/temp/epr/comments/) (<https://www.maine.gov/dep/ftp/temp/epr/comments/>)

[Attendance Reports](https://www.maine.gov/dep/ftp/temp/epr/attendance/) (<https://www.maine.gov/dep/ftp/temp/epr/attendance/>)

improvements to recycling infrastructure and education in Maine.

What does this law not do?

This law will not limit a producer's packaging options; it does not prohibit the use of any type of packaging material or format. Producers can continue to package their products in ways that align with product needs and other regulatory requirements. However, some packaging material – due to its volume, toxicity, or lack of recyclability – will require higher payments into the packaging stewardship fund than others.

The law does not require municipalities to participate in the program, nor are municipalities given incentives to landfill packaging material. Municipalities that do participate will receive reimbursement payments based on the average per-ton cost of managing packaging material. Details on municipal reimbursement will be decided during rulemaking, but they must provide incentives for municipalities to avoid disposal.

[Producers \(#prod\)](#) and [municipalities \(#mun\)](#) will be the major stakeholders in this program. [Retailers \(#ret\)](#), [material recyclers \(#mat\)](#), and [Maine citizens \(#cit\)](#) will also be involved in the success of this program. All are encouraged to actively participate in the development of the rules of the program during the public outreach period and the rule making and program development process.

I am a producer, what does this mean for me? And what exactly is a producer?

The law defines a producer as the brand owner of the packaged product or, if the product brand owner has no U.S. presence, the producer can be a sole importer of the product into the State.

Producers will be required to report to the SO on the packaging associated with products sold into Maine and pay into the packaging stewardship fund. Low-volume producers, defined as those sending less than 15 tons of packaging into Maine on an annual basis, will have the option of reporting in a simplified manner and paying a flat fee of no more than \$500/ton of packaging material. The rules associated with this law will define a process whereby any producer unable to provide the requisite reporting information can estimate its obligation.

Producers are encouraged to participate in the rulemaking process, work with the SO on administration and programs to assist with producer compliance and help maintain a level playing field by identifying non-compliant entities. Producers will also be able to provide input on proposed investments in education and infrastructure.

Producers may choose to establish an alternative collection program to collect and manage a type or types of packing material brought into the state. This program must be approved by the Department following rules to be developed during the initial rulemaking process. A producer that manages a type of packaging material through an alternative program may wholly or partially offset the producer's payment obligations with respect to that same type of packaging only.

Producers can limit the amount they pay into the fund by making changes to packaging to reduce amount and increase recyclability of their packaging or by participating in an alternative collection program.

I'm a municipality, what does this mean for me?

This law does not require municipalities to participate in the program. However, a municipality that does participate will receive reimbursement payments based on the average per-ton cost of managing packaging material by similar municipalities. To participate a municipality – defined as a city, town, county, township, village or plantation; a refuse disposal district, or a regional association – must accept for recycling all materials that are designated as readily recyclable and must comply with certain data reporting requirements such as annual reporting of recycling and cost data. Reporting requirements will be defined during the rulemaking process, and the SO will aid municipalities that need help reporting. Details on the method of calculating payment and the definitions of readily recyclable and similar municipalities will also be determined through rulemaking.

Municipalities have several ways to assure their input into the program. Municipalities can participate in rulemaking, work with the packaging stewardship organization on administration and its programs to assist with municipal reporting, participate in alternative collection programs, provide input on proposals for investment in infrastructure and education, receive funding for investments in infrastructure and education, and participate in the on-going determination of similar municipalities and reimbursement calculations.

Municipalities may be able to increase their reimbursement payments by recycling more and otherwise moving waste up the waste management hierarchy. Because municipalities will be paid for recycling based on the average per-ton cost to similar municipalities, efficiency improvements will not decrease the amount of money a particular municipality receives.

I'm a retailer, what does this mean for me?

Retailers who also meet the definition of a producer (as discussed above) will have the same obligations as a producer for the packaging associated with their own products.

Retailers who do not meet the definition of a producer do not have any obligations under this law for the merchandise they sell. However, the department will maintain lists of products, by UPC, that are compliant and known to be non-compliant. Retailers may help maintain a level playing field by providing information on non-compliant products. Retailers that are interested may also participate in the stakeholder sessions for rulemaking development.

I am a materials recycler, what does this mean to me?

To meet their reporting obligations, municipalities will require information from their recycling partners, including information obtained through program audits. Improvements to the efficiency and effectiveness of recycling operations will positively affect the municipalities that partner with a recycling establishment.

Recyclers can also participate in rulemaking, provide the packaging stewardship organization with input regarding its operations, participate in alternative collection programs, provide input on proposed investments in infrastructure and education, and receive funding for investments in recycling infrastructure and education.

I am a Maine citizen who wants to recycle, what does this mean to me?

Maine residents will be indirectly affected in a few ways. Packaging waste management, which is currently funded through municipal taxes and fees, will have a new source of funding. Municipal recycling programs may begin to accept more materials. Recycling infrastructure should improve, making recycling easier. The packaging seen on store shelves should become more recyclable. Citizens are encouraged to take advantage of these new recycling opportunities and support products with recyclable packaging through their purchasing choices.

The first major step of the program is rulemaking – What is rulemaking and what will be decided?

Rulemaking provides the detail that is required to implement a program but not outlined in the law that created it. The rulemaking process is designed to ensure the consideration of all input provided by interested parties. First, the department works with stakeholders to develop a draft rule. That rule is then published for public comment. After a comment period, the department must consider all comments and make changes as appropriate; if substantive changes are made, a new comment

Elements that will be defined through rulemaking include: a process for determining producer payments; producer reporting requirements; a process for determining which types of packaging are considered readily recyclable; a process for determining which municipalities are similar municipalities; a process for determining municipal reimbursements; municipal reporting requirements; requirements for the assessment for program performance; methods for performing audits of recycling, solid waste, and litter; a schedule for reporting by the stewardship organization; and a process for reviewing proposed investments for recycling infrastructure and education.

The law provides exemptions for producers as well as exemptions for the packaging associated with certain products. Producers with less than \$2,000,000 in gross annual revenue are exempt; producers whose Maine sales were packaged in less than 1 ton of packaging are exempt; producers that realized more than 50% of their total gross revenue from the sale of goods acquired through insurance salvages, closeouts, bankruptcies and liquidations are exempt; and producers of perishable food selling products with less than 15 tons of total packaging are exempt.

Rulemaking will include a review of the packaging associated with some additional product categories. At the end of this review, the department may suggest additional product-based exclusions, subject to approval by the legislature. At a minimum, the following packaging will be considered during this process: material associated with drugs, as defined in section 321 of the federal Food, Drug, and Cosmetic Act; material associated with a medical device or biological product as regulated by the Food and Drug Administration (FDA) under 21 CFR, parts 200, 300, and 800; material associated with an over-the-counter human drug product, as regulated by the FDA under 21 CFR §211.132; and material associated with a product regulated by the Consumer Product Safety Commission for which tamper evident packaging is required under 16 CFR, part 1700.

The logo for the Maine 200 triathlon. It features a central shield with a sunburst at the top, a star in the middle, and the word "DIRIGO" on a banner below. The years "1820" and "2020" are on either side of the shield. Below the shield, the text "MAINE200" is written in a large, bold, serif font, with "MAINE" in blue and "200" in gold. Underneath that, the phrase "LEADING THE WAY" is written in a smaller, red, serif font.

- [Major Projects](#)
- [Help ME Recycle](#)
- [Beverage Container Redemption](#)
- [Air Quality Forecast](#)
- [NRPA](#)
- [GIS Maps and Data Files](#)
- [Jobs @ DEP](#)
- [Board of Environmental Protection](#)

- [Email Us](#)
- [Twitter](#)
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- [RSS Feeds](#)
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- [Comment Opportunities](#)
- [Office Locations](#)
- [Staff Directory](#)

- [Site Policies](#)
- [Privacy Policy](#)
- [Notice of Nondiscrimination](#)
- [Natural Resources Service Center](#)
- [Request for Proposals](#)
- [Subject Index A-Z](#)

- [Training Opportunities](#)
- [DEP Sharepoint](#)

Contact Information

17 State House Station
32 Blossom Lane
Augusta, Maine 04333-0017
Tel: 207-287-7688
Fax: 207-287-7826

Subject: FW: Eastern Equine Encephalitis Confirmed in Non-Commercial Farm Animals in Piscataquis County

[View as a webpage](#) / [Share](#)

Animal Health Program

For Immediate Release

September 22, 2023

Eastern Equine Encephalitis Confirmed in Non-Commercial Farm Animals in Piscataquis County

AUGUSTA, Maine - Animal Health officials with the Maine Department of Agriculture, Conservation and Forestry (DACF) are working closely with the Maine Center for Disease Control and Prevention (Maine CDC) to respond to a positive result and three presumed positive results for Eastern Equine Encephalitis (EEE) detected in non-commercial farm animals in Piscataquis County. The animals died last week and were evaluated by the University of Maine Cooperative Extension Diagnostic and Research Laboratory. This case is the first of animals contracting EEE in Maine that officials are aware of since 2019.

Animal owners should be aware that:

- EEE is a virus transmitted through an infected mosquito's bite.
- The virus cannot be transmitted from animals to humans.
- The virus can affect specialty livestock, such as llamas, alpacas, emus, ostriches, and other farm-raised birds, such as pheasants, quail and ducks.
- Horses are most sensitive to mosquito-borne diseases and should be vaccinated for EEE and West Nile virus (WNV). Symptoms of these diseases in horses include fever, weakness, and lack of coordination. If you notice any of these symptoms in your horse, talk to your veterinarian right away.

- Owners should contact their veterinarian to discuss available vaccines and take precautions to help reduce exposure to mosquitoes for both themselves and their animals.
- Any suspicion or confirmation of reportable diseases [should be reported promptly](#) to the DACF Division of Animal Health.

For more information about the identification of EEE in mosquitoes in Maine and steps on how to protect yourself, your loved ones, and your companion animals, see the recent Maine CDC [press release](#).

Any additional animals or mosquitoes that test positive for EEE will be announced weekly through the Maine CDC [arboviral surveillance report](#).

###

Media contacts:

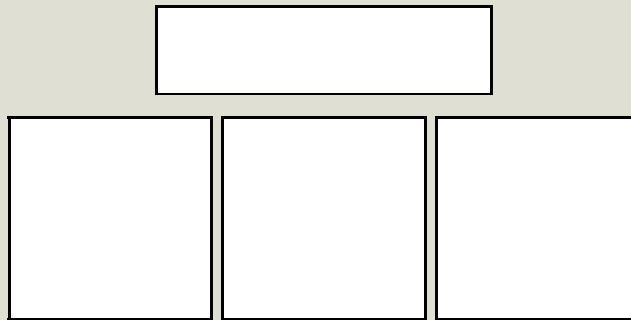
[Jim Britt](#), Communications Director

Department of Agriculture, Conservation and Forestry

[Lindsay Hammes](#), Communications Director

Maine Center for Disease Control and Prevention

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This email was sent to pamela.j.bryer@maine.gov using GovDelivery Communications Cloud on behalf of: Maine Department of Agriculture, Conservation and Forestry · 18 Elkins Lane, Harlow Building · Augusta, ME 04333



Worcester Holdings LLC acquired five DJI Agras T30 drones to apply herbicide to the balsam-fir woodlands the company manages for Worcester Wreath in Washington County. This

year marks the first time that Worcester Holdings is applying herbicide by drone. (Courtesy DJI)

Down East company using drones to benefit balsam-fir growth

By Brian Swartz
County Wide Free Press

HARRINGTON — Drone technology has reached Washington County's balsam-fir forests.

Worcester Holdings LLC started flying drones in mid-August to apply a herbicide to woodlands that grow balsam fir for Worcester Wreath, a major Down East wreath manufacturer. The drone program is a first for Worcester Holdings, according to forester and master applicator Alex Cammen. The company manages the woodlands for Worcester Wreath.

"This is us really getting the drone program started and up and running. There is one other drone pesticide-application company" that recently started doing contract work for other landowners, he said.

"There are a number of other drone companies in the U.S. They've been commonly used for crop spraying for the most part," Cammen said. "The laws in the U.S. have been fairly restrictive. In other countries around the world, especially in Southeast Asia, they have a lot more drone pesticide spraying. It's just much more common."

Worcester Holdings purchased five DJI Agras T30 drones, each of which "can hold 30 liters [7.93 gallons] of some pesticide [herbicide] mix or water, and that's where the '30' comes from," said Cammen.

The drones apply glyphosate, "the most commonly used herbicide in the world," he said. At this time of year, "the balsam fir isn't very affected by it.

"It's going to kill the other hardwoods mixed in with" balsam firs, "primarily the red maples and the aspen. Those hardwoods otherwise can overtop the [balsam] fir and compete for sunlight, nutrients, and water," Cammen said. "This allows us to use our land more efficiently."

Hans Ruediger, a Worcester Holdings employee, is the firm's only fully licensed drone operator. "His only job right now is flying the drones. We're hoping to get more operators in the future," said Cammen.

Worcester Holdings used hand crews in the past to apply herbicide. Then the company "for the most part used trailer-mounted spray units that we created ourselves. They drive between the rows of balsam and spray the chemical over the trees," Cammen said.

The company has also hired a contractor to apply herbicide with a helicopter or a crop duster. A helicopter will supplement the drone spraying in 2023. "Our goal for this year is around 3,000 acres, between us with the drones and with the helicopter we're going to be contracting," Cammen noted.

Drone spraying offers several advantages "over ground spraying," he said. "It is faster, and it's cheaper for us, but then we also don't have to drive over the soil. Our ground sprayers are heavy equipment; this allows us to stay off the soil completely, and compared to hiring helicopters, it's cheaper and more reliable for us."

As with agricultural crop spraying done in the United States and elsewhere, each drone flies a pre-programmed, automated flight path. The drones "can much more easily avoid a small stream because we can see those and plan for those ahead of time by using satellite imagery" and state-provided maps and information about "where the wetlands and streams are," Cammen said.

"I've been laying out the spray boundaries," which encompass "the buffers around the streams or wetlands or cabins on our sites or trails," he said. The technology "will automatically create the travel lines that you will be spraying" so that rather than fly over a stream while spraying, a drone "would turn around and come back" before reaching the stream. The drones use GPS.

Drones "have been flown to map out some of our properties," Cammen pointed out. By using a drone's onboard infrared capability, a drone operator "can see the health of the trees. There are some areas that we don't have much hardwood competition," which lessens the need to spray.

"In agriculture this is being called 'precision agriculture,'" he said.

Ruediger and another employee, designated "a visual observer," work on site from "a lift, like a Sky Track, so they are above the canopy" and can see the drone, as required by the FAA, Cammen noted. As a drone flies its preset route, the two employees watch a computer screen and the drone.

A drone can fly around 15 feet above the forest canopy, "the closer to better to reduce drift," said Cammen, but "currently we're probably 30, maybe 40 feet because of the uneven canopy."

Some tall trees (mostly white pines and balsam firs that might be seed trees) jutting above the canopy "are detrimental to drone application," he said. "We will cut down the trees that stick out."

.... continued on page sixteen

Family Practice

Jennifer Quinn, MD will join our family practice at DEHC in East Machias in October.

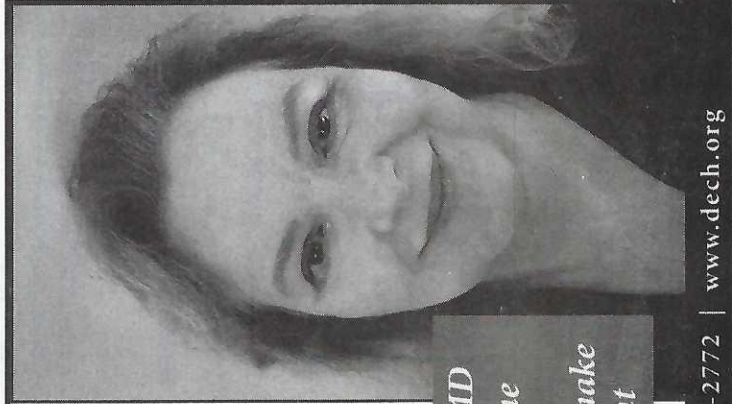
Dr. Quinn, who is Board Certified in Internal Medicine, received her medical degree from Tufts University School of Medicine in Boston. She will be a great addition to Family Practice and to the community.

Accepting New Patients.



Jennifer Quinn, MD
Internal Medicine

Call 255-2772 to make
an appointment



Washington County Drones *. . . . continued from page ten*

The drones "are much quieter and less intrusive" than other forms of aerial spraying, Cammen said. "There is no need for a crop duster to fly ... over other people's property" to refuel elsewhere. "These drones are flown only over our property. We land them right on our land."

Drone spraying is weather- and wind-dependent: "the wind has to be between two and 10 miles an hour," Cammen noted. An on-site tool monitors wind speed, and "we also take note of wind direction, so when we get close to sensitive areas on our property boundaries, we make sure the wind is heading into our property," he said. "We can easily adapt to changing conditions."

Worcester Holdings launched its drone spraying on August 15; the program will end on September 30. Drone spraying is being done on company land in Centerville, Cherryfield, Columbia, Columbia Falls, Jonesboro, Steuben, and Township 19 MD.

The Drones are coming, the Drones are coming.





JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

AMANDA E. BEAL
COMMISSIONER

September 13, 2023

RCL Services, LLC
Ronald C Lemin, Jr.
291 Lincoln St.
Bangor, ME 04401

RE: Variance permit for CMR 01-026 Chapter 29, RCL Services, LLC

Dear Mr. Lemin,

The Board of Pesticides Control considered your application for variance from Chapter 29. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase and any application is made above the high-water line.

The Board authorizes the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2024, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of changes, particularly if you plan to use a different product from those listed.

Please bear in mind that your permit is based upon your company adhering to the precautions listed in Section X of your Chapter 29 variance request.

I will alert the Board at its next meeting that the variance permit has been issued. If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,


John T. Pietroski
Acting Director

MEGAN PATTERSON, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. RONALD C. LEMIN JR (207) 944-6160
Name Telephone Number
RCL SERVICES LLC
Company Name
291 LINCOLN ST BANGOR ME 04401
Address City State Zip

II. RONALD C. LEMIN, JR CMA-4546
Master Applicator (if applicable) License Number
SAME
Address City State Zip

III. As part of your application, please send a revegetation plan and digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov

IV. Area(s) where pesticide will be applied:
A STAND OF JAPANESE KNOTWEED GROWING ALONG THE OXBOW RD
(FORESTED). THE LENGTH OF THE STAND IS 120 YARDS AND IS 10-40' WIDE ONLY ON
ONE SIDE OF THE ROAD. THERE IS A STREAM THAT PARALLELS THE ROAD
ON THE BACKSIDE OF THE KNOTWEED. KNOTWEED IS NOT IN THE STREAM BUT
WITHIN 25' OF THE STREAM.

V. Pesticide(s) to be applied: (Including EPA Registration Number)
ROEEO 62719-324 W/ LIBERATE SURFACTANT
BOTH AQUATICALLY APPROVED, PURCHASED BEFORE 2023!

VI. Purpose of pesticide application:
I HAVE A CONTRACT WITH THE MAINE NATURAL AREAS PROGRAM
EARLY DETECTION RAPID RESPONSE TO CONTROL THIS STAND OF KNOTWEED.
CONTRACT IS ATTACHED

VII. Approximate dates of spray application:

EARLY SEPTEMBER BEFORE FROST

VIII. Application Equipment:

LOW VOLUME HAND PUMP BACKPACK APPLICATION
8% RODEO, 1/2-1% LIBERATE SURFACTANT

IX. Standard(s) to be varied from:

CHAPTER 29 SECTION 6.A.IV. BROADCAST
APPLICATIONS WITHIN 25' OF A WETLAND

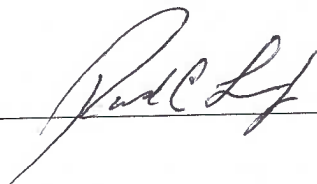
X. Method to ensure equivalent protection:

I WILL WALK THE EDGE OF THE STREAM AND SPRAY
DIRECTED AWAY FROM THE WATER. LIBERATE FUNCTIONS
ALSO AS A DRIFT CONTROL AGENT. USE OF LOW PRESSURE
AND APPLY IN FAVORABLE WINDS TO KEEP DROPLETS OUT
OF THE WATER

XI. Revegetation Plan (attach separately if necessary)

RODEO IS NON-RESIDUAL
AND VEGETATION WILL RETURN VIA SEED OR
ROOT SPROUTING. THE INITIAL TREATMENT (2023) WILL BE
FOLLOWED UP WITH SPOT TREATMENTS IN 2024+2025. THESE
WILL NOT BE BROADCAST AND CAN PROTECT MANY PLANTS
BEGINNING TO REVEGETATE THE AREA

Signed:



Date:

8/16/23

Return completed form to: Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028
OR E-mail to: pesticides@maine.gov



Knotweed growing along Forested Oxbow road. About 120 yards long and 10-40 feet wide.



Knotweed growing on right side of stream (left side of picture). Knotweed does not grow up to stream but is with 25 ft of stream.



The closest the knotweed gets to the stream. Knotweed on the left, stream to the right.



SERVICE CONTRACT

DATE: **8/4/2023**

ADVANTAGE CONTRACT #: **CT 01A 20230807 270**

DEPARTMENT AGREEMENT#: **NA**

CONTRACT AMOUNT: \$ **up to \$5,000**

START DATE: **8/11/2023** END DATE: **12/31/2025**

This Contract, is between the following Department of the State of Maine and Provider:

State of Maine DEPARTMENT

DEPARTMENT: **Department of Agriculture, Conservation and Forestry – Maine Natural Areas Program**

Address: **177 State House Station**

City: **Augusta**

State: **ME**

Zip Code: **04333-0177**

PROVIDER

PROVIDER: **RLC Services, LLC, Ron Lemin**

Address: **291 Lincoln St.**

City: **Bangor**

State: **ME**

Zip Code: **04401**

Provider's Vendor Customer #: **VC0000264516**

Each signatory below represents that the person has the requisite authority to enter into this Contract. The parties sign and cause this Contract to be executed.

**Department of Agriculture, Conservation and
Forestry, Bureau of Resource Information and
Land Use Planning**

8/9/2023

Signature **Judy East, Director** Date

Ron Lemin, RCL Services, LLC

Signature **Ron Lemin** Date

SCOPE OF WORK

INTRODUCTION/OVERVIEW:

The purpose of this Contract is to authorize the Provider to perform invasive plant treatment as part of the Maine Natural Areas Program Early Detection Rapid Response to a population of Japanese knotweed at two sites in Oxbow Twp. on the Aroostook River and other sites as directed by MNAP. This contract authorizes MNAP to pay the Provider upon successful completion of the work outlined below. Treatments shall be conducted during August or September of 2023, 2024, and 2025. The provider shall submit invoices once treatment is complete at each site each year, within 10 days of completing the treatment(s). MNAP will forward invoices to the Natural Resource Service Center for prompt payment to the Provider.

The Provider shall

1. Treat a population of Japanese Knotweed on land owned by Michalka Trust and a boat launch owned by Aroostook County using herbicides and other sites as directed by MNAP.
2. The applicator must be able to identify the target invasive plant (Japanese knotweed, *Fallopia japonica*) and make every attempt to avoid collateral damage to non-target plants.
3. The applicator shall apply for required permits to apply herbicides in wetland areas, as needed.

CODING

LINE TOTAL	FUND	DEPT	UNIT	SUB UNIT	OBJ	PROGRAM	PROGRAM PERIOD	BOND FUNDING	FISCAL YEAR
\$5,000.00	013	01A	V199	14	4015				

LINE TOTAL	FUND	DEPT	UNIT	SUB UNIT	OBJ	PROGRAM	PROGRAM PERIOD	BOND FUNDING	FISCAL YEAR
\$									

(Departments - Attach separate sheet as needed for additional coding.)

DEPARTMENT AND PROVIDER POINT OF CONTACT

CONTRACT ADMINISTRATOR: The following person is designated as the Contract Administrator on behalf of the Department for this Contract.

Name: **Molly Docherty**

Email: **molly.docherty@maine.gov**

Address: **Maine Natural Areas Program, 177 State House Station**

City: **Augusta** State: **ME** Zip Code: **04333-0177**

Telephone: **(207) 287-8045**

PROVIDER CONTACT: The following person is designated as the Contact Person on behalf of the Provider for this Contract. All contractual correspondence from the Department shall be submitted to:

Name: **RCL Services LLC, Ron Lemin,**

Email: **Ronald.Lemin@gmail.com**

Address: **291 Lincoln St.**

City: **Bangor** State: **ME** Zip Code: **04401**

Telephone: **207-944-6160**

TERMS AND CONDITIONS

1. **Invoices and Payment:** Payment terms are net 30 days from the date the Department receives an error-free invoice with all necessary and complete supporting documents. Provider shall submit detailed invoices itemizing all work performed during the invoice period, including the dates of service, work performed, and any other information and/or documentation appropriate and sufficient to substantiate the amount invoiced for payment by the State. All invoices must include the Contract number for this contract.

2. Independent Capacity: The Provider is an independent contractor for whom no Federal or State Income Tax will be withheld by the Department, and for whom no retirement benefits, workers' compensation protection, survivor benefit insurance, group life insurance, vacation and sick leave, liability protection, or similar benefits available to State employees will accrue.
3. State Held Harmless: The Provider will indemnify, defend, and save harmless the Department, its officers, agents and employees from any and all claims, costs, expenses, injuries, liabilities, losses and damages of every kind and description resulting from or arising out of the performance of this Contract by the Provider, its employees, agents, or subcontractors. This indemnification does not extend to a claim that results solely and directly from (i) the Department's negligence or unlawful act, or (ii) action by the Provider taken in reasonable reliance upon an instruction or direction given by an authorized person acting on behalf of the Department in accordance with this Contract. Nothing in this Contract shall be construed as a waiver of the privileges or immunities of the State, its governmental entities, or its employees.
4. Liability Insurance: For the duration of this Contract, the Provider shall procure and maintain a liability policy issued by a company fully licensed or designated as an eligible surplus line insurer to do business in this State by the Maine Department of Professional & Financial Regulation, Bureau of Insurance, which policy includes the activity to be covered by this Contract with adequate liability coverage to protect the Provider and the Department from suits. **Prior to or upon execution of this Contract, the Provider shall furnish the Department with an acceptable "Certificate of Insurance" form.**
5. Termination: This Contract may be terminated by the Department in whole, or in part, if the Department determines that such termination is in the best interest of the State. Any such termination shall be affected by delivery to the Provider of a Notice of Termination specifying the extent to which performance of the work under this Contract is terminated and the date on which such termination becomes effective. The Contract may be equitably adjusted to compensate for such termination, and modified accordingly.
6. Employment and Public Access: State of Maine contracts for services are subject to statutory conditions related to nondiscrimination in employment, 5 M.R.S. § 784, and access to public records, 5 M.R.S. § 1816-A(4). The Provider has read and does agree to the terms of these conditions.
7. Entire Contract: This Contract constitutes the entire Contract of the parties, and neither party shall be bound by any statement or representation, oral or written, not contained herein. This Contract may only be modified by a written instrument signed by both parties.



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

8d

AMANDA E. BEAL
COMMISSIONER

September 13, 2023

Honor Sage
133 Head Tide Rd.
Alna, ME 04535

RE: Variance permit for CMR 01-026 Chapter 29, Sheepscot River, Midcoast Conservancy

Greetings,

The Board of Pesticides Control considered your application for variance from Chapter 29. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase and any application is made above the high-water line.

The Board authorizes the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2024, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of changes, particularly if you plan to use a different product from those listed.

Please bear in mind that your permit is based upon your company adhering to the precautions listed in Section X of your Chapter 29 variance request.

I will alert the Board at its next meeting that the variance permit has been issued. If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

John T. Pietroski
Acting Director

MEGAN PATTERSON, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)

- I. Honor Sage _____ (207-441-7177)
Name Telephone Number

NA
Company Name
133 Head Tide Rd Alna, ME 04535
Address City State Zip
- II. Erik Lema, Basswood Environmental LLC _____ #CMA-5752
Master Applicator (if applicable) License Number
32 Brentwood Rd Cape Elizabeth ME 04107
Address City State Zip
- III. As part of your application, please send a revegetation plan and digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov
- IV. Area(s) where pesticide will be applied:
Along bank of Sheepscot River in Alna, ME. Area below Head Tide Dam, GPS
69.6157°W 44.1082°N. Knotweed patch is 0.84 acres in size.
- V. Pesticide(s) to be applied: (Including EPA Registration Number)
Rodeo (i.e. glyphosate) EPA #62719-324
- VI. Purpose of pesticide application:
Eliminate a Japanese Knotweed infestation on the bank of the Sheepscot River in order to improve native biodiversity in this area of rich floodplain flora. safeguard water quality on this section of river, and prevent knotweed from washing down river and starting new colonies farther downstream.
- VII. Approximate dates of spray application:
One spray application in late summer (august) or early fall (September)

VIII. Application Equipment:

Applied with a low-volume backpack unit fitted with a fan nozzle. Rodeo applied as a 3% solution.

IX. Standard(s) to be varied from:

X. Method to ensure equivalent protection and Revegetation Plan:

For application: 1) cutting of knotweed prior to treatment (no spraying tall vegetation), 2) use of a non-persistent herbicide, 3) low-volume application by non-powered equipment, 4) avoid application on windy or wet days and 5) application will be highly targeted to preserve any co-occurring native plant species. A 10ft wide strip of knotweed that borders the Sheepscot River will not be cut and treated in order to minimize drift and to prevent erosion. 6) For revegetation, native seeding and planting will not begin until the area is mostly free of knotweed. The landowner is working with Midcoast Conservancy through an NRCS EQUIP Grant, NRCS will develop the conservation plan including a revegetation plan. Revegetation will begin in 2024 once the knotweed is weakened enough to allow native plants to take hold.

XI. Revegetation Plan (attach separately if necessary)

Once the area is mostly free of knotweed and requires only targeted spot treatments foliar, the following re-vegetation schedule will commence paired with appropriate erosion control measures to stabilize the river bank while native vegetation takes root. 1) Early spring: Live staking of cut stems of native plant species such as Dogwood (*Cornus species*), Elderberry (*Sambucus canadensis*), and Willow (*Salix species*) sourced on site when possible. Dormant seeding of native seed species. Start planting landscape plugs of native wetland species. 2) Summer: continue planting native spp landscape plugs. 3) Fall: Resume live staking and continue with landscape plugs.

Signed:

Harold F. Sege

Date:

8/4/23

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028**
OR E-mail to: pesticides@maine.gov

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Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

DCPA (Dacthal) Technical Herbicide Product Suspended by EPA

Effective August 22, 2023, the U.S. Environmental Protection Agency suspended the technical-grade product containing the pesticide dimethyl tetrachloroterephthalate (DCPA), marketed under the trade name Dacthal, for failure of the registrant to submit required data to support its continued registration. Technical-grade products are high-concentration forms of pesticides that are formulated into end-use pesticide products. This suspension prohibits the sale, distribution, and use of this DCPA technical product, including use to formulate new end-use product. Existing end-use products containing DCPA, including those that are being distributed, sold, or already in the hands of pesticide users, are not subject to this suspension action and can still be used according to the label.

DCPA is an herbicide applied to control grasses and certain broadleaf weeds in both agricultural and non-agricultural settings. Agricultural use sites include cole crops (e.g., broccoli, kale, cabbage), cucurbits, tomatoes, onions, and herbs. Non-agricultural use sites include non-residential turf and ornamentals.

As required by FIFRA, EPA periodically re-evaluates pesticides through registration review to ensure that risk assessments and pesticide decisions reflect the best available science. Part of the registration review process is to identify risks of concern and to implement actions that can mitigate these risks. To ensure the Agency has data to assess risks based on current risk assessment policies, EPA can issue a data call-in (DCI) that requires registrants to fulfill specified data requirements by certain dates. EPA issued a DCI to AMVAC in January 2013 requiring it to submit numerous studies to support the existing registrations of DCPA. The DCI required that all studies be

submitted to the Agency within three years.

The data required by EPA included a comprehensive study of the effects of DCPA on thyroid development and function in adults and before birth. In the absence of these data, EPA reviewed preliminary data submitted by AMVAC, which suggest that DCPA can affect thyroid function at lower doses than previously known, and that it may affect a fetus at lower doses than those that adversely affect adults. Without complete data on the thyroid toxicity of DCPA, the Agency was unable to complete the scientifically robust and defensible human health risk assessment needed to evaluate whether DCPA products continue to meet the standard for registration under FIFRA.

On April 28, 2022, EPA issued a [notice of intent to suspend](#) (NOITS) this DCPA technical product because AMVAC, the sole registrant, had not provided the full complement of data the Agency required it to submit by no later than January 2016. At the time the Agency issued the NOITS, the data were six years overdue. AMVAC requested a hearing on the NOITS. Under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) Section 3(c), registrants are required to submit data to support the continued registration of their products. The Administrative Law Judge (ALJ) who adjudicated this case ruled in favor of EPA's authority to require registrant to submit data according to deadlines provided in DCIs, and to enforce compliance with DCIs through administrative suspension proceedings under FIFRA Section 3(c)(2)(B), so EPA can make informed and health-protective decisions as part of our pesticide evaluation process.

In a May 16, 2023 decision, the ALJ ruled in favor of EPA and determined that the suspension would become effective when the decision was made final. On August 16, 2023, the Agency entered into a settlement agreement with AMVAC to expedite submission and screening of the outstanding data. Through an August 22, 2023, order from the Environmental Appeals Board, the ALJ's decision became final and the suspension of the DCPA technical product went into effect.

It is unlawful for AMVAC to distribute, sell, or use its technical-grade DCPA pesticide product until EPA lifts the suspension. This restriction applies to use of the DCPA technical product to formulate end-use products. Stocks of DCPA end-use pesticide products that were already formulated prior to August 22, 2023, may continue to be distributed, sold, and used according to the label. EPA will lift the suspension after EPA confirms AMVAC has submitted the required data as specified in the settlement agreement.

Supporting documents are available in the DCPA registration review docket EPA-HQ-OPP-2011-0374 at www.regulations.gov. Information on suspensions of pesticide products is available on [EPA's website](#).

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Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Registers New Active Ingredient Fluazaindolizine

The U.S. Environmental Protection Agency (EPA) is registering fluazaindolizine, a new pesticide active ingredient for agricultural use. Fluazaindolizine can be used to control nematodes (also known as roundworms) on vegetables such as carrots, squash, tomatoes, eggplant, potatoes and taro, and on some fruits, including oranges, peaches, almonds, and grapes.

EPA expects fluazaindolizine will help delay the further development of nematocide resistance. Nematode pests are important to control because they can cause damage to the quality and quantity of crops. According to the [U.S. Department of Agriculture \(USDA\)](#), nematodes are estimated to cause at least \$10 billion in crop damage annually in the United States.

In addition to the [registration decision](#), EPA has finalized the [biological evaluation](#) for fluazaindolizine under the Endangered Species Act (ESA). This action furthers the goals outlined in EPA's [April 2022 ESA Workplan](#) by identifying potential effects to listed species, implementing necessary mitigation, and initiating the ESA consultation process with the U.S. Fish and Wildlife Service prior to registration.

EPA's Human Health and Ecological Risk Assessments

Prior to this registration decision, EPA assessed whether exposures to these products would cause unreasonable adverse effects to human health and the environment, as required by the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

Based on EPA's [human health risk assessment](#), there are no human health risk concerns from the uses of fluazaindolizine. However, EPA's [ecological risk](#)

[assessment](#) identified risks of concern for mammals and honeybees near use sites. These risks will be mitigated with measures such as soil incorporation (mixing the pesticide into the soil) and restrictions that limit pesticide spray drift.

EPA's Final ESA Biological Evaluation

The Agency evaluated the effects of the registration on listed species and critical habitats. EPA's final effects determination found that fluazaindolizine is likely to adversely affect (LAA) 18 listed species and three critical habitats.

An LAA determination means that EPA reasonably expects that at least one individual animal or plant, among a variety of listed species, may be exposed to fluazaindolizine at a sufficient level to have an adverse effect. This is the case even if a listed species is almost recovered to a point where it may no longer need to be listed. The likely "take," which includes unintentional harm or death, of even one individual of a listed species, is enough to trigger such a determination. As a result, there are often a high number of LAA determinations. An LAA determination, however, does not necessarily mean that a pesticide is putting a species in jeopardy.

EPA further refined its analysis for the species and critical habitats where it made LAA determinations to predict the likelihood that fluazaindolizine use could lead to a future jeopardy finding for certain listed species or adverse modification finding for critical habitats. These predictions examine effects of fluazaindolizine at the species scale (as opposed to one individual of a species). EPA's draft biological evaluation predicted that, without additional mitigation, the proposed uses of fluazaindolizine would present a likelihood of jeopardy for one listed plant species, the Kern Mallow. EPA predicted no likelihood of adverse modification to critical habitats.

Given EPA's initial prediction for the Kern Mallow plant, EPA developed geographically specific pesticide use limitations. In areas within the four counties in southern California where Kern Mallow is known to occur, users cannot use micro-sprinklers to apply the pesticide on non-bearing orchard crops. This includes citrus trees (e.g., oranges, lemons, limes), stone fruit trees (e.g., peaches, plums, apricots), and nut trees (e.g., hazelnuts, almonds, walnuts) that are not yet bearing fruit or nuts. As directed on the label, users must check the [Bulletins Live Two!](#) website to identify whether these restrictions apply to their geographic area. With these mitigations in place, EPA's [final biological evaluation](#) predicts the use of fluazaindolizine will not present a likelihood of jeopardy to the Kern Mallow.

Next Steps

Since EPA's final biological evaluation found that fluazaindolizine is likely to adversely affect some listed species and critical habitats under the jurisdiction of the Fish and Wildlife Service (FWS), EPA has initiated formal consultation and shared its findings

with FWS.

During formal consultation, FWS uses the information in EPA's final biological evaluation (i.e., the final effects determination, predictions of the likelihood of jeopardy/adverse modification, and EPA's mitigations to avoid jeopardy and minimize take) to inform their biological opinions. While EPA has made predictions about the likelihood of jeopardy and adverse modification as part of its biological evaluation, FWS is responsible for making the final jeopardy/adverse modification findings and have the sole authority to do so. If FWS determines in its final biological opinions that additional mitigations are necessary to address any jeopardy or adverse modification determination or to address any incidental take, then EPA will work with the registrant to ensure that any necessary registration or labeling changes are made.

The registration decision and final biological evaluation are available in docket [EPA-HQ-OPP-2020-0065](#) at www.regulations.gov.

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Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Issues the Proposed Interim Decision with Recommended Mitigation Measures for TCVP

The U.S. Environmental Protection Agency (EPA) announced its Proposed Interim Decision (PID) for the pesticide tetrachlorvinphos (TCVP). The PID includes proposed mitigation measures for reducing human and environmental exposure to TCVP. EPA is also issuing a revised human health draft risk assessment (HH DRA). The PID, including the HH DRA, are open for public comment for 60 days.

TCVP is an organophosphate (OP) insecticide that is used to control fleas, ticks, lice, and flies in or on livestock animals and their facilities, pets, and garbage piles, and as a spot treatment in kennels, residential lawns, and recreational areas. In 2009, EPA received a petition from NRDC requesting that EPA cancel all pet uses of TCVP due to alleged health risks to humans. EPA initially denied NRDC's petition on November 6, 2014. However, following litigation, the U.S. Court of Appeals for the Ninth Circuit issued an order on April 20, 2022, vacating EPA's denial of NRDC's petition and remanding it to EPA to issue a revised response by October 11, 2022.

On October 6, 2022, EPA issued a revised response to the NRDC petition, stating that it would begin drafting a proposed Notice of Intent to Cancel (NOIC) the use of TCVP in pet collars based on the identified risks of concern. EPA explained in that petition response, however, that the Agency expected the registrant to submit additional data that could change EPA's risk assessment for the pet collar use, that EPA intended to incorporate into the drafting of the NOIC the review of any timely-received data, and that the Agency would not further pursue an NOIC if such data demonstrated that there is no longer a risk concern for any TCVP pet collars. Hartz, the registrant for TCVP pet products, gathered and submitted new data on potential human exposure from TVCP

pet collars. These data included a new pet collar torsion study, which evaluated the amount of TCVP residues coming off of a collar when it is removed from a package, stretched, and placed on a cat or dog, and a revised fur clipping study, which assessed residues of TCVP found in an animal's fur after the collar had been on the animal. EPA used the new data as part of its revised HH DRA and identified no human health risks of concern. Thus, EPA is no longer pursuing a Notice of Intent to Cancel (NOIC) for the TCVP pet collars and is announcing the issuance of its *Determination Not to Further Pursue Cancellation of Tetrachlorvinphos (TCVP) Pet Collars*, which may be found in the public docket at www.regulations.gov (Docket ID: EPA-HQ-OPP-2009-0308). The *Determination Not to Further Pursue Cancellation of Tetrachlorvinphos (TCVP) Pet Collars* – unlike the PID – is a final agency action that is not open for comment.

On August 30, 2023, EPA issued the document entitled *Approach for Evaluating Developmental Neurotoxicity Potential for the Organophosphate Pesticides*, which outlines EPA's decision to evaluate the developmental neurotoxicity (DNT) potential of OPs to pregnant women and children on a chemical-by-chemical basis. This approach uses high quality, chemical-specific data from three primary lines of evidence: epidemiological studies, animal toxicity studies, and a battery of *in vitro* assays. These data are then used to evaluate DNT potential using a weight of evidence (WOE) approach, which is a process that integrates all relevant evidence to support decision-making that allows for consideration of strengths and limitations of each line of evidence. EPA does not have sufficient data to perform a WOE analysis to evaluate DNT potential to pregnant women and children using chemical-specific data for TCVP. As a result, the current assessment retains the Food Quality Protection Act Safety Factor that provides a 10-fold margin of safety for pregnant women and children.

The ecological draft risk assessment identified runoff—particularly from manure applications—as the primary route of exposure for aquatic non-target organisms. Acute and chronic risks were identified for birds (surrogates for reptiles and terrestrial-phase amphibians), mammals, and freshwater invertebrates. Although the database for honeybees is incomplete, risk estimates exceed the acute risk level of concern for adult bees from contact exposure.

The Agency is proposing a number of mitigation measures for the use of TCVP including prohibition of certain application methods, adoption of additional personal protective equipment, creation of nutrient management plans for livestock use, updates to disposal language on the label, and provision of enhanced reporting and sales data for TCVP pet products. EPA is also proposing ecological incident reporting language and Bulletins Live! Two labeling as interim ecological mitigation measures.

TCVP is still undergoing formal registration review, a process in which each registered pesticide is reviewed every 15 years to ensure that the pesticide can carry out its intended function(s) without unreasonable adverse effects to human health and the environment. The PID and supporting documents can be found in the public docket at

www.regulations.gov (Docket ID: [EPA-HQ-OPP-2008-0316](#)).

View the Proposed Interim Decision

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Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Hosting Webinar on Understanding Bulletins Live! Two

The U.S. Environmental Protection Agency (EPA) is holding a public webinar on Thursday November 9, 2023, to provide an overview of the Bulletins Live! Two system. The webinar will include information on the development of Bulletins and accessing Bulletins using the Bulletins Live! Two system.

During the webinar, EPA staff will:

- Describe how Bulletins relate to pesticide labeling.
- Explain the use of [Bulletins Live! Two](#) to determine if there are geographically specific mitigations for intended pesticide application areas.
- Demonstrate Bulletins Live! Two using malathion as an example.
- Address frequently asked questions.

EPA invites all interested stakeholders to attend. The November 9, 2023 meeting will be held via webinar from 2-3:00 p.m. EST. A meeting link and agenda will be sent to everyone who registers for the event.

[Register here.](#)

Background

When EPA registers a pesticide or reevaluates it in registration review, the Agency has a responsibility under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) to determine whether the pesticide presents unreasonable adverse effects on human health or the environment. EPA conducts human health and ecological risk

assessments to determine what risks are posed by a pesticide and whether changes to the use or proposed use are necessary to protect the environment.

EPA also has a responsibility under the Endangered Species Act (ESA) to ensure that pesticide registrations do not jeopardize the continued existence of federally listed species or adversely modify their designated critical habitats. Federally listed species protections can take the form of nationwide mitigations on the general pesticide product label or geographically specific mitigations located in Endangered Species Protection Bulletins (Bulletins), which are accessed through EPA's Bulletins Live! Two (BLT) website. When directed by a product label, pesticide applicators are required to visit the BLT website and follow any mitigations specified for the intended application area. When users are directed to follow them on a pesticide label, Bulletins are enforceable mitigations under FIFRA.

Register for the webinar

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Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Approves New Labels for Cyantraniliprole to Better Protect Endangered Species

The U.S. Environmental Protection Agency (EPA) has approved [new labels](#) for the insecticide cyantraniliprole that include new mitigations to protect federally threatened or endangered (listed) species. This action reflects EPA's efforts to meet its obligations under the Endangered Species Act (ESA) by identifying potential effects to listed species, implementing necessary mitigations, and initiating the ESA consultation process with the U.S. Fish and Wildlife Service and National Marine Fisheries Service (referred to as "the Services").

Background

EPA first registered products containing cyantraniliprole in 2014. Cyantraniliprole is an insecticide that can be used on a variety of fruit, vegetable, and nut crops and as a seed treatment on some crops to control the Asian citrus psyllid as well as lepidopteran insects, dipteran leafminers, fruit flies, beetles, whiteflies, thrips, aphids, leafhoppers, psyllids, and weevils. It is also registered for non-agricultural uses on turf and ornamental plants.

In some instances, cyantraniliprole is the only non-neonicotinoid active ingredient available for growers. Growers and applicators can use cyantraniliprole in rotation with neonicotinoids (or other insecticides) to reduce the potential spread of insecticide resistance. Cyantraniliprole is also a useful addition to Integrated Pest Management (IPM) programs because it is less disruptive to some non-target insects than some insecticide alternatives. These non-target insects are beneficial because they can eat target pests—providing a natural control mechanism.

Following registration, the Center for Biological Diversity and the Center for Food Safety filed a petition for review in the D.C. Circuit, alleging that EPA had not met its ESA consultation obligations before registering products containing cyantraniliprole. In 2017, the D.C. Circuit agreed and remanded the registrations without vacating them for EPA to complete its ESA effects determinations and any necessary consultation with the Services. In November 2022, the court ordered, among other things, that EPA complete cyantraniliprole's ESA effects determination by September 2023.

EPA's Biological Evaluation

EPA published cyantraniliprole's draft biological evaluation (BE) and supporting documents for public comment in January 2023. The draft BE included a draft effects determination that evaluated the effects of the registration on listed species and designated critical habitats. The draft BE also predicted whether the registered uses of cyantraniliprole presented a potential likelihood of jeopardy to listed species or adverse modification to critical habitats.

Now, EPA is publishing its final BE. Accounting for new mitigation measures registrants agreed to, EPA revised some of its effects determinations and predictions of the likelihood of jeopardy and adverse modification for cyantraniliprole's final BE. EPA evaluated the effects of cyantraniliprole on over 1,700 listed species and over 800 critical habitats in the United States and its territories and determined that cyantraniliprole, with the revised mitigation measures:

- Will have no effect on 33 percent of species and 47 percent of critical habitats (as compared to 25 percent and 33 percent, respectively, from the draft BE);
- May affect but is not likely to adversely affect 31 percent of species and 38 percent of critical habitats (as compared to 34 percent and 54 percent, respectively, from the draft BE); and
- Is likely to adversely affect (LAA) 36 percent of listed species and 16 percent of critical habitats (as compared to 41 percent and 13 percent, respectively, from the draft BE).

An LAA determination means that EPA reasonably expects that at least one individual animal or plant, among a variety of listed species, may be exposed to cyantraniliprole at a sufficient level to have an adverse effect. This is the case even if a listed species is almost recovered to a point where it may no longer need to be listed. Adverse effects to even one individual of a listed species is enough to trigger such a determination. As a result, there are often a high number of LAA determinations. An LAA determination, however, does not necessarily mean that a pesticide is putting a species in jeopardy.

EPA further refined its analysis for the species and critical habitats where it made LAA determinations to predict the potential likelihood that cyantraniliprole use could result in

jeopardy or adverse modification. These predictions examine effects of cyantraniliprole at the species scale (as opposed to one individual of a species). Of those species and habitats with an LAA determination, EPA's final BE predicted the uses of cyantraniliprole will not present a potential likelihood of jeopardy to any listed species or adverse modification for their critical habitats with the additional mitigation measures, as compared to 4 percent and 1 percent, respectively, from the draft BE.

For more information, see the [final biological evaluation](#).

Additional Label Requirements to Protect Listed Species

To mitigate effects to listed species and critical habitats, the cyantraniliprole registrants agreed to amend their registrations to add additional mitigation measures. Among other requirements, the revised labels require pesticide applicators to take several measures when using cyantraniliprole, including:

- requiring the use of spray nozzles that result in medium to coarser droplets (these droplets have more mass and are less likely to drift with the wind);
- requiring that applicators maintain a 25- to 50-foot distance from waterbodies during ground and aerial applications, respectively, to protect aquatic species and habitats;
- requiring that applicators maintain a 25-foot buffer around a crop when using an “airblast” sprayer (a sprayer that uses high-speed air to deliver pesticides) to dormant and non-bearing vegetation, or to bearing vegetation that are not at full canopy (such as a pear tree that is not fully leafed);
- requiring the use of swath displacement (a method that accounts for the wind and proactively applies less pesticide to certain areas of a field where spray drift is likely to occur) to reduce off-target spray drift caused by wind during aerial applications; and
- requiring the implementation of additional aerial buffers to protect 18 listed species and two critical habitats listed on EPA's [Bulletins Live Two! Website](#).

For a complete list of the required mitigations, see the [revised product labels](#).

Next Steps

Since EPA determined that cyantraniliprole is likely to adversely affect listed species and critical habitats, the Agency has initiated formal consultation with the Services.

During formal consultation, the Services use EPA's final BE to inform their biological opinions, which will include their final determinations of whether the use of cyantraniliprole jeopardizes any listed species or adversely modifies any critical habitat. EPA will continue to work with the Services during the consultation process.

The final BE, revised labels, and other supporting documents are available in docket [EPA-HQ-OPP-2011-0668](#) on www.regulations.gov.

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Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Opens Public Comment Period on Proposal to Register Novel Pesticide Technology for Potato Crops

EPA is proposing to register pesticide products containing the new active ingredient ledprona for three years, a timeframe that is consistent with EPA's approach to other novel pesticide products.

Ledprona is a new type of pesticide that relies on a natural mechanism--called RNA interference (RNAi)--used by plants and insects to protect against disease. The proposed new biopesticide involves a sprayable double-stranded ribonucleic acid (dsRNA) product that targets the Colorado potato beetle (CPB), a major pest of potato crops grown in the United States, including in the potato-growing states of Colorado, Idaho, Maine, Michigan, Minnesota, North Dakota, Oregon, Washington, and Wisconsin. The CPB feeds heavily on potato plant foliage. If left uncontrolled, CPB will eat and destroy the leaves of the plant. If this occurs around the time of flowering, the plant may not produce potatoes. The CPB is also known to develop resistance to insecticides rapidly. This sprayable dsRNA product kills the pest by "silencing" the CPB gene needed to produce the *PSMB5* protein, whose role is essential to keeping the CPB alive, without resulting in a genetically modified organism. If approved by EPA, this RNAi-based pesticide would be the first sprayable dsRNA pesticide in the world allowed to be used commercially and sprayed on plants.

EPA supports advancements in novel pesticide technology, which can offer alternatives to chemical-based pesticides that may pose higher potential risks or have

reduced effectiveness because of resistance issues. Registered and recommended conventional active ingredients for foliar use against immature and adult CPB currently include the neonicotinoids (e.g., thiamethoxam), the spinosyns, abamectin, novaluron (an insect growth regulator), the diamides (e.g., cyantraniliprole), and some pre-mixes of these (e.g., abamectin and cyantraniliprole).

Consistent with its obligation to ensure that the product does not pose unreasonable adverse effects on the environment, including that residues of that product are safe for consumption, EPA has conducted a robust evaluation of this novel biotechnology product. EPA's assessment also includes an Endangered Species Act (ESA) evaluation. In considering the risk for this technology, EPA has also been engaged with international partners and experts in the field via its leadership of the Organisation for Economic Co-operation and Development (OECD) [Working Party on Pesticides Ad Hoc Expert Group on RNAi-based Pesticides](#).

In May 2023, EPA approved an experimental use permit (EUP) under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) for testing in 10 states (Idaho, Maine, Michigan, Minnesota, New York, North Dakota, Oregon, Virginia, Wisconsin, Washington). The EUP required the permittee to immediately notify EPA of any findings from the experimental uses that have a bearing on safety. No such findings have been reported to EPA thus far. Data generated from the EUP testing on product efficacy and application methods may be used in a future application for this product to amend its directions for use.

In addition to the proposal to limit the duration of this registration to three years in order to receive and assess any data from the EUP testing, EPA is proposing to require the same personal protective equipment as required under the EUP, including long-sleeved shirt, long pants, socks, shoes, protective eyewear, and a particulate filtering respirator.

To read more about the proposed registration of ledprona and to comment, see docket EPA-HQ-OPP-2021-0271 at <https://www.regulations.gov/docket/EPA-HQ-OPP-2021-0271>. The public comment period will be open for 15 days, closing on Friday, October 13th, 2023.

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