MAINE MOBILE HEALTH PROGRAM

Improving the health status of Maine's seasonal workers and their families by providing culturally appropriate care and services.

January 8, 2025

Alexander R. Peacock
Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028

Dear Mr. Peacock,

I am contacting you on behalf of the Maine Mobile Health Program (MMHP) with a request for support from the Maine Board of Pesticides Control for a continued effort to deliver EPA Worker Protection Standard (WPS) education to Maine's farmworkers during the 2025 harvest season.

Throughout the 2024 season, the Maine Mobile Health Program worked to provide the Worker Protection Standard (PST) training to farmworkers across the state. The program trained a currently employed community health worker and recruited a new trainer who was bilingual with the capacity to speak in Spanish and English. Highlights from the season include collaboration with another MMHP staff member to offer training in Haitian Creole and active engagement between our trainers and workers on the topic. Similar to previous seasons, we experienced several difficulties that limited the number of workers we could support. One of our long-standing partner farms sold their operations this past year so we were not able to train their workers. We hope to reconnect with that crew in 2025. Another farm continues to hire fewer blueberry rakers each season as they increase their use of mechanized harvesting. The challenging labor market also made it difficult for us to hire a second trainer early in the season. Despite the challenges, our PST trainers were able to offer training on the WPS to 65 farmworkers across Maine in addition to curricula from the Association of Farmworker Opportunity Programs (AFOP) on occupational safety.

For 2025, we plan to implement several new strategies to increase our impact and ability to train more farmworkers. While recruiting a new summer trainer, we will train several current staff to offset concerns about the challenging labor market. MMHP is also increasingly interested in promoting heat safety and looking for ways to pair that with pesticide safety trainings and other occupational safety trainings. We received a grant from Farmworker Justice and OSHA to offer heat stress trainings and intend to implement an outreach plan promoting trainings on both topics.

MaineMobile.org | 9 Green Street | PO Box 405 | Augusta, Maine 04332 | Info@MaineMobile.org
Phone (207) 622 9252 | Toll Free (888) 351 9634 | Fax (207) 626 7612

MAINE MOBILE HEALTH PROGRAM

Improving the health status of Maine's seasonal workers and their families by providing culturally appropriate care and services.

The Association of Farmworker Opportunity Programs awarded $480 to MMHP in support of on-going WPS training for 120 workers in 2025. MMHP plans to use these funds to support the staff time for multilingual WPS and occupational health trainings to farmworkers across the state. AFOP may provide additional funding if we exceed our initial training goals. We request from the Maine Board of Pesticides Control a contribution of $6,432 which we would leverage with the funds from AFOP. The funding from the Board of Pesticides Control will be used to support the staff positions who provides WPS trainings; including both the hourly wage and the travel and lodging required to reach farmworkers, growers and partners, and the overhead of managing the grant and project. We request that the funding be made directly to MMHP.

We thank the Board for its past support and for considering this current proposal. To connect with us about this request or our activities, please contact me at hmiller@mainemobile.org or 207-441-1633.

All the best,

Hannah A Miller

Hannah Miller
Director of Outreach
Maine Mobile Health Program

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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

December 6, 2024

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff

   - Adams, Bohlen, Carlton, Fanning, Gray
   - Assistant Attorney General, Carey Gustanski
   - Boyd, Brown, Couture, Peacock, Pietroski, Poisson, Saucier, Vacchiano

2. Minutes of the October 25, 2024 Board Meeting

   Presentation By: Alex Peacock, Director
   Action Needed: Amend and/or Approve

   - **Carlton/Gray: Moved and seconded to approve the October 25, 2024 minutes**
   - **In Favor: Unanimous**

3. Budget Review

   Overview of BPC Budget.

   Presentation By: Alex Peacock, Director
   Action Needed: Discussion

   - Peacock stated that the budget appeared robust at the moment due to the increase in the registration fee, and because the BPC had not been fully staffed for over a year and a half. Staff are in the process of filling the empty positions. There are considerable concerns about a decrease in the EPA grant going forward. Any additional funds will allow BPC to increase our water quality programs and conduct more robust studies.
   - Adams asked what fund the $100,000 grant awarded to the Maine Center for Disease Control (CDC) and the $46,540 granted to the DACF Integrated Pest Management Program came from.
   - Peacock said he would verify which one it was with the resource department.

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING

PHONE: (207) 287-2731
WWW.THINKFIRSTSPRAYLAST.ORG

4. 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.

Presentation By: Hillary Peterson, Ph.D., IPM Specialist
Action Needed: Approve/Disapprove Funding

- Peterson detailed how the funding from 2024 was spent and explained the ask for 2025. She stated that the extra funds would be used to keep on the temporary hire through the fall and winter. Peterson broke down the requested funds according to how they would be spent. She summarized of selected presentations, outreach and network marketing events and other IPM efforts. Peterson also spoke about the department's vector monitoring responsibilities and summarized the work conducted in 2024. Peterson presented a PowerPoint (posted on the BPC meetings page) that detailed the work planned for the program in 2025.
- There was discussion about the funding sources of, and relationships between, each entity that contributed to mosquito monitoring and testing in Maine.
- Adams said the Board had recently funded Maine CDC for an extra $100,000, partly so they could extend their mosquito monitoring and testing. He stated that funding multiple groups rather than one concerted effort created potential for money to be wasted.

    - **Bohlen/Carlton: Moved and seconded to fund the DACF IPM program in the amount of $46,540**
    - **In Favor: Unanimous**

5. Case Background Summary, Herbicide Detections, Kittery

In September 2023, BPC staff investigated a case that involved the possible unauthorized application of herbicides in the Town of Kittery. This case involves destruction of trees and vegetation adjacent to coastal waters. As this case is unresolved, the BPC Enforcement Protocol provides for presentation to the Board for discussion and guidance.

Presentation By: Alex Peacock, Director
Action Needed: Discussion/Guidance

- Peacock explained to the Board that this case involved possible unauthorized applications of herbicides spanning multiple years, possibly to create an ocean view, which was a highly sought after feature. He added that there was no direct evidence of who made the application, but photos from as far back as 2012 show dead trees with drill holes in them. The homeowner stated that a large tree would die every so often, and he did not think much of it, and then trees in a large swath began dying. Multiple soil and vegetation samples collected by BPC staff tested positive for tebuthiuron, and one was positive for triclopyr.

- The Board discussed unauthorized applications by an unlicensed individual and decided to refer this case to the Attorney General's office.

    - **Carlton/Gray: Moved and seconded to refer this case to the Attorney General's office**
    - **In Favor: Unanimous**

6. BPC Prohibited Acts

Upon the Board's acceptance of the Administrative Consent Agreement with Arthur and Amelia Bond in July of 2023, staff have often been asked what can be done to deter violations of unauthorized pesticide applications in the future. MRS Title 7 §606. Prohibited Acts, outlines criteria of pesticide use that are recognized as violations in statute. Staff has prepared sample language that may enhance the prohibited acts provisions to create a greater deterrent for unauthorized applications of pesticides. This topic is brought to the board for input and discussion

Presentation By: Alex Peacock, Director
Action Needed: Discussion

- Peacock stated that the Board had previously discussed ways to deter unauthorized violations..
- Adams suggested going to the next agenda item and discussing prohibited acts in the context of the numeric penalty that may be associated with them.

7. BPC Penalties

During presentation and ratification of administrative consent agreements, the subject of insufficient penalties to deter future violations has often been raised. BPC penalties have also received attention in the media in connection with recent fines that have been assessed. MRS Title 7 §616-A. Penalties, outlines the BPC's penalty structure in statute. Staff has prepared sample language that may enhance the penalty provisions. This topic is brought to the board for input and discussion.

Presentation By: Alex Peacock, Director
Action Needed: Discussion

- Peacock stated that there had been Board discussion about increasing the ceiling of penalties to greater deter violations. He reminded the Board that this would be a statutory change and also noted that staff had prepared sample language for discussion purposes. Peacock said that a larger penalty ceiling would allow staff to put a penalty matrix into policy that would increase transparency on how fines are reached and how we go to that.
- Bohlen stated that the monetary penalties had been the same since 2003 while the consumer price index had nearly doubled since then. He added there was a strong case for a significant increase. Bohlen said he would like to see them doubled, just in terms of keeping up with inflation.
- The Board members agreed. Adams said to add language that specifically stated an 'unlicensed applicator' since it was not currently in there.
- Peacock said that staff would do that.

- Representative Pluecker said he was working on a bill and would be happy to work with the Board to add details from the discussion today.
- The Board agreed.

8. Service Container Labeling Policy

At the October 25, 2024, meeting, staff proposed a policy regarding labeling of service and secondary containers for pesticides. Upon taking into consideration the feedback during the discussion at the meeting, staff has revised the proposed policy.

- Peacock told the Board that this policy was brought back from the last meeting.
- Bohlen stated that the policy seemed restricted to concentrates and asked how that term was defined.
- Peacock stated that Board feedback suggested that the language may be too complicated, so staff decided to begin with just concentrates. He added that staff could return with language about batch tanks and a definition for secondary service containers.
- Gray noted that if ratios were required, applicators would need to do quite a bit of math to determine the dilution rate as a percentage, depending on the product.
- Peacock said if the policy at least contains the brand name, product name and EPA registration number, then a label could be tracked down so individuals would know what hazards they were dealing with.
- Carlton agreed and said not to make it too complicated.
- There was a question about the inclusion of pesticides that were not in liquid form.
- Peacock replied that pesticides in solid form could also be moved to service containers, but their inclusion in the policy could certainly be discussed further.
- Adams directed staff to please do the wordsmithing and bring it back to the Board at the next meeting.

Presentation By: Alex Peacock, Director
Action Needed: Amend and/or Adopt

9. 2023 Aerial Forestry Report

In 2021, the 131st Maine legislature voted to pass LD 125, An Act to Prohibit Aerial Spraying of Glyphosate and Other Synthetic Herbicides for the Purpose of Silviculture. Governor Mills vetoed the bill and issued an executive order requiring state agencies to review the best management practices, rules and regulations, and potential consequences of aerial glyphosate application. One of the key provisions of this executive order was the establishment of a surface water quality study specifically focused on the impact of aerial herbicide spraying in forestry. The Maine Board of Pesticides Control (BPC) was tasked with conducting this study.

Presentation By: Julia Vacchiano, Pesticide Registrar & Water Quality Specialist
Action Needed: Discussion

- Vacchiano explained the surface water quality study staff had completed and that plans for additional work would be presented at a future Board meeting. Vacchiano and Bohlen have been working on the collected data to determine what questions could be answered with it, and what

questions the Board wanted to answer with future efforts. Bohlen thanks the staff for all of their work on this study.

10. Other Old and New Business

a. EPA Releases Rodenticide Strategy, Including Final Biological Evaluation on the Effects of 11 Rodenticides on Endangered Species and Associated Mitigation
b. Municipal Ordinance, Town of Camden
c. Groundwater Monitoring Plan Revision
d. EPA Releases Draft Guidance to Support Registration of Pre-saturated Disinfecting Wipes

- Adams stated that Pietroski did an amazing job presenting the Endangered Species Act information.

e. EPA Makes Thousands of Records on the Agency's Review of Studies on Pesticides Publicly Available

11. Schedule of Future Meetings

Tentative future meeting dates: April 11, 2025, May 23, 2025, July 11, 2025

12. Adjourn

- **Adams/Carlton: Moved and seconded to adjourn at 11:15 AM**
- **In Favor: Unanimous**

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

I. Gustave S Nothstein — Cell: (207) 441-4521
Name — Telephone Number

Maine Department of Transportation, Bureau of Maintenance & Operations
Company Name

16 State House Station — Augusta — Maine — 04333-0016
Address — City — State — Zip

II. Area(s) where pesticides will be applied:

- Selected State maintained roads and other transportation facilities such as buildings, maintenance lots, bridges, and railroads, and adjacent areas within the right of way thereof.
- Selected target plants include: evergreen trees up to 3 feet high and deciduous trees up to 6 feet high; grasses and weeds in guardrail areas, in pavement cracks, invasive plants; plants that present a health risk; or other plants necessary to control for transportation purposes.

III. Pesticide(s) to be applied:
The following products or equivalents may be used as the only product in the mix or in various combinations and concentrations.

Garlon 4 Ultra	(triclopyr)	62719-527
Element 4	(triclopyr)	62719-40
Escort XP	(Metsulfuron methyl)	432-1549
MSM 60	(Metsulfuron methyl)	81927-7
Arsenal Powerline	(imazapyr)	241-431
Krenite S	(Fosamine ammonium)	42750-247
Milestone	(aminopyralid)	62719-519
Whetstone	(aminopyralid)	81927-82
Roundup Custom	(glyphosate)	524-343
Glyphosate 5.4	(glyphosate)	81927-8
Rodeo	(glyphosate)	62719-324
Oust XP	(Sulfometuron methyl)	432-1552
SFM 75	(Sulfometuron methyl)	81927-26
Nu-Film IR	(Poly-1-p-Menthene)	adjuvant
MSO w/ LeciTech	(Methylated Seed Oil With Surfactant Blend)	adjuvant
Reign LC	(polyacrylamide)	adjuvant

IV. Purpose of pesticide application:

- Control of woody brush on roadsides to maintain safety clear zones, sight distances, enhance winter solar access to pavement, and provide snow storage.
- Control of grasses and weeds in cracks in pavement in preparation for asphalt surface treatments.
- Control of grasses and weeds in guardrail areas to enhance sight distances, visibility of and access to structures, signs, and other devices.
- Control of invasive plants
- Control of plants that present a health risk to department or contract workers.
- Control of other plants necessary to control for transportation purposes.

V. Approximate dates of spray application: May 15, 2025/2026, to December 31, 2025/2026, and

VI. Application Equipment:

- Hypro 10 GPM diaphragm piston pump hydraulic sprayer with handgun or equivalent, 100 to 700 gallon tanks.
- 1800-gallon patrol truck mounted spray apparatus with Hypro Hydraulic Centrifugal pump
- Low pressure, low application rate, side mounted off center nozzles for roadside weed control spraying.
- Low pressure, low application rate, no drift raindrop nozzle. for guardrail application.
- Backpack and hand pump sprayers.

VII. Standard(s) to be varied from:

Chapter 29 - Section 6. Buffer Requirement Part (A)

VIII. Reason for variance:

To provide control of brush, annual, or perennial plants growing within a distance from 25 feet to 10 feet from waters as defined in the regulation. Brush and other plants targeted for control will be those which impede visibility of the road, signs, guardrail, entrances, and other structures; cause shading of the road surface; are considered an invasive plant; are a health risk: or other plants necessary to control for transportation purposes.

IX. Method to assure equivalent protection:

1) Roadside brush control: use large nozzle disc size for enlarged droplet size, use a tank mix particulating agent for enlarged droplet size, use sticker-spreader-extender to adhere spray materials to ground or leaf surface and make rain fast, use pump pressure of 25-125 psi to maintain spray stream trajectory of less than 40 feet, use low volatile chemicals at lowest effective rates, maintain notification signage on spray trucks, offer no-spray agreements. Spray when ground is dry and not saturated with water. Avoid spraying when forecasts show a threat of heavy rains. Do not spray on rainy days and cease spray operations if rain is in the immediate forecast.

2) Roadside broadleaf weeds: use low pressure of 30 to 100 psi, low volume per acre techniques with side mounted off center nozzles that produce large droplets over a controlled spray pattern of 6 to 20 feet, use a slow ground speed of 15 mph or less, use a sticker extender to adhere spray materials to the ground or leaf surfaces and make rain fast, use low volatile chemicals at lowest effective rates, maintain notification signage on spray trucks, offer no-spray agreements. Spray when ground is dry and not saturated with water. Avoid spraying when forecasts show a threat of heavy rains. Do not spray on rainy days and cease spray operations if rain is in the immediate forecast.

3) Cracks in pavement, guardrail, invasive plants, plants that are a health risk, or other plants: use a low pump pressure of 25 to 50 PSI; use a tank mix particulating agent for enlarged droplet size, use a spray gun and spray nozzles that will produce raindrop size particles with no fine particle sizes that can drift away from target, use non-volatile chemicals at lowest effective rates, use a sticker-spreader-extender to adhere spray materials to ground or leaf surface and make rain fast, maintain notification signage on spray trucks. Spray when ground is dry and not saturated with water. Avoid spraying when forecasts show a threat of heavy rains. Do not spray on rainy days and cease spray operations if rain is in the immediate forecast.

Signed:  Date: January 15, 2025

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028**

OR E-mail to: pesticides@maine.gov

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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

Memorandum

To: Maine Board of Pesticides Control

From: Julia Vacchiano, Pesticides Registrar and Water Quality Specialist

Re: Request to renew EPA FIFRA, Section 24(c) SLN use of Express Herbicide with Total Sol (EPA Registration # 279-9594) for Bunchberry control in wild blueberries

March 6, 2025

The Board approved the renewal of Section 24(c) on January 19, 2021, to extend the registration for Express Herbicide with Total Sol for five years. This extended registration is set to expire on December 31, 2025. Dr. Lily Calderwood, University of Maine Cooperative Extension Blueberry Specialist, requests another 5-year extension. The requested extension would expire December 31, 2030.

Previous research demonstrated tribenuron methyl, the active ingredient in Express, degraded rapidly and failed to migrate deeply into the soil profile, making it an unlikely groundwater contaminant. The original application for this registration was approved in 2010 and UMaine has since conducted water quality testing per the Board's request. Confirming the aforementioned groundwater contamination research, Cooperative Extension collected samples from three test wells in blueberry barren soils from May to October 2019, following the initial spray application. Tribenuron-methyl was not detected in any of the samples analyzed by the Massachusetts Pesticide Analysis Laboratory. The report is included with this request.

The SLN allows a fall application for bunchberry control or a spring application in the non-crop year at one ounce in 20-30 gallons of water and spot applications to control alders, bracken fern, wild rose, and yellow loosestrife at the rate of one ounce in 20 gallons of water during the summer and early fall. Application within 365 days of harvest is not permitted.

Please review the following included documents:

- Letter of request from Lily Calderwood, Ph.D., University of Maine Cooperative Extension Blueberry Specialist
- Letters of support from FMC Corporation, Cherryfield Foods Inc. and Wyman's
- 2019 UMaine well water testing results
- 2019 Summary of toxicity topics for the Specialized Local Needs (SLN) application of Express, Pamela Bryer, Ph.D.
- FMC Express Herbicide with TotalSol Section 24(c) label for requested approval
- FMC Express Herbicide with TotalSol Section 3 label
- FMC Express Herbicide with TotalSol Safety Data Sheet


maine
DEPARTMENT OF
Agriculture
Conservation
& Forestry

February 19, 2025

Dear FMC,

On behalf of the University of Maine Cooperative Extension and lowbush (wild) blueberry producers in Maine, I request an extension of the 24C label for Express herbicide (tribenuron-methyl) for use on broadleaf weeds in wild blueberry fields. The existing 24C label expired on December 31, 2025.

Bunchberry (*Cornus canadensis)* is a low growing woody weed in wild blueberry fields that is difficult to manage. Tribenuron-methyl is the only efficacious product for this species that I am aware of. Bunchberry grows via rhizomes and underneath the blueberry canopy competing with wild blueberry for space, nutrients and water. This weed is a particular nuisance for growers who harvest berries for fresh pack sales. When raking blueberries in a bunchberry patch, the bunchberry leaves crush blueberries. Additionally, the bunchberry berries are a similar size to blueberries and get harvested requiring close attention to removal in the processing building. Through my Extension program, growers are encouraged to identify weeds in their fields and use cultural methods of weed management including sulfur application and mechanical weed removal before using chemical control. Bunchberry is one of the weeds that escapes our cultural methods of weed management and applications of other herbicide products. Express is a group 2 herbicide and therefore fills an important rotational niche, reducing the risk of resistance development. The UMaine Extension herbicide chart, which contains 16 products, only contains two Group 2 products (Express tribenuron-methyl and Sandea halosulfuron-methyl).

As requested by the Maine Board of Pesticide Control, in 2019 I led an effort to test well water before and after Express application in collaboration with the blueberry industry. Three wells located in wild blueberry fields were selected for repeated well water testing. Each of the three wells were sampled on May 21st (before application), August 7th and October 29th, 2019. No tribenuron-methyl was detected in any sample. Samples were tested by the University of Massachusetts Pesticide Analysis Laboratory.

I support the extension of the Express 24C label for lowbush blueberry in Maine.

Sincerely,

Lily B. Calderwood

Lily Calderwood, PhD
University of Maine
Extension Wild Blueberry Specialist, Associate Professor of Horticulture

FMC Corporation
2929 Walnut Street
Philadelphia, PA 19104
USA

215.299.6000
fmc.com

February 28, 2025

Ms. Julia Vacchiano
Pesticide Registrar / Water Quality Specialist
Maine Department of Agriculture
State House Station #28
Augusta, ME 04333

SUBJECT: **Express Herbicide w/TotalSol Soluble Granules (EPA Reg. No. 279-9594)**
FIFRA Section 24(c) Special Local Need Application – RENEWAL
For Spot Application and Control of Bunchberry in Lowbush Blueberry

Dear Ms. Vacchiano

FMC Corporation herein submits a FIFRA Section 24(c) Special Local Need (SLN) application for the renewal of Express Herbicide w/TotalSol Soluble Granules (279-9594) to allow the use of this product for spot application and control of bunchberry in lowbush blueberry in the state of Maine.

Lily Calderwood (Wild Blueberry Extension Specialist) from University of Maine has submitted a letter of support requesting the approval of the renewal of the FIFRA Section 24(C) label that will allow application of Express Herbicide to control bunchberry in lowbush blueberries in Maine. Bunchberry can be a particularly challenging weed to control using conventional cultural methods and tribenuron methyl, the active ingredient in Express Herbicide, is very efficacious in controlling this problem weed. We hope that you will approve the renewal of this SLN to allow the blueberry growers in Maine the use of this

Enclosed, please find the following documents to support this FIFRA Section 24(c) Special Local Need for Express Herbicide (EPA Reg No 279-9594):

- Signed EPA form 8570-25
- Proposed SLN label identified as DR-4949 022125 (Redline and Clean versions)
- Letter of Support from the University of Maine

Should you have questions, please contact me at 302-318-9578 or e-mail at Nina.Marr@fmc.com.

Sincerely,

Nina L Marr

Nina Marr
Product Registration Specialist

EXPRESS®

TRIBENURON METHYL	GROUP 2	HERBICIDE

HERBICIDE WITH TOTALSOL® SOLUBLE GRANULES

Soluble Granule

For Use on Cereals, ExpressSun®, Sunflowers, Grass grown for seed, Fallow and as a Pre-plant or Post-harvest Burndown Herbicide

Active Ingredient	**By Weight**
Tribenuron methyl	50%
Other Ingredients	50%
TOTAL	100%

EPA Reg. No. 279-9594

Contains 0.50 lb active ingredient per pound. EPA Est. No. _____

Nonrefillable Container **Refillable Container**

Net:_____ *OR* Net: _____

KEEP OUT OF REACH OF CHILDREN

CAUTION

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle. (If you do not understand this label, find someone to explain it to you in detail.)

FIRST AID

IF ON SKIN: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call a poison control center or doctor for treatment advice.

Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also contact 1-800-331-3148 for emergency medical treatment information.

PRECAUTIONARY STATEMENTS
HAZARDS TO HUMANS AND DOMESTIC ANIMALS

Caution: Prolonged or frequently repeated skin contact may cause allergic reactions in some individuals. Avoid contact with skin, eyes or clothing.

For medical emergencies involving this product, call toll free 1-800-331-3148.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Mixers, loaders, applicators, and other handlers must wear:

Long-sleeved shirt and long pants.

Chemical resistant gloves made of any waterproof material including polyethylene or polyvinyl chloride. Shoes plus socks.

Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables exists, use detergent and hot water. Keep and wash PPE separately from other laundry.

Sold By:

FMC

FMC Corporation
2929 Walnut Street
Philadelphia, PA 19104

ENGINEERING CONTROL STATEMENTS

When handlers use closed systems, enclosed cabs, or aircraft in a manner that meets the requirements listed in the Worker Protection Standard (WPS) for agricultural pesticides [40 CFR part 170.240 (d)(4-6)], the handler PPE requirements may be reduced or modified as specified in the WPS.

Important: When reduced PPE is worn because a closed system is being used, handlers must be provided all PPE specified above for "Applicators and Other Handlers" and have such PPE immediately available for use in an emergency, including a spill or equipment breakdown.

USER SAFETY RECOMMENDATIONS

USERS SHOULD:

- Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco, or using the toilet.
- Remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing

ENVIRONMENTAL HAZARDS

DO NOT apply directly to water, or to areas where surface water is present, or to intertidal areas below the mean high water mark. **DO NOT** contaminate water when cleaning equipment or disposing of equipment washwaters or rinsate.

Surface Water Advisory

This product may impact surface water quality due to runoff of rain water. This is especially true for poorly draining soils and soils with shallow ground water. This product is classified as having high potential for reaching surface water via runoff for several weeks or more after application. A level, well-maintained vegetative buffer strip between areas to which this product is applied and surface water features including ponds, streams, and springs will reduce the potential loading of this product from runoff water and sediment. Runoff of this product will be greatly reduced by avoiding applications when rainfall or irrigation is expected to occur within 48 hours.

Windblown Soil Particles Advisory

This product has the potential to move off-site due to wind erosion. Soils that are subject to wind erosion usually have a high silt and/or fine to very fine sand fractions and low organic matter content. Other factors which can affects the movement of windblown soil include the intensity and direction of prevailing winds, vegetative cover, site slope, rainfall, and drainage patterns. Avoid applying this product if prevailing local conditions may be expected to result in off-site movement.

Non-target Organism Advisory

This product is toxic to plants and may adversely impact the forage and habitat of non-target organisms, including pollinators, in areas adjacent to the treated area. Protect the forage and habitat of non-target organisms by minimizing spray drift. For further guidance and instructions on how to minimize spray drift, refer to the Spray Drift Management section of this label.

DIRECTIONS FOR USE

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

DO NOT apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE) and restricted-entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

DO NOT enter or allow worker entry into treated areas during the restricted entry interval (REI) of 12 hours. PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, including plants, soil, or water, is:

Coveralls.

Chemical resistant gloves made of any waterproof material.

Shoes plus socks.

EXPRESS® herbicide (with TotalSol® soluble granules), referred to below as EXPRESS herbicide, must be used only in accordance with instructions on this label or as otherwise permitted by FIFRA. Always read the entire label, including the Limitation of Warranty and Liability.

To the extent consistent with applicable law, FMC will not be responsible for losses or damages resulting from the use of this product in any manner not specified by FMC.

EXPRESS herbicide may be used on wheat (including durum), barley, triticale, oats, burndown, certain grasses grown for seed, and ExpressSun® sunflowers in most states. Check with your state extension service or Department of Agriculture before use, to be certain EXPRESS herbicide is registered in your state.

PRODUCT INFORMATION

EXPRESS herbicide is a water soluble granule that is used for selective postemergence weed control in wheat (including durum), barley, triticale, oats and ExpressSun® sunflowers; and for post-harvest burndown, fallow, and pre- plant burndown weed control. The best control is obtained when EXPRESS herbicide is applied to young, actively growing weeds. The use rate will depend on weed spectrum and size of weeds at time of application. The degree and duration of control may depend on the following:

- Weed spectrum and infestation intensity
- Weed size at application
- Environmental conditions at and following treatment

EXPRESS herbicide is noncorrosive, nonflammable, nonvolatile, and does not freeze. Mix EXPRESS herbicide in water and apply as a uniform broadcast spray.

Biological Activity

EXPRESS herbicide is absorbed through the foliage of broadleaf weeds, rapidly inhibiting their growth. Leaves of susceptible plants appear chlorotic from 1 to 3 weeks after application and the growing point subsequently dies.

EXPRESS herbicide provides the best control in vigorously growing crops that shade competitive weeds. Weed control in areas of thin crop stand or seeding skips may not be as satisfactory. However, a crop canopy that is too dense at application can intercept the spray and reduce weed control.

EXPRESS herbicide may injure crops that are stressed from adverse environmental conditions (including extreme temperatures or moisture), abnormal soil conditions, or cultural practices. In addition, different varieties of the crop may have differing levels of sensitivity to treatment with EXPRESS herbicide under otherwise normal conditions.

Treatment of sensitive crop varieties may injure crops. To reduce the potential of crop injury to cereals, tank mix EXPRESS herbicide with 2,4-D (ester formulations perform best–see the Tank Mixtures section of this label) and apply after the crop is in the tillering stage of growth.

In warm, moist conditions, the expression of herbicide symptoms is accelerated in weeds; in cold, dry conditions, the expression of herbicide symptoms is delayed. In addition, weeds hardened-off by drought stress are less susceptible to EXPRESS herbicide.

Weed control may be reduced if rainfall or snowfall occurs soon after application. Several hours of dry weather are needed to allow EXPRESS herbicide to be sufficiently absorbed by weed foliage.

RESTRICTIONS

- Injury to or loss of desirable trees or vegetation may result from failure to observe the following:
  - **DO NOT** apply, drain or flush equipment on or near desirable trees or other plants or on areas where their roots may extend, or in locations where the chemical may be washed or moved into contact with theirroots.
  - **DO NOT** use on lawns, walks, driveways, paved surfaces, or tennis courts. Prevent drift of spray to desirable plants.
  - **DO NOT** discharge excess material on the soil at a single spot in the field, grove, or mixing/loading station.
- **DO NOT** store pesticides near well sites.
- **DO NOT** apply EXPRESS herbicide by air in the state of New York.
- The maximum amount of the active ingredient tribenuron-methyl for all uses is 0.5 ounces (0.0313 lb ai) per acre per year.
- The maximum amount of EXPRESS herbicide for all uses per acre per year is 1 ounce (0.0313 lb ai/A).
- The maximum number of applications per year of EXPRESS herbicide for all uses is four (when using less than the maximum single application rate), refer to the summary table in each use section for specific number of application for a given crop.

PRECAUTIONS

- Injury to or loss of adjacent sensitive crops and vegetation may result from failure to observe the following:
  - Take all necessary precautions to avoid all direct or indirect contact (including spray drift) with non-target plants or areas.
  - Carefully observe all sprayer cleanup instructions both prior to and after using this product, as spray tank residue may damage crops other than wheat, barley, oats and ExpressSun® sunflowers.
- Varieties of wheat (including durum), barley, oats and triticale may differ in their response to various herbicides. Consult your state experiment station, university, or extension agent as to crop sensitivity to any herbicide. If no information is available, limit the initial use to a small area.
- Under certain conditions including heavy rainfall, prolonged cold weather, or wide fluctuations in day/night temperatures prior to or soon after EXPRESS herbicide application, temporary discoloration and/or crop injury may occur. To reduce the potential of crop injury, tank mix EXPRESS herbicide with 2,4-D (ester formulations perform best - see the "TANK MIXTURES" section of this label) and apply after the crop is in the tillering stage of growth.
- Dry, dusty field conditions may result in reduced control in wheel track areas.
- Calibrate sprayers only with clean water away from wellsites.
- Make scheduled checks of sprayequipment.
- Ensure that all operation employees accurately measure pesticides.
- Mix only enough product for the job at hand.
- Avoid overfilling of spray tank.
- Dilute and agitate excess solution and apply at labeled rates or uses.
- When triple-rinsing the pesticide container, be sure to add the rinsate to the spray mix.

WEED RESISTANCE MANAGEMENT

EXPRESS herbicide, which contains the active ingredient tribenuron-methyl is a group 2 herbicide based on the mode of action classification system of the Weed Science Society of America.

Proactively implementing diversified weed control strategies to minimize selection for weed populations resistant to one or more herbicides is a best practice. A diversified weed management program may include the use of multiple herbicides with different sites of action and overlapping weed spectrum with or without tillage operations and/or other cultural practices. Research has demonstrated that using the labeled rate and directions for use is important to delay the selection for resistance.

The continued effectiveness of this product depends on the successful implementation of a weed resistance management program.

To aid in the prevention of developing weeds resistant to this product, users should:

- Scout fields before application to ensure herbicides and rates will be appropriate for the weed species and weed sizes present.
- Start with a clean field, using either a burndown herbicide application or tillage.

• Control weeds early when they are relatively small (less than 4 inches).

• Apply full rates of EXPRESS herbicide for the most difficult to control weed in the field at the specified time (correct weed size) to minimize weed escapes.

• Scout fields after application to detect weed escapes or shifts in control of weed species.

• Control weed escapes before they reproduce by seed or proliferate vegetatively.

• Report any incidence of non-performance of this product against a particular weed to your FMC representative, local retailer, or county extension agent.

• Contact your FMC representative, crop advisor, or extension agent to find out if suspected resistant weeds to this MOA have been found in your region. If resistant biotypes of target weeds have been reported, use the application rates of this product specified for your local conditions. Tank mix products so that there are multiple effective sites of actions for each target weed.

• If resistance is suspected, treat weed escapes with an herbicide having a site of action other than Group 2 and/or use nonchemical methods to remove escapes, as practical, with the goal of preventing further seed production.

• Suspected herbicide-resistant weeds may be identified by these indicators:

- Failure to control a weed species normally controlled by the herbicide at the dose applied, especially if control is achieved on adjacent weeds;

- A spreading patch of non-controlled plants of a particular weed species; and

- Surviving plants mixed with controlled individuals of the same species.

Additionally, users should follow as many of the following herbicide resistance management practices as is practical:

• Use a broad spectrum soil-applied herbicide with other sites of action as a foundation in a weed control program.

• Utilize sequential applications of herbicides with alternative sites of action.

• Rotate the use of this product with non-Group 2 herbicides.

• Avoid making more than two applications of EXPRESS herbicide and any other Group 2 herbicides within a single growing season unless mixed with an herbicide with a different site of action with an overlapping spectrum for the difficult-to-control weeds.

• Incorporate non-chemical weed control practices, including mechanical cultivation, crop rotation, cover crops and weed-free crop seeds, as part of an integrated weed control program.

• Use good agronomic principles that enhance crop development and crop competitiveness.

• Thoroughly clean plant residues from equipment before leaving fields suspected to contain resistant weeds.

• Manage weeds in and around fields, during and after harvest to reduce weed seed production.

INTEGRATED PEST MANAGEMENT

This product may be used as part of an Integrated Pest Management (IPM) program that can include biological, cultural, and genetic practices aimed at preventing economic pest damage. IPM principles and practices include field scouting or other detection methods, correct target pest identification, population monitoring, and treating when target pest populations reach locally determined action thresholds. Consult your state cooperative extension service, professional consultants or other qualified authorities to determine appropriate action treatment threshold levels for treating specific pest/crop systems in your area.

APPLICATION INFORMATION

EXPRESS herbicide may be tank mixed with other suitable registered herbicides to control weeds listed as partially controlled, weeds resistant to EXPRESS herbicide or weeds not listed under the "WEEDS CONTROLLED" sections of this label.

TANK MIX INFORMATION

Read and follow all label instructions on timing, precautions, and warnings for any companion products before using these tank mixtures. It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

WHEAT, BARLEY, OATS AND TRITICALE

APPLICATION TIMING

Apply EXPRESS herbicide after the crop is in the 2-leaf stage, but before the flag leaf is visible.

For spring oats, make applications after the crop is in the 3-leaf stage, but before jointing. **DO NOT** use on "Ogle", "Porter" or "Premier" seed varieties as crop injury may occur.

Since EXPRESS herbicide has very little or no soil activity, it controls only those weeds that have germinated; therefore, apply EXPRESS herbicide when all or most of the weeds have germinated. Annual broadleaf weeds must be past the cotyledon stage, actively growing, and less than 4" tall or wide.

Restriction:

- **DO NOT** apply to wheat, barley, oats or triticale underseeded with another crop.
- **DO NOT** apply EXPRESS herbicide to wheat, barley, oats or triticale that is stressed by severe weather conditions, drought, low fertility, water-saturated soil, disease, or insect damage, as crop injury may result. Risk of injury is greatest when crop is in the 2 to 5- leaf stage. Severe winter stress, drought, disease, or insect damage following application also may result in crop injury.
- Grazing, Feeding, and Harvesting
    - Allow at least 7 days between application and grazing of treated forage.
    - Allow at least 7 days between application and feeding of forage (green chop) from treated areas to livestock.
    - Allow at least 30 days between application and feeding of hay from treated areas to livestock.
    - Allow at least 45 days between application and harvesting of grain. Harvested straw may be used for bedding and/or feed.

CEREALS USE RATE

Use EXPRESS herbicide at 0.5 oz/A (0.0156 lb ai/A) (except oats) for heavy infestation of those weeds listed under the "WEEDS CONTROLLED" section of this label or when application timing and environmental conditions are marginal (see "BIOLOGICAL ACTIVITY").

Use EXPRESS herbicide at 0.25 (0.0078 lb ai/A) to 0.375 oz/A (0.0117 lb ai/A) (except oats) for light infestation of the weeds listed under the "WEEDS CONTROLLED" section of this label. Conditions at application shall be optimum for effective treatment of these weeds.

Two applications of EXPRESS herbicide may be made on this crop provided the total amount does not exceed 0.5 oz/A (0.0156 lb ai/A) per year.

For oats, apply 0.2 oz/A (0.0063 lb ai/A) of EXPRESS herbicide for control of light populations of the weeds listed in Weeds Controlled table. In oats, EXPRESS herbicide must be tank mixed with another registered herbicide. **DO NOT** make more than one application of EXPRESS herbicide on oats per year.

Restrictions:

Active Ingredient in EXPRESS herbicide: Tribenuron-methyl								
Crop/ Use	**Application Timing**	**Maximum Oz/A of Product per Single Application**	**Maximum AI lb/A per Single Application**	**Maximum Oz/A of Product per Year**	**Maximum AI lb/A per Year**	**Maximum Number of Applications per Year**	**Minimum Treatment Interval (Days)**	**Pre-Harvest Interval, Days**
Wheat, Barley, Triticale	Postemergence	0.5	0.0156	0.5	0.0156	2	14	45 (for grain)
Oats	Postemergence	0.2	0.0063	0.2	0.0063	1	Not Applicable	45 (for grain)

TANK MIXTURES FOR CEREALS

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

With 2,4-D (amine or ester) or MCP (amine or ester)

EXPRESS herbicide may be tank mixed with 2,4-D and MCP (preferably ester formulations) herbicides for use on wheat, barley, oats and triticale. In tank mixes containing 2,4-D or MCP, add 1 to 2 pt of nonionic surfactant per 100 gallons of spray solution; in tank mixes containing the active ingredients 2,4-D or MCP, add 1 pt of nonionic surfactant per 100 gallons of spray solution.

When using higher rates, use of additional nonionic surfactant may not be needed, unless specified otherwise in the 2,4- D or MCP label, or local guidance.

With 2,4-D or MCP (amine or ester) and Dicamba

EXPRESS herbicide may be applied in a 3-way tank mix with formulations of dicamba including Clarity® herbicide, and 2,4-D or MCP.

Make applications at 0.25 oz/A (0.0078 lb ai/A) - 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide +Clarity herbicide + 2,4-D or MCP (ester or amine) at label rates. Use higher rates when weed infestation is heavy. Add 1-2 pt of nonionic surfactant per 100 gallons of spray solution to the 3-way mixture, where necessary, as deemed by local guidance. Use of additional nonionic surfactant may not be needed with the higher phenoxy rates and ester phenoxy formulations. Consult the specific 2,4-D or MCP and dicamba labels, or local guidance for more information.

Apply this 3-way combination to winter wheat after the crop is tillering and prior to jointing (first node). In Spring Wheat (including Durum), apply after the crop is tillering and before it exceeds the 5-leaf stage.

DO NOT apply this 3-way mixture at high rates more than once a year, or more than twice per year at the low rates.

With Bromoxynil containing products

EXPRESS herbicide may be tank mixed with bromoxynil containing herbicides registered for use on wheat, barley or triticale. For best results, add bromoxynil containing herbicides to the tank at label rates. Tank mixes of EXPRESS herbicide plus bromoxynil may result in reduced control of Canada thistle.

With fluroxypyr containing products

EXPRESS herbicide may be tank mixed with fluroxypyr containing herbicides for improved control of Kochia (2-4" tall) and other broadleaf weeds. For best results, add fluroxypyr containing herbicides at label rates. 2,4-D and MCP herbicides (preferably ester formulations) may be tank mixed with EXPRESS herbicide plus fluroxypyr.

With Other Broadleaf Control Products

EXPRESS herbicide can be tank mixed with other broadleaf herbicides registered on cereals including HARMONY® SG Herbicide (with TotalSol® soluble granules), ALLY® XP herbicide, WideMatch® herbicide, Aim® EC herbicide, Stinger® herbicide, or Curtail® herbicide.

Tank mixes of EXPRESS herbicide plus metribuzin may result in reduced control of wild garlic.

Tank mixes of EXPRESS herbicide plus Clarity herbicide may result in reduced control of some broadleaf weeds.

With Pinoxaden

EXPRESS herbicide can be tank mixed with Axial® XL herbicide for improved control of wild oats and other grasses.

With Clodinafop-propargyl

EXPRESS herbicide can be tank mixed with Discover® NG herbicide for improved control of weeds in spring wheat.

With Flucarbazone-sodium

EXPRESS herbicide can be tank mixed with Everest® 3.0 herbicide for improved control of weeds in spring wheat.

With Mesosulfuron-methyl

EXPRESS herbicide can be tank mixed with Osprey® herbicide for improved control of weeds in Fall-sown or winter wheat.

With Pyroxsulam

EXPRESS herbicide can be tank mixed with PowerFlex® HL herbicide, GR1 Herbicide, or GR2 Herbicide for improved control of weeds in winter wheat and triticale.

EXPRESS herbicide can be tank mixed with Simplicity™ CA herbicide for improved control of weeds in spring and winter wheat including durum and triticale.

EXPRESS herbicide can be tank mixed with TeamMate™ herbicide (for improved control of weeds in spring and winter

wheat including durum and triticale.

With Other Grass Control Products

EXPRESS herbicide can be tank mixed with other grass control herbicides registered on cereals.

With Fungicides

EXPRESS herbicide may be tank mixed or used sequentially with fungicides registered for use on cereal crops.

With Insecticides

EXPRESS herbicide may be tank mixed or used sequentially with insecticides registered for use on cereal crops. However, under certain conditions (drought stress, or if the crop is in the 2-4 leaf stage), tank mixes or sequential applications of EXPRESS herbicide with organophosphate insecticides may produce temporary crop yellowing or, in severe cases, crop injury. The potential for crop injury is greatest when wide fluctuations in day/night temperatures occur just prior to or soon after application.

Test these mixtures in a small area before treating large areas.

Restriction:

- **DO NOT** apply EXPRESS herbicide within 60 days of crop emergence where an organophosphate insecticide has been applied as an in- furrow treatment because crop injury may result.
- **DO NOT** use EXPRESS herbicide plus Malathion because crop injury may result.

With Liquid Nitrogen Solution Fertilizer

Liquid nitrogen fertilizer solutions may be used as a carrier in place of water. Run a tank mix compatibility test before mixing EXPRESS herbicide in fertilizer solution. EXPRESS herbicide must first be slurried with water and then added to liquid nitrogen solutions (e.g., 28-0-0, 32-0-0). Ensure that the agitator is running while the EXPRESS herbicide is added. Use of this mixture may result in temporary crop yellowing and stunting.

If using low rates of liquid nitrogen fertilizer in the spray solution (less than 50% of the spray solution volume), the addition of surfactant is necessary. Add surfactant at 0.5 pt - 1 qt per 100 gal of spray solution (0.06 -0.25% v/v) based on local guidance.

When using high rates of liquid nitrogen fertilizer solution in the spray solution, adding surfactant increases the risk of crop injury. If 2,4-D or MCP is included with EXPRESS herbicide and fertilizer mixture, ester formulations tend to be more compatible (see manufacturer's label). Additional surfactant may not be needed when using EXPRESS herbicide in tank mix with 2,4-D ester or MCP ester and liquid nitrogen fertilizer solutions. Consult your agricultural dealer, consultant, field advisor, or FMC representative for guidance before adding an adjuvant to these tank mixtures.

Note: In certain areas east of the Mississippi river unacceptable crop response may occur with use of straight or dilute nitrogen fertilizer carrier solutions where cold temperatures or widely fluctuating day/night temperatures exist. In these areas consult your agricultural dealer, consultant, field advisor, or FMC representative for guidance before using nitrogen fertilizer carrier solutions.

Restriction:

- **DO NOT** use low rates of liquid nitrogen fertilizer solution as a substitute for a surfactant. Liquid nitrogen fertilizer solutions that contain sulfur may increase crop response.
- **DO NOT** use with liquid fertilizer solutions with a pH less than 3.0.

BURNDOWN - POST HARVEST, FALLOW, PRE-PLANT

APPLICATION TIMING

EXPRESS herbicide may be used as a burndown treatment when the majority of weeds have emerged and are actively growing. EXPRESS herbicide may be applied to crop stubble, as a fallow treatment, or as a pre-plant burndown prior to planting any crop. See "CROP ROTATION" for the minimum interval allowed between the burndown application and when a crop may be planted.

BURNDOWN USE RATE

Apply 0.25 oz/A (0.0078 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide as a burndown treatment prior to planting any crop (except cotton), or shortly after planting wheat (including durum), barley or triticale (prior to emergence). Use the 0.5 oz/A (0.0156 lb ai/A) rate when weed infestation is heavy or predominantly consists of those weeds listed under the "Weeds Partially Controlled" section of this label, or when application timing and environmental conditions are marginal.

See "CROP ROTATION" for the minimum interval allowed between the burndown application and when a crop may be planted.

Sequential treatments of EXPRESS herbicide may also be made provided the total amount of EXPRESS herbicide applied during one post harvest/fallow/pre-plant time period does not exceed 0.5 oz/A (0.0156 lb ai/A).

Apply EXPRESS herbicide in combination with other suitable registered burndown herbicides (See the "TANK MIXTURES" section of this label for additional information).

For cotton, apply 0.25 oz/A (0.0078 lb ai/A) of EXPRESS herbicide as a burndown treatment any time up to 14 days prior to planting. Seedling disease, nematodes, cold weather, deep planting (more than 2"), excessive moisture, high salt concentration, and/or drought may weaken cotton seedlings and increase the possibility of crop injury. Cotton resumes normal growth once favorable growing conditions return.

Restrictions:

Active Ingredient in EXPRESS herbicide: Tribenuron-methyl								
Crop/ Use	**Application Timing**	**Maximum Oz/A of Product per Single Application**	**Maximum AI lb/A per Single Application**	**Maximum Oz/A of Product per-Year**	**Maximum AI lb/A per-Year**	**Maximum Number of Applications per Year**	**Minimum Treatment Interval (Days)**	**Pre-Harvest Interval, Days**
Fallow, Burndown, Post-Harvest	-------	0.5	0.0156	0.5	0.0156	2	14	--
Burndown Prior to Cotton Seedling	--------	0.25	0.0078	0.25	0.0078	2	14	--
Soybeans	pre-plant & burndown, Post-harvest	1	0.0313	1	0.0313	1	Not Applicable	--
Field Corn	Pre-plant & burndown, Post-Harvest	1	0.0313	1	0.0313	1	Not applicable	--

TANK MIXTURES IN BURNDOWN APPLICATIONS

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

EXPRESS herbicide may be tank mixed with one or more herbicides that are registered for use at the appropriate burndown timing, including glyphosate, 2,4-D, and dicamba. Read and follow all label instructions on timing, precautions, and warnings for any companion products before using these tank mixtures.

EXPRESSSUN® SUNFLOWERS

EXPRESS herbicide is intended for application only to sunflowers with the ExpressSun® trait. Apply only on sunflowers labeled ExpressSun® and warranted by the seed supplier to not be sensitive to direct application of EXPRESS herbicide. **DO NOT** apply EXPRESS herbicide to sunflowers that are not labeled ExpressSun®.

APPLICATION TIMING

Apply EXPRESS herbicide to ExpressSun® sunflowers any time from the 2-leaf stage of growth up to but not including the bud formation stage.

Temporary crop yellowing may be observed shortly after application of EXPRESS herbicide, especially when applied to crops growing under environmentally stressful conditions.

Depending upon rainfall or other environmental conditions, annual weeds may have a second flush of germinating seedlings. To maximize control of such weeds, it may be necessary to apply EXPRESS herbicide again, 14 or more days after the prior application.

Application to ExpressSun® sunflowers that are, or have been, stressed by severe weather conditions, frost, abnormally hot or cold or wet or dry conditions, low fertility, drought, water saturated soil, disease and/or insect damage prior to application may result in crop injury. If the above stress conditions are expected to occur within 3 days after application of EXPRESS herbicide to ExpressSun® sunflowers, crop injury may also occur.

Restriction:

- **DO NOT** apply EXPRESS herbicide within 70 days of sunflower harvest.
- **DO NOT** apply EXPRESS herbicide to ExpressSun® sunflower fields in which germination is uneven (i.e., some plants are outside the specified leaf stage for application), as crop injury mayresult.
- The combined rate of the postemergence applications cannot exceed 1.0 oz/A (0.0313 lb ai/A) of EXPRESS herbicide per year.
- **DO NOT** apply EXPRESS herbicide within 60 days of crop emergence where an organophosphate insecticide has been applied as an in- furrow treatment because crop injury may result.

- **DO NOT** use EXPRESS herbicide plus Malathion because crop injury may result

EXPRESSSUN® SUNFLOWER USE RATE

Apply EXPRESS herbicide at a rate of 0.25 oz/A (0.0078 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A). Use the 0.5 oz/A (0.0156 lb ai/A) rate when weed infestation is heavy or predominantly consists of those weeds listed under the "Weeds Partially Controlled" section of this label, or when application timing and environmental conditions are marginal.

Restriction: DO NOT apply more than 1.0 oz/A (0.0313 lb ai/A) of EXPRESS herbicide postemergence per year.

CULTIVATION

A timely cultivation may be necessary to control suppressed weeds, weeds that were beyond the maximum size at application, and/or weeds that emerge after an application of EXPRESS herbicide.

- Cultivation up to 7 days before the postemergence application of EXPRESS herbicide may decrease weed control by pruning weed roots, placing the weeds under stress, and/or covering the weeds with soil and preventing coverage by EXPRESS herbicide.
- Optimum timing for cultivation is 7 – 14 days after a postemergence application of EXPRESS herbicide.

Restrictions:

- **DO NOT** cultivate for 7 days after application to allow EXPRESS herbicide to fully control treated weeds.
- **DO NOT** use other products that contain tribenuron-methyl.

Active Ingredient in EXPRESS herbicide: Tribenuron-methyl								
Crop/ Use	**Application Timing**	**Maximum Oz/A of Product per Single Application**	**Maximum AI lb/A per Single Application**	**Maximum Oz/A of Product per Year**	**Maximum AI lb/A per Year**	**Maximum Number of Applications per Year**	**Minimum Treatment Interval (Days)**	**Pre-Harvest Interval, Days**
ExpressSun® Sunflowers	Postemergence	0.5	0.0156	1	0.0313	2	14	70

TANK MIXTURES FOR EXPRESSSUN® SUNFLOWERS

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

For the control of annual grasses, apply a grass herbicide including ASSURE® II herbicide (refer to the ASSURE® II product labeling for use rates, weed size, adjuvant selection, precautions, and restrictions). For maximum performance, apply ASSURE® II Herbicide at least one day before, or seven days after, the application of EXPRESS herbicide.

GRASS GROWN FOR SEED (in the states of ID, MN, OR, UT, WA)

EXPRESS herbicide may be used for selective postemergence control or suppression of certain broadleaf weeds in seedling and established stands of bentgrass, bluegrass, timothy, annual ryegrass, orchardgrass, tall fescue, and fine fescue grown for seed.

EXPRESS herbicide may be used on seedling and established perennial ryegrass providing user accepts all risk of possible crop injury and/or reduced seed yield.

EXPRESS herbicide may cause temporary yellowing and stunting of grass. Certain varieties of grass may be sensitive to EXPRESS herbicide. When using EXPRESS herbicide for the first time on a particular variety, limit use to a small area.

Apply EXPRESS herbicide in combination with other suitable registered herbicides (See the "TANK MIXTURES" section of this label for additional information). Always use a nonionic surfactant of at least 80% active ingredient at the rate of 0.25% v/v (1 qt per 100 gal of spray solution).

Restrictions:

- **DO NOT** apply more than 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide per year.
- **DO NOT** apply EXPRESS herbicide in a tank mix with organophosphate insecticides as severe crop injury may occur.

- **DO NOT** apply to grass that is under stress from severe weather conditions, drought, low fertility, water saturated soil, disease or insect damage, as crop injury may result. Under certain conditions including prolonged cool weather (daily high temperature less than 50° F) or wide fluctuations in day/night temperatures just prior to or soon after treatment, temporary yellowing and/or crop stunting may occur.

Active Ingredient in EXPRESS herbicide: Tribenuron-methyl								
Crop/ Use	**Application Timing**	**Maximum Oz/A of Product per Single Application**	**Maximum AI lb/A per Single Application**	**Maximum Oz/A of Product per Year**	**Maximum AI lb/A per Year**	**Maximum Number of Applications per Year**	**Minimum Treatment Interval (Days)**	**Pre-Harvest Interval, Days**
Grass Grown for Seed: • Seedling stands of annual ryegrass, orchardgrass, fine fescue & tall fescue • Seedling stands of bentgrass • Seedling stands of perennial ryegrass	Postemergence	0.25	0.0078	0.25	0.0078	1	Not Applicable	Not Applicable
Grass Grown for Seed: • Seedling stands of bluegrass • Established stands of bentgrass, bluegrass, annual ryegrass, orchardgrass, fine fescue & tall fescue • Established stands of perennial ryegrass	Postemergence	0.5	0.0156	0.5	0.0156	1	Not Applicable	Not Applicable
For Weed Control in Non-Food/Non-Feed Grass Grown for Seed Production Only in the State of Minnesota Seedling stands of timothy	Postemergence	0.25	0.0078	0.25	0.0078	1	Not Applicable	Not Applicable
For Weed Control in Non-Food/Non-Feed Grass Grown for Seed Production Only in the State of Minnesota Established stands of timothy	Postemergence	0.375	0.0117	0.375	0.0117	1	Not Applicable	Not Applicable
For Weed Control in Non-Food/Non-Feed Grass Grown for Seed Production Only in the State of Minnesota Seedling stands of bluegrass	Postemergence	0.375	0.0117	0.375	0.0117	1	Not Applicable	Not Applicable
For Weed Control in Non-Food/Non-Feed Grass Grown for Seed Production Only in the State of Minnesota Established stands of bluegrass	Postemergence	0.5	0.0156	0.5	0.0156	1	Not Applicable	Not Applicable
For Weed Control in Non-Food/Non-Feed Grass Grown for Seed Production Only in the State of Minnesota Seedling stands of perennial ryegrass	Postemergence	0.15	0.0047	0.15	0.0047	1	Not Applicable	Not Applicable
For Weed Control in Non-Food/Non-Feed Grass Grown for Seed Production Only in the State of Minnesota Established stands of perennial ryegrass	Postemergence	0.375	0.0117	0.375	0.0117	1	Not Applicable	Not Applicable

TANK MIXTURES FOR GRASS GROWN FOR SEED

It is the pesticide user's responsibility to ensure that all products are registered for the intended use. Read and follow the applicable restrictions and limitations and directions for use on all product labels involved in tank mixing. Users must follow the most restrictive directions for use and precautionary statements of each product in the tank mixture.

Always use EXPRESS herbicide in a tank mix with another broadleaf herbicide including 2,4-D, MCP or dicamba as these herbicides safen the effects of EXPRESS herbicide on grasses while improving weed control performance on most broadleaf weeds. Testing has shown that 2,4-D and dicamba are more effective in a tank mix with EXPRESS herbicide than MCP.

EXPRESS herbicide can be applied with liquid fertilizers. Liquid fertilizers (20%, 28%, 32% N at a minimum of 4 gal/100 gal of spray solution) enhance the performance of EXPRESS herbicide and may improve crop safety. Always use a surfactant and another broadleaf herbicide when using liquid fertilizer with EXPRESS herbicide.

BENTGRASS, BLUEGRASS, ANNUAL RYEGRASS, ORCHARDGRASS, FINE FESCUE AND TALL FESCUE

Seedling Stands: For use on annual ryegrass, orchard grass, tall fescue and fine fescue, apply at 0.25 oz/A (0.0078 lb ai/A) after stand is in 4-leaf stage. For use on bentgrass, apply at 0.25 oz/A (0.0078 lb ai/A) after stolens are 3 to 5 inches across. For use on bluegrass, apply at 0.25 oz/A (0.0078 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) after stand is in the 4-leaf stage.

Established Stands: For stands that have been established for at least one growing season (fall or spring), apply EXPRESS herbicide at 0.25 oz/A (0.0078 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A). Use the higher rate for larger weeds and hard to control weeds like wild carrot. Apply prior to jointing.

PERENNIAL RYEGRASS

Perennial ryegrass is more sensitive to EXPRESS herbicide than other grass species. Crop injury in the form of stunting and possible reduced seed yield may occur. To minimize the risk of crop injury, use the 0.25 oz/A (0.0078 lb

ai/A) rate and always use either 2,4-D or dicamba and liquid nitrogen with EXPRESS herbicide.

Seedling Stands: Apply EXPRESS herbicide at 0.25 oz/A (0.0078 lb ai/A) in a tank mix with another suitable broadleaf herbicide after grass is in the 5- to 6-leaf stage.

Established Stands: For stands that have been established for one growing season (fall or spring) apply EXPRESS herbicide at 0.25 oz/A (0.0078 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) in a tank mix with another suitable broadleaf herbicide. Apply prior to jointing.

Note: Use the 0.5 oz/A (0.0156 lb ai/A) rate of EXPRESS herbicide only for the control or suppression of problem weeds like wild carrot where the benefit of weed control may offset by possible crop injury including possible yield reduction.

FOR WEED CONTROL IN NON-FOOD/NON-FEED GRASS GROWN FOR SEED PRODUCTION IN THE STATE OF MINNESOTA

BLUEGRASS AND TIMOTHY

Seedling stands: For best results apply EXPRESS herbicide in a tank mix with another suitable broadleaf herbicide. For use on timothy, apply at 0.25 oz/A (0.0078 lb ai/A) after stand is in the 4-5 leaf stage. Always use in a tank mix with 2,4-D at 0.5 lb ai/A (1 pint of 4 lb/gal product). For use on bluegrass, apply at 0.15 to 0.375 oz/A (0.0047 to 0.0117 lb ai/A) after stand is in the 4 leaf stage.

Established stands: For stands that have been established for at least one growing season (fall or spring), apply EXPRESS herbicide at 0.15 to 0.5 oz/A (0.0047 - 0.0156 lb ai/A) in a tank mix with another suitable broadleaf herbicide. Apply prior to jointing. For application on timothy, limit maximum use rate to 0.375 oz/A (0.0117 lb ai/A) of EXPRESS herbicide and always use in a tank mix with 2,4 D at 0.5 lb ai/A (1 pint of 4 lb/gal product).

PERENNIAL RYEGRASS

Perennial ryegrass is more sensitive to EXPRESS herbicide than other grass species. Crop injury in the form of stunting and possible reduced seed yield may occur. To minimize the risk of crop injury, use the 0.15 oz/A rate (0.0047 lb ai/A) and always use either 2,4-D or dicamba (including Clarity® herbicide) and liquid nitrogen with EXPRESS herbicide.

Seedling stands: Apply EXPRESS herbicide at 0.15 oz/A (0.0047 lb ai/A) in a tank mix with another suitable broadleaf herbicide after grass is in the 5 to 6 leaf stage.

Established stands: For stands that have been established for one growing season (fall or spring), apply EXPRESS herbicide at 0.15 to 0.375 oz/A (0.0047 to 0.0117 lb ai/A) in a tank mix with another suitable broadleaf herbicide. Apply prior to jointing.

WEED CONTROL INFORMATION

WEEDS CONTROLLED

EXPRESS herbicide effectively controls the following weeds when used according to label directions:

Black mustard	Marestail***†
Blue/Purple mustard	Marshelder†
Bushy wallflower/Treacle mustard†	Mayweed chamomile/Stinking chamomile/dog fennel (Anthemis cotula L.)**†
Canada thistle**	Miners lettuce
Coast fiddleneck	Narrowleaf hawksbeard** ***
Common Chickweed†	Nightflowering catchfly
Common Groundsel	Pineappleweed
Common Lambsquarters†	Poison hemlock***
Common Purslane	Prickly lettuce**†
Corn, Gromwell**	Puncturevine
Corn spurry	Purslane speedwell (@ 0.5 oz/A, 0.0156 lb ai/A)***
Cowcockle	Redroot pigweed†
Cressleaf groundsel *** (butterweed)	Russian thistle**†
Curly Dock**	Shepherd's-purse
Dandelion	Slimleaf lambsquarters
Deadnettle††	Small-flower buttercup (@ 0.5 oz/A, 0.0156 lb ai/A)***
Early whitlowgrass	Smallseed falseflax†
False chamomile/Wild chamomile/Scentless chamomile (Matricaria maritima L.)	Tansymustard
Field pennycress	Tarweed fiddleneck
Flixweed†	Tumble pigweed (@ 0.5 oz/A, 0.0156 lb ai/A)
Hairy buttercup	Tumble/Jim Hill mustard**
Kochia**†	White cockle (@ 0.5 oz/A, 0.0156 lb ai/A)
London Rocket	Wild mustard†

WEEDS PARTIALLY CONTROLLED*

EXPRESS herbicide partially controls the following weeds when used according to label directions:

Annual sowthistle	Pennsylvania smartweed
Burning Nettle**	Prostrate knotweed
Common cocklebur†	Redmaids
Common sunflower (volunteer)**†	Redstem filaree ***
Common vetch**	Wild buckwheat
Eastern black nightshade†	Wild carrot
Hairy nightshade	Wild garlic
Hairy vetch**	Wild radish**
Henbit	

* Partially controlled weeds exhibit a visual reduction in numbers as well as a significant loss of vigor. For better results, use 0.375 (0.0117 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide and include a tank mix partner including 2,4-D, MCP, bromoxynil or dicamba. See the "TANK MIXTURES" section of this label.

** See the Specific Weed Instructions section of this label for more information.

***2,4-D LVE addition required.

† Naturally occurring resistant biotypes are known to occur.

†† 0.5 oz/A (0.0156 lb ai/A) EXPRESS herbicide only

SPECIFIC WEED INSTRUCTIONS

Burning Nettle: For best results, apply 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide in a tank mix with Aim EC herbicide, Shark® EW herbicide,-or ET® herbicide to small actively growing weeds less than 4" tall.

Canada thistle: For best results, apply 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide when all thistles are 4" to 8" with 2" to 6" of new growth. Make the application in the spring.

Corn Gromwell : For best results, apply 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide in combination with 2,4-D or MCP (refer to the Tank Mixtures section of this label).

Curly Dock: For best results, apply 0.375 oz/A (0.0117 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide in combination with 2,4-D or MCP (refer to the Tank Mixtures section of this label).

Kochia: For best results, apply EXPRESS herbicide in a tank mix with Starane® Ultra herbicide Starane Ultra herbicide + Salvo® herbicide, Starane Ultra herbicide + Sword® herbicide, Clarity herbicide, and 2,4-D or MCP (ester or amine), or bromoxynil containing products.

Apply EXPRESS herbicide in the spring when kochia is less than 2" tall and is actively growing (refer to the Tank Mixtures section of this label for additional details on rates and restrictions).

Mayweed chamomile/Stinking Chamomile/dog fennel: For best results, apply 0.375 oz/A (0.0117 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide.

Narrowleaf hawksbeard: During the post harvest, fallow, and/or pre-plant burndown period, EXPRESS herbicide may be used in a tank mix with ABUNDIT® Edge herbicide-(at labeled rates) for postemergence control of narrowleaf hawksbeard.

For wheat, EXPRESS herbicide may be used in a tank mix with 2,4-D for postemergence control of narrowleaf hawksbeard. Apply this tank mix only in the spring when the wheat is fully tillered and before the jointing stage.

Russian thistle, Prickly lettuce: For best results, use EXPRESS herbicide in a tank mix with Clarity herbicide and 2,4-D or MCP (ester or amine), or bromoxynil containing products.

Apply EXPRESS herbicide in the spring when Russian thistle, and prickly lettuce are less than 2" tall or 2" across and are actively growing (refer to the Tank Mixtures section of this label for additional details on rates and restrictions).

Tumble/Jim Hill mustard: For best results, apply 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide in combination with 2,4-D or MCP (refer to the Tank Mixtures section of this label).

Vetch (common and hairy): For best results, apply 0.375 oz/A (0.0117 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide when vetch is less than 6" in length. For severe infestations of vetch, or when vetch is greater than 6" in length, apply EXPRESS herbicide in combination with 2,4-D or MCP (refer to the Tank Mixtures section of this label).

Wild radish: For best results, apply 0.25 oz/A (0.0078 lb ai/A) - 0.5 oz/A (0.0156 lb ai/A) EXPRESS herbicide plus MCP plus 0.25% v/v nonionic surfactant (1 qt per 100 gal of spray solution) to wild radish rosettes less than 6 " diameter. Make the application either in the fall or spring. Applications made later than 30 days after weed emergence will result in partial control. Make applications in the fall before plants harden-off.

Volunteer ExpressSun® Sunflowers: For best results, use EXPRESS herbicide in a tank mix with Starane Ultra herbicide, Starane Ultra herbicide + Salvo® herbicide, Starane Ultra herbicide + Sword herbicide or Clarity herbicide-and 2,4-D or MCP (ester or amine), or bromoxynil containing products.

SPRAY ADJUVANTS - ALL CROPS OR USES

Include a spray adjuvant with applications of EXPRESS herbicide. In addition, an ammonium nitrogen fertilizer may be used.

Consult your Ag dealer or applicator, local FMC fact sheets and technical bulletins prior to using an adjuvant system. If another herbicide is tank mixed with EXPRESS herbicide, select adjuvants authorized for use with both products. Products must contain only EPA-exempt ingredients.

NONIONIC SURFACTANT (NIS)

- Apply 0.06 to 0.50% v/v (0.5 pt to 4 pt per 100 gal of spray solution).
- Surfactant products must contain at least 60% nonionic surfactant with a hydrophilic/lipophilic balance (HLB) greater than 12.

CROP OIL CONCENTRATE (COC) - PETROLEUM OR MODIFIED SEED OIL (MSO)

- Apply at 1% v/v (1 gal per 100 gal spray solution) or 2% under arid conditions. MSO adjuvants may be used at 0.5% v/v if specified on local FMC product literature or service policies.
- Oil adjuvants must contain at least 80% high quality, petroleum (mineral) or modified vegetable seed oil with at least 15% surfactant emulsifiers.

AMMONIUM NITROGEN FERTILIZER

- Use 2 qt/A of a high-quality urea ammonium nitrate (UAN), including 28%N or 32%N, or 2 lb/A of a spray- grade ammonium sulfate (AMS). Use 4 qt/A UAN or 4 lb/A AMS under arid conditions.
- See TANK MIXTURES with Liquid Nitrogen Fertilizer for instructions on using fertilizer as a carrier in place of water.

SPECIAL ADJUVANT TYPES

- Combination adjuvant products may be used at doses that provide the required amount of NIS, COC, MSO and/or ammonium nitrogen fertilizer. Consult product literature for use rates and restrictions.
- In addition to the adjuvants specified above, other adjuvant types may be used if they provide the same functionality and have been evaluated and approved by FMC product management. Consult separate FMC technical bulletins for detailed information before using adjuvant types not specified on this label.

CROP ROTATION

Labeled crops may be planted at specified time intervals following application of labeled rates of EXPRESS herbicide. Use the time intervals listed below to determine the required time interval before planting.

Time Interval Before Planting* (days after treatment with EXPRESS herbicide)

Crop	Days
Barley, Rice, Triticale, ExpressSun® sunflowers and Wheat (including durum)	0
Oats and Soybeans (at EXPRESS herbicide rate of 0.25 oz/A) (0.0078 lb ai/A)	1**
Soybeans	7**
Cotton, Field Corn, and Grain/forage, Sorghum	14**
Sugarbeets, Winter Rape, and Canola	60
Any other crop	45

* Refer to individual product labels to determine rotational crop restrictions when tank mixtures are used.

**Where EXPRESS herbicide is used on light textured soils (including sands and loamy sands) or on high pH soils (>7.9), extend time to planting by 7 additional days.

MIXING INSTRUCTIONS

PRODUCT MEASUREMENT

EXPRESS herbicide can be measured using the EXPRESS herbicide volumetric measuring cylinder provided by FMC. The degree of accuracy of this cylinder varies by ± 7.5%. For more precise measurement, use scales calibrated in ounces.

MIXING

1. Fill the tank 1/4 to 1/3 full of water.
2. While agitating, add the required amount of EXPRESS herbicide.
3. Continue agitation until the EXPRESS herbicide is fully dispersed, at least 5 minutes.
4. Once the EXPRESS herbicide is fully dispersed, maintain agitation and continue filling tank with water. Thoroughly mix EXPRESS herbicide with water before adding any other material.
5. As the tank is filling, add tank mix partners (if desired) then add the required volume of spray adjuvant. Always add spray adjuvant last. Antifoaming agents may be used. **DO NOT** use with spray additives that alter the pH of the spray solution below pH 6.0 as rapid product degradation can occur. Spray solutions of pH 7.0 and higher allow for optimum stability of EXPRESS herbicide.
6. If the mixture is not continuously agitated, settling will occur. If settling occurs, thoroughly re-agitate before using.
7. Apply EXPRESS herbicide spray mixture within 24 hours of mixing to avoid product degradation.
8. If EXPRESS herbicide and a tank mix partner are to be applied in multiple loads, pre-slurry the EXPRESS herbicide in clean water prior to adding to the tank. This will prevent the tank mix partner from interfering with the dissolution of the EXPRESS herbicide.

SPRAY EQUIPMENT

Be sure to calibrate air or ground equipment properly before application. Select a spray volume and delivery system that will ensure thorough coverage and a uniform spray pattern with minimum drift. Use higher spray volumes to obtain better coverage when crop canopy is dense. Avoid swath overlapping, and shut off spray booms while starting, turning, slowing, or stopping, to avoid injury to the crop.

For additional information on spray drift refer to Spray Drift Management section of label.

Continuous agitation is not required to keep EXPRESS herbicide in suspension but may be required to keep tank mix partners in solution or suspension. Refer to tank mix partner labels for additional information.

BEFORE SPRAYING EXPRESS HERBICIDE

The spray equipment must be clean before EXPRESS herbicide is sprayed. Follow the cleanup procedures specified on the labels of the previously applied products. If no directions are provided, follow the four steps outlined in the After Spraying EXPRESS herbicide section of this label.

AT THE END OF THE DAY

When multiple loads of EXPRESS herbicide are applied, it is specified that at the end of each day of spraying the interior of the tank be rinsed with fresh water and then partially filled, and the boom and hoses flushed. This will prevent the buildup of dried pesticide deposits which can accumulate in the application equipment.

AFTER SPRAYING EXPRESS HERBICIDE AND BEFORE SPRAYING CROPS OTHER THAN WHEAT, BARLEY, OATS, AND TRITICALE

To avoid subsequent injury to desirable crops, thoroughly clean all mixing and spray equipment immediately following applications of EXPRESS herbicide as follows:

1. Empty the tank and drain the sump completely.

2. Spray the tank walls with clean water using a minimum volume of 10% of the tank volume. Circulate the water through the lines, including all by-pass lines, for at least two minutes. Flush the boom well and empty the sprayer. Completely drain the sump.

3. Repeat step 2.

4. Remove the nozzles and screens and clean separately in a bucket containing water. The rinsate solution may be applied back to the crop(s) specified on this label. If cleaners are used, consult the cleaner label for rinsate disposal instructions. If no instructions are given, dispose of the rinsate on site or at an approved waste disposal facility.

Notes:

1. Steam-cleaning aerial spray tanks is required to facilitate the removal of any caked deposits.

2. When EXPRESS herbicide is tank mixed with other pesticides, examine all cleanout procedures for each product and follow the most rigorous procedure.

3. Follow any pre-cleanout guidelines on other product labels.

GROUND APPLICATION

For optimum spray distribution and thorough coverage, use flat-fan or low-volume flood nozzles.

- Overlaps or starting, stopping, slowing, and turning while spraying may result in crop injury.
- For flat-fan nozzles, use a spray volume of at least 5 gal/A (GPA).
- For flood nozzles on 30" spacing, use flood nozzles no larger than TK10 (or the equivalent), a pressure of at least 30 psi and a spray volume of at least 10 GPA only. For 40" nozzle spacing, use at least 13 GPA; for 60" spacing use at least 20 GPA. It is essential to overlap the nozzles 100% for all spacings.
- Raindrop® RA nozzles are not suitable for EXPRESS herbicide applications, as weed control performance may be reduced.
- Use screens that are 50-mesh or larger.

For application in California refer to the "CALIFORNIA APPLICATION REQUIREMENTS" section of this label for specific ground application requirements.

AERIAL APPLICATION

For aerial application, select nozzles and pressure that provide optimum spray distribution and maximum coverage at 2 to 5 GPA.

Use at least 2 GPA. In Idaho, Oregon and Utah use at least 3 GPA.

DO NOT apply EXPRESS herbicide by air in the state of New York.

See the **Spray Drift Management** section of this label.

For application in California refer to the "CALIFORNIA APPLICATION REQUIREMENTS FOR PROTECTION OF SENSITIVE CROPS" section of this label for specific aerial application requirements.

CHEMIGATION

EXPRESS herbicide may be applied through sprinkler irrigation systems in the State of Idaho for use in fall-seeded wheat, spring seeded barley and spring seeded wheat. Use 0.375 oz/A (0.0117 lb ai/A) to 0.5 oz/A (0.0156 lb ai/A) of EXPRESS herbicide in combination with bromoxynil containing herbicides. Apply to wheat and barley after the 3-leaf stage but before the flag leaf is visible. Make only one chemigation application of this tank mixture per year. For best results, apply to broadleaf weeds up to the 4-leaf stage, or 2 inches in height or 1 inch in diameter, whichever comes first.

Apply this tank mix through sprinkler irrigation systems including center pivot, lateral move, side (wheel) roll, solid set or hand move irrigation systems only. **DO NOT** apply these herbicides through any other type of irrigation system.

Crop injury, lack of effectiveness, or illegal pesticide residues in the crop can result from non-uniform distribution of treated water. If you have questions about calibration, contact State Extension Service specialists, equipment manufacturers or other experts. **DO NOT** connect an irrigation system (including greenhouse systems) used for EXPRESS herbicide application to any public water system. A person knowledgeable of the chemigation system and responsible for its operation, or under the supervision of the responsible person, shall shut the system down and make necessary adjustments should the need arise.

The sprinkler chemigation system must contain a functional check valve, vacuum relief valve, and low-pressure drain appropriately located on the irrigation pipeline to prevent water source contamination from back flow. The pesticide injection pipeline must contain a functional, automatic, quick-closing check valve to prevent the flow of fluid back toward the injection pump. The pesticide injection pipeline must also contain a functional, normally closed, solenoid-operated valve located on the intake side of the injection pump and connected to the system interlock to prevent fluid from being withdrawn from the supply tank when the irrigation system is either automatically or manually shut down. The system must contain functional interlocking controls to automatically shut off the pesticide injection pump when the water pump motor stops. The irrigation line or water pump must include a functional pressure switch, which will stop the water pump motor when the water pressure decreases to the point where pesticide distribution is adversely affected. Systems must use a metering pump, including a positive displacement injection pump (e. g., diaphragm pump) effectively designed and constructed of materials that are compatible with pesticides and capable of being fitted with a system interlock. **DO NOT** apply when wind speed favors drift beyond the area intended for treatment.

CHEMIGATION REQUIREMENTS

1. In center pivot and continuous lateral move systems, apply EXPRESS herbicide + bromoxynil containing herbicides continuously for the duration of the water application. In solid set systems, apply the tank mix during the last 30 to 45 minutes of the irrigation.

2. Set the sprinkler system to deliver approximately 0.5 inch or less of water/A for best product performance.

3. Fill the supply tank with half of the water amount desired, add the EXPRESS herbicide and agitate it well. Add the bromoxynil containing herbicide and then add the remaining water amount with agitation. Bromoxynil containing herbicides require a dilution with at least 4 parts water to 1 part bromoxynil containing herbicide.

4. Agitation is required in the pesticide supply tank when applying this tank mix.

5. Inject the EXPRESS herbicide + bromoxynil containing herbicides solution at least 8 feet ahead of a right angle turn of irrigation pipe to insure adequate mixing. Allow sufficient time for the herbicide mixture to be flushed through the lines before turning off irrigation water.

6. Follow both EXPRESS herbicide and bromoxynil containing herbicides label instructions for spray tank cleanout both before and after application. Flush lines with clean water following application.

7. **DO NOT** apply when wind speed favors drift beyond the area intended for treatment. Avoiding spray drift is the responsibility of the applicator.

MANDATORY SPRAY DRIFT MANAGEMENT

Ground Boom Applications:

- Apply with the nozzle height recommended by the manufacturer, but no more than 3 feet above the ground or crop canopy.
- For applications prior to the emergence of crops and target weeds, applicators are required to use a Coarse or coarser droplet size (ASABE S572.1).
- For all other applications, applicators are required to use a Medium or coarser droplet size (ASABE S572.1).
- **DO NOT** apply when wind speeds exceed 10 miles per hour at the application site.
- **DO NOT** apply during temperature inversions.

Aerial Applications:

- **DO NOT** release spray at a height greater than 10 feet above the vegetative canopy, unless a greater application height is necessary for pilot safety.
- For applications prior to the emergence of crops and target weeds, applicators are required to use a Coarse or coarser droplet size (ASABE S572.1).
- For all other applications, applicators are required to use a Medium or coarser droplet size (ASABE S572.1).
- The boom length must not exceed 65% of the wingspan for airplanes or 75% of the rotor blade diameter for helicopters.
- Applicators must use one-half swath displacement upwind at the downwind edge of the field.
- Nozzles must be oriented so the spray is directed toward the back of the aircraft.
- **DO NOT** apply when wind speeds exceed 10 miles per hour at the application site.
- **DO NOT** apply during temperature inversions.

SPRAY DRIFT MANAGEMENT ADVISORIES

THE APPLICATOR IS RESPONSIBLE FOR AVOIDING OFF-SITE SPRAY DRIFT.
BE AWARE OF NEARBY NON-TARGET SITES AND ENVIRONMENTAL CONDITIONS.

IMPORTANCE OF DROPLET SIZE

An effective way to reduce spray drift is to apply large droplets. Use the largest droplets that provide target pest control. While applying larger droplets will reduce spray drift, the potential for drift will be greater if applications are made improperly or under unfavorable environmental conditions.

Controlling Droplet Size – Ground Boom

- Volume - Increasing the spray volume so that larger droplets are produced will reduce spray drift. Use the highest practical spray volume for the application. If a greater spray volume is needed, consider using a nozzle with a higher flow rate.
- Pressure - Use the lowest spray pressure recommended for the nozzle to produce the target spray volume and droplet size.
- Spray Nozzle - Use a spray nozzle that is designed for the intended application. Consider using nozzles designed to reduce drift.

Controlling Droplet Size – Aircraft

- Adjust Nozzles - Follow nozzle manufacturers recommendations for setting up nozzles. Generally, to reduce fine droplets, nozzles should be oriented parallel with the airflow in flight.

BOOM HEIGHT – Ground Boom

Use the lowest boom height that is compatible with the spray nozzles that will provide uniform coverage. For ground equipment, the boom should remain level with the crop and have minimal bounce.

RELEASE HEIGHT - Aircraft

Higher release heights increase the potential for spray drift. When applying aerially to crops, **DO NOT** release spray at a height greater than 10 ft above the crop canopy, unless a greater application height is necessary for pilot safety.

SHIELDED SPRAYERS

Shielding the boom or individual nozzles can reduce spray drift. Consider using shielded sprayers. Verify that the shields are not interfering with the uniform deposition of the spray on the target area.

TEMPERATURE AND HUMIDITY

When making applications in hot and dry conditions, use larger droplets to reduce effects of evaporation.

TEMPERATURE INVERSIONS

Drift potential is high during a temperature inversion. Temperature inversions are characterized by increasing temperature with altitude and are common on nights with limited cloud cover and light to no wind. The presence of an inversion can be indicated by ground fog or by the movement of smoke from a ground source or an aircraft smoke generator. Smoke that layers and moves laterally in a concentrated cloud (under low wind conditions) indicates an inversion, while smoke that moves upward and rapidly dissipates indicates good vertical air mixing. Avoid applications during temperature inversions.

WIND

Drift potential generally increases with wind speed. AVOID APPLICATIONS DURING GUSTY WIND CONDITIONS. Applicators need to be familiar with local wind patterns and terrain that could affect spray drift.

HANDHELD TECHNOLOGY APPLICATIONS:

• Take precautions to minimize spray drift

DRIFT CONTROL ADDITIVES

Using product compatible drift control additives can reduce drift potential. When a drift control additive is used, read and carefully observe cautionary statements and all other information on the additive's label. If using an additive that increases viscosity, ensure that the nozzles and other application equipment will function properly with a viscous spray solution. Preferred drift control additives have been certified by the Council of Producers & Distributors of Agrotechnology (CPDA).

CALIFORNIA APPLICATION REQUIREMENTS FOR PROTECTION OF TOMATO, CUCUMBER, SUGARBEET, OTHER BROADLEAF CROPS, AND TREE & VINE CROPS

Review the required "MANDATORY SPRAY DRIFT" section for all states before applying in California, the below requirements are in addition, duplicative or more restrictive when applying near listed crops in California. The following drift management requirements must be followed to minimize the potential for exposure of sensitive crops. Determine the prevailing wind speed and direction before application.

SPRAY QUALITY

Apply with nozzles that give a coarse droplet size spectrum (volume median diameter (VMD) of 350-400 microns) and minimize droplets that are less than 200 microns.

For aerial application:

- **Nozzle orientation:** Nozzles must be oriented so the spray is directed toward the back of the aircraft.
- **Spray volume**: Apply a spray volume between 5 and 10 GPA
- **Wind speed: DO NOT** apply when wind speeds exceed 10 miles per hour at the application site. AVOID APPLICATIONS DURING GUSTY WIND CONDITIONS.
- **Aircraft equipment:** The boom length must not exceed 65% of the wingspan for airplanes or 75% of the rotor blade diameter for helicopters.
- **Application height: DO NOT** release spray at a height greater than 10 feet above the vegetative canopy, unless a greater application height is necessary for pilot safety. Applications must be made at the lowest application height that provides uniform coverage and must be consistent with safe operation of the aircraft.

For ground application,

- **Wind speed: DO NOT** apply when wind speeds exceed 10 miles per hour at the application site. AVOID APPLICATIONS DURING GUSTY WIND CONDITIONS.
- **Boom height:** Apply with the nozzle height recommended by the manufacturer, but no more than 3 feet above ground or crop canopy. The buffer zones may be reduced when application is made with a low boom (20 inches) above the top of the crop canopy. The boom should remain level with the crop and have minimal bounce.

California Buffer Zones

The following buffer zones between the treated area and sensitive crops (specified in the table below) are required when these below listed crops are downwind of the application site:

Sensitive Crop	Ground Application Low boom	Ground High Boom	Aerial Application
Tomato, cucumber, sugarbeet	350 ft	500 ft	1,300 ft
Other broadleaf crops	50 ft	50 ft	500 ft
Tree and vine crops	50 ft	50 ft	500 ft
Dormant tree and vine	No buffer zone required		
Tree and vine crops **DO NOT** require buffer zones when crops are dormant.			

GRAZING, FEEDING, AND HARVESTING

Allow at least 7 days between application and grazing of treated forage. In addition, allow at least 7 days between application and feeding of forage (green chop) from treated areas to livestock. Allow at least 30 days between application and feeding of hay from treated areas to livestock. Allow at least 45 days between application and harvesting of grain.
Harvested straw may be used for bedding and/or feed.

IDENTIFICATION INFORMATION FOR PRODUCTS REFERENCED IN THIS LABEL		
Product Name	**Active Ingredient(s)**	**EPA Registration Number**
ABUNDIT® Extra	Glyphosate	71368-20
AIM® EC Herbicide	Carfentrazone-ethyl	279-3241
ALLY® XP herbicide	Metsulfuron-methyl	279-9575
ASSURE® II herbicide	Quizalofop p-ethyl	352-541
Axial® XL herbicide	Pinoxaden	100-1256
Clarity® herbicide	Dicamba	7969-137
Curtail® Herbicide	Clopyralid	62719-48
Discover® NG Herbicide	Clodinafop-Propargyl	100-1173
ET® herbicide	pyraflufen-ethyl	71711-7
Everest® 3.0 Herbicide	Flucarbazone-Sodium	66330-429
GR1 Herbicide	Pyroxsulam	279-9623
GR2 Herbicide	Pyroxsulam	279-9631
HARMONY® Extra SG (with TotalSol® Soluble Granules)	Thifensulfuron methyl, Tribenuron methyl	279-9602
Osprey® herbicide	Mesosulfuron-methyl,	264-802
PowerFlex® HL herbicide	Pyroxsulam	62719-643
Shark® EW herbicide	Carfentrazone- ethyl	279-3242
Simplicity™ CA herbicide	Pyroxsulam	62719-568
Stinger® Herbicide	Clopyralid	62719-73
Starane® Ultra herbicide	fluroxypyr	62719-577
Salvo® herbicide	2,4-D	34704-609
Sword® herbicide	MCPA	228-267-34704
TeamMate™ herbicide	Pyroxsulam	62719-686
Widematch® Herbicide	Clopyralid + Fluroxypyr	62719-512

PESTICIDE STORAGE AND DISPOSAL

Pesticide Storage: Store the product in original container only. **DO NOT** contaminate water, other pesticides, fertilizer, food, or feed in storage. Store in a cool, dry place.

Product Disposal: DO NOT contaminate water, food, or feed by disposal. Wastes resulting from the use of this product must be disposed of on site or at an approved waste disposal facility.

CONTAINER HANDLING:

Refer to the Net Contents section of this product's labeling for the applicable "Nonrefillable Container" or "Refillable Container" designation.

Nonrefillable Plastic and Metal Containers (Capacity Equal to or Less Than 50 Pounds): Nonrefillable container. **DO NOT** reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Then, for Plastic Containers, offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration. **DO NOT** burn, unless allowed by state and local ordinances. For Metal Containers, offer for recycling if available or reconditioning if appropriate, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities

Nonrefillable Plastic and Metal Containers (Capacity Greater Than 50 Pounds): Nonrefillable container. **DO NOT** reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank. Fill the container 1/4 full with water. Replace and tighten closures. Tip container on its side and roll it back and forth, ensuring at least one complete revolution, for 30 seconds. Stand the container on its end and tip it back and forth several times. Turn the container over onto its other end and tip it back and forth several times. Empty the rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Repeat this procedure two more times. Then, for Plastic Containers, offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration. **DO NOT** burn, unless allowed by state and local ordinances. For Metal Containers, offer for recycling if available or reconditioning if appropriate, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities.

Nonrefillable Plastic and Metal Containers, e.g., Intermediate Bulk Containers [IBC] (Size or Shape Too Large to be Tipped, Rolled or Turned Upside Down): Nonrefillable container. **DO NOT** reuse or refill this container. Clean container promptly after emptying the contents from this container into application equipment or mix tank and before final disposal using the following pressure rinsing procedure. Insert a lance fitted with a suitable tank cleaning nozzle into the container and ensure that the water spray thoroughly covers the top, bottom and all sides inside the container. The nozzle manufacturer generally provides instructions for the appropriate spray pressure, spray duration and/or spray volume. If the manufacturer's instructions are not available, pressure rinse the container for at least 60 seconds using a minimum pressure of 30 PSI with a minimum rinse volume of 10% of the container volume. Drain, pour or pump rinsate into application equipment or rinsate collection system. Repeat this pressure rinsing procedure two more times. Then, for Plastic Containers, offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration. For Metal Containers, offer for recycling if available or reconditioning if appropriate, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities.

Nonrefillable Paper or Plastic Bags, Fiber Sacks including Flexible Intermediate Bulk Containers (FIBC) or Fiber Drums With Liners: Nonrefillable container. **DO NOT** reuse or refill this container. Completely empty paper or plastic bag, fiber sack or drum liner by shaking and tapping sides and bottom to loosen clinging particles. Empty residue into application or manufacturing equipment. Then offer for recycling if available or dispose of empty paper or plastic bag, fiber sack or fiber drum and liner in a sanitary landfill, or by incineration. **DO NOT** burn, unless allowed by state and local ordinances.

Refillable Fiber Drums With Liners: Refillable container (fiber drum only). Refilling Fiber Drum: Refill this fiber drum with EXPRESS herbicide containing tribenuron methyl only. **DO NOT** reuse this fiber drum for any other purpose. Cleaning before refilling is the responsibility of the refiller. Completely empty liner by shaking and tapping sides and bottom to loosen clinging particles. Empty residue into application or manufacturing equipment. Disposing of Fiber Drum and/or Liner: **DO NOT** reuse this fiber drum for any other purpose other than refilling (see preceding). Cleaning the container (liner and/or fiber drum) before final disposal is the responsibility of the person disposing of the container. Offer the liner for recycling if available or dispose of liner in a sanitary landfill, or by incineration. **DO NOT** burn, unless allowed by state and local ordinances. If drum is contaminated and cannot be reused, dispose of it in the manner required for its liner. To clean the fiber drum before final disposal, completely empty the fiber drum by shaking and tapping sides and bottom to loosen clinging particles. Empty residue into application or manufacturing equipment. Then offer the fiber drum for recycling if available or dispose of in a sanitary landfill, or by incineration. **DO NOT** burn, unless allowed by state and local ordinances.

All Other Refillable Containers: Refillable container. Refilling Container: Refill this container with EXPRESS herbicide containing tribenuron methyl only. **DO NOT** reuse this container for any other purpose. Cleaning before refilling is the responsibility of the refiller. Prior to refilling, inspect carefully for damage including cracks, punctures, abrasions, worn out threads and closure devices. If damage is found, **DO NOT** use the container, contact FMC at the number below for instructions. Check for leaks after refilling and before transporting. If leaks are found, **DO NOT** reuse or transport container, contact FMC at the number below for instructions. Disposing of Container: **DO NOT** reuse this container for any other purpose other than refilling (see preceding). Cleaning the container before final disposal is the responsibility of the person disposing of the container. To clean the container before final disposal, use the following pressure rinsing procedure. Insert a lance fitted with a suitable tank cleaning nozzle into the container and ensure that the water spray thoroughly covers the top, bottom and all sides inside the container. The nozzle manufacturer generally provides instructions for the appropriate spray pressure, spray duration and/or spray volume. If the manufacturer's instructions are not available, pressure rinse the container for at least 60 seconds using a minimum pressure of 30 PSI with a minimum rinse volume of 10% of the container volume. Drain, pour or pump rinsate into application equipment or rinsate collection system. Repeat this pressure rinsing procedure two more times. Then, for Plastic Containers, offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration. **DO NOT** burn, unless allowed by state and local ordinances. For Metal Containers, offer for recycling if available or reconditioning if appropriate, or puncture and dispose of in a sanitary landfill, or by other procedures approved by state and local authorities.

Outer Foil Pouches of Water Soluble Packets (WSP): Nonrefillable container. **DO NOT** reuse or refill this container. Offer for recycling if available or, dispose of the empty outer foil pouch in the trash as long as WSP is unbroken. If the outer pouch contacts the formulated product in any way, the pouch must be triple rinsed with clean water. Add the rinsate to the spray tank and dispose of the outer pouch as described previously.

DO NOT transport if this container is damaged or leaking. If the container is damaged, leaking or obsolete, or in the event of a major spill, fire or other emergency, contact CHEMTREC (Transportation and Spills) at 1-800-424-9300, day or night.

NOTICE TO BUYER: Purchase of this material does not confer any rights under patents of countries outside of the United States.

SL-4304 120519 12-05-19

CONDITIONS OF SALE AND LIMITATION OF WARRANTY AND LIABILITY

Notice: Read the entire Directions for Use and Conditions of Sale and Limitation of Warranty and Liability before buying or using this product. If the terms are not acceptable, return the product at once, unopened, and the purchase price will be refunded.

The Directions for Use of this product must be followed carefully. It is impossible to eliminate all risks inherently associated with the use of this product. Crop injury, ineffectiveness, or other unintended consequences may result because of such factors as manner of use or application, weather or crop conditions beyond the control of FMC or Seller. To the extent consistent with applicable law, all such risks shall be assumed by Buyer and User, and, to the extent consistent with applicable law, Buyer and User agree to hold FMC and Seller harmless for any claims relating to such factors.

Seller warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated on the Directions for Use when used in accordance with the directions under normal conditions of use. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, FMC MAKES NO WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE, NOR ANY OTHER EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE SELECTION, PURCHASE, OR USE OF THIS PRODUCT.
Any warranties, express or implied, having been made are inapplicable if this product has been used contrary to label instructions, or under abnormal conditions, or under conditions not reasonably foreseeable to (or beyond the control of) Seller or FMC, and, to the extent permitted by applicable law, Buyer assumes the risk of any such use.

To the extent consistent with applicable law, FMC or Seller shall not be liable for any incidental, consequential or special damages resulting from the use or handling of this product. TO THE EXTENT CONSISTENT WITH APPLICABLE LAW, THE EXCLUSIVE REMEDY OF THE USER OR BUYER, AND THE EXCLUSIVE LIABILITY OF FMC AND SELLER FOR ANY AND ALL CLAIMS, LOSSES, INJURIES OR DAMAGES (INCLUDING CLAIMS BASED ON BREACH OF WARRANTY, CONTRACT, NEGLIGENCE, TORT, STRICT LIABILITY OR OTHERWISE) RESULTING FROM THE USE OR HANDLING OF THIS PRODUCT, SHALL BE THE RETURN OF THE PURCHASE PRICE OF THE PRODUCT OR, AT THE ELECTION OF FMC OR SELLER, THE REPLACEMENT OF THE PRODUCT.

This Condition of Sale and Limitation of Warranty and Liability may not be amended by any oral or written agreement.

FMC Corporation, 2929 Walnut Street, Philadelphia, PA 19104

TRIBENURON METHYL	GROUP	2	HERBICIDE

FIFRA 24(c) Special Local Need Label (SLN)

For Distribution and Use only in the State of Maine
For Spot Application and Bunchberry Control in Lowbush Blueberry Only in the State of Maine

EPA REG No. 279-9594 SLN No. ME-190001

This label expires and must not be distributed or used in accordance with this SLN registration after December 31, 2030

DIRECTIONS FOR USE:

- It is a violation of Federal law to use this product in a manner inconsistent with its labeling
- This state-specific 24(c) labeling must be in the possession of the user at the time of application.
- Follow all applicable directions, restrictions, and precautions on the EPA registered label for EPA Reg No. 279-9594

GENERAL INFORMATION

EXPRESS® Herbicide w/TotalSol® soluble granules (EXPRESS® Herbicide) is recommended for selective postemergence control/suppression of certain broadleaf weeds in lowbush blueberry (also known as wild blueberry). EXPRESS® Herbicide may be used on lowbush blueberry providing user accepts all risk of possible crop injury.

USE RATES AND APPLICATION TIMING

Apply EXPRESS® Herbicide at 1.0 ounce per acre in the fall after blueberry harvest, until a killing frost occurs, after which bunchberry control will not occur. EXPRESS® Herbicide applied earlier in the fall will result in increased blueberry cover and increased bunchberry control the year following application. The degree and duration of effect are dependent upon the rate used, sensitivity, and size of the target weeds and environmental conditions at the time and following application.

Spot applications

EXPRESS® Herbicide can be used as a directed spot spray with a backpack sprayer or handgun to control alders, bracken fern, wild rose and yellow loosestrife. Mix the equivalent of 1 oz in 20 gallons (1.5 grams in 1 gallon) of water plus a non-ionic surfactant at the label rate. To apply, spray to thoroughly wet the foliage. Apply only during the summer of the prune year when the weed foliage is fully expanded. Alders and wild rose can be controlled with early fall applications as they retain their leaves longer. Bracken fern shows few symptoms after application but control the following year is excellent. Foliage of the other species turns yellow or red and the stem terminals die soon after application. Control of vetch, poplars, willows, goldenrods and fly honeysuckle has been erratic and others like chokepear, bayberry, black bulrush, sweet fern, and birch, are resistant. Blueberries growing among treated weeds generally show few symptoms. However, when the blueberry plant is sprayed directly, it may be stunted, with reduced bloom and yield.

Spring non-crop year application

Apply EXPRESS® Herbicide at 1 oz/A in 20 to 30 gal of water with a surfactant in the spring of the non-crop year. For best results, applications should be made when the majority of the emerged bunchberry plant leaves have unfolded to form a 45-degree angle, but no later than when the first white blossoms are visible on the

most advanced plants. Bunchberry plants generally turn pinkish red to yellow following spraying but may take weeks to die down. If EXPRESS® Herbicide applications are made too late, bunchberry plants turn red and remain so for the entire season and reduced control can be expected. If EXPRESS ® Herbicide is applied too early, bunchberry regrowth can be expected later in the season.

EXPRESS® Herbicide should also be applied before blueberry emerging stems exceed one inch in height. Some stem height reduction, with yellowing and reddening of the blueberry leaves, may be observed for 6 to 8 weeks after application. This is more likely to occur if there have been prolonged cool temperatures or wide fluctuations in day and night temperatures just prior to or soon after treatment. Blueberry plants, however, recover and fruit bud numbers and potential yields are not generally affected. Recommended fertilizer applications before or after EXPRESS® Herbicide applications will help the blueberry plants recover. Applications made at later stages of blueberry development or applications in spring-burnt fields should not be made due to potential crop injury and potential yield reductions.

WEEDS CONTROLLED

The following weeds are controlled in addition to the weeds listed on the EPA registered package label:
Bunchberry

Surfactant

Always use a nonionic surfactant of at least 80% active ingredient at the rate of 0.25% volume/volume (1 quart per 100 gallons of spray solution).

PRECAUTIONS/RESTRICTIONS

- **Do Not** use methylated seed oil (MSO) or crop oils with Express® Herbicide on lowbush blueberry as these adjuvants may produce unsatisfactory crop injury.
- **Do Not** apply more than 1.0 oz/A of EXPRESS® Herbicide per growing season.
- **Do Not** graze or cut for hay, or feed associated by-products to livestock, after application
- **Do Not** apply within 365 days of blueberry harvest.
- **Do Not** apply EXPRESS® Herbicide in a tank mix with organophosphate insecticides as severe crop injury may occur.
- **Do Not** apply to lowbush blueberry that is under stress from severe weather conditions, drought, low fertility, water saturated soil, disease, or insect damage, as crop injury may result. Under certain conditions such as prolonged cool weather (daily high temperature less than 50ºF) or wide fluctuations in day/night temperatures just prior to or soon after treatment, temporary yellowing and/or crop stunting may occur.

EXPRESS® Herbicide may degrade in water and so should be applied the same day it is mixed.

Label Tracking Information:
Label CodeDR-4949 022125

Sold By:
FMC Corporation
2929 Walnut Street
Philadelphia, PA 19104

February 21, 2025

Maine Board of Pesticide Control
28 State House Station
Augusta, ME, 04333-0028

Dear Julia Vacchiano,

I am writing on behalf of Jasper Wyman & Son (Wyman's) to express strong support for the renewal of the special local needs registration (24c) for the use of Express Herbicide (Express) (EPA REG No. 279-9594) for spot application and bunchberry control in lowbush blueberries (wild blueberries).

As the largest domestic brand of frozen fruit and a major wild blueberry producer, Wyman's understands the challenges facing wild blueberry growers. Effective management of bunchberry and other broadleaf weed species is critical. Weed species are in direct competition with wild blueberry plants for light, water, and nutrients causing a decline in yield in wild blueberry production. Heavy weed pressure also reduces harvester efficiency and has an impact on the overall fruit quality that is being processed and purchased by consumers.

The renewal of the 24c registration will ensure the ability for wild blueberry growers to rotate pesticides for weed management. Effective rotation of chemical herbicides to align with integrated pest and pollinator management (IPPM) principles is necessary for the long-term viability of the industry and to prevent the likelihood of resistance management in pest species. The ability to select specific chemical herbicide products is critical to allow growers the ability to manage the broad spectrum of weed species that can be found in wild blueberry fields. This in turn drives environmental and economic sustainability by reducing the total amount of chemical herbicides used since they can approach pest management at a species-specific level.

We strongly encourage the renewal of the special local needs registration (24c) for Express Herbicide in wild blueberries. The availability of effective pesticides is a critical component to ensure IPPM practices and drive long-term sustainability in the wild blueberry industry.

Sincerely,

Travis Dillard
Agroecology Manager, Wyman's
244 Main Street, Ellsworth, ME, 04605
tdillard@wymans.com

CHERRYFIELD FOODS INC.

Maine Board of Pesticide Control
28 State House Station
Augusta, ME 04333

February 24, 2025

To whom it may concern:

On behalf of Cherryfield Foods Inc., I am writing to express our full support for the renewal of the FIFRA 24(c) Special Local Need Label for Express® herbicide for spot application and Bunchberry control in lowbush blueberry.

As a Wild blueberry grower and collaborator, our farm management decisions rely heavily on a strong IPM program and we believe it necessary to have as many viable options in our toolbox to manage pest pressures as deemed necessary.

Bunchberry is a creeping rhizomatous plant that can introduce unwanted fruit in Wild blueberry production and limit yields and quality for Wild blueberry growers across the state. In order to maintain consistent control of various weed pressures, we believe in the importance of rotating active ingredients, spot-spraying, and pest-specific chemistry to curb genetic resistance as efficient, cost effective, and long-term IPM tools. With this philosophy, we support the extension of the Special Local Needs 24(c) for Express® herbicide at it's time for renewal in December 2025.

Sincerely,

Spencer Fiser

Farm Operations Manager
Cherryfield Foods Inc.
320 Ridge Rd.
Cherryfield, ME 04622

WEED SCIENCE

RESEARCH & EXTENSION

INVESTIGATOR: L. Calderwood, D. Hammond, J. Stubbs, and B. Tooley
8. TITLE: Well Water Testing for Tribenuron-methyl (Express)

OBJECTIVES

- Select three representative wells proximal to spray locations
- Apply Tribenuron Methyl at the recommended rate in the specified locations
- Collect and test well water samples on 3 dates following the initial spray application

LOCATION: Deblois and Jonesboro, ME
PROJECT TIMEFRAME: May 2019 – October 2019

INTORDUCTION:

Tribenuron-methyl, trade name Express with TotalSol soluble granules manufactured by FMC Corporation, is a selective post-emergence broadleaf herbicide that has been granted a Special Local Need Label 24(C) in Maine for bunchberry (*Cornus canadensis)* control in wild (lowbush) blueberries since 2008. The use of Express (EPA Reg. No. 279-9594) to control primarily bunchberry in wild blueberry fields in Maine expired in December 31st, 2018 and has been renewed for a one-year 24(c) Special Local Need label which will expire December 31st, 2020. In order to establish the potential efficacy and safety of this product in Maine wild blueberry fields, a performance trial was conducted in 2018 which was followed by this well water evaluation for the Board of Pesticide Control in 2019.

Figure 1. Well water sampling performed in Washington County in 2019. Map created using the Esri/ CGIAR/USGS resource, (https://www.maine.gov/megis/)

The Board of Pesticide Control (BPC) oversees the Pesticides and Groundwater Monitoring Program to help preserve one of Maine's most vital resources. Wild blueberry fields are known to have high leachate potential (Perkins & Yarborough 2006) and undergo intensive management in numerous locations throughout the state. Pesticides have been detected in some of Maine's wells (BPC 2005). In wild blueberry, the pre-emergent herbicide, Hexazinone, has been documented to have the greatest presence and persistence in Maine's groundwater than any other wild blueberry pesticide (BPC 2005). Since the 1994 discovery of frequent trace amounts of Hexazinone in ground water, the BPC has implemented a 'State Management Plan for Protection' to ensure environmental and public safety. This monitoring program is employed when relatively new products are introduced or renewed, or when a previously detected product requires monitoring. In this case, Extension was asked by the BPC to test three wells on three dates in 2019 for the presence of tribenuron-methyl (Express) for future renewal following expiration of the current 24(C) on December 31st, 2020.

METHODS

Site Selection & Tribenuron-methyl Application

Three existing drilled wells were selected in eastern Maine for sampling in 2019. Two were located in Delois and one in Jonesboro (Figure 1) to monitor groundwater for residual Tribenuron-methyl following a localized application. Tribenuron-methyl was applied within ¼ mile of the target well while still maintaining the standard minimum 50' buffer. The herbicide was applied on June 4th at the two Deblois sites and on June 5th at Blueberry Hill Farm in Jonesboro. The standard application rate of 1 oz/A as stated on the Special Local Need 24(C) for bunchberry in Maine was applied.

Figure 2. Well head at the Deblois 2 site with sounding tape, HDPE tubing, post-sample extraction and pre-decontamination.

Well Water Collection & Testing

Each of the three wells were sampled on May 21st, August 7th and October 29th, 2019. The depth to static well water was recorded using a Solinst water level meter at the time of each sampling. A high quality, low voltage Super Whale Pump attached to a portable 12V battery and single use HDPE plastic tubing was used to extract water from the well. Well water was pumped for 10 minutes prior to collection to prevent air bubbles or surface water contamination. One liter was collected per site and date. The three samples collected per date were shipped on ice overnight to University of Massachusetts Pesticide Analysis Laboratory for tribenuron-methyl residue testing. Following each sample, all equipment was rinsed (decontaminated) using distilled bottled water. Water sampling procedure was adapted from the Maine Board of Pesticide Control Standard Operating Procedure of the Groundwater Monitoring Program (BPC 2019).

RESULTS

Total well depths varied across sites with the deepest well at 104' (Table 1). Residues were not detected in any of the three sampled wells over the 6-month time period. Results have been sent to the BPC for review.

Table 1. 2019 Ground water test result summary by month. No residues were detected across all months.

Wells	Total Water Depth (ft)	Average Water Depth (ft)	Detection Results		
			May	August	October
Jonesboro	97.3	53.5	ND*	ND	ND
Deblois 1	57.7	22.8	ND	ND	ND
Deblois 2	104.25	49.45	ND	ND	ND

ND = No residues detected at or above a level of 0.004 µg/L of water (ppb)

CURRENT RECOMMENDATIONS

Continue to monitor pesticide update sources for product information. Express TotalSol is currently labeled as a special local need 24(C) product until December 31, 2020. Therefore, wild blueberry farms in Maine are allowed to use this product for bunchberry control.

This product should be applied according to the Maine 24(C) label at the recommended 1.0 oz/acre rate. Application timing is in the fall after blueberry harvest prior to the first killing frost OR in the spring of a non-crop year. This product is most effective when bunchberry leaves are at a 45 degree angle before flowering, which usually occurs in mid to late May. Bunchberry turns pink/red to yellow after application but can take weeks to die. As the current Maine 24(C) label states, this product can be used as a spot spray to control additional weeds including alder, bracken fern, wild rose, and yellow loosestrife. Note that other species are tolerant, such as birch, bayberry, and sweet fern. Some stunting to blueberry plants should be expected, yet stunting does not appear to reduce production at this time. Please see additional resources below.

Maine 24C Label: https://extension.umaine.edu/blueberries/wp-content/uploads/sites/41/2020/01/Express-Herbicide-withTotalSol-24c-2020-label.pdf

UMaine Herbicide Chart: https://extension.umaine.edu/blueberries/factsheets/weeds/weed-control-for-wild-blueberries-2/

NPIRS: http://npirspublic.ceris.purdue.edu/state/

CMDS: http://www.cdms.net/

NEXT STEPS

- Attend BPC meeting for well sampling review.
- Renew 24C before current 24C expires December 31st, 2020.

ACKNOWLEDGEMENTS

This project was funded by the Wild Blueberry Commission of Maine.

REFERENCES

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Esri, CGIAR, USGS. 2019. Province of New Brunswick, Esri, HERE, Garmin, METI/NASA, USGS, EPA, NPS, USDA, NRCan, Parks Canada. Available at: https://www.maine.gov/megis/

Jackson, H. 2006. Maine Board of Pesticides Control Pesticides and Groundwater Monitoring Program. Maine Board of Pesticides Control 28 State House Station Augusta, Maine 04333-0028. Available at: https://www.maine.gov/dacf/php/pesticides/documents2/water_quality/rpt05GroundWater3.pdf

Maine Board of Pesticide Control. 2019. Standard Operating Procedure for the Groundwater Testing Program.

Perkins, L. B., Yarborough, D. E., & Guthrie, K. E. 2006. Detection of hexazinone in Maine groundwater - A nine year study. *Acta Horticulturae*, 715:329–335. https://doi.org/10.17660/actahortic.2006.715.49

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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

To: Board Members
From: P. Bryer, BPC Toxicologist
Re: Summary of toxicity topics for the Specialized Local Needs (SLN) application of Express, *a.i. tribenuron-methyl* [Allows the use of Express to control bunchberry on lowbush blueberry crops.]
Date: February 28, 2019

Tribenuron-methyl is an herbicide in the sulfonylurea family. It is typically used as a post-emergent herbicide in cereal crops; there is no tolerance for tribenuron-methyl for blueberries. It is taken up across the leaf surface and has little to no soil activity. Tribenuron-methyl acts by inhibiting cell division, specifically by inhibiting acetolactate synthase (ALS). Chlorosis appears within days then typically followed by plant death within 3 weeks.

Known fate summary:
Tribenuron-methyl is not expected to volatilize from wet or dry soils. In the air it will remain in particulate form. Sunlight does not cause the molecule to breakdown. The K_{OC} (63) of tribenuron-methyl indicates potential for groundwater leaching. Once in the soil breakdown is promoted by microbial communities and acid soils. The microbial biodegradation half-life is approximately 10 days. The abiotic degradation half-live ranges from 1 to 15.8 days in soils of pHs of 5 to 7, respectively.

Long term soil leaching studies show that tribenuron-methyl penetrates to a depth of 2-6 inches but not deeper. The same study showed an aquatic tracer to move through the entire soil column (much deeper than 6 inches). These field data indicate that in practice this a.i. does not pose a significant threat to groundwater because of rapid biodegradation and decay of the molecule.

Known toxicity summary:
In laboratory animals (rabbits, rats, dogs, and guinea pigs) the following areas have been examined: dermal responses, hematology, urinalysis, histopathology, ophthalmologic changes, organ weights, blood markers of organ function, growth, development, reproduction, chromosome alterations, gene mutation (Ames assay), and estrogenic activity. Tribenuron-methyl can be a sensitizer in some situations, though the animal data are inconsistent. Tribenuron-methyl is classified as a possible human carcinogen though there are no animal data supporting carcinogenicity. Tribenuron-methyl and several metabolites have weak estrogenic activity in female rats. The NOAEL is 20 mg/kg/d and the LOAEL is 125 mg/kg/day.

The short-term, acute, data indicate that fairly high levels are required to kill a variety of organisms. This compound has LD_{50}s developed on rats, rabbits, mallard ducks, bobwhite quail, honey bees, bluegill sunfish, freshwater microalgae, rainbow trout, water flea, and green algae. Of this list only the algae showed unusual sensitivity to the compound. For example, in rainbow trout the LD_{50} was >1,000 ppm in a static exposure test of the formulated product; whereas, the freshwater microalgae, *Chlorella fusca*, has a LD_{50} of 80 ppb. The honey bee oral LD_{50} is >100 ug; in honey bees 100 ug is a benchmark level that indicates no significant oral toxicity.

Once in the body tribenuron-methyl is rapidly and extensively metabolized. The primary route of elimination is the urine. The potential for bioaccumulation in aquatic organisms is low, its BCF is 3 (calculated from a Kow of 0.78).

MEGAN PATTERSON, DIRECTOR
32 BLOSSOM LANE, MARQUARDT BUILDING

PHONE: (207) 287-2731
WWW.THINKFIRSTSPRAYLAST.ORG

SECTION 5. VARIANCES FROM STANDARDS

A. **Variance Permit Application**

An applicator may vary from any of the standards imposed under this chapter by obtaining a permit to do so from the Board. Permit applications shall be made on such forms as the Board provides and shall include at least the following information:

I. JBI Helicopters
720 Clough Mill Road, Pembroke, NH 03275 603-225-3134

II. Aroostook County, Maine
Western area being primarily the land which lies between the Quebec border and the St. John River. The Eastern area being primarily land directly adjacent to and north of the Fish River Chain of Lakes.

III. Mimic 2LV(tebufenozide) and Foray 76b(Btk)

IV. Spruce Budworm Early Intervention Strategy

V. May 15 – June 30 depending on bud and larval development

VI. The application will occur via aerial. Primarily fixed wing application, but all areas impacted by a SALO in the "Eastern" area will be rotary

VII. Chapter 22 Section 3, B and C

VIII. Alternative Method of Compliance for SALO Checklist

1. Process and procedures to render any lease or structure in the "Western" project not likely to be occupied to exempt the SALO requirements
    a. Notification
        i. Notification of all leasees the treatment area will be closed during the program until impact area and methods of ingress and egress are treated and REI has elapsed
        ii. Notification of all recreational user stakeholder groups the treatment area will be closed until treatment is complete and REI has elapsed
    b. Signage
        i. Large Temporary Signs will be placed in obvious locations on methods of ingress and egress with language specifying Aerial Pesticide Applications in progress and entry not permitted

        ii. Signage will also meet all requirements for Chapter 51.I.C
    c. Ground Verification
        i. Landowner representatives and supporting resources will traverse likely ingress and egress areas to ensure compliance with signage and prevent slippage
    d. Aerial Verification
        i. Pilots will be made aware of locations for final visual inspections while passing by on flight lines to insure no slippage
    e. SALO Checklist Documentation
        i. None Required due to efforts to ensure the areas were not occupied
2. Treat all SALOs in the "Eastern" project as a singular treatment area, reporting as a project level checklist instead of individual requirements
    a. Notification
        i. Letters to all property owners within 500'
        ii. Letters to all structure owners within 1000'
    b. Signage
        i. Large Temporary Signs will be placed in obvious locations on methods of ingress and egress with language specifying Aerial Pesticide Applications in progress and entry not permitted
        ii. Signage will also meet all requirements for Chapter 51.I.C
    c. Ground Verification
        i. Landowner representatives and supporting resources will traverse likely ingress and egress areas to ensure compliance with signage and prevent slippage
    d. Aerial Best Practices
        i. Applications will be performed in early morning hours to limit amount of potential human activity
        ii. Applications will be performed with a favorable wind direction to avoid drift to SALO locations
        iii. Applications will be performed with a wind speed of 2-10 mph
    e. SALO Checklist Documentation
        i. Treat all identified SALOs as one treatment polygon requiring only one document

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 22: STANDARDS FOR OUTDOOR APPLICATION OF PESTICIDES BY POWERED EQUIPMENT IN ORDER TO MINIMIZE OFF-TARGET DEPOSITION

SUMMARY: These regulations establish procedures and standards for the outdoor application of pesticides by powered equipment in order to minimize spray drift and other unconsented exposure to pesticides. The primary purpose of these regulations is to implement the legislative mandate of the Board, as expressed by 7 M.R.S.A. §606(2)(G), to design rules which "minimize pesticide drift to the maximum extent practicable under currently available technology."

SECTION 1. EXEMPTIONS

The regulations established by this chapter shall not apply to pesticide applications in any of the following categories:

A. Applications of pesticides confined entirely to the interior of a building;

B. Applications of pesticides by non-powered equipment;

C. Applications of pesticides exclusively in granular or pelletized form;

D. Applications of pesticides injected underground or otherwise injected directly into the target medium. Such applications must involve no spraying of pesticides whatsoever.

SECTION 2. STANDARDS OF CONDUCT FOR PESTICIDE APPLICATIONS

All pesticide applications subject to these regulations shall be undertaken in compliance with the following standards of conduct:

A. **Equipment**

I. Pesticide spray equipment shall be used in accordance with its manufacturer's recommendations and instructions, and shall be in sound mechanical condition, free of leaks and other defects or malfunctions which might cause pesticides to be deposited off-target.

II. Pesticide spray equipment shall be properly calibrated consistent with Board or University published guidance. Sufficient records to demonstrate proper calibration must be maintained and made available to representatives of the Board upon request.

III. Pesticide application equipment shall have properly functioning shut-off valves or other mechanisms which enable the operator to prevent direct discharge and

minimize drift to non-target areas. Spray equipment designed to draw water must also have a properly functioning antisiphoning device.

B. **Weather Conditions**

I. Spray applications shall not be undertaken when weather conditions favor pesticide drift onto Sensitive Areas or otherwise prevent proper deposition of pesticides on target.

II. Pesticide application must cease immediately when visual observation reveals or should reveal that spray is not being deposited on target.

III. Without limitation of the other requirements herein, under no circumstances shall pesticide application occur when wind speed in the area is in excess of 15 miles per hour.

C. **Identifying and Recording Sensitive Areas**

I. Prior to spraying a pesticide, the applicator must become familiar with the area to be sprayed and must identify and record the existence, type and location of any Sensitive Area located within 500 feet of the target area. Applicators shall prepare a site map or other record, depicting the target area and adjacent Sensitive Areas. The map or other record shall be updated annually. The site map or other record shall be retained by the applicator for a period of two years following the date of applications and shall be made available to representatives of the Board upon request.

II. This requirement shall not apply to commercial applications conducted under categories 3A (outdoor ornamental), 3B (turf), 6A (rights-of-way vegetation management), 6B (industrial/commercial/municipal vegetation management), 7A (structural general pest control applications), or 7E (biting fly & other arthropod vectors [ticks]).

D. **Presence of Humans, Animals**

Pesticide applications shall be undertaken in a manner which minimizes exposure to humans, livestock and domestic animals.

The applicator shall cease spray activities at once upon finding evidence showing the likely presence of unprotected persons in the target area or in such proximity as to result in unconsented exposure to pesticides.

E. **Other Requirements**

These regulations are intended to be minimum standards. Other factors may require the applicator to take special precautions, beyond those set forth in these regulations, in order to avoid adverse impacts on off-target areas and to protect public health and the environment.

SECTION 3. STANDARDS FOR AERIAL APPLICATION OF PESTICIDES

A. **Positive Identification of the Target Site**

The person contracting for an aerial pesticide application shall ensure that the application site (i.e., target area) is positively identified prior to application, using a unique and verifiable method, including;

I. An onboard, geo-referenced electronic mapping and navigation system (e.g., GPS); or

II. Effective site markings visible to the applicator; or

III. Other method(s) approved by the Board.

B. **Site Plans Required**

Prior to spraying by aerial application within 1,000 feet of a Sensitive Area Likely to Be Occupied, the person contracting for the application shall provide to the applicator a site plan that includes:

I. a site map drawn to scale that:

(i) delineates the boundaries of the target area and the property lines;

(ii) depicts significant landmarks and flight hazards;

(iii) depicts the type and location of any Sensitive Area Likely to Be Occupied within 1,000 feet of the target area; and

(iv) depicts other Sensitive Areas within 500 feet of the target area.

II. If applicable, a school bus schedule shall accompany the site map.

III. The site plan and site map with identified sensitive areas required under Section 3(B) shall be retained by the applicator for a period of two years following the date of applications and shall be made available to representatives of the Board upon request.

IV. Compliance with this section satisfies the requirements of Section 2(C).

C. **Site-Specific Application Checklist**

Prior to conducting an aerial pesticide application within 1,000 feet of a Sensitive Area Likely to Be Occupied, the applicator shall complete a Board-approved pre-application checklist for each distinct field or target site. The checklist shall be maintained by the applicator for a period of two years and shall be available for inspection by representatives of the Board at reasonable times, upon request. The checklist shall include, at a minimum, the following elements:

I. The date, time, description of the target site and name of the applicator;

II. Confirmation that the notification requirements contained in CMR 01-026, Chapters 28 and 51, have been carried out;

III. Confirmation that the target site has been positively identified;

IV. The location of where weather conditions are measured and a description of the equipment used to measure the wind speed and direction;

V. Confirmation that conditions are acceptable to treat the proposed target site, considering the location of any Sensitive Area Likely to Be Occupied and current weather conditions;

VI. Wind speed and direction;

VII. The measures used to protect all Sensitive Areas;

VIII. Confirmation that there are no humans visible in or near the target area.

D. **Buffer Zones for any Sensitive Area Likely to Be Occupied**

Aerial applicators shall employ site-specific buffer zones adjacent to any Sensitive Area Likely to Be Occupied sufficient to prevent unlawful pesticide drift, unless consent has been granted by the landowner, lessee and occupant (when applicable), consistent with the provisions of Section 4(C) of this rule.

E. **Wind Speeds for Aerial Applications**

Unless otherwise specified by the product label, an applicator may not conduct an aerial application of pesticides within 1,000 feet of a Sensitive Area Likely to Be Occupied unless the wind speed is between 2 and 10 miles per hour.

SECTION 4. GENERAL STANDARDS FOR OFF-TARGET PESTICIDE DISCHARGE AND RESIDUE

A. **Prohibition of Unconsented, Off-Target Direct Discharge of Pesticides**

Pesticide applications shall be undertaken in a manner which does not result in off-target direct discharge of pesticides, unless prior authorization and consent is obtained from the owner or lessee of the land onto which such discharge may occur in a manner consistent with the pesticide label.

B. **Standards for Unconsented, Off-Target Drift of Pesticides**

I. **General Standard**. Pesticide applications shall be undertaken in a manner which minimizes pesticide drift to the maximum extent practicable, having due regard for prevailing weather conditions, toxicity and propensity to drift of the pesticide, presence of Sensitive Areas in the vicinity, type of application equipment and other pertinent factors.

II. **Prima Facie Evidence**. Pesticide residues in or on any off-target Sensitive Area Likely to Be Occupied resulting from off-target drift of pesticides from a nearby application that are 1% or greater of the residue in the target area are considered prima facie evidence that the application was not conducted in a manner to minimize drift to the maximum extent practicable. The Board shall review the site-specific application checklist completed by the applicator and other relevant information to determine if a violation has occurred. For purposes of this standard, the residue in the target area, and the residue in the Sensitive Area Likely to Be Occupied, may be adequately determined by evaluation of one or more soil, foliage or other samples, or by extrapolation or other appropriate techniques.

III. **Standard of Harm**. An applicator may not apply a pesticide in a manner that results in:

(i) Off-target pesticide residue detected in or on any nearby crop which violates EPA tolerances for that crop, as established under 40 CFR, Part 180.

(ii) Off-target pesticide residue detected in or on any nearby organic farm or garden which causes the agricultural products thereof to be excluded from organic sale in accordance with 7 CFR, Part 205, Section 205.671.

(iii) Off-target pesticide residue detected on any nearby persons or vehicles using public roads.

(iv) Documented human illness. For this standard to be met, the Board must receive verification from two physicians that an individual has experienced a negative health effect from exposure to an applied pesticide and that the effect is consistent with epidemiological documentation of human sensitivity to the applied pesticide.

(v) Off-target damage or injury to any organism.

IV. **Enforcement Considerations**. The Board shall consider the particular circumstances of violations arising from Subsections 4(B)(I) and (III) in determining an appropriate response, including, but not limited to:

(i) The standard of care exercised by the applicator;

(ii) The degree of harm or potential harm that resulted from or could have resulted from off-target drift from the application;

(iii) The risk (toxicity and exposure) of adverse effects from the pesticide applied.

C. **Consent**

I. **Consent, How Given**. Authorization and consent by the owner or lessee and occupant (when applicable) of land receiving a pesticide discharge or drift in a manner consistent with the pesticide label may be given in any manner, provided that the consent is reasonably informed and is given prior to the onset of the spray activity in question. The burden of proof shall be upon the applicator to demonstrate that requisite authorization and consent has been given. For this reason, applicators are encouraged to obtain such consent in writing and to maintain records thereof.

II. The residue and harm standards in Sections 4(B)(II) and (III) for off-target drift do not apply where the owner, lessee and occupant (when applicable) of the off-target area receiving the pesticide drift have given authorization and consent as prescribed in Section 4(C).

III. Except with the prior written approval of the Board, no authorization or consent may be given with regard to off-target direct discharge or off-target drift of pesticides upon any bodies of water or critical areas as defined in CMR 01-026, Chapter 10, "Definitions; Sensitive Area."

SECTION 5. VARIANCES FROM STANDARDS

A. **Variance Permit Application**

An applicator may vary from any of the standards imposed under this chapter by obtaining a permit to do so from the Board. 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;

III. The type(s) of pesticides to be applied;

IV. The purpose for which the pesticide application(s) will be made;

V. The approximate date(s) of anticipated spray activities;

VI. The type(s) of spray equipment to be employed;

VII. The particular standards from which the applicant seeks a variance;

VIII. The particular reasons why the applicant seeks a variance from such standards, including a detailed description of the techniques to be employed to assure a reasonably equivalent degree of protection and of the monitoring efforts to be made to assure such protection;

IX. The names and addresses of all owners or lessees of land within 500 feet of the proposed spray activity, and evidence that such persons have been notified of the

application. The Board may waive this requirement where compliance would be unduly burdensome and the applicant attempts to notify affected persons in the community by another means which the Board finds reasonable.

B. **Board Review; Legal Effect of Permit, Delegation of Authority to Staff**

I. Within 60 days after a complete application is submitted, the Board shall issue a permit if it finds that the applicant will achieve a substantially equivalent degree of protection as adherence to the requirements of this chapter would provide and will conduct spray activities in a manner which protects human health and the environment. Such permit shall authorize a variance only from those particular standards for which variance is expressly requested in the application and is expressly granted in the permit. The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as conditioned in the permit, the applicant shall undertake spray activities in accordance with all of the procedures described in the application 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.

II. The Board may delegate authority to review applications and issue permits to the staff as it feels appropriate. All conditions and limitations as described in Section 5(B) I shall remain in effect for permits issued by the staff. If the staff does not grant the variance permit, the applicator may petition the Board for exemption following the requirements set forth in 22 M.R.S.A. §1471-T, “Exemptions.”

SECTION 6. EMERGENCIES

A. In the event that severe pest or weather conditions threaten to cause a significant natural resource and/or economic loss, as determined by the Commissioner of the Maine Department of Agriculture, Conservation and Forestry, the requirements contained in Section 3 of this Chapter shall be waived, subject to the following conditions:

I. The severe pest and/or weather conditions must necessitate immediate wide-scale aerial application of pesticides.

II. The immediate need for aerial pesticide application does not provide sufficient time to complete the requirements of Section 3 of this Chapter,

III. Prior to any aerial application, the Commissioner shall issue a press release notifying residents of affected regions about the emergency, the likelihood of aerial application in the affected regions and the approximate dates that the emergency may continue.

IV. The Commissioner, in consultation with the Board’s staff, shall specify the requirements in Section 3 that will be waived.

V. Land managers and aerial applicators shall make good faith efforts to comply with the intent of Section 3 and minimize off-target drift to Sensitive Areas.

B. When the Maine Center for Disease Control and Prevention (CDC) recommends control of disease vectors, government sponsored vector control programs are exempt from Sections 2C, 2D, 3B, 3C, 3D, 3E and 4 of this chapter, provided that reasonable efforts are made to avoid spraying non-target areas.

June 12, 2009 amendments become effective on January 1, 2010.

STATUTORY AUTHORITY: 7 M.R.S.A. §606(2)(G):
22 M.R.S.A. §1471-M(2)(D)

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January 4, 2005 – filing 2004-603 affecting Section 3.B.II.(iii)
January 1, 2010 by request of agency in filing 2009-252
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AMENDED:
September 11, 2014 – Section 6, filing 2014-164
May 24, 2015 – filing 2015-075 (Final adoption, major substantive)

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 51: NOTICE OF AERIAL PESTICIDE APPLICATIONS

SUMMARY: These regulations describe the notification requirements for persons contracting aerial pesticide applications to control forest, ornamental plant, right-of-way, biting fly and public health pests.

Section I. Content of All Newspaper Articles/Advertisements, Written Notices to Property Owners and Posters

A. All newspaper articles/advertisements and written notices to property owners required by this chapter shall contain the following:

1. Description of the target area sufficient to inform people who may be in the vicinity.

2. Name of the person who contracts for the application or her/his representative or the applicator and the address and telephone number to contact for more specific information about the intended application.

3. Intended purpose of the pesticide application.

4. Pesticide(s) to be used.

5. Date or reasonable range of dates on which application(s) are proposed to take place.

6. Telephone number of the Maine Board of Pesticides Control.

7. Telephone number of the Maine Poison Control Center.

8. Public precautions which appear on the pesticide label.

B. All newspaper articles/advertisements must be printed in a minimum of 10 point types and at least 2 inches wide.

C. All posters required by this chapter shall contain the following:

1. Name of the person who contracts for the application or her/his representative or the applicator and the address and telephone number to contact for more specific information about the intended application.

2. Intended purpose of the pesticide application.

3. Pesticide(s) to be used.

4. Telephone number of the Maine Board of Pesticides Control

5. Telephone number of the Maine Poison Control Center.

6. Public precautions which appear on the pesticide label.

Section II. Forest Insect Applications

A. Responsible Parties

1. In the event of a forest insect spray program administered pursuant to Title 12, Chapter 801, the Maine Department of Conservation, Bureau of Forestry, is responsible for notices.

2. In the case of any other forest insect aerial spray activity, responsibility for notices lies with the landowner, her/his representative or the lessee if the land is leased.

B. Newspaper Articles/Advertisements and Written Notices to Property Owners

1. An article about/advertisement of a major forest insect aerial spray application shall be published in a newspaper of general circulation in the affected area at least 14 days but not more than 30 days prior to commencement of planned spray activity.

2. An article about/advertisement of a minor forest insect aerial spray application shall be published in a newspaper of general circulation in the affected area at least 4 days but not more than 10 days prior to commencement of planned spray activity.

3. An addition of spray areas not specified in the original newspaper article/advertisement and any change from the insecticides specified in the original article/advertisement shall be published in the same newspaper at least 24 hours before the change is effected.

4. A written notice of all forest insect aerial pesticide applications shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.

C. **Posting of Areas Subject to Major and Minor Forest Insect Aerial Spray Applications**

1. A poster shall be posed conspicuously just prior to the planned spray activity and shall not be removed by the landowner or landowner's agent for at least 2 days (48 hours) after spray activity ceases. Areas that shall be posed include each major point of ingress and egress of the public into the area to be sprayed. Major points of ingress and egress include federal, state, municipal and private roads open to the public and known to be used by the public that lead into the area to be sprayed; utility crossings of these roads; known boat launching sites on rivers leading through spray areas and within the boundaries of the land owned by the person authorizing the spray activity; and marked points of access to foot trails known to be used by the public.

2. Posters shall be constructed of brightly colored, weather resistant stock and shall be at least 11 x 14 inches in size. They shall contain the information required in Section I(C). The information shall be printed in both English and French.

D. **Written Notice to the Board and the Maine Poison Control Center**

1. A written notice shall be given to the Board and to the Maine Poison Control Center according to the following schedule:

a. Written notice of major forest insect aerial spray applications shall be given to the Board and the Maine Poison Control Center at least 15 days but not more than 30 days prior to the commencement of planned spray activity.

b. Written notice of minor forest insect spray application shall be given to the Board and the Maine Poison Control Center at least 5 days prior to the commencement of planned spray activity.

c. Any addition of spray blocks not specified in the original notice to the Board and any change in pesticide assignments to particular blocks shall be given to the Board as soon as practicable, and in any case every reasonable effort shall be made to give notice of change to the Board prior to initiation of pesticide application. Notice under this subsection may be accomplished by telephone communication with the Board's office.

2. **Notice to the Board**. These notices shall be prepared on forms provided by the Board and shall consist of:

a. A description of the proposed spray activity including detailed spray application maps showing sensitive areas and major public routes of ingress and egress. Use *of The Maine Atlas and Gazetteer*, by DeLorme Mapping Company or some other similar atlas is the suggested format for the base map.

b. The date or dates on which spraying is proposed to take place.

c. The name, address, telephone number and license number of the spray contracting firm which will carry out the spray activity.

d. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.

e. A listing of precautions taken to insure notice to the public, including copies of the newspaper notice and the poster to be used.

f. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Board promptly upon request.

3. **Notice to the Maine Poison Control Center**. These notices shall be prepared on forms provided by the Board and shall consist of:

a. A description of the general area the proposed application activity will take place.

b. The date or dates on which spraying is proposed to take place.

c. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.

d. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Maine Poison Control Center promptly upon request.

Section III. Ornamental Plant Applications

A. Responsible Parties

The licensed applicator must provide the person contracting for services with the proper materials to provide notification according to the provisions described in this chapter. The licensed applicator must not commence spray activities until the person contracting for the services provides written proof that the notification procedures contained Section III(B) and (C) have been completed. The person who provides the notification and certifies that the requirements have been fulfilled is responsible for that notification.

B. Newspaper Articles/Advertisements and Written Notices to Property Owners

1. An article about/advertisement of ornamental plant aerial pesticide applications shall be published in a paper of general circulation in the affected area at least 3 days but not more than 60 days prior to the commencement of the intended spray activity. The article/ advertisement shall contain the information required in section I(A) and (B) and shall not be limited to a legal notice.

2. A written notice of ornamental plant aerial pesticide applications shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days

but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.

C. **Written Notice to the Board and the Maine Poison Control Center**

Written notices to the Board and the Maine Poison Control Center must be given according to Section VI of this rule (Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications).

Section IV. Rights-Of-Way, Forest Vegetation Management and Other Forest Pest Applications

A. **Responsible Parties**

The licensed applicator must provide the person contracting for services with the proper materials to provide notification according to the provisions described in this chapter. The licensed applicator must not commence spray activities until the person contracting for the services provides written proof that the notification procedures contained Section IV(B) and (C) have been completed. The person who provides the notification and certifies that the requirements have been fulfilled is responsible for that notification.

B. **Newspaper Articles/Advertisements or Written Notices to Property Owners**

1. An article about/advertisement of rights-of-way, forest vegetation management or other forest pest aerial pesticide applications shall be published in a paper of general circulation in the affected area at least 3 days but not more than 60 days prior to the commencement of the intended spray activity. The article/advertisement shall contain the information required in Section I(A) and (B) and shall not be limited to a legal notice or;

2. In areas where there is no regular newspaper circulation, the person contracting for services may substitute individual notice to all landowners within 500 feet of the target site. This individual notice shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.

C. **Posting Requirements for Rights-of-Way, Forest Vegetation Management and Other Forest Pest Aerial Applications**

1. A poster shall be posed conspicuously just prior to the planned spray activity and shall not be removed by the landowner or landowner's agent for at least 2 days (48 hours) after spray activity ceases. The poster shall contain the information required in Section I(C). Areas that shall be posed include each major point of ingress and egress of the public into the area to be sprayed. Major points of ingress and egress include federal, state, municipal and private roads open to the public and known to be used by the public that lead into the area to be sprayed; utility crossings of these roads and any place a maintained public trail enters the application site.

2. Poster shall be constructed of brightly colored, weather resistant stock and shall be at least 11 x 14 inches in size. The information shall be printed in both English and French.

D. **Written Notice to the Board and the Maine Poison Control Center**

Written notices to the Board and the Maine Poison Control Center must be given according to Section VI of this rule (Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications).

Section V. Biting Fly and Public Health Pest Applications

A. **Responsible Parties**

The licensed applicator must provide the person contracting for services with the proper materials to provide notification according to the provisions described in this chapter. The licensed applicator must not commence spray activities until the person contracting for the services provides written proof that the notification procedures contained Section V(B) and (C) have been completed. The person who provides the notification and certifies that the requirements have been fulfilled is responsible for that notification.

B. **Newspaper Articles/Advertisements and Written Notice to Property Owners**

1. An article about/advertisement of biting fly and public health pest aerial pesticide applications shall be published in a paper of general circulation in the affected area at least 3 days but not more than 60 days prior to the commencement of the intended spray activity. The article/advertisement shall contain the information required in Section I(A) and (B) and shall not be limited to a legal notice.

2. A written notice shall be provided to the person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site at least 3 days but not more than 60 days before the commencement of the intended spray applications. The notice shall contain the information required in Section I(A). For absentee property owners who are difficult to locate, certified or equivalent mailing of the notice to the address listed in the Town tax record shall be considered sufficient notice.

C. **Written Notice to the Board and the Maine Poison Control Center**

Written notices to the Board and the Maine Poison Control Center must be given according to Section VI of this rule (Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications).

Section VI. Notices to the Board and the Maine Poison Control Center for Other Than Aerial Forest Insect Applications

A. A written notice shall be given to the Board and the Maine Poison Control Center at least 7 days but not more than 30 days prior to the commencement of planned spray activity.

B. These notices shall be prepared on forms provided by the Board and shall consist of:

1. **Written notice to the Board**

a. A description of the proposed spray activity including detailed spray application maps showing sensitive areas and major public routes of ingress and egress. Use *of The Maine Atlas and Gazetteer*, by DeLorme Mapping Company or some other similar atlas is the suggested format for the base map.

b. The date or dates on which spraying is proposed to take place.

c. A description of the delivery mechanism which shall include the name, address, telephone number and license number of the spray contracting firm which will carry out the spray activity.

d. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.

e. A listing of precautions taken to insure notice to the public, including copies of the newspaper notice or the notice given to person(s) owning property or using residential rental, commercial or institutional buildings within 500 feet of the intended target site.

f. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Board promptly upon request.

2. **Written notice to the Maine Poison Control Center**

a. A description of the general area the proposed application activity will take place.

b. The date or dates on which spraying is proposed to take place.

c. Pesticide(s) to be used, dilution agent(s), ratio(s) and notation of any experimental applications.

d. The name, address and telephone number of a contact person who will be reasonably accessible by telephone and who will make reasonably current and detailed information about the project available to the Maine Poison Control Center promptly upon request.

C. Any addition of spray blocks not specified in the original notice to the Board and any change in pesticide assignments to particular blocks shall be given to the Board as soon as practicable, and in any case every reasonable effort shall be made to give notice of change to the Board prior to initiation of pesticide application. Notice under this subsection may be accomplished by telephone communication with the Board's staff.

Section VII. Emergencies

A. Disease Vectors

When the Maine Center for Disease Control and Prevention (CDC) recommends control of disease vectors, government sponsored vector control programs are exempt from this chapter provided that the responsible governmental entity submits the written notice to Board and the written notice to the Maine Poison Control Center as described in this chapter.

B. Other Emergencies

The Board's staff may grant an emergency variance from the notice requirements set forth in Sections III, IV, V and VI of this chapter if the notice requirements prevent efficacious application of pesticide(s) and the staff determines that an emergency situation exists.

1. An emergency situation:

   a. Involves the introduction or dissemination of a pest new to or not theretofore known to be widely prevalent or distributed within or throughout the United States and its territories; or

   b. Will present significant risks to human health; or

   c. Will present significant risks to threatened or endangered species, beneficial organisms, unique ecosystems or the environment; or

   d. Will cause significant economic loss due to:

      i. an outbreak or an expected outbreak of a pest; or

      ii. a change in plant growth or development caused by unusual environmental conditions where such change can be rectified by the use of a pesticide(s).

2. Any emergency variance granted by the staff under this section shall include provisions demonstrating the applicant will furnish substantially equivalent notification as provided by this chapter and shall include:

a. Documented notification of person(s) owning property or using commercial or institutional buildings within 500 feet of the intended target site prior to the pesticide application and where appropriate;

b. Radio or television announcements or,

c. Prominently positioned poster.

3. No variance may be granted if the emergency situation is the result of an unjustifiable delay created by the person seeking the variance or the person requesting the pesticide application.

4. 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".

STATUTORY AUTHORITY: 22 M.R.S.A. §1471-G, M, R and T

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April 14, 1998 - inserted "residential rental," in II(B)(4), III(B)(2), IV(B)(2), V(B)(2), VI(B)(1)(e); conversion to MS Word 2.0.
March 5, 2003 - VI(A), filing 2003-62
July 11, 2012 - spelling correction in Section II(B)(3)
February 14, 2013 - spelling correction in Sections II(C)(1) and IV(C)(1)
June 12, 2013 – filing 2013-136 (Emergency major substantive)

CORRECTIONS:
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AMENDED:
September 11, 2014 – Section VII, filing 2014-165

Bacillus thuringiensis*, subspecies *kurstaki

There are several pesticides that contain the active ingredient Bt_k, which are the spores of the naturally occurring bacterium *Bacillus thuringiensis*, subspecies *kurstaki*. These spores produce an endotoxin that is specific to the caterpillar stage of moths and butterflies in the *Lepidoptera* family. Even though Bt_k is not considered a chemical, it still retains potent insecticidal properties. Bt_k is dormant as a spore, and only becomes toxic once it is consumed and activated by the alkaline environment (pH >9) of the caterpillar's gut. In contrast, mammals have an acidic stomach (pH <2). Therefore, this pesticide leverages the unique physiology of *Lepidoptera* caterpillars to prevent non-target toxicity in nearly all organisms tested: mammals, birds, fish, plants, aquatic organisms, and insects- including bees and earthworms- outside the *Lepidoptera* family. Notably, Bt_k application has been used for more than 50 years, and many formulations are approved for organic crop production, further evincing the pesticide's low risk when used appropriately.

The most likely routes of human exposure to Bt_k occur *via* food or inhalation stemming from accidental drift; at expected environmental concentrations (EEC), neither exposure represents a major health risk. Crops can be exposed to Bt_k either through direct application or drift, resulting in residue on food. In contrast to nearly all other pesticides, the EPA has waived the maximum residue limit of Bt_k on foods due to its extremely low risk to human health. Inhalation of Bt_k is also deemed practically non-toxic. Although inhalation does not cause allergies or asthma in adults and children, some studies indicate that individuals with these pre-existing conditions might be more sensitive to Bt_k. Lastly, Bt_k poses low- yet reversible- toxicity as a skin and eye irritant at doses that far exceed EEC; thus, this health risk is considered low.

Bt_k rapidly degrades on leaves, with an estimated half-life of 2-4 days. Additionally, spore viability in soil is reduced 10-fold after two weeks. Its low soil permeability ensures that spores are retained in the top three inches of the soil, thereby inhibiting its ability to leach into aquifers. Although spore propagation is possible, acidic soils- which dominate the spruce-fir forests in northern Maine- decrease this chance and minimize the risk of off-target deposition.

The environmental risks of Bt_k are minimal, but are still present. This is particularly salient if the pesticide is applied before a rainstorm, which could carry the spores to a waterway *via* runoff. Additionally, runoff can also occur if the pesticide is applied to soils with a high-

water table, such as forested wetlands. In northern Maine, this risk is reduced when the seasonal high-water table begins to recede by late May.

In summary, the EPA classifies Bt_k as non-carcinogenic, and its ingestion or inhalation is deemed practically non-toxic to mammals, birds, fish, invertebrates, and non-target insects at EEC. The minimal risk posed by Bt_k generally aligns with the assessment made in Europe.

References

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European Food Safety Authority (EFSA), et al. "Peer review of the pesticide risk assessment of the active substance Bacillus thuringiensis subsp. kurstaki strain ABTS-351." *EFSA Journal* 19.10 (2021): e06879.

Nester, Eugene W., et al. "100 years of Bacillus thuringiensis: a critical scientific assessment." (2002).

Tebufenozide

There are several pesticidal formulations that contain the active ingredient **tebufenozide.** This chemical mimics a hormone that promotes molting in winged insects belonging to the *Lepidoptera* family. Tebufenozide has insecticidal properties, as it can accelerate molting prematurely in the larvae stage of moths and butterflies, resulting in mortality.

Tebufenozide has been well studied over the past thirty years, and does not adversely affect plants, birds, fish, and invertebrates at expected environmental concentrations (EEC) when used according to the label. In 1998, the pesticide received EPA's Green Chemistry award due to its (*i*) very low toxicity to animals, (*ii*) low ability to persist in soils and bioaccumulate in organisms, and (*iii*) specificity to *Lepidoptera*, *i.e.* non-target insects such as bees, beetles, *etc*. are not adversely affected at low concentrations. Therefore, tebufenozide is an option for controlling moths- including spruce budworm- and its efficacy in boreal forests is well documented.

The EPA classifies the ingestion and inhalation of tebufenozide as "practically nontoxic" to mammals and birds, and well below a level of concern when the pesticide is applied as directed. This assessment is in general agreement with similar regulating agencies in Canada and the EU; this finding is based on evidence that the pesticide is not a carcinogen, mutagen, neurotoxin, or an endocrine disruptor. This assessment also applies to the byproducts stemming from the metabolism of tebufenozide.

However, the use of any pesticide including tebufenozide comes with risk. Toxicological testing reveals potential threats to the health of some organisms and the environment at very high concentrations, *i.e.* in the event of an accidental spill or the direct spraying of an individual. Tebufenozide is a moderate eye and skin irritant and likely poses the greatest risk to applicators. At extremely high doses, ingestion and inhalation of tebufenozide damages the hemoglobin in red blood cells. Therefore, direct exposure of tebufenozide poses elevated risk to infants and individuals who have genetically inherited hemoglobin disorders (*e.g.* sickle-cell anemia, thalassemia, *etc*). However, harmful exposure *via* contaminated crops is not anticipated in the event of accidental drift. For example, two months after apple trees were directly sprayed with a second application of tebufenozide, only 0.1% of the pesticide was found on the fruit; consumption of apples at this EEC would not cause adverse health effects in humans or wildlife.

Aquatic organisms most sensitive to tebufenozide are midges and water fleas. Notably, toxicology testing reveals that lobster and most other marine invertebrates are not sensitive species. Given that tebufenozide dissolves poorly in water, it has a very low chance of leaching from the soil and contaminating subsurface groundwater and aquifers. Despite tebufenozide's low toxicity to fish and other aquatic invertebrates, it can persist in aquatic

sediments and bioaccumulate to low levels in fish. In bluegill sunfish, more than 90% of the pesticide is excreted after 15 days; less than 5% of the remaining pesticide resides in edible tissue. At this low concentration, consumption of trout in the fall is not anticipated to be a health concern for anglers venturing into the North Maine Woods.

Although tebufenozide is practically non-toxic to birds, it is feasible that they will be indirectly affected if their diet primarily depends upon moths and butterflies. Increased foraging was observed in warblers inhabiting a forest sprayed with tebufenozide, but this did not affect survival or clutch size compared to an unsprayed forest.

Tebufenozide does not volatize and enter the atmosphere from water surfaces or the soil. Its poor solubility in water comes with the tradeoff that it will bind to organic matter that typically resides in the top 5 inches of the soil. In one field study containing sandy loam (a soil texture common in Maine's northern townships), 90% of tebufenozide is broken down within 100 days. The aerial application of tebufenozide is not predicted to be a threat to soil fertility or soil invertebrates. For example, earthworms were not adversely affected when soil was spiked with tebufenozide at a concentration 100-fold greater than EEC.

In summary, tebufenozide specifically targets moths and butterflies, and is not expected to be lethal to most non-target organisms at EEC. Environmental risks include transient accumulation in soils, reduced fitness in microscopic aquatic invertebrates, low biomagnification in fish, and altered feeding behaviors in birds that prey upon moths and butterflies.

References

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ENVIRONMENTAL PROTECTION AGENCY. 40 CFR Part 180 [EPA–HQ–OPP–2008–0824; FRL–9952–75] RIN 2070–ZA16 Tebufenozide; Proposed Pesticide Tolerance. (2016).

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Holmes, Stephen B. "Reproduction and nest behaviour of Tennessee warblers Vermivora peregrina in forests treated with Lepidoptera-specific insecticides." *Journal of Applied Ecology* (1998): 185-194.

Proposed Administrative Consent Agreement
Background Summary

Subject: Mosquito Squad of Southern Maine
28 Adams Way
Scarborough, ME 04074

Date of Incident(s): May through September 2024

Background Narrative: On May 16, 2024, a Board inspector observed two company applicators applying Talak 7.9% F, EPA Reg. No. 91234-145, and Devito, EPA Reg. No. 91234-250. These insecticides were being applied to the lawn at a residential property in Old Orchard Beach, Maine for the control of ticks and mosquitos. The applicators observed by the inspector were not wearing chemical resistant gloves as required by the Talak label. Furthermore, the Devito label states "**DO NOT** apply to residential lawns and turf in residential settings", indicating that the application of this product to the residential lawn was in violation of the label.

Also on May 16, 2024, a Board-licensed commercial applicator with the company called the Board's office to report that a company employee had sprayed a residential property, located at 28 Eagles Nest Road in Gray Maine, without authorization. This application involved the same two products listed above, and body camera footage provided by the company confirmed that chemical resistant gloves were not worn by the applicator when making this application.

Between May 20, 2024 and September 6, 2024 a Scarborough resident contacted the Board office on multiple occasions to express concerns about drift onto her property and alleging subsequent symptoms of exposure. On May, 24, 2024 a Board inspector collected residue samples which tested positive for bifenthrin, but at a level below quantification limits. On July, 26, 2024 the resident contacted the Board office with the same concerns. On July, 29, 2024 a Board inspector collected samples from both the target and non-target properties. Analysis results demonstrated off-target deposition of bifenthrin at 0.7% concentration. Inspection efforts revealed that a company employee had applied Talak and Avesta on July 26, three days prior to sampling. On September 6, 2024 the resident contacted the Board office again with similar allegations. A Board inspector collected residue samples from the target and non-target properties on the same day as the call. Off-target residues were at 0.4% of the target concentration, indicating that the company failed to minimize drift to the maximum extent practicable.

Furthermore, body camera footage of several of the instances described here demonstrated applications being made directly to blooming weeds during daylight hours when bees would likely be foraging. The Talak 7.9%F label states "This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow to drift to blooming crops if bees are visiting the treatment area,", constituting application in violation of the label.

Summary of Violations: 01-026 C.M.R. ch. 20, § 6(D)(2) (2024) prohibits the application of a pesticide to the property of another without prior authorization from the owner, manager or legal resident of the property. The application at 28 Eagles Nest Road in Gray Maine was made without authorization in violation of this chapter.

C.M.R.-01-026, ch. 22, Section 4(B)(I) states that, "Pesticide applications shall be undertaken in a manner applications shall be undertaken in a manner which minimize pesticide drift to the maximum extent practicable, having due regard for prevailing weather conditions, toxicity and propensity to drift of the pesticide, presence of Sensitive Areas in the vicinity, type of application equipment and other pertinent factors." Given that off target residue was detected on multiple occasions, there is evidence that a violation of the general standard CMR-01-026, Chapter 22, Section 4 (B)(I) occurred.

7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606 (2)(B) prohibit the use or supervision of such use of a pesticide inconsistent with its label. The site violation of the Devito label, the PPE and pollinator protection violations of the Talak 7.9% F label outlined above demonstrate multiple occurrences of use inconsistent with the pesticide label as prohibited.

The violations of 01-026 C.M.R ch. 20§ 6(D)(2) (2024) and C.M.R. -01-026, ch. 22 § 4(B)(I) are considered subsequent violations within a four-year period pursuant to 7 M.R.S. § 616-A(2)A(2), as are the violations of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606 (2)(B) pertinent to use inconsistent with the label for Talak 7.9%F. Violations for use inconsistent with the label for Devito were treated as initial violations rather than subsequent due to inconsistencies with EPA labeling of sites for that active ingredient.

Rationale for Settlement: Per direction given by the Board at the October 2024 Board Meeting, this case has been selected for resolution by Consent Agreement with the Company. This agreement is to be comprehensive in nature to include all violations occurring in the 2024 application season.

Attachments: Proposed Consent Agreement

MAR - 7 2025

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL

In the Matter of:	)	ADMINISTRATIVE CONSENT
Mosquito Squad of Southern Maine	)	AGREEMENT
28 Adams Way	)	AND
Scarborough, Maine 04074	)	FINDINGS OF FACT

This Agreement by and between Mosquito Squad of Southern Maine (hereinafter referred to as the "Company") and the State of Maine Board of Pesticides Control (hereinafter referred to as the "Board"), as approved by the Office of the Attorney General ("OAG"), is entered into pursuant to 22 M.R.S. § 1471 M(2)(D), and in accordance with the Enforcement Protocol, as amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the Company offers outdoor nuisance pest control services in Southern Maine using Board-licensed applicators to apply pesticides.

2. That the Company previously entered into administrative consent agreements with the Board in 2021 and 2024 to resolve violations of state and federal pesticide laws.

3. That the Company committed new violations of state and federal pesticide laws in 2024, in Old Orchard Beach, Gray, and Scarborough, and that this Agreement covers the violations at all three locations as described in location-specific sections below. The Company was responsive and cooperative throughout the inspection and investigation process.

Old Orchard Beach, Maine

4. That on May 16, 2024, a Board inspector observed two Company applicators applying Talak 7.9 % F, EPA Reg. No. 91234-145, and Devito, EPA Reg. No. 91234-250, insecticides for control of ticks and mosquitoes, including to the lawn at a residential property in Old Orchard Beach, Maine. Body camera footage of this application was later supplied to the Board by the Company. The footage obtained substantiates the observations of the inspector.

5. That neither applicator described in Paragraph 4 was wearing chemical-resistant gloves. The Talak 7.9% F label states—in part—"All pesticide handlers (mixers, loaders, applicators) must wear long-sleeved shirt and long pants, socks, shoes, and chemical-resistant gloves."

6. That the top-front panel of the Devito label states, "For Both Indoor and Outdoor Use. For use in, on, and around buildings and structures for the control of listed pests, including on non-residential lawns, ornamental trees and shrubs around residential, institutional, public, commercial, agricultural and industrial buildings."

7. That under a section titled "Perimeter Pest Control, subsection Restrictions," the Devito label states—in part—"**DO NOT** apply to residential lawns and turf in residential settings (e.g. homes, parks, schools, athletic fields or other area frequented by the general public)."

8. That under a section titled "Lawn/Turfgrass, subsection Restrictions," the Devito label states—in part—"**DO NOT** apply to residential lawns and turf in residential settings (e.g. homes, parks, schools, athletic fields or other area frequented by the general public)."

9. That 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) prohibit the use or supervision of such use of a pesticide inconsistent with its label, and 22 M.R.S. § 1471-D(8)(F) provides for court action to seek suspension or revocation of an applicator's license and/or certification for use or supervision of such use of a pesticide inconsistent with its label.

10. That the circumstances described in Paragraphs 4 through 8 constitute multiple violations of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) and would permit court action to seek suspension or revocation of an applicator's license and/or certification pursuant to 22 M.R.S. § 1471-D(8)(F).

Gray, Maine

11. That on May 16, 2024, a Board-licensed commercial applicator called the Board's office to report that a Company employee had sprayed a residential property in Gray without authorization.

12. That in response to the phone call described in Paragraph 11, a Board inspector investigated the allegations. The investigation revealed that a Company employee applied Talak and Devito to the residential lawn located at 28 Eagles Nest Road in Gray instead of the authorized location of 26 Eagles Nest Road.

13. That 01-026 C.M.R. ch. 20, § 6(D)(2) (2024) prohibits the application of a pesticide to the property of another without prior authorization from the owner, manager or legal resident of the property.

14. That the Company did not have the prior authorization of the resident of 28 Eagles Nest Road for the pesticide application described in Paragraph 12.

15. That the circumstances described in Paragraphs 11 through 14 constitute a violation of 01-026 C.M.R. ch. 20, § 6(D)(2).

16. That the application of Devito on residential lawns, as described in paragraphs 11 and 12, is not permitted by the product label as described in Paragraphs 6, 7, and 8.

17. That body camera video supplied by the Company showed the applicator was not wearing chemical-resistant gloves.

18. That the Talak 7.9% F label requires applicators to wear chemical-resistant gloves as described in Paragraph 4.

19. That 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) prohibit the use or supervision of such use of a pesticide inconsistent with its label, and 22 M.R.S. § 1471-D(8)(F) provides for court action to seek suspension or revocation of an applicator's license and/or certification for use or supervision of such use of a pesticide inconsistent with its label.

20. That the circumstances described in Paragraphs 16 through 19 constitute multiple violations of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) and would permit court action to seek suspension or revocation of an applicator's license and/or certification pursuant to 22 M.R.S. § 1471-D(8)(F).

Scarborough, Maine

21. That between May 20, 2024, and September 6, 2024, a Scarborough resident contacted the Board on multiple occasions to express concerns about alleged drift and/or vapors arising from Company applications to the abutting property. The caller indicated that there is no physical barrier or distance separating lawns between the two properties The caller also cited a May 2, 2024 Company application that resulted in symptoms.. The caller stated that the mosquito and tick applications to the abutting property were resulting in exposure and symptoms which included burning eyes, lips, and throat. The caller also expressed concern about possible residue on vegetable gardens.

22. That a Board inspector responded to each of the complaints and conducted follow-up inspections with the Company each time.

23. That on May 24, 2024, a Board inspector collected residue samples following the May 23, 2024 Company pesticide application to the abutting property. Laboratory sample results for one of two off-target samples was positive for bifenthrin at a concentration below the quantification limits.

24. That on July 5, 2024, the Board received another call from the Scarborough resident again alleging pesticide drift from a Company application to the abutting property. Due to the timing of the call, the Board's response was delayed until the following Monday. Significant rainfall occurred over the weekend. A decision was made to not collect residue samples in this instance. A follow-up inspection with Company personnel showed that Talak and Avesta were applied to the abutting residence on July 5, 2024.

25. That on July 26, 2024, the Board received another call from the Scarborough resident alleging pesticide drift had occurred from a Company pesticide application. Samples were taken from both properties. Laboratory analysis showed residues on the caller's (non-target) property of 0.0084 PPM bifenthrin while the residues on the abutting (target) property were at 1.2 PPM. A comparison of the residue levels demonstrates off-target residues were 0.7 % of the on-target residues. A follow-up inspection revealed that a Company employee applied

Talak and Avesta on July 26.

26. That on September 6, 2024, the Scarborough resident again contacted the Board's office alleging pesticide drift from a Company application to the abutting property. The caller reported that she had a burning throat and eyes, and that her neighbor reported similar symptoms.

27. That the Board's staff collected residue samples from the caller's property and the target property on the day of the call.

28. That laboratory analysis of the samples described in Paragraph 27 showed residues on the caller's (non-target) property of 0.018 PPM bifenthrin while the residues on the abutting (target) property were at 4.5 PPM. A comparison of the residue levels demonstrates that the off-target residues were 0.4 % of the on-target residues.

29. That the Company utilized motorized backpack mist blowers to make the pesticide applications described herein.

30. That, based on available scientific literature, motorized backpack mist blowers produce a droplet spectra categorized as fine to very fine.

31. That circumstances described in Paragraphs 26 through 30 are indicative of a very high potential for off-target movement of fine droplets.

32. That the caller's lawn area abuts the Company's client's lawn area without any physical barrier or spatial separation.

33. That residential lawn areas are considered a "sensitive area likely to be occupied" pursuant to 01-026 C.M.R. ch. 10, § 2(CCC)(8)(a) (2019).

34. That the Board's sample results described in Paragraphs 25 and 28 demonstrate that pesticides drifted from the target property to an abutting "sensitive area likely to be occupied".

35. That 01-026 C.M.R. ch. 22, § 4(B)(I) (2015) contains the Board's General Standard for off-target drift of pesticides which states, "**General Standard**. Pesticide applications shall be undertaken in a manner which minimizes pesticide drift to the maximum extent practicable, having due regard for prevailing weather conditions, toxicity and propensity to drift of the pesticide, presence of Sensitive Areas in the vicinity, type of application equipment and other pertinent factors."

36. That the circumstances described in Paragraphs 21 through 35 demonstrate that the Company failed to minimize drift to maximum extent practicable.

37. That the circumstances described in Paragraphs 21 through 36 constitute multiple violations of 01-026 C.M.R. ch. 22, § 4(B)(I).

38. That the body camera footage of the pesticide applications described in Paragraph 20 shows applications being made directly to blooming weeds in the lawn during daylight hours when bees would be foraging.

39. That the Talak 7.9% F label states under Environmental Hazards, "This product is highly toxic to bees exposed to direct treatment or residues on blooming crops or weeds. Do not apply this product or allow to drift to blooming crops if bees are visiting the treatment area."

40. That 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) prohibit the use or supervision of such use of a pesticide inconsistent with its label, and 22 M.R.S. § 1471-D(8)(F) provides for court action to seek suspension or revocation of an applicator's license and/or certification for use or supervision of such use of a pesticide inconsistent with its label.

41. That the circumstances described in Paragraphs 38 through 40 constitute a violation of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B) and would permit court action to seek suspension or revocation of an applicator's license and/or certification pursuant to 22 M.R.S. § 1471-D(8)(F).

General Provisions

42. That the Company expressly waive:

    A. Notice of or opportunity for hearing;

    B. Any and all further procedural steps before the Board; and

    C. The making of any further findings of fact before the Board.

43. That this Agreement shall not become effective unless and until the Board accepts it.

44. That in consideration for the release by the Board of the causes of action which the Board may have against the Company resulting from the violations referred to in paragraphs 10, 15, 20, 37, and 41, the Company agrees to pay a penalty to the State of Maine in the sum of $22,500.00. (Please make checks payable to Treasurer, State of Maine).

45. The Board and OAG grant a release of their causes of actions against the Company for the specific violations cited in the immediately preceding paragraph (Paragraph 44) on the express condition that all actions listed in Paragraph 44 of this Agreement are completed in accordance with the express terms and conditions of this Agreement and to the satisfaction of the Board and the OAG. The release shall not become effective until the Company has completed its obligations pursuant to Paragraph 44.

46. Any non-compliance with any term or condition of this Agreement, as determined by the Board and OAG in their sole discretion, voids the release set forth in Paragraph 44 of this

Agreement and may lead to an enforcement, suspension/revocation, equitable, and/or civil violation action pursuant to Titles 7 and 22 of the Maine Revised Statutes.

47. Nothing in this Agreement shall be construed to be a relinquishment of the Board's or OAG's powers under Titles 7 and 22 of the Maine Revised Statutes against the Company for any other violations other than those expressly listed in this Agreement.

48. This instrument contains the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written contract shall be valid or binding; this contract may not be enlarged, modified, or altered except in writing signed by the parties and indorsed on this Agreement.

49. The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

50. By signing and executing this Agreement, the Company knowingly, intentionally, permanently, and irrevocably waives any and all defenses it has or may have with respect to the enforcement of this Agreement, including the enforcement of this Agreement as a final administrative order and a money judgment pursuant to 14 M.R.S. § 3138.

IN WITNESS WHEREOF, the parties have executed this Agreement of six pages.

MOSQUITO SQUAD OF SOUTHERN MAINE

By: _____ Date: 2-27-25

Type or Print Name: ERIK HANSON

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Alexander Peacock, Director

APPROVED:
By: _____ Date: _____
Carey Gustanski, Assistant Attorney General

Proposed Administrative Consent Agreement
Background Summary

Subject: Stephen Antonson
9 Mechanic Street
Rockport, Maine 04856

Date of Incident(s): Autumn 2021 and Autumn 2023

Background Narrative: On October 13, 2022, The BPC was contacted by a Maine Forest Service Entomologist regarding observations of declining tree health and evidence of large drill holes and possible herbicide application to trees at the Graham property located at 11 Mechanic Street in Rockport, Maine. This evidence included leaf curling, bore holes, and impact limited to a distinct corridor of trees directly in line with the deck of the Antonson residence. On October 29, 2021, Board representatives conducted a site inspection at 11 Mechanic Street and collected samples of the liquid present in the bore holes of the affected trees. The samples were positive for Imazapic and Triclopyr. On October 23, 2023, the Chair of the Rockport Parks and Beautification contacted the BPC to report additional tree decline at the Graham property visible from Rockport Harbor. A Board representative returned to the property on October 23, 2023, and observed a distinct circular disturbance around the base of each newly affected tree. Three soil samples were collected for combined analysis and tested positive for Triclopyr at 360ppm. While Antonson denies any involvement in the herbicide applications to the trees at 11 Mechanic Street in Rockport, the Board finds that the positioning of the affected trees in addition to prior correspondence from the Antonson's to the Graham's requesting tree removal indicate that Antonson would have been the only one to benefit from the application of herbicides to the affected area.

Summary of Violations: CMR 01-026 Chapter 20 Section 6(D)2: No person may apply a pesticide to the property of another unless prior authorization for the pesticide application has been obtained from the owner, manager, or legal occupant of that property.

Rationale for Settlement: Antonson did not have authorization to apply pesticides at 11 Mechanic Street in Rockport. Imazapic and Triclopyr active ingredients detected in the samples from 2021 and Triclopyr detected in the samples from 2023 indicate that at least two applications of pesticides were made to trees at the 11 Mechanic Street location without authorization.

Attachments: Proposed Consent Agreement

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL

In the Matter of:	)	ADMINISTRATIVE CONSENT
Stephen Antonson	)	AGREEMENT
9 Mechanic Steet	)	AND
Rockport, Maine 04856	)	FINDINGS OF FACT

This Agreement by and between Stephen Antonson (hereinafter referred to as "Antonson") and the State of Maine Board of Pesticides Control (hereinafter referred to as the "Board"), as approved by the Office of the Attorney General ("OAG"), is entered into pursuant to 22 M.R.S. § 1471 M(2)(D), and in accordance with the Enforcement Protocol, as amended by the Board on December 13, 2013.

The Board of Pesticides Control alleges as follows:

1) That Antonson owns the residence located at 9 Mechanic Street in Rockport, Maine.

2) That 9 Mechanic Street is located near Rockport Harbor. The residence does not have ocean frontage, and there is no direct view of the ocean due to trees growing on the property of Ruth Graham, located at 11 Mechanic Street in Rockport, Maine.

3) That, prior to 2021, Antonson approached Ruth Graham on multiple occasions about purchasing harbor frontage or removing trees that impede the harbor view from 9 Mechanic Street.

4) That Graham stated she would not sell harbor frontage or remove trees from her property in response to the inquiries described in paragraph three.

5) That on October 12, 2021, Ruth Graham contacted the Maine Forest Service requesting a second opinion relative to multiple trees on her property that were declining unexpectedly. Graham had previously contacted an arborist company that was unable to determine the cause of decline.

6) That on October 13, 2021, an entomologist from the Maine Forest Service conducted a field visit to observe the declining trees. The entomologist observed:

    a) disturbances of the ground cover around the base of the affected trees;

    b) leaf curling on herbaceous plants remaining at the base of the affected trees;

    c) a series of perfectly round one-inch holes bored into the root collar of the affected trees;

d) that the affected trees were directly within a narrow corridor that would allow a view of the harbor from the deck attached to the Antonson residence; and

e) that the combination of observations relating to the declining trees was indicative of herbicide use.

7) That on October 13, 2021, the entomologist contacted the Board to relay his observations because he believed that matter fell within the Board's regulatory purview.

8) That representatives from the Board conducted site inspections at the Graham property on October 14 and 29, 2021.

9) That during the October 29, 2021, site inspection, Board representatives collected liquid present in some of the bore holes drilled in the affected trees.

10) That the liquid described in paragraph nine was sent to the University of Montana Analytical Laboratory for analysis.

11) That on December 8, 2021, the University of Montana Analytical Laboratory submitted a report to the Board indicating the pesticide active ingredient imazapic was detected at 660 parts per billion and the pesticide active ingredient triclopyr was detected at 8,200,000 parts per billion in the bore hole liquid.

12) That on October 17, 2023, Douglas Cole, Chair of the Rockport Parks and Beautification Committee, contacted the Board to report that additional tree decline on the Graham property had been observed from Rockport Harbor.

13) That in response to the concern expressed by Cole, a Board inspector returned to the Graham's property on October 23, 2023, to assess and document site conditions.

14) That during the course of the inspection described in Paragraph 13, the inspector documented additional tree mortality that was not observed in 2021.

15) That the inspector observed and documented that the recent tree mortality aligned with harbor view sight lines from the Antonson property.

16) That the inspector observed and documented a distinct circle surrounding each recently affected tree in which the ground cover was dead.

17) That the inspector collected three soil samples from the base of newly affected trees.

18) That laboratory analysis of the (combined) soil samples described in Paragraph 17 disclosed the presence of triclopyr at a concentration of 360 parts per million.

19) That the visual and laboratory evidence described in this agreement demonstrate that the decline observed in trees on the Graham property was caused by the deliberate application of

herbicides to the root collar and/or root zone of the affected trees.

20) That Antonson had motive to apply the herbicides to the trees on the Graham property in order to improve the ocean view from their property.

21) That the circumstances described in this agreement support a Board finding that Antonson either applied or caused the application of herbicides to the affected trees.

22) That 01-026 C.M.R. ch. 20, § 6 (2024) requires prior authorization from the legal occupant before pesticides may be applied on the property of another.

23) That Antonson did not have prior authorization to apply herbicides to the affected trees on the Graham property.

24) The Board believes the facts alleged in Paragraphs 1 through 23 above constitute multiple violations of 01-026 C.M.R. ch. 20, § 6 of the Board's rules.

25) That while Antonson does not admit the alleged violations, and while he disputes the facts and conclusions alleged by the Board in Paragraphs 1 through 24 above, he agrees to enter into this Consent Agreement for the purpose of resolving the alleged violations.

26) That Antonson expressly waives the following with respect to the above violations:

A. Notice of or opportunity for hearing;

B. Any and all further procedural steps before the Board; and

C. The making of any further findings of fact before the Board.

27) That this Agreement shall not become effective unless and until the Board accepts it.

28) That in consideration for the release by the Board of the causes of action which the Board may have against Antonson resulting from the alleged violations referred to in Paragraph 24, Antonson agrees to pay a penalty to the State of Maine in the sum of $3,000.00. (Please make checks payable to Treasurer, State of Maine.)

29) The Board and OAG grant a release of their causes of actions against Antonson for the specific violations cited in the immediately preceding paragraph (Paragraph 28) on the express condition that all actions listed in Paragraph 28 of this Agreement are completed in accordance with the express terms and conditions of this Agreement and to the satisfaction of the Board and the OAG. The release shall not become effective until Antonson has completed the obligations pursuant to Paragraph 28.

30) Any non-compliance with any term or condition of this Agreement, as determined by the Board and OAG in their sole discretion, voids the release set forth in Paragraph 28 of this

Agreement and may lead to an enforcement, suspension/revocation, equitable, and/or civil violation action pursuant to Titles 7 and 22 of the Maine Revised Statutes..

31) Nothing in this Agreement shall be construed to be a relinquishment of the Board's or OAG's powers under Titles 7 and 22 of the Maine Revised Statutes against Antonson for any other violations other than those expressly listed in this Agreement.

32) This instrument contains the entire agreement between the parties, and no statements, promises, or inducements made by either party or agent of either party that are not contained in this written contract shall be valid or binding; this contract may not be enlarged, modified, or altered except in writing signed by the parties and indorsed on this Agreement.

33) The provisions of this Agreement shall apply to, and be binding on, the parties and their officers, agents, servants, employees, successors, and assigns, and upon those persons in active concert or participation with them who receive actual notice of this Agreement.

34) Provided this Agreement is accepted by the Board, by signing and executing this Agreement, Antonson knowingly, intentionally, permanently, and irrevocably waives any and all defenses he has or may have with respect to the enforcement of this Agreement, including the enforcement of this Agreement as a final administrative order and a money judgment pursuant to 14 M.R.S. § 3138.

IN WITNESS WHEREOF, the parties have executed this Agreement of four pages.

STEPHEN ANTONSON

01/31/2025

_____ Date: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Alexander Peacock, Director

APPROVED:
By: _____ Date: _____
Carey Gustanski, Assistant Attorney General

citrix | RightSignature

SIGNATURE CERTIFICATE

REFERENCE NUMBER
D5EAE44C-0F13-4FAA-A2DA-4AEA58DE29E1

TRANSACTION DETAILS	DOCUMENT DETAILS
Reference Number D5EAE44C-0F13-4FAA-A2DA-4AEA58DE29E1	**Document Name** Antonson PCA rev 250124
Transaction Type Signature Request	**Filename** Antonson_PCA_rev_250124.pdf
Sent At 01/31/2025 09:06 EST	**Pages** 4 pages
Executed At 01/31/2025 12:17 EST	**Content Type** application/pdf
Identity Method email	**File Size** 83.8 KB
Distribution Method email	**Original Checksum** c4483b72fc90e0da041bf4a8a8986c2da20db8a715529719f27578437d97f74d
Signed Checksum a912e7933e1b0c7bf4df5531ca0e857c9d070c939f2d6c91b54b9482219476ab	
Signer Sequencing Disabled	
Document Passcode Disabled	

SIGNERS

SIGNER	E-SIGNATURE	EVENTS
Name Stephen Antonson	**Status** signed	**Viewed At** 01/31/2025 12:16 EST
Email stephenantonsonbyhand@gmail.com	**Multi-factor Digital Fingerprint Checksum** fb8707f3ebef663715f02e5186387f489a9b78e61c4f70c09d993ca2f314d882	**Identity Authenticated At** 01/31/2025 12:17 EST
Components 2	**IP Address** 104.28.55.231	**Signed At** 01/31/2025 12:17 EST
	Device Mobile Safari via iOS	
	Drawn Signature 	
	Signature Reference ID 891B78D3	
	Signature Biometric Count 3	

AUDITS

TIMESTAMP	AUDIT
01/31/2025 09:06 EST	Suzanne Pierce (spierce@brannlaw.com) created document 'Antonson_PCA_rev_250124.pdf' on Microsoft Edge via Windows from 216.107.217.18.
01/31/2025 09:06 EST	Stephen Antonson (stephenantonsonbyhand@gmail.com) was emailed a link to sign.
01/31/2025 12:16 EST	Stephen Antonson (stephenantonsonbyhand@gmail.com) viewed the document on Mobile Safari via iOS from 104.28.55.231.
01/31/2025 12:17 EST	Stephen Antonson (stephenantonsonbyhand@gmail.com) authenticated via email on Mobile Safari via iOS from 104.28.55.231.
01/31/2025 12:17 EST	Stephen Antonson (stephenantonsonbyhand@gmail.com) signed the document on Mobile Safari via iOS from 104.28.55.231.

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

I. (207) 608-5390

Name Steven W. Brook Telephone Number

Company Name New England Spray Tech.

Address 21 Ridley rd. City Shapleigh State Me. Zip 04076

II.

Master Applicator (if applicable) Steven W. Brook License Number CMA-3484

Address Same as above. 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: This is the north end of the Marginal Way Walk in Ogunquit Me. 03907. This is a renewal for this section being maintained.

V. Pesticide(s) to be applied: (Including EPA Registration Number) Roundup custom EPA. # 524-343. I would like also to use Ecomazapyr 2SL EPA. # 81927-22 . To aid in the uptake on the cut stems.

VI. Purpose of pesticide application: Maintenance for this section of walk way. And to reduce cost of hauling of material for the town and save on possible spreading of this invasive plant.

VII. Approximate dates of spray application: May/ June weather permitting. Spot spraying when needed.

VIII. Application Equipment: 4ga. Hand backpack sprayer.

IX. Standard(s) to be varied from See Map: for waterline and proximity of knotweed stand edge 25'. We are doing work by cut stump as requested before. No foliar applications.

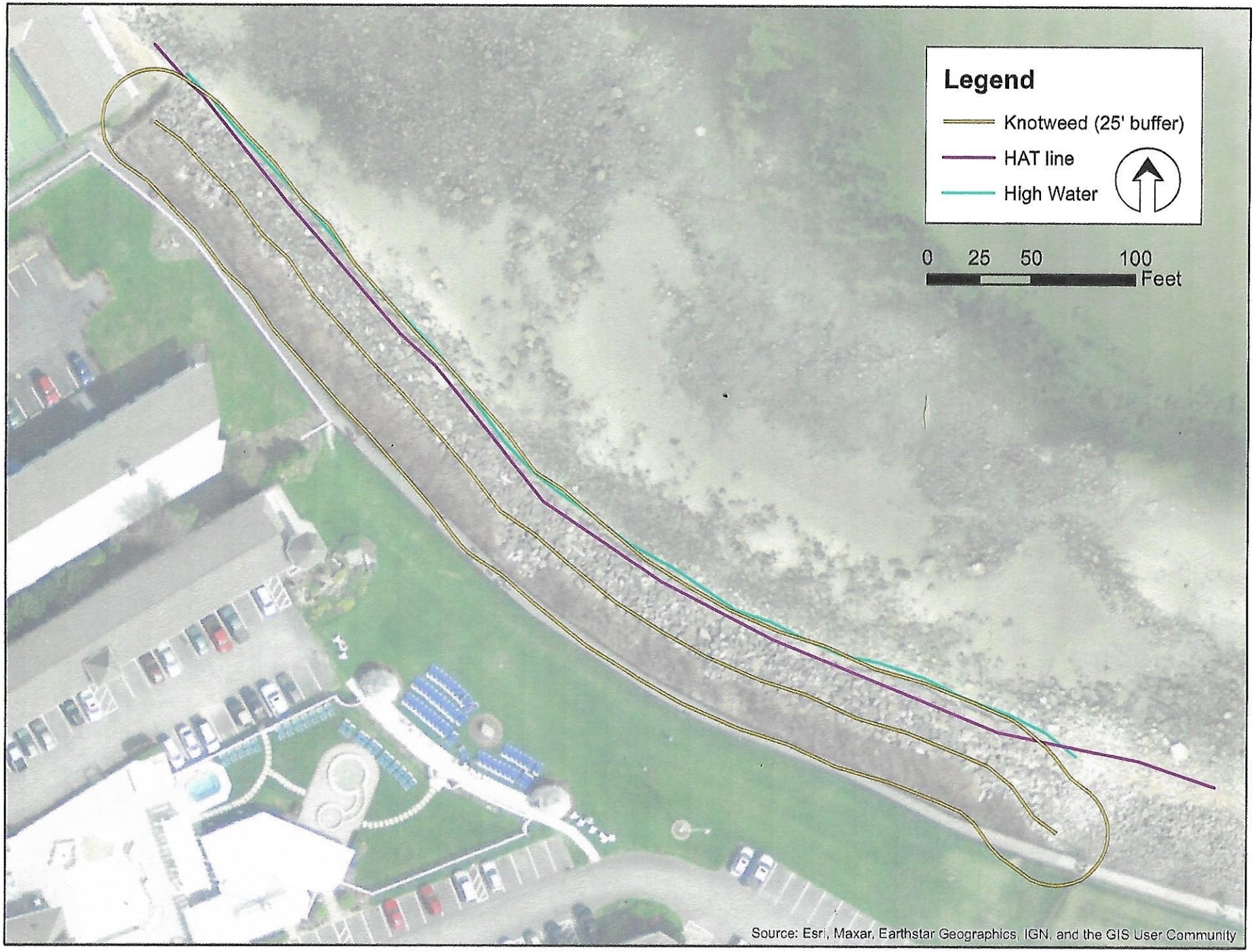
X. Method to ensure equivalent protection and Revegetation Plan: All hand equipment and treat Only when wind permits while following all variance guidelines.

XI. Revegetation Plan (attach separately if necessary) This area of walk is man made after hurricane BOB in 1991-2. We have left all rosa rugosa which has come in just along the fence. We are allowing all natives to grow and fill in as well.

Signed: Steven W. Bunker Date: 2/25/25

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

Rev. 2/2022


Legend
Knotweed (25' buffer)
HAT line
High Water
0 25 50 100
Feet
Source: Esri, Maxar, Earthstar Geographics, IGN, and the GIS User Community

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

8d

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

May 6, 2022

Steven Brook
New England Spray Technologies
21 Ridley Rd
Shapleigh, ME 04076

RE: Variance permit for CMR 01-026 Chapter 29, Marginal Way, Ogunquit

Dear Mr. Brook,

The Board of Pesticides Control considered your application for a variance from Chapter 29. The variance is approved, with the following conditions.

Mixing and loading activities must be completed at a distance greater than 50 feet from the mean high water line. Cut stump applications rather than foliar applications are preferable and using only non-powered low-pressure applications within 25 feet of water is required by law. These approaches will aid in reducing the potential for off-target movement.

Please ensure compliance with all other regulations including public notification and posting near trails and sidewalks used by the public. Additional information about notification may be found in the BPC policy concerning 'Appropriate Methods for Notifying the Public About commercial Applications to Sidewalks and Trails' [PDF].

The Board of Pesticides Control suggests discussing appropriate plantings for a revegetation plan with the Maine state horticulturist.

The issuance of three-year variances for Chapter 29 is authorized by the Board; therefore, this variance 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 remember that your variance is based upon your company adhering to the precautions listed in Section X of your Chapter 29 variance request. Applications are required to be made with the applicator facing away from the water and when there is an onshore wind between 2-15 mph.

If you have any questions concerning this matter, please contact me at 287-2731.

MEGAN PATTERSON, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING

maine DEPARTMENT OF Agriculture Conservation & Forestry

PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

EPA

Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Announces Proposed Registration of New Pesticide Florylpicoxamid

Today, the U.S. Environmental Protection Agency (EPA) released its proposed registration decision for three products containing the new active ingredient florylpicoxamid, a broad-spectrum fungicide that can be used on food crops and golf courses. Florylpicoxamid targets several fungi that cause damage and financial loss, including: Cercospora leaf spot of sugar beet, anthracnose diseases, Septoria leaf blight of barley and wheat and dollar spot on turf.

Florylpicoxamid is expected to be a useful addition to Integrated Pest Management (IPM) programs, as it can be used in rotation with other fungicides to reduce potential resistance in crops and turf. IPM provides an effective and environmentally sensitive approach to pest control by focusing on prevention and using pesticides only as needed.

EPA is not aware of any information that indicates florylpicoxamid may impact the efficacy of a human or animal antibacterial or antifungal drug. EPA is currently consulting with the U.S. Food and Drug Administration and the Centers for Disease Control and Prevention to determine whether additional investigation is warranted as part of its new framework for these products.

EPA's Risk Assessments

In addition to its proposed registration decision, EPA has also released its human health risk assessment, ecological risk assessments and draft biological evaluation, with the latter including EPA's Likely to Adversely Affect (LAA) determination for florylpicoxamid under the Endangered Species Act (ESA). An LAA determination means that EPA reasonably expects at least one listed plant or animal species may be exposed to the pesticide at a sufficient level to have an adverse effect.

No human health risks of concern were identified when florylpicoxamid is used according to the proposed label. EPA has not identified any potential risks of concern for mammals, birds, terrestrial-phase amphibians, reptiles, aquatic plants or

honeybees on an acute or chronic exposure basis when florylpicoxamid is used according to the proposed label. However, EPA identified potential risks for fish, aquatic-phase amphibians, aquatic invertebrates, other terrestrial invertebrates and terrestrial and semi-aquatic plants.

Proposed Mitigations

EPA is proposing the implementation of the following mitigation measures to address on- and off-field effects to non-target species, including listed species:

- Instructing users to access and follow any applicable endangered species bulletin from "Bulletins Live! Two" web-based system for all additional directions and restrictions.
- Approved for use in the contiguous United States and Hawaii only.
- For golf courses, use only on tees, greens and fairways. Do not use florylpicoxamid containing products on roughs.

With these proposed mitigation measures in place, EPA's draft biological evaluation predicts that the use of florylpicoxamid will not result in a likelihood of future jeopardy for the survival of any listed species, or a likelihood of adverse modification for any designated critical habitat.

Next Steps

After considering public comments on the proposed registration and the draft effects determinations, EPA will decide whether the registration action meets the standard for registration under the Federal Insecticide, Fungicide, and Rodenticide Act. If EPA determines that the registration action can be granted, EPA will finalize the biological evaluation. If a final biological evaluation finds that florylpicoxamid may affect any listed species or critical habitats, then EPA will initiate ESA consultation and share its findings with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (collectively referred to as the Services), as appropriate.

During formal consultation, the Services use the information in EPA's final biological evaluation to inform their biological opinions. While EPA has made predictions about the likelihood of jeopardy and adverse modification as part of its biological evaluation, the Services are responsible for making the final jeopardy/adverse modification findings and have the sole authority to do so. If the Services determine in their 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.

To read more about the proposed registration of florylpicoxamid and to comment, see docket ID EPA-HQ-OPP-2020-0449 at www.regulations.gov. The public comment period will be open for 30 days, closing on February 16, 2025.

EPA

Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Shares Fish and Wildlife Service's Final Endangered Species Act Biological Opinion for Methomyl

The U.S. Environmental Protection Agency (EPA) is sharing the U.S. Fish and Wildlife Service's (FWS's) final biological opinion (BiOp) for the pesticide methomyl. The final biological opinion released today only covers species under FWS's purview.

Under the Endangered Species Act (ESA), EPA must ensure that its actions, including many pesticide registration actions, do not jeopardize listed species or adversely modify their designated critical habitats. If EPA determines in a biological evaluation that use of a pesticide product may affect these listed species or critical habitats, EPA must initiate consultation with FWS and the National Marine Fisheries Service (NMFS), or both (the Services). In response, the Service(s) may develop a biological opinion that determines whether the pesticide will result in jeopardy or adverse modification.

Background on Methomyl

Methomyl is an insecticide used on a variety of crops, including field vegetables and orchard crops. In March 2021, EPA completed its final biological evaluation for methomyl, which made "likely to adversely affect" determinations for 1,098 listed species and 281 critical habitats. An LAA determination means that EPA reasonably expects that at least one individual animal or plant of any listed species may be exposed to these pesticides at a sufficient level to have an adverse effect. EPA initiated formal consultation with the Services upon completing this biological evaluation. NMFS completed its final BiOp for methomyl in February 2024 for species under its purview.

FWS Biological Opinion

EPA initiated formal consultation with the Services upon completing the biological evaluation and, in response, FWS developed a draft biological opinion for methomyl, which was posted for a 60-day public comment period in July 2024. The draft BiOp included FWS's determinations that, under the ESA, methomyl is likely to jeopardize 82 listed species and adversely modify 34 critical habitats when used as currently registered. The draft BiOp also suggested general categories of potential reasonable

and prudent alternatives (RPAs), which are mitigation measures to prevent jeopardy to the species or adverse modification of the critical habitat.

Since the draft BiOp was published, FWS worked with EPA, the methomyl registrants, and the U.S. Department of Agriculture (USDA) to develop and agree upon species-specific measures to protect the federally threatened and endangered (listed) species for which FWS made jeopardy or adverse modification determinations in the July 2024 draft BiOp. These measures found in the final BiOp include spray drift and runoff reduction measures and on-field mitigation measures for a subset of species. These geographically specific measures will be implemented through pesticide product labeling, directing users to access the EPA's Bulletins Live! Two platform to determine whether there are mitigations needed where the product is to be applied. EPA will publish Bulletins on this platform to inform users of these geographically specific measures. FWS has determined that, with the inclusion of these mitigation measures, the registered uses of methomyl will not result in jeopardy determinations. This means that FWS does not anticipate that this pesticide will jeopardize listed species or adversely modify critical habitats when used in accordance with updated label language that is reflected in the biological opinion.

In addition to measures that FWS, EPA, USDA and the registrants identified and agreed upon that allowed FWS to issue a no jeopardy biological opinion, the opinion also includes measures to minimize take of listed species and impacts to critical habitat including development of training and educational materials for methomyl applicators and reporting of ecological incidents, water quality monitoring data, and use and usage information. EPA will work with registrants of methomyl products to implement these mitigation measures and all components of the FWS biological opinion.

The final biological opinion can be found on EPA's website and is also linked from docket EPA-HQ-OPP-2024-0290 on www.regulations.gov.

PART II CODE OF ORDINANCES

CH. II-21 PESTICIDE AND FERTILIZER REGULATION

ART. II-21-1.

Sec. 21-1. Purpose.

The purpose of this ordinance is to safeguard the health and welfare of the residents of Falmouth and to conserve and protect Falmouth's environment, water, and natural resources by ensuring the proper use of outdoor pesticides and fertilizers in Falmouth.

This ordinance applies to all pesticide and fertilizer users including but not limited to residents, commercial entities, and professional applicators. The ordinance also includes additional requirements for professional applicators.

Sec. 21-2. Definitions.

The following words, terms, and phrases, when used in this ordinance, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Commercial agriculture: The production of crops for sale, crops intended for widespread distribution to wholesalers or retail outlets, and any non-food crops.

Commercial horticulture: The production and management of ornamental plants and turfgrass, as well as fruits and vegetables for sale.

EPA: The United States Environmental Protection Agency.

Fertilizer: Any material of synthetic, natural, or organic origin that is applied to soils or to plant tissues to supply one or more plant nutrients that facilitate the growth of plants.

Golf course: An area of land laid out for playing the game of golf with a series of 9, 18, or more holes. Mini-golf courses are not considered golf courses.

Golf course playing surfaces: The tees, fairways, greens, and roughs of a golf course.

Integrated Pest Management (IPM): A sustainable approach to managing pests by combining biological, cultural, physical, and chemical tools in a way that minimizes economic, health, and environmental risks. For more information refer to the Maine Department of Agriculture Conservation and Forestry.

Invasive species: A plant or insect that is not native to a particular ecosystem and whose introduction does or is likely to cause economic or environmental harm or harm to human

health. Invasive species include those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive, as well as those insects listed by the Maine Forest Service as threats to Maine's forests and trees.

Lawn: A piece of residential, commercial, or industrial land on which grass grows and is maintained.

Natural, organic, or "non-synthetic" matter: A substance that is derived from mineral, plant, or animal matter and does not undergo a "synthetic" process as defined in the Organic Foods Production Act, 7 U.S.C. § 6502(21), as the same may be amended from time to time.

Natural turf: A community of herbaceous plants that are mowed and maintained to receive a high level of foot traffic or to obtain a specific performance quality.

Neonicotinoid pesticide: A class of neuro-active pesticides that are similar to nicotine in structure.

Organic Landscape Management: An extension of the principles and practices of organic agriculture to the care of natural turf and landscape.

Person: Any individual natural person, partnership, joint venture, society, association, company, club, trustee, trust, or corporation; or any officer, agent, employee, or personal representative of any thereof, in any capacity acting either for her or himself or for any other person under either personal appointment or pursuant to law.

Pest: This term shall have the same meaning as the term set forth in 40 C.F.R. § 152.5, as the same may be amended from time to time.

Pesticide: Any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails, or other biological agents not regulated as pesticides by the EPA. Herbicides, fungicides, insecticides, miticides, and rodenticides are considered pesticides.

Pests of significant public health importance: Pests listed by the EPA, in conjunction with the U.S. Department of Health and Human Services and the U.S. Department of Agriculture, as pests of significant public health importance.

Public utility: Any transmission and distribution utility, telephone utility, water utility, gas utility, or natural gas pipeline utility that is subject to the jurisdiction of the Maine Public Utilities Commission.

Retailer: Any person or entity that is licensed by the State of Maine to sell pesticide and fertilizer products

Storm Drain: Municipally owned and maintained infrastructure designed to drain excess rain and ground water from impervious surfaces.

Substance: A unique form of matter with constant chemical composition and characteristic properties.

Synthetic matter: A substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Water body: Highland Lake; the Presumpscot River; the Piscataqua River; the East Branch and West Branch of the Piscataqua River; waters affected by tidal action; and any stream as that term is defined in the Zoning and Floodplain Management Ordinance.

Sec. 21-3. Prohibition and Limitation of Pesticide Use and Application.

1. Any non-synthetic substance that is specifically listed as "prohibited" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (the "National List") is prohibited from use in Falmouth. Synthetic substances are prohibited from use in Falmouth unless specifically listed as "allowed" on the National List.
2. The outdoor application of neonicotinoid pesticides is prohibited in Falmouth.
3. Application of all pesticides is prohibited within 75 feet of any water body and within 20 feet of any storm drain.
4. Allowed pesticides shall be applied according to the manufacturer's instructions.

Sec. 21-4. Prohibition and Limitation of Fertilizer Use and Application.

1. The outdoor application of fertilizers is prohibited between December 1 and March 31.
2. Application of fertilizer is prohibited within 75 feet of any water body and within 20 feet of any storm drain. Only non-water-soluble fertilizer, compost, or composted manure may be applied between 75 feet and 250 feet of any water body.
3. Fertilizer containing nitrogen and phosphorus shall be applied on lawns and natural turf in Falmouth as follows:

   A maximum of 2 pounds of nitrogen per 1000 square feet per year on established turf and new development. A maximum of 1 pound of phosphorus per 1000 square feet per year for new lawns or with a soil test that states phosphorus is needed.

   Application is limited to two times per year.
4. Professional Applicators who apply fertilizers shall follow Best Management Practices (BMP) for their respective industries.
5. Allowed fertilizers shall be applied according to the manufacturer's instructions.

Sec. 21-5. Pesticide and Fertilizer Applicator Registration Required.

No sole proprietor or business entity, whose use or application of pesticide and/or fertilizer is provided as a service for which compensation is received shall engage in the application of

pesticides and/or fertilizers within the Town without first having registered to do so. Public utilities may register the staff contact for vegetation management, instead of the contracted applicator. Registrations must be renewed annually and are valid from February 1 through January 31 of the following year. Registration forms and processes will be administered by the Town Manager or the Town Manager's designee. Registration shall include, at a minimum, the following information:

1. Personal name or company name and address; and

2. Copy of State of Maine Commercial Master Pesticide applicator license, where applicable.

Annual registration fees shall be as described on a fee schedule established by the Town Council. Said fee schedule may be amended by Council order from time to time.

Sec. 21-6. Retailer Requirements.

All retailers in the Town of Falmouth that sell pesticide and fertilizer products for lawn, garden, and landscape applications must clearly mark products that are permitted for use within the town. Each retailer is required to display signs in a prominent location with the products, ensuring they are easily visible to customers at the point of purchase.

The Town may determine allowable sign dimensions and materials by Council Order.

Sec. 21-7. Pesticide and Fertilizer Use Exemptions.

1. Notwithstanding the provisions in Sec. 21-3 and 21-4 above, the following materials or applications are exempt from the prohibitions outlined in those sections, and therefore are allowed, with the exception of Sec. 21-3 subsection 2 (neonicotinoid use):

    a. Commercial agriculture and commercial horticulture;

    b. Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;

    c. Disinfectants, germicides, bactericides, miticides, and virucides, when used in the manner specified by the manufacturer;

    d. Insect repellents when used in the manner specified by the manufacturer;

    e. Rat and rodent control supplies when used in the manner specified by the manufacturer;

    f. Swimming pool supplies when used in the manner specified by the manufacturer;

    g. General use paints, stains, wood preservatives, and sealants when used in the manner specified by the manufacturer.

h. Pesticides determined to be "minimum risk pesticides" pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.

i. Specific health and safety application: Pesticides may be used to control plants that are poisonous to the touch, such as poison ivy; pests of significant public health importance such as ticks and mosquitoes; and animals or insects that may cause damage to a structure, such as carpenter ants or termites;

j. Golf course playing surfaces application: Pesticides and fertilizers may only be used on golf course playing surfaces provided that applicators follow the Golf Course Superintendents Association of America Maine Chapter *Best Management Practices for Maine Golf Courses;*

k. Grub control application: Pesticides may be used to control grubs through the preventative application of chlorantraniliprole only by a Professional Applicator.

l. Invasive insect application: Pesticides may be used only to control the Emerald Ash Borer**,** Asian Longhorned Beetle, Hemlock Woolly Adelgid, Browntail Moth, nematodes, and other insects identified as invasive by the Maine Department of Agriculture, Conservation, and Forestry;

m. Invasive terrestrial plant application: Where invasive species pose a threat to the environment, pesticides may be used to control those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive in addition to those listed in the Div. 11-19-1-2 Definitions in the Code of Ordinances for the Town of Falmouth;

n. Rights of way spraying by a public utility (or its hired contractors) that maintain a right of way through the Town;

o. Rights of way managed by the Town of Falmouth, Maine Department of Transportation or the Maine Turnpike Authority; and

p. Applications on athletic fields managed by the Town of Falmouth and Falmouth School Department provided Integrated Pest Management (IPM) techniques and Best Management Practices (BMP) are utilized.

2. Professional Applicators who apply pesticides for exempt uses 1.h, 1.i, 1.j, 1.k, 1.l, 1.m, 1.n, 1.o, and 1.p above must use Integrated Pest Management (IPM) Techniques.

Sec. 21-8. Effective Date.

This ordinance will become effective on April 1, 2025.

Sec. 21-9. Administration and Enforcement.

This Ordinance shall be administered by staff as assigned by the Town Manager. Violators of this Ordinance may be subject to a penalty of $250 for the first violation and shall be subject to a penalty, per violation, of not more than $1,000 for each subsequent violation.
The Town shall be entitled to recover its costs of enforcement, including its reasonable attorneys' fees.

Sec. 21-10. Severability.

To the extent any provision of this Ordinance is deemed invalid by a court of competent jurisdiction, the balance of the Ordinance shall remain valid.

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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

Memorandum

To: Board of Pesticides Control
From: Alexander Peacock, Director
Subject: Secondary & Service Containers for Pesticides

January 15, 2025

Background:

It is not uncommon for pesticide applicators to purchase pesticide concentrates in bulk containers. These concentrates are then transferred to a smaller service (breakdown) container for use during mixing and loading procedures as needed in the field. Pesticide concentrates are also often pre-mixed at a company's headquarters into end-use dilutions in accordance with the label. These end-use dilutions are often stored in a secondary container for use in the field. BPC inspection Staff have observed unlabeled service & secondary containers in the field during the inspection and have raised concerns over possible harm to human health and/or the environment if these containers are not handled appropriately.

Draft Policy:

Board of Pesticides Control (BPC) Policy for Labeling Service Containers

Definitions:

Service Container: A container used to store undiluted pesticide concentrates that is not the original container in which the pesticide concentrate was distributed.

Secondary Container: A container used to mix pesticide concentrates into end-use solutions following the pesticide label and typically used by the end-user to make the pesticide application.

Although the BPC does not require labels on secondary and service containers, the Department of Transportation (DOT) and Occupational Safety and Health Administration (OSHA)

ALEXANDER PEACOCK, DIRECTOR
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requirements may apply. BPC recommends that the applicator identify the material in the **service container** in the event of a spill to ensure that adequate information regarding the pesticide can be obtained in case of medical or environmental emergency. BPC recommends that such labels include the following information:

- Product name.
- EPA registration number.

It is a good management practice to ensure that the label for the pesticide product that has been put into a **service container** is available to any person transporting, handling and/or applying the pesticide.

Conclusions:

Often another employee/operator may use a vehicle or equipment that has a pesticide stored on it that the employee/operator did not add themselves. If these containers are properly labeled, a new user will be aware of the materials on board and be able to reference the label for proper PPE and actions to take in the event of a spill or other incident. Since pesticide concentrates pose a greater risk than diluted end-use pesticides, a policy to label service containers will help prevent undue harm to human health and the environment by allowing for proper identification of the product. This policy will also aid in compliance with Chapter 20: Special Provisions and Title 7 § 606, as seen below.

Chapter 20: SPECIAL PROVISIONS

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.

Title 7: AGRICULTURE AND ANIMALS
Part 2: MARKETING, GRADING AND LABELING
Chapter 103: PRODUCTS CONTROLLED
Subchapter 2-A: MAINE PESTICIDE CONTROL ACT OF 1975

§606. Prohibited acts

2. Unlawful alteration, misuse, divulging of formulas, transportation, disposal and noncompliance. A person may not:

D. Handle, transport, store, display or distribute pesticides in such a manner as to endanger human beings or their environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; [PL 2005, c. 620, §5 (AMD).]

Amendment to LD 356
An Act to Require Notification of Certain Outdoor Pesticide Applications
Proposed by Senator Bennett
March 4, 2025

Amend the bill by striking out the title and replacing with the following:

Resolve, Directing the Board of Pesticides Control to Amend Rules on Placement of Pesticidal and Rodenticidal Baits and Appropriate Notification of Abutters

Amend the bill by striking out everything after the title and replacing with the following:

Sec. 1. Limit the use of certain pesticides for outdoor use. Resolved: That the Department of Agriculture, Conservation and Forestry, Board of Pesticides shall review and amend rules on the placement of pesticidal baits, including, but not limited to, rodenticidal baits, and shall review and amend portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications to require notification of property owners in the vicinity of pesticidal baits. Rules adopted pursuant to this section are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A.

SUMMARY

This amendment strikes and replaces the bill with a resolve. The resolve requires the Department of Agriculture, Conservation and Forestry, Board of Pesticides to review and amend rules on the placement of pesticidal baits, including, but not limited to rodenticidal baits, and to review and amend portions of Chapter 28: Notification Provisions for Outdoor Pesticide Applications in order to require notification of property owners in the vicinity of pesticidal baits. The amendment also provides that rules adopted pursuant to this resolve are major substantive rules as defined in Title 5, chapter 375, subchapter 2-

132nd MAINE LEGISLATURE

FIRST REGULAR SESSION-2025

Legislative Document	**No. 356**
S.P. 142	In Senate, February 3, 2025

An Act to Require Notification of Certain Outdoor Pesticide Applications

(EMERGENCY)

Received by the Secretary of the Senate on January 30, 2025. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BENNETT of Oxford.
Cosponsored by Senator: GROHOSKI of Hancock, Representatives: BELL of Yarmouth, CIMINO of Bridgton, DOUDERA of Camden, EDER of Waterboro, MILLIKEN of Blue Hill.

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control establishes procedures and standards for informing interested members of the public about outdoor pesticide applications in their vicinity; and

Whereas, the purpose of these procedures and standards is to safeguard the health and welfare of the residents of this State; and

Whereas, this legislation must take effect before the expiration of the 90-day period because this legislation amends those procedures and standards; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §604, sub-§25-B is enacted to read:

25-B. Pet. "Pet" has the same meaning as in section 712, subsection 16.

Sec. 2. 7 MRSA §606, sub-§2, ¶D, as amended by PL 2005, c. 620, §5, is further amended to read:

D. Handle, transport, store, display or distribute pesticides in such a manner as to endanger human beings or their pets or their environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides;

Sec. 3. 7 MRSA §606, sub-§2, ¶E, as amended by PL 2005, c. 620, §5, is further amended to read:

E. Dispose of, discard or store any pesticides or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock or pets, wildlife or beneficial insects or pollute any water supply or waterway;

Sec. 4. 7 MRSA §606, sub-§4 is enacted to read:

4. Unlawful use without proper notification. A person may not use any pesticide outdoors within 500 feet of a property owned by another person unless the person provides written notification to the owner, lessee or other legal occupant of the property of the intent to apply pesticides at least 7 days prior to the pesticide application. This subsection does not apply to aerial applicators as defined by the board by rule. The department shall adopt rules governing notification requirements. Rules adopted under this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill prohibits a person from using any pesticide outdoors within 500 feet of a property owned by another person unless the person provides written notification to the owner, lessee or other legal occupant of the property of the intent to apply pesticides at least 7 days prior to the pesticide application. The bill provides that this prohibition does not apply to aerial application of pesticides. The bill also explicitly prohibits handling, transporting, storing, displaying or distributing pesticides in a manner that endangers pets and explicitly prohibits disposing of, discarding or storing any pesticides or pesticide containers in a manner that may cause injury to pets.