01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

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

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1. Individual Certification and Company/Agency Licensing Requirements

A. Any commercial applicator must be either:

I. licensed as a commercial applicator/master; or

II. licensed as a commercial applicator/operator; or

III. supervised on-site by either a licensed commercial applicator/master or a commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator. This supervision must include visual and voice contact. Visual contact must be continuous except when topography obstructs visual observation for less than five minutes. Video contact does not constitute visual observation. The voice contact requirement may be satisfied by real time radio or telephone contact. In lawn care and other situations where both the licensed and unlicensed applicator are operating off the same application equipment, the licensed applicator may move to an adjoining property on the same side of the street and start another application so long as he or she is able to maintain continuous visual and voice contact with the unlicensed applicator. Applicators must also follow the standards outlined in 40 CFR 171.201.

B. All commercial applicators responsible for the supervision of noncertified applicators of restricted use pesticides must ensure compliance with training, record keeping, and all other requirements as indicated in 40 CFR 171.201(c) “Supervision of Noncertified Applicators” (2017).

C. All commercial applicator licenses shall be affiliated with a company/agency and shall terminate when the employee leaves the employment of that company or agency.

D. Individuals certified as commercial applicators are eligible to license with one or more companies/agencies upon submission of the application and fee as described in Section 6 of this regulation. The individual’s certification remains in force for the duration of the certification period as described in Section 5 of this regulation.

E. Each branch office of any company, agency, organization or self-employed individual ("employing entity") required to have personnel licensed commercially under state

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

F. **Exemptions**

I. Persons applying pesticides to household pets and other non agricultural domestic animals are exempt from commercial applicator licensing.

II. Swimming pool and spa operators that are certified by the National Swimming Pool Foundation, National Spa and Pool Institute or other organization approved by the Board are exempt from commercial applicator licensing. However, these persons must still comply with all provisions of C.M.R. 10-144, Chapter 202 – *Rules Relating to Public Swimming Pools and Spas,* administered by the Maine Department of Health and Human Services, Division of Environmental Health..

III. Certified or licensed Wastewater or Drinking Water Operators applying registered disinfectants to waste or drinking water as part of their employment.

VI. Adults applying repellents to children with the consent of parents/guardians.

VII. Persons installing antimicrobial metal hardware.

2. Categories of Commercial Applicators

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

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

a. **Agricultural Animal** - This subcategory includes commercial applicators using or supervising the use of pesticides on animals and to places on or in which animals are confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire as pesticide applicators are included in this subcategory; however, those persons applying pesticides as drugs or medication during the course of their normal practice are not included.

b. **Agricultural Plant** - This subcategory includes commercial applicators using or supervising the use of pesticides in the production of crops including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.

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

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

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

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

II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

a. **Outdoor Ornamentals** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of outdoor ornamental trees, shrubs and flowers.

b. **Turf** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of turf, such as at turf farms, golf courses, parks, cemeteries, athletic fields and lawns.

c. **Indoor Ornamentals** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of live plants in shopping malls, businesses, residences and institutions.

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

a. **General Aquatic** - This subcategory includes commercial applicators using or supervising the use of pesticides applied directly to surface water, including but not limited to outdoor application to public drinking water supplies, golf course ponds, rivers, streams and wetlands.

Excluding applicators engaged in public health related activities included in categories VII(e) and VIII below.

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

VI. **Vegetation Management**

a. **Rights-of-Way Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation on utility, roadside, maintenance of public roads, and railroad rights-of-way.

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

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

a. **General** - This subcategory includes commercial applicators using or supervising the use of pesticides in, on or around human dwellings, office buildings, institutions such as schools and hospitals, stores, restaurants, industrial establishments (other than in Category 6) including factories, warehouses, food processing plants, food or feed transportation facilities and other structures, vehicles, railroad cars, ships, aircraft and adjacent areas; and for the protection of stored, processed or manufactured products. This subcategory also includes commercial applicators using or supervising the use of pesticides to control rodents on refuse areas and to control other pests, including but not limited to birds and mammals.

b. **Fumigation** - This subcategory includes commercial applicators using or supervising the use of fumigants or fumigation techniques in any type of structure or transportation device.

c. **Disinfectant and Biocide** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems, to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, air conditioning systems, and in swimming pools and spas.

d. **Wood Preserving** - This subcategory includes commercial applicators using or supervising the use of restricted use pesticides to treat lumber, poles, railroad ties and other types of wooden structures including bridges, shops and homes. It also includes commercial applicators applying general use pesticides for remedial treatment to utility poles.

e. **Biting Fly & other Arthropod Vectors** - This subcategory includes commercial applicators and non-public health governmental officials using or supervising the use of pesticides in management and control of biting flies & other arthropod vectors of public health and public nuisance importance including, but not limited to, ticks, mosquitoes, black flies, midges, and members of the horsefly family.

f. **Termite Pests** - This subcategory includes commercial applicators using or supervising the use of pesticides to control termites.

VIII. **Public Health Pest Control**

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

b. **Other Pests** - This subcategory includes governmental officials using pesticides in programs for controlling other pests of concern to public health including, but not limited to, ticks and birds and mammal vectors of human disease.

IX. **Regulatory Pest Control**

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

X. **Demonstration and Research Pest Control**

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

XI. **Aerial Pest Control**

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

3. Competency Standards for Certification of Commercial Applicators

A. Applicants seeking commercial certification must establish competency in the general principles of safe pest control by demonstrating knowledge of basic subjects including, but not limited to, pesticide labeling, safety, environmental concerns, pest organisms, pesticides, equipment, application techniques and applicable laws and regulations. (Core Exam).

B. Applicants seeking commercial certification must demonstrate competency in each applicable category or subcategory. (Category Exam). Competency in the applicable category or subcategory shall be established as follows:

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

a. **Agricultural Animals**. Applicants seeking certification in the subcategory of Animal Pest Control as described in Section 2(A)(I)(a) must demonstrate knowledge of animals, their associated pests, and methods of pest control. Areas of practical knowledge shall include specific toxicity, residue potential, relative hazards of different formulations, application techniques, and hazards associated with age of animals, stress, and extent of treatment.

b. **Agricultural Plant**. Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. <u>For option III, applicants must demonstrate practical knowledge of agricultural soil fumigation as outlined in 40 CFR 171.103(d)(13) and 40 CFR 171.103(c)(1 through 10) (2023).</u>

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II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

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

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

c. **Indoor Ornamentals**. Applicants seeking certification in the Indoor Ornamental subcategory described in Section 2(A)(III)(c) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of indoor ornamental plantings. Such knowledge shall include pest recognition, proper pesticide selection, undue pesticide persistence, and application methods with particular reference to techniques used in proximity to human presence.

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include basic factors contributing to the

development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

b. **Sewer Root Control** - Applicants seeking certification in the subcategory of Sewer Root Control as described in Section 2(A)(V)(b) must demonstrate practical knowledge of proper methods of sewer root control pesticide application, application to pipes, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include potential effects on water treatment plants, movement of pesticides into off target pipes or buildings and the hazards of sewer gases.

VI. **Vegetation Management**

Applicants seeking certification in the subcategories under Vegetation Management as described in Section 2(A)(VI) (a-b) must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include an ability to recognize target organisms and circumstances specific to the subcategory, awareness of problems of runoff, root pickup and aesthetic considerations associated with excessive foliage destruction and "brown-out", and an understanding of the mode of action of herbicides, and reasons for the choice of particular chemicals for particular problems, importance of the assessment of potential impact of spraying on adjacent public and private properties and activities, and effects of spraying on fish and wildlife species and their habitat. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

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

a. **General**. Applicants seeking certification in the subcategory of General Pest Control as described in Section 2(A)(VII)(a) must demonstrate a practical knowledge of a wide variety of pests and methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

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b. **Fumigation**. Applicants seeking certification in the subcategory Fumigation as described in Section 2(A)(VII)(b) must demonstrate a practical knowledge of wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees and customers. Applicants must also demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(14) and 40 CFR 171.103(c)(1 through 10) (2023).

c. **Disinfectant and Biocide**. Applicants seeking certification in the subcategory of Disinfectant and Biocide as described in Section 2(A)(VII)(c) must demonstrate practical knowledge of water organisms and their life cycles, pool and spa design systems, drinking water treatment plant designs, cooling water system designs, mold and problematic microbial organisms, labels, hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.

d. **Wood Preserving**. Applicants seeking certification in the Wood Preserving Subcategory described in Section 2(A)(VII)(d) must demonstrate practical knowledge in wood destroying organisms and their life cycles, nonchemical control methods, pesticides appropriate for wood preservation, hazards associated with their use, proper handling of the finished product, proper disposal of waste preservatives, and proper application techniques to assure adequate control while minimizing exposure to humans, livestock and the environment.

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

f. **Termite Pests**. Applicants seeking certification in this subcategory must demonstrate a practical knowledge of Termite pests and methods for their control. Such knowledge shall include identification of termites and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

VIII. **Public Health Pest Control**

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

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

IX. **Regulatory Pest Control**

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

X. **Demonstration and Research Pest Control**

Applicants seeking certification in the category of Demonstration and Research Pest Control as described in Section 2(A)(X) must demonstrate practical knowledge in the broad spectrum of activities involved in advising other applicators and the public as to the safe and effective use of pesticides. Persons involved specifically in demonstration activities will be required to demonstrate knowledge of pesticide-organism interactions, the importance of integrating chemical and non-chemical control methods, and a grasp of the pests, life cycles

and problems appropriate to the particular demonstration situation. Field researchers will be required to demonstrate general knowledge of pesticides and pesticide safety, as well as a familiarity with the specific standards of this Section which apply to their particular areas of experimentation. All individuals certified in this category must also be certified in one or more of the previous categories or subcategories which represent at least 80% of their practice. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

XI. **Aerial Pest Control**

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Applicants seeking certification in the category of Aerial Pest Control as described in Section 2(A)(XI) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Applicants must also demonstrate competency in the specific category or subcategory in which applications will be made, as described in paragraphs I, II, VI and VIII herein. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. Applicants must also demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(15) and 40 CFR 171.103(c)(1 through 10) (2023).

4. Competency Standards for Certification of Commercial Applicator/Master

A. **Regulations Exam**. An applicant seeking certification as a commercial applicator/master must successfully complete a closed book exam on the appropriate chapters of the Board's regulations. The passing grade shall be 80%. An applicant must successfully complete the regulations exam before being allowed to proceed to the master exam. The staff may waive the requirements for the closed book regulation exam if it determines that a pest management emergency exists necessitating the issuance of a nonresident license pursuant to Section 6 B. of this chapter, provided that the staff verbally reviews the pertinent regulations with the applicant prior to issuing a nonresident license.

B. **Master Exam**. An applicant seeking certification as a commercial applicator/master must also demonstrate practical knowledge in ecological and environmental concerns, pesticide container and rinsate disposal, spill and accident mitigation, pesticide storage and on site security, employee safety and training, potential chronic effects of exposure to pesticides, pesticide registration and special review, the potential for groundwater contamination, principles of pesticide drift and measures to reduce drift, protection of public health, minimizing public exposure and use of non pesticide control methods. In addition, applicant must demonstrate the ability to interact with a concerned public.

5. Certification Procedures for Commercial Applicators

A. **Initial Certification.** Individuals attempting to certify as a commercial applicator must be at least 18 years of age.

I. **Application for Exams**. Individuals applying to take exams must submit a completed application and associated fees. All fees are waived for governmental employees.

a. Information shall include name, home address, company address, name and telephone number of supervisor and categories for which certification is desired.

b. A non-refundable fee of $10.00 for each core, category or subcategory exam shall accompany the application.

c. Study materials for other than the regulations exam are available through the University of Maine Cooperative Extension Pest Management Office for a fee.

d. A non-refundable fee of $10.00 for the regulations exam and $40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulations exam will be sent to the applicant upon receipt of their application and the required fees.

II. **Appointment for Exams**

a. Exams will be scheduled by Board staff. It is the responsibility of the applicant to reschedule if necessary.

b. All exam fees shall be forfeited if an applicant fails to notify the Board that he/she cannot sit for the exams on the scheduled date at least 24 hours in advance of the scheduled exam. Applicants who cancel their exam appointment two times in a row shall also forfeit their exam fees. Re-application shall require an additional $15.00 fee.

c. Exams will be available year-round on an appointment basis at the Board's office in Augusta.

d. Exams may also be offered at other locations designated by the Board staff. Appointments for these exams should be arranged by application with the Board's office in Augusta.

III. **Exams**

a. Applicants ~~t~~ shall take a closed book core exam plus a closed book category technical exam on each applicable category or subcategory for which they anticipate making pesticide applications.

b. In addition to the exams described above in sections (a), applicants for commercial applicator/master certification must complete a closed book

written regulations exam as well as a master exam. Applicants for commercial applicator/master must successfully complete the core and at least one category exam or the combined exam before being eligible to take the master exams. Applicants must also successfully complete the regulations exam before being allowed to commence on the master exam.

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

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

b. Applicants should be present and ready to take the exams at the appointed time.

c. Applicants shall not talk during the examination period.

d. Applicants shall not be allowed to bring any books, papers, cellular telephones, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.

e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.

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

a. An applicant who fails the core exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.

b. An applicant who fails a category exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.

c. An applicant who passes the core and one category exam shall be considered eligible for operator level licensing in that particular category so long as that person will be working under the supervision of a Master applicator. If at a later date the applicant wishes to add another category, only the appropriate category exam shall be required.

d. An applicant who fails a master exam must re-apply and pay all required fees and may not retake the examination prior to 6 days after the date of such failed examination.

e. Any applicant must pass both the core and at least one category exam by December 31 of the third year from the date on which the first exam was passed.

f. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retaking.

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

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

B. **Recertification of Applicators**

I. Persons with current valid certification may renew that certification by either providing documentation from a substantially equivalent professional certification program approved by the board or by accumulating recertification credits during the certification period described in Section 5(A)VI according to the following schedule:

a. **Master level** - 9 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.

b. **Operator level** - 6 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.

II. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.

a. Board staff will review program agendas and monitor programs as time permits.

III. Credit will be allowed for topics including, but not limited to:

a. Applicable laws and regulations.

b. Environmental hazards.

c. Calibration and new application techniques.

d. Label review.

e. Applicator safety.

f. Storage and disposal.

g. Pest identification and control.

h. Integrated pest management.

IV. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting with details of the agenda. Board staff will review program agendas and assign credit values.

a. One credit will be assigned for each 1 hour of presentation on appropriate topics.

b. An individual who conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.

c. An individual who organizes a meeting shall be required to maintain a sign up sheet and supervise the signing of the sheet by all applicators attending the program. That individual shall submit the signup sheet to the Board at the same time the verification attendance forms are collected and submitted to the Board.

V. For in state programs, applicants must submit verification of attendance at approved programs to the Board. For out of state programs, applicators must submit verification of attendance; they may also be asked to provide documentation such as an agenda or descriptions of the presentations attended.

VI. A person who fails to accumulate the necessary credits during their first three year certification period will have to retake and pass all exam(s) required for initial certification. If a person fails to accumulate the necessary credits again that person must retake and pass all exam(s) required for initial certification and within one year thereafter, obtain the balance of the recertification credits which that person failed to accumulate during the previous certification period. If that person does not obtain the balance of credits needed, the Board will not renew their license until the make- up credits are accrued.

VII. Applicants must attend the entire approved program(s) for which recertification credit is sought. No other person may complete or sign a verification form on another applicator's behalf. Any form that is completed or signed by a person other than the applicator will be deemed a fraudulent report and will not be approved by the Board for recertification credit(s). Any credit(s) approved by the Board pursuant to an attendance verification form which is subsequently determined by the Board to have been completed or signed by a person other than the applicator shall be void and may not be counted towards the applicator's recertification requirements; and any recertification issued on the basis of such credits shall be void.

6. Licensing

A. All Commercial Applicators required to be certified under this chapter and state pesticide law shall be licensed before using or supervising the use of pesticides as described in Section 1(A).

B. **Nonresident licenses**. When the staff determines that a pest management emergency exists which necessitates the use of aerial application and for which there are not sufficient qualified Maine licensees, it may issue a license without examination to nonresidents who are licensed or certified by another state or the Federal Government substantially in accordance with the provisions of this chapter. Nonresident licenses issued pursuant to this section are effective until December 31 of the year in which they are issued.

C. **Application**. Application for a commercial applicator license shall be on forms provided by the Board.

I. The completed application must include the name of the company or agency employing the applicant.

II. Unless the applicant is the owner of a company, the completed application must be signed by both the applicant and that person's supervisor to verify the applicant is an employee of the company/agency.

D. **Fee**. At the time of application, the applicant must tender the appropriate fee as follows:

I. For a commercial applicator license - $105.00 per person.

E. Commercial applicators who apply pesticides for hire (custom applicators) and operate a company that is incorporated or which employs more than one applicator (licensed or unlicensed) must comply with Chapter 35, *Certification & Licensing Provisions/Spray Contracting Firms* which requires an additional Spray Contracting Firm License.

F. **Insurance**. Commercial applicators who spray for hire (custom applicators) shall be required to have liability insurance in force at any time they make a pesticide application.

I. Applicators shall submit a completed and signed form provided by the Board at the time they apply for their license which attests that they will have the required amounts of insurance coverage in effect when they make pesticide treatments. The information submitted on the form must be true and correct.

II. Insurance coverage must meet or exceed the following minimum levels of liability:

a. **Ground applicators**

Public liability	$100,000 each person $300,000 each occurrence
Property damage	$100,000 each occurrence

b. **Aircraft applicators**

Public liability	$100,000 each person $300,000 each occurrence

Property damage	$100,000 each occurrence

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

H. **Expiration**

I. All licenses will expire at the end of the certification period as determined in Section 5(A)VI or when an individual licensee terminates employment with the company/agency with which the individual's license is affiliated.

II. The licensee or a company/agency representative shall notify the Board in writing within 10 days after a licensee is terminated from employment.

III. Also, all licenses within a company/agency are suspended if the licensed Master is terminated from employment or dies.

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

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

I. Full name of applicator

II. License number

III. Categories

IV. Expiration date

V. Maine statute under which license is issued.

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

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

AMENDED:
December 29, 1982
January 1, 1984
January 1, 1984 - Section 7
May 20, 1984 - Section 6
May 13, 1985 - Section 5
Emergency amendment effective April 18, 1986 - Section 6
August 3, 1986 - Section 6
November 30, 1986 - Section 3
May 23, 1987 - Section 1
April 27, 1988
April 29, 1990
January 1, 1996 (adopted by Board October 7, 1994 - see Section 8 for transition dates)
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
March 1, 1997

AMENDED:
December 28, 1999 -- also converted to MS Word
March 5, 2003
July 3, 2005 – filing 2005-267
March 4, 2007 – filing 2007-69
July 2, 2009 – filing 2009-318 (EMERGENCY, later reverted to pre-emergency status)

CORRECTIONS:
February, 2014 – agency names, formatting

AMENDED:
December 9, 2014 – filing 2014-280
September 23, 2015 – filing 2015-168
July 23, 2019 – filing 2019-131

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

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

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1. Competency Standards for Certification - Private Applicator

A. No person shall be certified as a private applicator unless he has fulfilled requirements demonstrating his knowledge of basic subjects including pesticide label comprehension, ability to read and understand pesticide labeling, safety, environmental concerns, stewardship, pest organisms, pesticides, equipment, application techniques, responsibilities for supervisors of non-certified applicators, and applicable laws and regulations. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans (core exam). Applicators must also follow the standards outlined in 40 CFR 171.201 and 40 CFR 171.105(a) (1 through 11).

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B. No person shall be certified as a private applicator unless he has demonstrated knowledge of the general principles of pest control for his major commodity, including specific pests of the crop, their life cycle, and proper timing of control measures to be efficacious (Commodity Exam).

2. Certification Procedures for Private Applicators

A. **Initial Certification**

1. Any person attempting to certify as a private applicator must be at least 18 years of age.

2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.

3. Exams may be taken at cooperating County University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.

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

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

b. Applicants should be present and ready to take the exams at the appointed time.

c. Applicants shall not talk during the examination period.

d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.

e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.

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

a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.

b. An applicant who fails the exam in the area of his primary commodity may not retake the that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.

c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.

d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.

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

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

1. Supplemental category exams shall be closed book.

2. Supplemental category exams will be available year-round on an appointment basis at the Board’s office in Augusta.

3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.

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

a. **Soil Fumigation**. This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops as outlined in 40 CFR 171.195(d) (2023).

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b. **Non-soil Fumigation**. This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device as outlined in 40 CFR 171.195(e) (2023).

c. **Aerial**. This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft as outlined in 40 CFR 171.195(f) (2023).

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

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

a. **Soil Fumigation**. Applicants seeking supplemental certification in the category of Soil Fumigation as described in Section 2(B)(4)(a) must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental cerification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (d) (~~2017~~2023).

b. **Non-soil Fumigation**. Applicants seeking supplemental certification in the category of Structural Fumigation as described in Section 2(B)(4)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees. In addition to the above competencies, private applicators obtaining

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supplemental cerification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (e) (~~2017~~2023).

c. **Aerial Pest Control**. Applicants seeking supplemental certification in the category of Aerial Pest Control as described in Section 2(B)(4)(c) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental cerification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (f) (~~2017~~2023).

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

D. **Recertification**

1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Section 2(A)6.

2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.

3. Credit will be allowed for topics including, but not limited to:

a. Applicable laws and regulations.

b. Environmental hazards.

c. Calibration and new application techniques.

d. Label review.

e. Applicator safety.

f. Storage and disposal.

g. Pest identification and control.

h. Integrated pest management.

4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.

    a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.

    b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.

5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.

6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

3. Licensing

A. **Application**. Application for a private applicator license, shall be on forms provided by the Board. Information shall include name; Social Security number; mailing address; farm name, location and telephone number; and major crop(s).

B. **Fee**. At the time of application, the applicant must tender the appropriate fee as follows:

1. For a private applicator license - $15.00 per person.

2. For replacement or alteration - $5.00.

C. **Expiration**. Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited and that person must retake and pass both the core and commodity exams to again be eligible for licensing.

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

E. **License Issued.** Licenses issued under this rule will include the following information:

I. Full name of applicator

II. License number

III. Commodities and categories

IV. Expiration date

V. Maine statute under which license is issued

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

EFFECTIVE DATE:
January 1, 1983

AMENDMENT EFFECTIVE:
December 6, 1987
August 17, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
March 1, 1997

AMENDED:
August 25, 1997 – fees
January 4, 2005 – filing 2004-605, Section 3.C.

CORRECTIONS:
February, 2014 – agency names, formatting

AMENDED:
December 9, 2014 – Section 2(A)(4)(a, b), filing 2014-281
July 23, 2019 – filing 2019-132

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

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

Section 1. Records

A. **Pesticide Application Records**

I. Commercial agricultural producers and commercial applicators shall maintain pesticide application records consistent with paragraph II. below for a period of two years from the date of application. Such records shall be kept current by recording all the required information on the same day the application is performed. These records shall be maintained at the primary place of business and available for inspection by representatives of the Board at reasonable times, upon request.

II. Pesticide application records shall include, at a minimum:

a. Site information including town and location, crop or site treated, target organism, customer and customer address (where applicable); and

i. for broadcast applications, size of treated area (when completed);

ii. for volumetric applications as described on the label, the volume treated;

iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).

b. **Application information**. For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

c. **Rate information**. For each distinct site, application rate information must be maintained as follows:

i. **Restricted Use Pesticides**. For restricted use pesticides, applicators shall record the total amount of pesticide applied (undiluted).

ii. **General Use Pesticides**. For general use pesticides, applicators shall record:

(1) rate information as described in (i.) above; or

(2) the mix ratio and the total mix applied; or

(3) the mix ratio and the mix per unit area applied.

d. For outdoor applications, except those listed below, weather conditions including wind speed and direction, air temperature and sky conditions recorded such as sunny, partly cloudy, overcast, foggy or rainy. No weather condition records need be kept for outdoor applications involving:

i. pesticides placed in bait stations;

ii. pesticide-impregnated devices placed on animals, such as ear tags; or

iii. pesticides injected into trees or utility poles.

e. For TBT applications to marine vessels, applicators must also record the vessel identification and size, and the disposition of TBT wastes including chips/dust removed prior to application and empty containers.

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

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

II. Pesticide dealer records shall also include the signature of purchaser or his/her agent, the product name, the EPA registration number, state special local need registration (SLN) number (if applicable), the quantity and size of containers purchased, and the date of purchase.

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

Section 2. Reports

A. **Annual Summary Reports by Commercial Applicators**. Annual summary reports must be electronically submitted for each calendar year by January 31 of the following year through a board-approved software solution. In the event a required report is not received by the due date, the person's license may be temporarily suspended until the proper report is received or until a decision is tendered at a formal hearing as described in 22 M.R.S.A. §1471-D(7). The report filed with the Board by or on behalf of commercial applicators shall contain the following information for each site or crop treated: quantity of each pesticide used, EPA registration number and total area treated (where applicable) for each pesticide.

B. **Annual Pesticide Sales Reports**. Pesticide dealers licensed to sell limited and restricted use pesticides must provide the Board with a calendar year-end report of total sales of all limited, restricted and general use pesticides electronically through a board-approved software solution before their pesticide dealer license can be renewed. The Board will furnish report forms.

C. **Transition to Electronic Submission of Sales and Use Reports**.

I. The 2024 amendments to Section 2 shall not affect the licensing status of applicators or dealers until reports for 2025 are due on January 31, 2026. At that time, reports will be required to be submitted in an electronic format through a board-approved software solution unless the submitter has received an electronic reporting waiver.

II. The 2024 amendments to this chapter which will transition annual summary reports by commercial applicators and annual pesticide sales reports to an electronic format shall be phased in over two years. Phase one shall include promotion of the electronic portal and education for commercial applicators and dealers on how to utilize the electronic submission portal for reporting year 2024. Phase two shall include requiring commercial applicators and dealers to use the electronic submission portal for reporting year 2025, unless the submitter has received an electronic reporting waiver.

D. **Waivers**

I. If commercial applicators or dealers do not have access to an electronic device capable of submitting electronic reports, they may seek an electronic reporting waiver. Waiver applications must include the following:

a. The name, address and telephone number of the applicant;

b. The license number of the applicant;

c. The intended format for submitting reports; and

c. Testimonial or proof that the submitter is unable to complete the electronic submission process outlined in Section 1.

II. Within 30 days after a complete application is submitted, the Board or its staff shall issue a waiver if:

a. The waiver application is received prior to December 31 of the reporting year;

b. The applicant possesses a valid pesticide applicator or dealer license issued by the State; and

c. The applicant agrees to submit physical copies of the annual reports required in Section 1 no later than January 31 of the following year.

The Board may place conditions on any such waiver, and the applicant shall comply with such conditions. Except as required by the waiver, the applicant shall undertake the reporting in accordance with all of the conditions described in their request and all other applicable legal standards. Waivers 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.

The contents of this section will be effective for the reporting year 2024.

~~C~~E. **Spray Incident Reports**

I. Commercial agricultural producers, commercial applicators, spray contracting firms and licensed pesticide dealers shall be responsible for telephoning a spray incident report to the Board as soon as practicable after emergency health care has been obtained for injured parties and efforts have been initiated to contain any spills.

II. A reportable spray incident is any significant misapplication or accidental discharge of a pesticide. Such incidents shall include: fires involving pesticides; vehicle and aircraft accidents resulting in a spill or human contamination; failure to turn off spray booms or other spray equipment resulting in application to sensitive areas (such as water bodies, accidentally applying pesticides to the wrong site or places of human habitation) when such application is a violation of label instructions or other law; overfilling of spray equipment resulting in risk of contamination of water; and any other equipment breakage or malfunction or pesticide handling activity which causes a pesticide release which may result in a threat to human health or the environment.

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

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

AMENDED:
August 12, 1985 - filing 85-275

REPEALED AND REPLACED:
April 5, 1995 - as "Record Keeping and Reporting Requirements," filing 95-149

AMENDED:
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
March 1, 1997

AMENDED:
November 11, 2001 - filing 2001-483
March 5, 2003 - filing 2003-61
January 4, 2005 – filing 2004-606 affecting Section 1.A.I.
December 23, 2012 – filing 2012-348 affecting Section 1.B.II.

CORRECTIONS:
February, 2014 – agency names, formatting

AMENDED:
July 23, 2019 – filing 2019-133

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

April 11, 2024

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff

- Adams, Carlton, Ianni, Jemison, Lajoie
- Assistant Attorney General: Carey Gustanski
- Staff: Boyd, Couture, Peacock, Pietroski, Vacchiano

2. Board Director Appointment

A director has been selected by the department and commissioner's office. The board may vote on the appointment of the director according to Title 22 §1471-B.

Presentation By: Megan Patterson, Director of Animal and Plant Health
Action Needed: Approve/Disapprove new Board Director

- Patterson stated that Alexander Peacock was selected as the new Board of Pesticides Control Director. She added that there was language in statute stating that the Board director was required to be approved by the Board. Patterson provided background on the history of the process. She noted that Peacock had experience and aptitude in different facets of the industry and would be a great leader for staff.
- Adams suggested adopting a policy to clean up the process of appointing a new director. He asked if a Board member participating in the hiring process for future directors would satisfy the Board's desire to be involved.
- Ianni suggested there also be an alternative to the process detailed in the new policy, such as a vote, in the event that a Board member was not available to serve on the hiring committee.
- Board members agreed. Staff will bring back a draft policy.
- Patterson suggested including language stating that if a member is unavailable, the Board shall identify an alternative process.
- The Board welcomed Peacock as the new Director.
- Peacock stated that he appreciated everyone's support and thanked Pietroski for serving as acting director for the past year.

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING

DEPARTMENT OF Agriculture Conservation & Forestry

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

3. Minutes of the February 9, 2024 and February 23, 2024 Board Meetings

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

- **Carlton/Jemison: Moved and seconded to accept the minutes of the February 9, 2024 mmeeting**
- **In Favor: Unanimous**

- **Carlton/Jemison: Moved and seconded to accept the minutes of the February 23, 2024 mmeeting**
- **In Favor: Unanimous**

4. Election of Officers

The Board's statute requires an annual election of officers. The members will choose a chair and vice-chair to serve for the coming year.

Presentation By: Alex Peacock, Director
Action Needed: Nomination and Election of Officers

- Peacock stated that Title 22 §1471-B required the annual election of officers to select a chair and vice chair to serve the Board.

  - **Carlton/Lajoie: Moved and seconded to nominate David Adams to serve as Chair of the Board of Pesticides Control**
  - **In Favor: Unanimous**

  - **Adams/Jemison: Moved and seconded to nominate Curtis Bohlen to serve as Vice Chair of the Board of Pesticides Control**
  - **In Favor: Unanimous**

5. General Conduct Expectations of Members of the Board of Pesticides Control

Review of expectations of Board members while operating in their capacities as Board members and as private citizens.

Presentation By: Carey Gustanski, Assistant Attorney General
Action Needed: Discussion

- Gustanski reviewed general conduct expectations with Board members, including their responsibilities, issues where there may be conflicts of interest, and explained the Freedom of Access Act, FOAA. Board members may only discuss agenda items at meetings. He explained guidelines that must be followed when discussing certain topics with the public. Gustanski stated that the general guideline was that if a topic dealt with pesticides or items that were not

before the Board under decision, then discourse with the public was healthy. If a specific matter was pending before the Board, then members should direct individuals to submit questions to Board staff to make sure questions reached all Board members. Gustanski reviewed rulemaking timelines and noted the general process of submission for when comments may be received. Other than executive sessions all public proceedings must be available to the public. Gustanski stated that Title 1 § 403-B of FOAA stipulated that all votes taken during a public proceeding using remote methods must be taken by roll call vote that can be seen and heard if using video technology and heard if using only audio technology, by the other members of the public body and the public. He also explained to the Board the conditions under Title 1 § 405 for which the Board may enter executive session.

6. Consideration of a Request for Variance from CMR01-026 Chapter 29 from RWC. Inc, to Treat Railroad Rights-of-way in Maine

RWC, Inc is seeking a variance from Chapter 29, Section 6, Buffer Requirements, in order to treat the Canadian Pacific Kansas City rail tracks rights-of-way in Maine. Board policy indicates that first-time variance requests must be considered by the Board. The policy further stipulates that railroad variance requests need to be consistent with the Maine Department of Transportation standards. The last variance for this railroad, previously contracted under Davey Tree Experts, was approved at the May 6, 2022 Board meeting.

Presentation By: Alex Peacock, Director
Action Needed: Approve/disapprove variance request

- **Carlton/Jemison: Moved and seconded to approve the variance request**
- **In Favor: Unanimous**

7. Review of Chapter 60: Designation of Critical Pesticide Control Areas

Overview of criteria which the Board will use in deciding if an area should be designated a Critical Pesticide Control Area.

Presentation By: Alex Peacock, Director
Carey Gustanski, Assistant Attorney General
Action Needed: Discussion

- Peacock stated that this agenda item was a precursor to agenda item eight. The last time the Board received a request of this type that went through the entire process was in 2000. One other request in 2008 did not complete the process. Peacock explained that if approved, this process would involve rulemaking activity. He added that another important component was the allowance for local participation in Board decisions regarding this matter. The municipality affected had the ability to appoint a Board member to vote on this agenda item.
- The Board members discussed the requirements of the procedure detailed in Section 1 of CMR01-026 Chapter 60 for considering and acting upon a petition for designation of a critical pesticide control area. The current Dennys River Critical Pesticide Control Area details were also considered.

8. Request to Designate Eagle Lake Water District Wellheads as a Critical Pesticide Control Area

Staff have received a petition to designate Eagle Lake Water District Wellheads as a critical pesticide control area as outlined in Chapter 60: Designation of Critical Pesticide Control Areas. Staff has provided the information provided by the requesting party. Once received, the board shall conduct rulemaking according to 5 MRSA Ch. 375, subchapter II and allow for local representation on board decisions regarding the designation according to Title 22 § 1471-V.

Presentation By: Alex Peacock, Director
Action Needed: Discussion/amend/approve rulemaking

- Peacock explained the background to the Board on the information staff received from the Eagle Lake Water & Sewer District.
- Gerald Raymond, Superintendent for the Eagle Lake Water & Sewer District, stated that they had worked with the Maine Drinking Water Program which directed them to the BPC. He added that they have been notified by the Drinking Water Program that since pesticides are being used in the area, the district would need to begin testing the water, which is costly.
- Adams stated that the Board understood the importance of protecting the water but they were struggling with what this undertaking would look like and what precedence it could possibly set. He suggested the Board take some time to process this before making a decision.
- Ianni asked if the abutting residences received their water from the Eagle Lake Water & Sewer District.
- Raymond responded that the abutting residences had deeper groundwater wells of their own. He added that the water district tried to pass an ordinance in 2008 but it was unsuccessful. A year ago, the water district requested another ordinance and brought it to the select board, and they were told it would not go through, and that is why they brought the case before the BPC.
- Gustanski noted that a general narrative was not up for discussion during this meeting because the rulemaking process would need to play out.
- Peacock stated that when the Board was ready to move forward they needed to determine whether the criteria according to Chapter 60 were met, move to enter into the rulemaking process which included setting up a public comment period and reviewing those comments.
- There was discussion about possibly holding the public hearing in the Eagle Lake area and the process for appointing a local representative to serve as an additional board member. Lajoie asked when the additional member would join the Board if the Board chose to vote today.
- Peacock stated that the Board member would be appointed before the public hearing.
- Adams asked that staff send information to the applicants regarding registering for pesticide application notification.

    - **Jemison/Ianni: Moved and seconded to break at 10:40AM**
    - **In Favor: Unanimous**

    - **Adams/Jemison: Moved and seconded to table this topic until the next meeting**
    - **In Favor: Unanimous**

9. Potential Rulemaking on 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

At the December 1, 2023 Board meeting, the Board discussed LD 1770 and what issues might be addressed in rulemaking. There is a need for the Board to discuss rulemaking to implement LD 1770. At the February 9, 2024 and February 23, 2024 Board meetings, the Board discussed additional information they would like to include in amendments to Chapter 50: Reports and Recordkeeping. Staff have compiled a memo with draft language for the Board to consider.

Presentation By: Karla Boyd, Policy & Regulations Specialist
Action Needed: Discussion and amend/approve rulemaking

- Boyd presented the proposed rulemaking and explained that the MePERLS system currently had the capability to accept annual reports. She added that if the Board wanted to amend the language they could not vote to enter rulemaking at this time.
- There was a discussion on what information was required for sales reporting. Adams stated that he would like staff to present in writing exactly what was required for annual reports.
- Couture stated that, to her knowledge, the BPC had been collecting sales information for general-use pesticide dealers depending on whether the companies were classified as retail or wholesale distributors. Retail distributors reported the companies from which they purchased products, while wholesale distributors submitted information identifying which companies they sold to and the details and quantities of products sold to those companies. Restricted-use pesticide dealers were required to report all sales of individual products annually.
- The Board discussed the process for issuing waivers from electronic reporting.

    - **Jemison/Carlton: Motioned and seconded to enter rulemaking for Chapter 50**
    - **In Favor: Unanimous**

10. Potential Rulemaking to Implement Amendments Required by the EPA for Approval of the Maine Pesticide Certification and Training Plan

In August 2023, the Maine Pesticide Certification and Training Plan amendments were approved by EPA. In section 13 of the state plan, staff put together rulemaking that would be required for EPA to provisionally accept the plan. This includes changes to Chapter 20, Chapter 31, and Chapter 32 with several incorporation of federal rule by reference. Staff have provided a table of changes needed in a memo as well as draft language that satisfies the requirements.

Presentation By: Karla Boyd, Policy & Regulations Specialist
John Pietroski, Manager of Pesticide Programs
Action Needed: Discussion/amend/approve rulemaking

- Pietroski stated that this rulemaking proposal involved a few details that needed to be incorporated into rule by reference to be in compliance with the EPA for approval of Maine's Pesticide Certification & Training Plan. These changes were required by EPA for the purpose of clarification.

    - **Lajoie/Jemison: Motioned and seconded to enter rulemaking for Chapters 20, 31 and 32**
    - **In Favor: Unanimous**

11. Consideration of Consent Agreement for Ehrlich

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved failure to notify participants on the Maine Notification Registry and failure to receive prior authorization to apply pesticides.

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

- Peacock explained that this consent agreement involved an applicator who made two applications for mosquito and tick control at residences within 250 feet of a property listed on the Maine Pesticide Notification Registry. The individual on the registry was not notified in advance of the applications. This agreement also involved an application that was made at a property without prior authorization. The individual had a previous contract for service with the company but had canceled it several years prior.

    - **Carlton/Jemison: Motioned and seconded to approve the consent agreement**
    - **In Favor: Unanimous**

12. Consideration of Consent Agreement for Mainely Grass

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved failure to notify participants on the Maine Notification Registry, unauthorized application of pesticides, use inconsistent with the pesticide label and off-target deposition of pesticides through spray drift.

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

- Peacock stated that while undergoing inspection review a number of instances showed up with Mainely Grass and involved multiple violations. As part of the consent agreement settlement the company had since instituted new policies for notification to comply with CMR 01-026 Chapter 28. Peacock added that he attended the company's spring meeting where they itemized the list of violations that occurred and how to implement practices to avoid them in the future.
- Jemison asked what the protocol would be if a complaint were filed against this company again this year. He added that these violations seemed egregious.
- Peacock said the Board was viewing a three-year span of violations in this case. If there were another drift violation that could be brought to the Board for consideration before the consent agreement was negortiated.
- There was discussion about what was in rule and statute regarding the revocation of a license.
- Adams stated that he would like staff to alert the Board if this company had further violations.

- **Lajoie/Carlton: Motioned and seconded to approve the consent agreement**
- **In Favor: Unanimous**

13. Other Old and New Business

a. Variance Permit for CMR01-026 Chapter 29, Dubois Contracting
b. Variance Permit for CMR01-026 Chapter 29, Damariscotta Mills Consulting, Inc.
c. Update on LD 1537 and LD 1960
d. Toxicologist Job Advertisement
e. Environmental Specialist IV: Compliance Manager Job Advertisement
f. Update on subpoenas for Paraquat
   - Gustanski stated that this was multi district litigation in which plaintiffs have sued paraquat manufacturers for health issues and other problems they claim exposure to the products have caused. The judge asked the parties to show some level of evidence that they had been exposed to the products. Gustanski added that the Department had received six subpoenas so far and staff had to research and provide any existing documents.
   - Adams had concerns about how much time it would take for Board staff to research the required information.
   - Gustanski stated that under rule, objection was permitted if the ask was an overburden. He added that his hope was that board staff would not have to be severely compromised to review these documents.

14. Schedule of Future Meetings

June 7, 2024 and July 19, 2024 are the next scheduled Board meeting dates. The Board will decide whether to change and/or add dates.

Staff have reserved Deering Room 101 for June 7, 2024 and July 19, 2024.

15. Adjourn

- **Carlton/Jemison: Motioned and seconded to adjourn at 12:00 PM**
- **In Favor: Unanimous**

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

DRAFT

Memorandum

To: Board of Pesticides Control
From: Julia K. Vacchiano, Pesticide Registrar and Water Quality Specialist
RE: EPA Special Local Need (SLN) [FIFRA, Section 24(c)] application to approve the use of Arbotect, EPA Reg. No. 100-892, to be used as an injection to control Beach Leaf Disease in *Fagus spp.* presumably caused by the foliar-feeding nematode *Litylenchus crenatae mccannii*

March 14, 2024

Enclosed is the above-referenced Special Local Needs (SLN) [FIFRA, Section 24(c)] application and supporting documents for your consideration.

Arbotect is currently registered in the state as an injectable fungicide for Dutch Elm Disease in Elm trees (*Ulmus spp.*) and Sycamore Anthracnose in Sycamore trees (*Platanus spp. and hybrids*). This Special Local Needs (SLN) would expand the site and target pest applications. The proposed SLN adds trees in the Fagus genus to the sites for use, which includes the native American Beech (*Fagus grandifolia*) as well as European and Asian species. The target pests would be expanded to include the probable cause of Beech Leaf Disease, *Litylenchus crenatae mccannii*. The SLN directions for use instruct applicators to inject 2-8oz of Arbotect 20-S, diluted per label instructions, for every 5 inches of trunk diameter. The tree should be fully in leaf and infected with the target pest. Injection sites are to be placed at 3-10 inch intervals around the root flares. This procedure should not be done more than once every 2 years.

Arbotect contains 26.6% of its one active ingredient, Thiabendazole Hypophosphite (CAS No. 28558-32-9) accounting for 20% total Thiabendazole. Thiabendazole is considered by the EPA to have "generally low toxicity" to human beings but is highly toxic to freshwater estuarine fish and freshwater invertebrates. It is considered practically non-toxic to birds and other non-human mammals. The concern for leaching through tree roots into groundwater after xylem injection is considered to be low. There are existing SLN's for the use of Arbotect for Beech Leaf Disease in Connecticut, Massachusetts, New Jersey, New York, and Ohio.

This SLN was submitted to the BPC by Bartlett Tree Expert's plant pathologists Andrew L. Loyd, PhD, and Matthew A. Borden, DPM. They have conducted experiments and consider this to be a substantially better treatment option when compared to available alternatives for treating

trees in forest and ornamental settings. This request is paired with letters of support from Alicyn Smart, DPM. Alicyn is an Associate Extension Professor and Plant Pathologist at the University of Maine Cooperative Extension and the Director of their Plant Disease Diagnostic Laboratory. Arbotect manufacturer Syngenta Crop Protection, LLC. also sent a letter of support for this SLN.

Please review the attached documents and let me know if you have any questions.

- FIFRA, Section 24(c) application
- Letter of request from Andrew L. Loyd, PhD, and Matthew A. Borden, DPM, Plant Pathologists, Bartlett's Tree Experts
- Addendum: Supporting Figures from Andrew L. Loyd, PhD, and Matthew A. Borden, DPM, Plant Pathologists, Bartlett's Tree Experts
- Letter of Support from Alicyn Smart, DPM, Associate Extension Professor and Plant Pathologist & Director of the Plant Disease Diagnostic Laboratory, University of Maine Cooperative Extension
- Letter of support from Pat Dinnen, Regulatory Manager, Syngenta Crop Protection, LLC
- Arbotect Section 3 Label
- Arbotect Section 24(c) Special Local Need Label
- Arbotect MSDS

References:

Doccola, J. J., & Wild, P. M. (2012). Tree Injection as an Alternative Method of Insecticide Application. In S. Soloneski & M. Larramendy (Eds.), *Insecticides: Basic and Other Applications* (pp. 61–78). essay, InTech.

United States Department of Environmental Protection. (2002, May). *Pesticides - R.E.D. FACTS Thiabendazole and Salts*. Prevention, Pesticides, and Toxic Substances. https://www3.epa.gov/pesticides/chem_search/reg_actions/reregistration/fs_PC-060101_1-May-02.pdf

Bartlett Tree Research Laboratories
13768 Hamilton Rd.
Charlotte, NC 28278

January 12, 2024

Maine Department of Agriculture, Conservation & Forestry
Mary Tomlinson, Pesticide Registrar, Maine Board of Pesticides Control
28 State House Station Augusta, ME 04333

Subject: EXPEDITED REQUEST FOR SPECIAL LOCAL NEEDS (FIFRA 24C) LABEL FOR ARBOTECT 20-S USE IN MAINE

Dear Ms. Tomlinson:

The R.A. Bartlett Tree Research Laboratories has been involved in research into managing beech leaf disease since 2018. Numerous field and laboratory trials have been conducted with several active ingredients currently available or not available for use in the residential tree use site. Through these trials we have partnered with chemical companies, universities, and government agencies to help find the best management tactics for this emerging threat. Our research staff has invested much time and resources into finding solutions to this problem to better serve our clientele, the public at large, and the green industry.

Beech leaf disease (BLD) is an emerging and devastating disease of beech trees in the eastern United States caused by the foliar-feeding nematode *Litylenchus crenatae mccannii*. This nematode is presumed to be the result of an introduction likely from somewhere in Asia, where this nematode species was originally described from leaf galls on *Fagus crenatae* (Japanese beech). This disease has spread in North America from its original detection in northeastern Ohio to fourteen additional states and Ontario, Canada.

Beech is a keystone species in natural landscapes feeding many wildlife and providing overstory canopy for many shade-loving perennials and annuals. Beech leaf disease progresses rapidly by depleting the carbohydrate storage from the nematode-feeding on leaves. Furthermore, since large trees have more carbohydrate reserves than small trees, there is a negative relationship, where smaller trees die much more rapidly. This results in less successful forest regeneration.

This disease is not unique to natural landscapes, and it is also resulting in mortality and decline in planted American and European beech in botanical gardens, arboreta, and residential/commercial landscapes. While we are still learning about the possibility of transient vectors of the nematode such as by numerous bird species reported in a recent press release from the Holden Arboretum, it is not looking promising that management of vectors is going to be feasible. This disease will have significant economic and ecological consequences and is

spreading rapidly. If management is not attempted, we will be guilty of having failed to protect this important group of tree species.

While managing entire forests with pesticides may not be feasible or desirable, management in public plant collections and in home landscapes should be attempted. The American chestnut near-extinction was also caused by a disease resulting from an introduced pathogen, and as environmental stewards we should try everything in our power to reduce the risk of this happening to the American beech and planted European beech even if saving these trees is limited to plants in public gardens and arboreta or in residential/commercial gardens due to cost and feasibility.

Foliar-feeding plant parasitic nematodes are inherently difficult organisms to manage, and only a few systemic products are labeled specifically for nematodes in trees. Emamectin benzoate and abamectin are two systemic active ingredients with labeled products that have activity against the bole infesting pine wilt nematode *Bursaphelenchus xylophilus* when injected into the root flare of trees. Although laboratory experiments showed good efficacy with emamectin benzoate (Addendum Figure 1) against *Litylenchus crenatae mccannii*, numerous field trials over the last four years in Ohio and New York have yielded subpar results (Addendum Figure 2). The foliar fungicides with the active ingredient fluopyram have been successful for small to medium sized trees, but full coverage from ground sprays and drift management are challenges. A need for a systemic product for management of BLD in large trees is imperative and would limit impacts to non-target organisms and the environment.

Arbotect 20-S is a systemic fungicide labeled for root flare injections of elms and sycamores to prevent Dutch elm disease and anthracnose, respectively. The active ingredient thiabendazole is in the benzimidazole class of chemistry and has both antifungal and nematocidal properties. In summer of 2022, a field trial on private land in Ohio investigated the potential of root flare injections of Arbotect 20-S in managing beech leaf disease. Trees were injected prior to the dispersal period of the nematodes moving from leaf galls to buds to overwinter. In March of 2023, dormant buds were collected from Arbotect 20-S treated beech and non-treated controls, and there were fewer nematodes in buds from the Arbotect 20-S treated trees relative to non-treated controls. In July 2023, trees were visually inspected and trees treated with Arbotect 20-S significantly improved ($P=0.0006$) in canopy area showing BLD symptoms, while controls did not improve ($P=0.1714$) when conducting a T-test between pre-treatment and post-treatment disease severity ratings (Addendum Figure 3). At this trial site there were no acute phytotoxicity symptoms observed when trees were injected with the 1 year Dutch elm disease prevention rate of 0.4 fl. oz. Arbotect 20-S/in DBH diluted in 16 fl. oz water/in DBH.

Due to these promising results a second experiment was installed on beech trees on a separate private landowner's property in Ohio in July of 2023. In this trial we used the Sycamore anthracnose preventive rate on the Arbotect 20-S label of 1.6 fl. oz. Arbotect 20-S/in DBH diluted in 32 fl. oz. water/in DBH. Efficacy data will be collected in the summer of 2024, but no acute phytotoxicity was observed in the trees up to three weeks following injections.

Thiabendazole has low toxicity to mammals and birds, and environmental concerns are limited due to the application being applied directly to the xylem of the trees by root flare injections. Arbotect 20-S represents a solution for managing beech leaf disease in large trees in an integrated pest management program for this emerging disease of beech.

There is an urgent need for the included special local needs label under FIFRA 24(c) for Arbotect 20-S for use in Maine. Summaries of the efficacy data of research trials using foliar Arbotect 20-S to manage BLD are outlined in the attached addendum of this request letter. As this disease continues to spread, it will cost the government, landowners, and nurserymen significant amounts of money, and the environment is likely to change for the worse as beech trees continue to decline and die. The Arbotect 20-S data is the most compelling data to date for showing efficacy of the North American beech leaf nematode on large beech trees. The product has low mammalian toxicity, with caution signal word, and approval from the EPA. Please grant this emergency use for the trees and people of Maine and consider this request with a sense of urgency. Do not hesitate to reach out with any questions or comments from us or our supporters.

Thank you for your time and consideration.

Sincerely,

Andrew L. Loyd, PhD
Plant Pathologist
aloyd@bartlett.com
980-279-7677

Matthew A. Borden, DPM
Plant Pathologist
mborden@bartlett.com
540-908-8722

THE UNIVERSITY OF MAINE
Cooperative Extension

Diagnostic and Research Laboratory

January 19, 2024

Maine Department of Agriculture, Conservation & Forestry
Mary Tomlinson, Pesticide Registrar, Maine Board of Pesticides Control
28 State House Station Augusta, ME 04333

I am writing this letter to support the approval of the Section 24(c) submission by Syngenta Crop Protection for the use of Arbotect 20-S in managing beech leaf disease (BLD) in Maine. BLD is very severe in Maine, having been reported in 10 of the 16 counties and showing continual spread across our state's forests. In the Plant Disease Diagnostic Lab, we have confirmed beech leaf disease in the following Maine counties: Cumberland, Hancock, Kennebec, Piscataquis, and Washington. This disease caused by foliar nematodes has become an increasingly difficult problem not just for forest health but also for the managed landscapes in Maine.

Upon learning of Dr. Andrew Loyd and Bartlett's pioneering research in finding a management strategy for this disease, I was very intrigued to hear of a solution to stopping the spread of this disease in the Northeast. Dr. Loyd and Bartlett have found measures that can provide effective treatments for this disease. Having reviewed the data, I can confirm that the findings are statistically valid and provide excellent evidence that treatment with thiabendazole injection has the potential to be a very valuable tool for managing BLD while also minimizing environmental impact.

It is with great urgency that I recommend support of Syngenta's interest in a 24(c) registration that extends the use of Arbotect 20-S to include beech trees. This product already has great management applications for elms suffering from Dutch Elm Disease, another disease that has proven to be devastating to Maine forests and landscapes. Until further research is conducted on how beech leaf disease spreads, management options for this disease are of utmost importance to the fate of Maine forests and landscapes. Please feel free to contact me if you'd like to discuss this further.

Sincerely,

Alicyn Smart, D.P.M.
Associate Extension Professor and Plant Pathologist
& Director of the Plant Disease Diagnostic Laboratory
alicyn.smart@maine.edu

Patricia (Pat) Dinnen
Regulatory Manager
State Registration/State Affairs

Syngenta Crop Protection, LLC
P.O. Box 18300
Greensboro, NC 27419-8300
www.syngenta.com

Tel. 336 632 2494
Fax: 336 632 2884
pat.dinnen@syngenta.com

syngenta

February 28, 2024

Ms. Mary E. Tomlinson
Pesticides Registrar & Water Quality Specialist
Board of Pesticides Control
Maine Department of Agriculture, Conservation and Forestry
28 State House Station
Augusta, ME 04333-0028

Dear Ms. Tomlinson:

On behalf of Dr. Andrew Loyd and Dr. Matthew Borden, Plant Pathologists of Bartlett Tree Research Laboratories and Dr. Alicyn Smart, Associate Extension Professor and Plant Pathologist & Director of the Plant Disease Diagnostic Laboratory at The University of Maine, Syngenta Crop Protection, LLC respectfully requests a Section 24(c) for Arbotect 20-S as a tree injection treatment to beech trees for management of Beech Leaf Disease, a new pest that is threatening the health of beech trees in managed landscapes and forests in the state of Maine. The rationale is that there is not another registered product as efficacious as Arbotect 20-S as a tree injection treatment to manage this disease. This is a non-food, non-feed use.

Dr. Andrew Loyd, Dr. Matthew Bordon, and Dr. Smartt have written letters of support explaining the need for this tree injection treatment to manage Beech Leaf Disease in beech trees.

There are existing SLN's for this use recently approved in Connecticut, Massachusetts, New Jersey, New York, and Ohio.

Enclosed in support of this submission are:

- SLN Label
- EPA SLN Application Form 8570-25
- Support Letter from Dr. Andrew Loyd and Dr. Matthew Borden of Bartlett Tree Research Laboratories
- Support Letter from Dr. Alicyn Smart of The University of Maine
- Efficacy Data
- Arbotect 20-S Federal Label
- Arbotect 20-S SDS

If you have any questions, please do not hesitate to call.

Sincerely,

Pat Dinnen

Pat Dinnen
Regulatory Manager

Enclosures

Bartlett Tree Research Laboratories
13768 Hamilton Rd.
Charlotte, NC 28278

January 12, 2024

Maine Department of Agriculture, Conservation & Forestry
Mary Tomlinson, Pesticide Registrar, Maine Board of Pesticides Control
28 State House Station Augusta, ME 04333

Addendum: SUPPORTING FIGURES FOR EXPEDITED REQUEST FOR SPECIAL LOCAL NEEDS (FIFRA 24C) LABEL FOR ARBOTECT 20-S USE IN MAINE

ATTACHED:

Figure 1. In-vitro bioassays showed encouraging acute toxicity from exposure to emamectin benzoate (Eb) at 43,000, 4,300, 430, and 43 ppm compared to a distilled water control over a 24 hr period.

Figure 2. Multiple field trial results of emamectin benzoate product injection in 2021 at two rates did not show an improvement in symptom severity compared to the non-treated control.

Figure 3. Efficacy of root flare injections of Arbotect at 0.4 fl. oz product diluted in 16 fl. oz. of water/in DBH relative to non-treated control beech trees in Ohio. The pre-treatment and post-treatment ratings were statistically compared with a t-test for Arbotect 20-S and non-treated control trees independently.

Figure 1. *In vitro* lab assay testing toxicity of emamectin benzoate exposure to *Litylenchus crenatae mccannii*

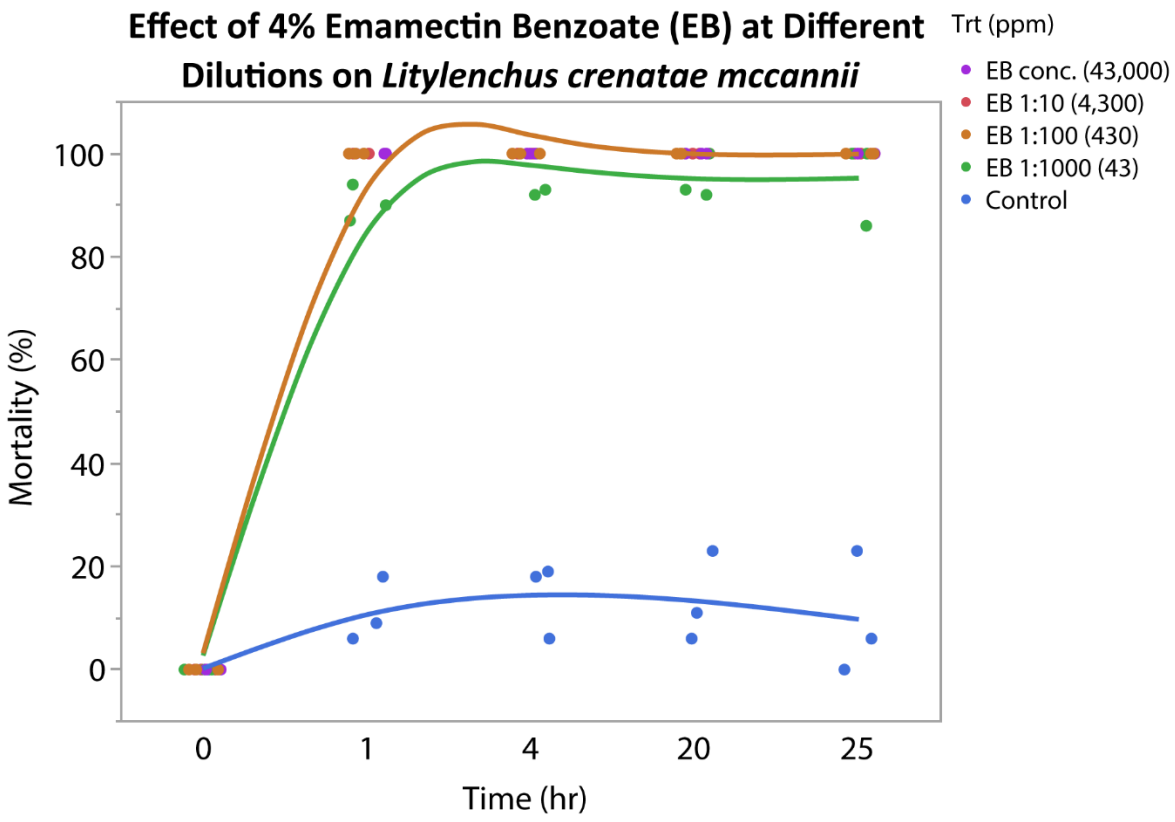


Figure 2. BLD severity change: emamectin benzoate injection (representative of 3 trials)

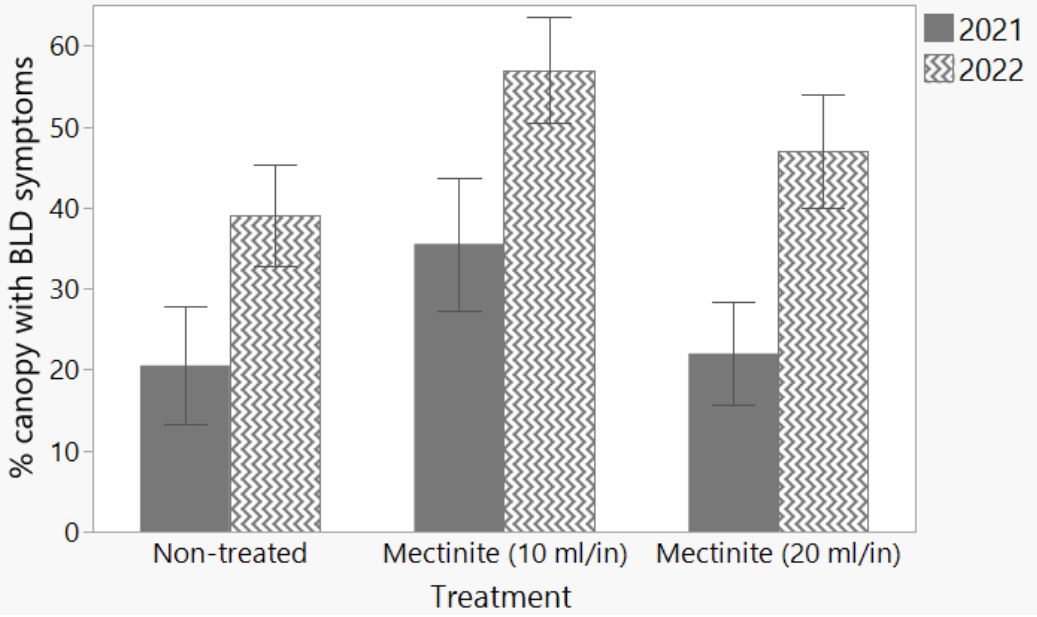
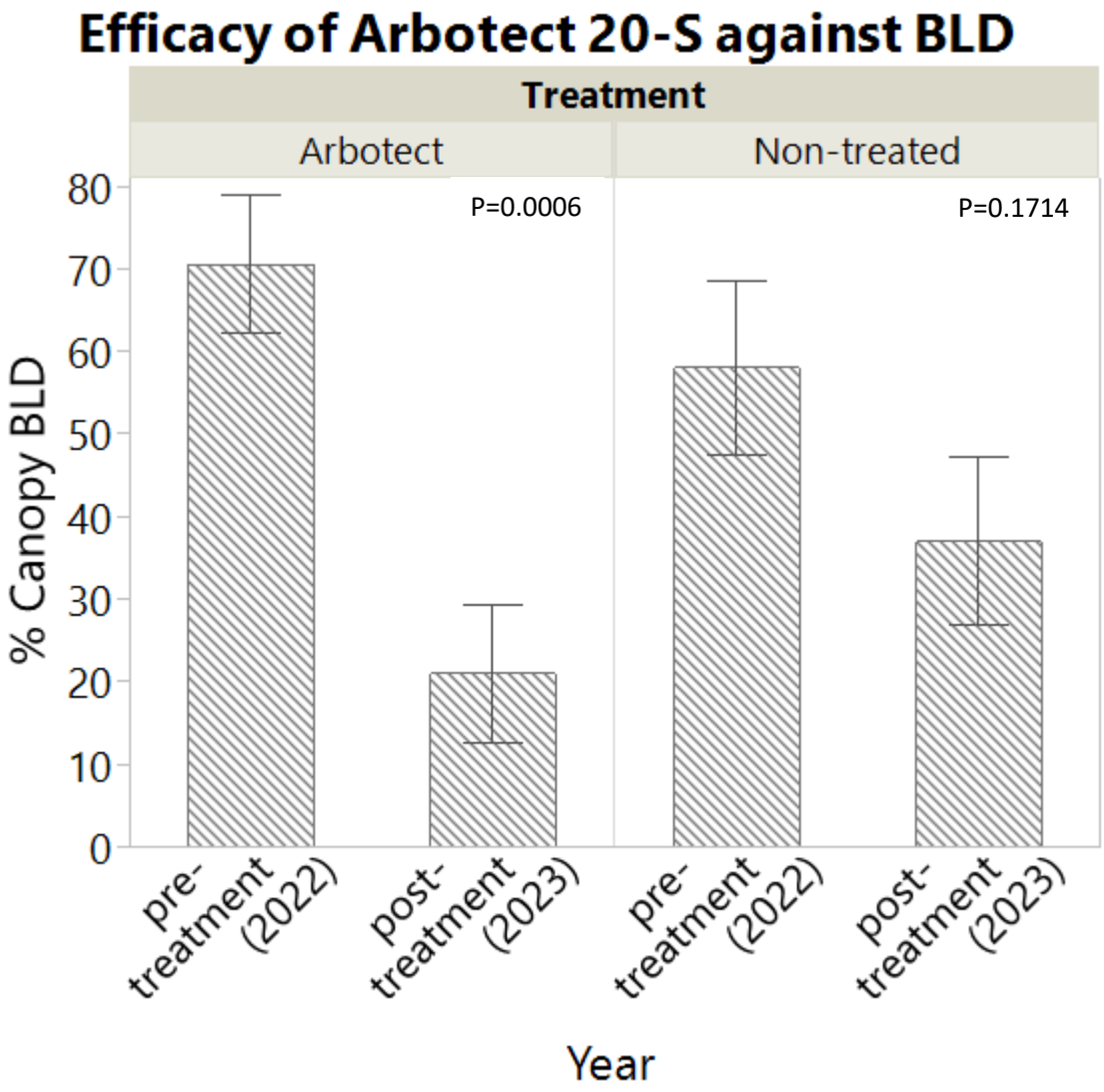


Figure 3. Field trial testing the efficacy of Arbotect 20-S in managing beech leaf disease in Ohio (2022-2023)



Each error bar is constructed using 1 standard error from the mean.

F.A. Bartlett Tree Experts Company
13768 Hamilton Rd.
Charlotte, NC 28278

January 12, 2024

Maine Department of Agriculture, Conservation & Forestry
Mary Tomlinson, Pesticide Registrar, Maine Board of Pesticides Control
28 State House Station Augusta, ME 04333

Proposed FIFRA 24c Recommendation for Arbotect 20-S

Dear Ms. Tomlinson:

The F.A. Bartlett Tree Experts Company wishes to submit this application for consideration to pursue a special local needs label in Maine under FIFRA section 24(c) for the fungicide Arbotect 20-S for the use of managing beech leaf disease on beech trees. Enclosed please find attached the current label of Arbotect 20-S, and a summary of research findings supporting the use of Arbotect 20-S for the suppression of beech leaf disease and the North American beech leaf nematode.

Proposed FIFRA 24(c) Recommendation
Allow Arbotect 20-S Fungicide, EPA #100-892, to be used to treat beech trees for suppression of beech leaf disease and the North American beech leaf nematode in Maine

Researchers and Titles

Andrew L. Loyd, PhD
Plant Pathologist
Bartlett Tree Research Laboratories

Matthew A. Borden, DPM
Plant Pathologist
Bartlett Tree Research Laboratories

Pesticide Name and EPA Registration Number
Arbotect 20-S
EPA Registration Number 100-892

Target Crop
Presently, Arbotect 20-S is labeled with the explicit use sites of elm and sycamore trees and pests Dutch elm disease and anthracnose for each, respectively. The F.A. Bartlett Tree Experts Company requests that the state of Maine expands the use of Arbotect 20-S to allow the use site of beech (*Fagus* species) for managing beech leaf disease caused by the foliar feeding nematode *Litylenchus crenatae mccannii*.

Target Pest and Use Site
Beech leaf disease, *Litylenchus crenatae mccannii*
Beech trees, *Fagus* species

Proposed Application Rate
The F.A. Bartlett Tree Expert Company proposes that the root flare injection application rates for management of beech leaf disease on beech be considered to range as low as the one year

spreading rapidly. If management is not attempted, we will be guilty of having failed to protect this important group of tree species.

While managing entire forests with pesticides may not be feasible or desirable, management in public plant collections and in home landscapes should be attempted. The American chestnut near-extinction was also caused by a disease resulting from an introduced pathogen, and as environmental stewards we should try everything in our power to reduce the risk of this happening to the American beech and planted European beech even if saving these trees is limited to plants in public gardens and arboreta or in residential/commercial gardens due to cost and feasibility.

Foliar-feeding plant parasitic nematodes are inherently difficult organisms to manage, and only a few systemic products are labeled specifically for nematodes in trees. Emamectin benzoate and abamectin are two systemic active ingredients with labeled products that have activity against the bole infesting pine wilt nematode *Bursaphelenchus xylophilus* when injected into the root flare of trees. Although laboratory experiments showed good efficacy with emamectin benzoate (Addendum Figure 1) against *Litylenchus crenatae mccannii*, numerous field trials over the last four years in Ohio and New York have yielded subpar results (Addendum Figure 2). The foliar fungicides with the active ingredient fluopyram have been successful for small to medium sized trees, but full coverage from ground sprays and drift management are challenges. A need for a systemic product for management of BLD in large trees is imperative and would limit impacts to non-target organisms and the environment.

Arbotect 20-S is a systemic fungicide labeled for root flare injections of elms and sycamores to prevent Dutch elm disease and anthracnose, respectively. The active ingredient thiabendazole is in the benzimidazole class of chemistry and has both antifungal and nematocidal properties. In summer of 2022, a field trial on private land in Ohio investigated the potential of root flare injections of Arbotect 20-S in managing beech leaf disease. Trees were injected prior to the dispersal period of the nematodes moving from leaf galls to buds to overwinter. In March of 2023, dormant buds were collected from Arbotect 20-S treated beech and non-treated controls, and there were fewer nematodes in buds from the Arbotect 20-S treated trees relative to non-treated controls. In July 2023, trees were visually inspected and trees treated with Arbotect 20-S significantly improved ($P=0.0006$) in canopy area showing BLD symptoms, while controls did not improve ($P=0.1714$) when conducting a T-test between pre-treatment and post-treatment disease severity ratings (Addendum Figure 3). At this trial site there were no acute phytotoxicity symptoms observed when trees were injected with the 1 year Dutch elm disease prevention rate of 0.4 fl. oz. Arbotect 20-S/in DBH diluted in 16 fl. oz water/in DBH.

Due to these promising results a second experiment was installed on beech trees on a separate private landowner's property in Ohio in July of 2023. In this trial we used the Sycamore anthracnose preventive rate on the Arbotect 20-S label of 1.6 fl. oz. Arbotect 20-S/in DBH diluted in 32 fl. oz. water/in DBH. Efficacy data will be collected in the summer of 2024, but no acute phytotoxicity was observed in the trees up to three weeks following injections.

Thiabendazole has low toxicity to mammals and birds, and environmental concerns are limited due to the application being applied directly to the xylem of the trees by root flare injections. Arbotect 20-S represents a solution for managing beech leaf disease in large trees in an integrated pest management program for this emerging disease of beech.

There is an urgent need for the included special local needs label under FIFRA 24(c) for Arbotect 20-S for use in Maine. Summaries of the efficacy data of research trials using foliar Arbotect 20-S to manage BLD are outlined in the attached addendum of this request letter. As this disease continues to spread, it will cost the government, landowners, and nurserymen significant amounts of money, and the environment is likely to change for the worse as beech trees continue to decline and die. The Arbotect 20-S data is the most compelling data to date for showing efficacy of the North American beech leaf nematode on large beech trees. The product has low mammalian toxicity, with caution signal word, and approval from the EPA. Please grant this emergency use for the trees and people of Maine and consider this request with a sense of urgency. Do not hesitate to reach out with any questions or comments from us or our supporters.

Thank you for your time and consideration.

Sincerely,

Andrew L. Loyd, PhD
Plant Pathologist
aloyd@bartlett.com
980-279-7677

Matthew A. Borden, DPM
Plant Pathologist
mborden@bartlett.com
540-908-8722

Section 24(c) Special Local Need Label

THIABENDAZOLE	GROUP 1	FUNGICIDE

FOR DISTRIBUTION AND USE ONLY WITHIN THE STATE OF MAINE

Arbotect® 20-S
Tree Injection Treatment to Beech Trees (*Fagus* spp.) for Management of Beech Leaf Disease Caused by the Foliar Feeding Nematode, *Litylenchus crenatae*

EPA Reg. No. 100-892
EPA SLN No. ME-xxxxx

This label expires and must not be distributed or used in accordance with this SLN registration after December 31, 2028

KEEP OUT OF REACH OF CHILDREN
CAUTION

DIRECTIONS FOR USE

- It is a violation of Federal law to use this product in a manner inconsistent with its labeling.
- This SLN label and main EPA-registered label for Arbotect 20-S must be in the possession of the user at the time of pesticide application.
- Follow all applicable directions, restrictions, Worker Protection Standard requirements, and precautions on this SLN label and the main EPA-registered label for Arbotect 20-S.

For each 5 inches of trunk diameter, inject 2-8 fl oz of Arbotect 20-S. (One-part Arbotect 20-S should be diluted with between 16 and 32 parts water). For large trees, inject up to 12 fl oz of Arbotect 20-S per 5 inches of trunk diameter.

For best results, injections should be made after the tree is fully leafed (post infection) through late summer or early fall. Treatments will aid in the control of Beech Leaf Disease. Place injection sites at 3 to 10 inch intervals around the root flares. Trees treated into trunk wood will not be as effectively protected. Use a maximum hole diameter of 1/4 inch using a minimum of 3 or 4 equally spaced injection points per tree. A typical tree will require 1.3 injection sites per diameter inch. It is important that injection sites be placed in root flares at or below ground level.

- Trees that are 5 inches or less in diameter at chest height should not be treated.
- If pressure injection is to be used, do not exceed 30 psi.

- Do not dilute Arbotect 20-S with highly alkaline water as a precipitate may form. Pre-test your water source by mixing a small amount of Arbotect 20-S with water. If the solution turns white, use different water.
- Do not treat more than once every two years.

24(c) Registrant:
Syngenta Crop Protection, LLC
P. O. Box 18300
Greensboro, NC 27419-8300

Label Code: ME0892023AA0224

GROUP 1 FUNGICIDE

PULL HERE TO OPEN

Arbotect® 20-S

syngenta®

Fungicide

For Dutch Elm Disease and Sycamore Anthracnose

Active Ingredient:
Thiabendazole Hypophosphite (CAS No.28558-32-9) 26.6%
(equivalent to 20% Thiabendazole)

Other Ingredients:	73.4%
Total:	100.0%

Arbotect 20-S contains 1.8 pounds active ingredient per gallon.

Arbotect 20-S is formulated as a soluble liquid concentrate.

KEEP OUT OF REACH OF CHILDREN.

CAUTION

See additional precautionary statements and directions for use inside booklet.

EPA Reg. No. 100-892 EPA Est. 39578-TX-1

Product of India
Formulated in the USA

SCP 892A-L1P 1014
4053005

1 gallon
Net Contents

™

FIRST AID	
If swallowed	• Call a poison control center or doctor immediately for treatment advice. • Do not give any liquid to the person. • Do not induce vomiting unless told to do so by the poison control center or doctor. • Do not give anything by mouth to an unconscious person.
If Inhaled	• Move person to fresh air. • If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth, if possible. • Call a poison control center or doctor for further treatment advice.
If on skin or clothing	• 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.
If in eyes	• Hold eye open and rinse slowly and gently with water for 15-20 minutes. • Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. • 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.	
HOT LINE NUMBER For 24-Hour Medical Emergency Assistance (Human or Animal) or Chemical Emergency Assistance (Spill, Leak, Fire, or Accident), Call **1-800-888-8372**	

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

CAUTION

Harmful if swallowed. Harmful if inhaled. Avoid breathing spray mist. May irritate skin. Avoid contact with skin, eyes or clothing. Remove and wash contaminated clothing before reuse. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet.

Personal Protective Equipment (PPE)

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

- Long-sleeved shirt and long pants
- Shoes plus socks

User Safety Requirements

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

User Safety Recommendations

Users should:

- Wash hands before eating, drinking, chewing gum, using tobacco, or using the toilet.
- Remove clothing/PPE immediately if pesticides get inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. As soon as possible, wash thoroughly and change into clean clothing.

Environmental Hazards

For terrestrial uses: 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 disposing of equipment washwater or rinsate.

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, presence of other materials or other influencing factors in the use of the product, which are beyond the control of SYNGENTA CROP PROTECTION, LLC or Seller. To the extent permitted by applicable law, Buyer and User agree to hold SYNGENTA and Seller harmless for any claims relating to such factors.

SYNGENTA warrants that this product conforms to the chemical description on the label and is reasonably fit for the purposes stated in the Directions for Use, subject to the inherent risks referred to above, when used in accordance with directions under normal use conditions. To the extent permitted by applicable law: (1) this warranty does not extend to the use of the product contrary to label instructions or under conditions not reasonably foreseeable to or beyond the control of Seller or SYNGENTA, and, (2) Buyer and User assume the risk of any such use. TO THE EXTENT PERMITTED BY APPLICABLE LAW, SYNGENTA MAKES NO WARRANTIES OF MERCHANTABILITY OR OF FITNESS FOR A PARTICULAR PURPOSE NOR ANY OTHER EXPRESS OR IMPLIED WARRANTY EXCEPT AS WARRANTED BY THIS LABEL.

To the extent permitted by applicable law, in no event shall SYNGENTA be liable for any incidental, consequential, or special damages resulting from the use or handling of this product. **TO THE EXTENT PERMITTED BY APPLICABLE LAW, THE EXCLUSIVE REMEDY OF THE USER OR BUYER, AND THE EXCLUSIVE LIABILITY OF SYNGENTA 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 SYNGENTA OR SELLER, THE REPLACEMENT OF THE PRODUCT.**

SYNGENTA and Seller offer this product, and Buyer and User accept it, subject to the foregoing Conditions of Sale and Limitation of Warranty and Liability, which may not be modified except by written agreement signed by a duly authorized representative of SYNGENTA.

DIRECTIONS FOR USE

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

FAILURE TO FOLLOW THE DIRECTIONS FOR USE AND PRECAUTIONS ON THIS LABEL MAY RESULT IN PLANT INJURY OR POOR DISEASE CONTROL.

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.

The restricted entry interval (REI) is 0 hours.

NON-AGRICULTURAL USE REQUIREMENTS

The requirements in this box apply to uses of this product that are NOT within the scope of the Worker Protection Standard for agricultural pesticides (40 CFR Part 170). The WPS applies when this product is used to produce agricultural plants on farms, forests, nurseries, or greenhouses.

The restricted entry interval (REI) is 0 hours.

PRODUCT INFORMATION

Arbotect 20-S is a systemic fungicide for use as a flare root injection for prevention of Dutch elm disease (*Ophiostoma ulmi* and *O. novo-ulmi*) on elms (*Ulmus* spp.) and treatment of sycamore anthracnose (*Apiognomonia platani*) on sycamores and London plane trees (*Platanus* spp.). It is recommended that Arbotect 20-S be administered by trained arborists or others trained in injection techniques and in the identification of diseases.

RESISTANCE MANAGEMENT RECOMMENDATIONS

GROUP 1 FUNGICIDE

Thiabendazole is a systemic fungicide belonging in FRAC (Fungicide Resistance Action Committee) Group 1. The mode of action of fungicides in the MBC (methyl benzimidazole carbamates) class of chemistry inhibits mitosis by preventing polymerization of beta-tubulins; thereby, terminating cell division. Fungal pathogens

can develop resistance to products with the same mode of action when used repeatedly. Because resistance development cannot be predicted, use of this product should conform to resistance management strategies established for the tree species and geographic use area. Use sanitation and other cultural practices to minimize pathogen populations in order to control disease and prevent or delay resistance development. Consult your local or State agricultural authorities for resistance management strategies that are complementary to those uses listed in this label.

Correct Location for Injector Placement

The flare root area is the transitional zone between the trunk and the root system. Uptake and distribution of Arbotect 20-S is more effective when injections are made into the flare roots. In addition, wounds created in the flare root area close more rapidly in comparison to wounds above the flare root area.

Tree Preparation

1. Heavy, thick, or loose outer bark may be carefully shaved to form a smoother injection point and to ensure the operator that the drill hole penetrates through the bark to the xylem.
2. If the flare roots are not clearly exposed, carefully remove enough soil from the base of the tree to uncover the top of the flare roots. Brush away loose soil.
3. Drill holes through the bark, into the sapwood using a clean, sharp, drill bit (high-helix or brad-point bits are recommended). For best results, change drill bits every 5-10 trees. Drill hole diameter should be adequate to allow insertion of injection tees and formation of an airtight contact between active xylem and the delivery point of the injection tees. Generally, the drill hole should not exceed 1/2 inch in diameter.

   Drill hole depth should be adequate to deliver the product into active xylem tissue. Generally, one inch depth is appropriate. Drill perpendicular to the surface of the root flare.

   Place injectors 3-6 inches apart around the base of the tree. Do not drill in the valleys between the flare roots or into cankered areas. Drill above these areas into the trunk, then continue into sound sapwood on the flares.
4. Insert into the drilled holes the injection ports (“tees”), which are connected to the plastic tubing. Insert the tees by hand and lightly tap with a small hammer to set in the hole. Do not push the tees past the current year’s xylem.
5. Do not dilute Arbotect 20-S with highly alkaline water as a precipitate may form. For hard water or water with high pH, use a deionizer tank or pH stabilizer (for example, muriatic acid) to keep Arbotect 20-S in solution.

Tree Measurement

Measure the diameter of the tree using a tree diameter-tape (D-tape) at 4 1/2 feet above the ground. This is the diameter at breast height (DBH). If only a regular tape is available, measure the tree circumference and divide that number by 3.14 to obtain the diameter.

Injection

For best results, use a pressurized system that holds constant pressure at 15-20 psi. Pull out two tees, on opposite sides of the tee, and bleed the air out of the harness. When all air bubbles have been removed, insert the two tees, adjust the pressure to 15-20 psi, and check for leaks. Do not add the Arbotect 20-S until the system is running.

After the injection is complete, remove injection tees and leave drill holes unplugged. A water flush to cleanse the hole may assist with wound closure. Soil should be replaced around the root flares. It is not necessary to treat the drill holes with wound paint or other sealing compounds.

The injection system described is meant as an example; please refer to manufacturer's instructions when using other types of tree injection systems.

APPLICATION PROCEDURES

Elm Trees – 1-Year Growing Season Treatment – Aids in the Control of Dutch Elm Disease

Preventive Treatment – For each 5 inches of trunk diameter, inject 1 fl oz of Arbotect 20-S in 40 fl oz (1 1/4 qt) of water to 2 fl oz of Arbotect 20-S in 80 fl oz (2 1/2 qt) of water. Use the higher levels of Arbotect 20-S under high disease pressure situations.

Preventive applications should be made when leaves approach full size, usually in late May or June.

Therapeutic Treatment – For each 5 inches of trunk diameter, inject 2 fl oz of Arbotect 20-S in 80 fl oz (2 1/2 qt) of water to 4 fl oz of Arbotect 20-S in 160 fl oz of water. Use the higher levels of Arbotect 20-S under high disease pressure situations.

Therapeutic applications should be made as soon as the current year infections are seen, usually in late June through August.

For optimum disease control, preventive treatment is recommended. When a tree shows more than 5% crown symptoms, treatment may not be effective. Treatment should be used in conjunction with an insect control and sanitation program (pruning of diseased limbs) in order to obtain best results. Trees that are 5 inches or less in diameter at chest height should not be treated.

Place injection sites as near to ground level as possible at 3-10 inch intervals around the trunk with a maximum hole diameter of 1/2 inch using a minimum of 3 or 4 equally spaced injection points per tree.

Elm Trees – 3-Year Growing Season Treatment – For Preventive Treatment of Dutch Elm Disease

Inject 12 fl oz of Arbotect 20-S for each 5 inches of trunk diameter. Dilute each 2.0 fl oz of Arbotect 20-S with 1 gallon of water. Inject into any exposed root flares, below ground, once every three years. Place injection sites into root flares at 3-10 inch intervals around the tree with a maximum hole diameter of 1/4 inch. Where needed, the root flares will need to be exposed through soil excavation. Trees treated into trunk wood will not be as effectively protected. A typical tree will require 1.3 injection sites per diameter inch. For best results, injections should be made after the tree is fully leafed and the seeds have dropped, through late summer or early fall.

- Do not use this treatment if trees are less than 10 inches in diameter.
- If pressure injection is to be used, do not exceed 30 psi.
- Do not dilute Arbotect 20-S with highly alkaline water as a precipitate may form. Pre-test your water source by mixing a small amount of Arbotect 20-S with water. If the solution turns white, use different water.

Retreatment

Arbotect 20-S will provide three growing seasons of protection in most situations. However, protection in the third year after treatment will be slightly less than the first two years. In high disease pressure situations and for trees over 30 inches in diameter, retreatment may need to be considered during the third growing season after the tree was initially treated.

Therapeutic Treatment of Elms

Before treating a diseased elm with Arbotect 20-S, it is important to first isolate the disease from the tree using tracing techniques or limb removal. Injecting an elm tree that has the Dutch elm disease fungus actively growing will result in the failure of the treatment.

Sycamore Trees and London Plane Trees – 3-Year Growing Season Treatment – Aids in the Control of Sycamore Anthracnose

For each 5 inches of trunk diameter, inject 8 fl oz of Arbotect 20-S. (One part Arbotect 20-S should be diluted with between 20 and 40 parts of water). For large trees over 30 inches in diameter, inject up to 12 fl oz of Arbotect 20-S per 5 inches of trunk diameter.

For best results, injections should be made after the tree is fully leafed (post infection) through late summer or early fall. Treatments will aid in the control of sycamore anthracnose for up to three growing seasons. Trees over 50 inches diameter may need two consecutive treatments one year apart to obtain the desired level of protection.

Place injection sites at 3-10 inch intervals around the root flares. Trees treated into trunk wood will not be as effectively protected. Use a maximum hole diameter of 1/4 inch using a minimum of 3 or 4 equally spaced injection points per tree. A typical tree will require 1.3 injection sites per diameter inch. It is important that injection sites be placed in root flares at or below ground level.

- Trees that are 5 inches or less in diameter at chest height should not be treated.
- If pressure injection is to be used, do not exceed 30 psi.
- Do not dilute Arbotect 20-S with highly alkaline water as a precipitate may form. Pre-test your water source by mixing a small amount of Arbotect 20-S with water. If the solution turns white, use different water.

STORAGE AND DISPOSAL

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

Pesticide Storage

Store in original containers only. Keep container closed when not in use. Do not store near food or feed.

Pesticide Disposal

Pesticide, spray mixture, or rinsate that cannot be used according to label instructions must be disposed of according to federal, state, or local procedures under the Resource Conservation and Recovery Act.

Container Handling [less than or equal to 5 gallons]

Non-refillable 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 and drain for 10 seconds after the flow begins to drip. 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 offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities.

Container Handling [greater than 5 gallons - bulk]

Refillable container. Refill this container with pesticide only. Do not reuse this container for any other purpose. Cleaning the container before final disposal is the responsibility of the person disposing of the container. Cleaning before refilling is the responsibility of the person refilling. To clean container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10 percent full with water. Agitate vigorously or recirculate water with the pump for 2 minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times. Then offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities.

continued...

STORAGE AND DISPOSAL *(continued)*

Container Handling [greater than 5 gallons – mini-bulk]

Non-refillable 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 offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities.

For minor spills, leaks, etc., follow all precautions indicated on this label and clean up immediately. Take special care to avoid contamination of equipment and facilities during cleanup procedures and disposal of wastes. In the event of a major spill, fire, or other emergency, call 1-800-888-8372, day or night.

CONTAINER IS NOT SAFE FOR FOOD, FEED, OR DRINKING WATER.

For non-emergency (e.g., current product information), call
Syngenta Crop Protection at 1-800-334-9481.

Manufactured for:
Syngenta Crop Protection, LLC
P. O. Box 18300
Greensboro, North Carolina 27419-8300

SCP 892A-L1P 1014
4053005

GROUP 1 FUNGICIDE

Arbotect® 20-S

Fungicide

For Dutch Elm Disease and Sycamore Anthracnose

Active Ingredient:	
Thiabendazole Hypophosphite (CAS No. 28558-32-9)	26.6%
(equivalent to 20% Thiabendazole)	
Other Ingredients:	73.4%
Total:	100.0%

Arbotect 20-S contains 1.8 pounds active ingredient per gallon.

Arbotect 20-S is formulated as a soluble liquid concentrate.

See additional precautionary statements and directions for use inside booklet.

EPA Reg. No. 100-892
EPA Est. 39578-TX-1

Manufactured for:
Syngenta Crop Protection, LLC
P. O. Box 18300
Greensboro, North Carolina 27419-8300

SCP 892A-L1P 1014
4053005

1 gallon

Net Contents

KEEP OUT OF REACH OF CHILDREN.

CAUTION

PRECAUTIONARY STATEMENTS

Hazards to Humans and Domestic Animals

CAUTION

Harmful if swallowed. Harmful if inhaled. Avoid breathing spray mist. May irritate skin. Avoid contact with skin, eyes or clothing. Remove and wash contaminated clothing before reuse. Wash thoroughly with soap and water after handling and before eating, drinking, chewing gum, using tobacco or using the toilet.

FIRST AID

If swallowed: Call a poison control center or doctor immediately for treatment advice. Do not give any liquid to the person. Do not induce vomiting unless told to do so by the poison control center or doctor. Do not give anything by mouth to an unconscious person.

If inhaled: Move person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth, if possible. Call a poison control center or doctor for further treatment advice.

If on skin or clothing: 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.

If in eyes: Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. 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.

HOT LINE NUMBER: For 24-Hour Medical Emergency Assistance (Human or Animal) or Chemical Emergency Assistance (Spill, Leak, Fire, or Accident), Call **1-800-888-8372**.

Environmental Hazards

For terrestrial uses: 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 disposing of equipment washwater or rinsate.

STORAGE AND DISPOSAL

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

Pesticide Storage: Store in original containers only. Keep container closed when not in use. Do not store near food or feed.

Pesticide Disposal: Pesticide, spray mixture, or rinsate that cannot be used according to label instructions must be disposed of according to federal, state, or local procedures under the Resource Conservation and Recovery Act.

Container Handling: Non-refillable 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 and drain for 10 seconds after the flow begins to drip. 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 offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration, or by other procedures approved by state and local authorities.

For minor spills, leaks, etc., follow all precautions indicated on this label and clean up immediately. Take special care to avoid contamination of equipment and facilities during cleanup procedures and disposal of wastes. In the event of a major spill, fire, or other emergency, call 1-800-888-8372, day or night.

CONTAINER IS NOT SAFE FOR FOOD, FEED, OR DRINKING WATER.

syngenta®

(01) 0 07 02941 81235 2

Safety Data Sheet

ARBOTECT® 20-S Fungicide

Date: 6/30/2015
Replaces: 7/21/2014

1. PRODUCT IDENTIFICATION

Product identifier on label: **ARBOTECT® 20-S Fungicide**
Product No.: A10345A
Use: Fungicide
Manufacturer: Syngenta Crop Protection, LLC
Post Office Box 18300
Greensboro NC 27419
Manufacturer Phone: 1-800-334-9481

Emergency Phone: 1-800-888-8372

2. HAZARDS IDENTIFICATION

Classifications: Not Applicable
Signal Word (OSHA): Not Applicable
Hazard Statements: Not Applicable

Hazard Symbols:

Precautionary Statements: Not Applicable

Other Hazard Statements: None

3. COMPOSITION/INFORMATION ON INGREDIENTS

Chemical Name	Common Name	CAS Number	Concentration
Other ingredients	Other ingredients	Trade Secret	73.4%
1H-Benzimidazole, 2-(4-thiazolyl)-	Thiabendazole	148-79-8	26.6%

Ingredients not precisely identified are proprietary or non-hazardous. Values are not product specifications.

4. FIRST AID MEASURES

Have the product container, label or Safety Data Sheet with you when calling Syngenta (800-888-8372), a poison contol center or doctor, or going for treatment.

Ingestion: If swallowed: Call Syngenta (800-888-8372), a poison control center or doctor immediately for treatment advice. Do not give any liquid to the person. Do not induce vomiting unless told to do so after calling 800-888-8372 or by a poison control center or doctor. Do not give anything by mouth to an unconscious person.

Eye Contact: If in eyes: Hold eye open and rinse slowly and gently with water for 15-20 minutes. Remove contact lenses, if present, after 5 minutes, then continue rinsing eye. Call Syngenta (800-888-8372), a poison control center or doctor for treatment advice.

Skin Contact: If on skin or clothing: Take off contaminated clothing. Rinse skin immediately with plenty of water for 15-20 minutes. Call Syngenta (800-888-8372), a poison control center or doctor for treatment advice.

Inhalation: If inhaled: Move person to fresh air. If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably mouth-to-mouth if possible. Call Syngenta (800-888-8372), a poison control center or doctor for further treatment advice.

Most important symptoms/effects:

Not Applicable

Indication of immediate medical attention and special treatment needed:

There is no specific antidote if this product is ingested.

Treat symptomatically.

5. FIRE FIGHTING MEASURES

Suitable (and unsuitable) extinguishing media:

Use dry chemical, foam or CO2 extinguishing media. If water is used to fight fire, dike and collect runoff.

Specific Hazards:

During a fire, irritating and possibly toxic gases may be generated by thermal decomposition or combustion.

Special protective equipment and precautions for firefighters:

Wear full protective clothing and self-contained breathing apparatus. Evacuate nonessential personnel from the area to prevent human exposure to fire, smoke, fumes or products of combustion.

6. ACCIDENTAL RELEASE MEASURES

Personal precautions, protective equipment, and emergency procedures:

Follow exposure controls/personal protection outlined in Section 8.

Methods and materials for containment and cleaning up:

Control the spill at its source. Contain the spill to prevent from spreading or contaminating soil or from entering sewage and drainage systems or any body of water. Clean up spills immediately, observing precautions outlined in Section 8. Cover entire spill with absorbing material and place into compatible disposal container. Scrub area with hard water detergent (e.g. commercial products such as Tide, Joy, Spic and Span). Pick up wash liquid with additional absorbent and place into compatible disposal container. Once all material is cleaned up and placed in a disposal container, seal container and arrange for disposition.

7. HANDLING AND STORAGE

Precautions for safe handling:

Store the material in a well-ventilated, secure area out of reach of children and domestic animals. Do not store food, beverages or tobacco products in the storage area. Prevent eating, drinking, tobacco use, and cosmetic application in areas where there is a potential for exposure to the material. Wash thoroughly with soap and water after handling.

Conditions for safe storage, including any incompatibilities:

Not Applicable

8. EXPOSURE CONTROLS/PERSONAL PROTECTION

THE FOLLOWING RECOMMENDATIONS FOR EXPOSURE CONTROLS/PERSONAL PROTECTION ARE INTENDED FOR THE MANUFACTURE, FORMULATION AND PACKAGING OF THIS PRODUCT.

FOR COMMERCIAL APPLICATIONS AND/OR ON-FARM APPLICATIONS CONSULT THE PRODUCT LABEL.

Occupational Exposure Limits:

Chemical Name	OSHA PEL	ACGIH TLV	Other	Source
Other ingredients	Not Applicable	Not Applicable	Not Applicable	Not Applicable
Thiabendazole	Not Established	Not Established	5 mg/m³ TWA	Syngenta

Appropriate engineering controls:

Use effective engineering controls to comply with occupational exposure limits (if applicable).

Individual protection measures:

Ingestion:

Prevent eating, drinking, tobacco usage and cosmetic application in areas where there is a potential for exposure to the material. Wash thoroughly with soap and water after handling.

Eye Contact:

Eye protection is not required for normal handling. Where eye contact is likely, wear tight-fitting chemical goggles.

Skin Contact:

Where contact is likely, wear chemical-resistant gloves (such as barrier laminate, butyl rubber, nitrile rubber, neoprene rubber, natural rubber, polyethylene, polyvinyl chloride [PVC] or Viton), coveralls, socks and chemical-resistant footwear.

Inhalation:

A respirator is not normally required when handling this substance. Use effective engineering controls to comply with occupational exposure limits.

In case of emergency spills, use a NIOSH certified respirator with any N, R, P or HE filter.

9. PHYSICAL AND CHEMICAL PROPERTIES

Appearance: Yellow orange liquid

Odor: Weak, like hydrogen sulfide

Odor Threshold: Not Available

pH: 2.7 (1% suspension in water)

Melting point/freezing point: Not Applicable

Initial boiling point and boiling range: 212 °F

Flash Point (Test Method): Not Applicable

Flammable Limits (% in Air): Not Available

Flammability: Not Available

Vapor Pressure: Thiabendazole 4.0 x 10(-9) mmHg @ 77°F (25°C)

Vapor Density: Not Available

Relative Density: 1.1 @ 77°F (25°C)

Solubility (ies): Thiabendazole 30 mg/l (pH 7, pH 10) @ 68°F in water

Partition coefficient: n-octanol/water: Not Available

Autoignition Temperature: Not Available

Decomposition Temperature: Not Available

Viscosity: Not Available

Other: None

10. STABILITY AND REACTIVITY

Reactivity: Not reactive.

Chemical stability: Stable under normal use and storage conditions.

Possibility of hazardous reactions: Will not occur.

Conditions to Avoid: None known.

Incompatible materials: None known.

Hazardous Decomposition Products: None known.

11. TOXICOLOGICAL INFORMATION

Health effects information

Likely routes of exposure: Dermal, Inhalation

Symptoms of exposure: Not Applicable

Delayed, immediate and chronic effects of exposure: Not Applicable

Numerical measures of toxicity (acute toxicity/irritation studies (finished product))

Ingestion:	Oral (LD50 Rabbit) :	> 5000 mg/kg body weight
Dermal:	Dermal (LD50 Rabbit) :	> 5050 mg/kg body weight
Inhalation:	Inhalation (LC50 Rat) :	Not Available
Eye Contact:	Non-Irritating (Rabbit)	
Skin Contact:	Practically Non-Irritating (Rabbit)	
Skin Sensitization:	Not a Sensitizer (Guinea Pig)	

Reproductive/Developmental Effects

Thiabendazole: Did not show reproductive toxicity effects in animal experiments.

Chronic/Subchronic Toxicity Studies

Thiabendazole: Increased incidence of anemia and changes in the gall bladder, kidney, liver, spleen and thyroid gland in rat and dog tests.

No adverse health effects are expected in humans at airborne levels below the occupational exposure limit.

Carcinogenicity

Thiabendazole: Following dietary administration to Sprague-Dawley rats for 2 years, a high dose (90 mg/kg/day) of thiabendazole resulted in a minimally increased incidence of thyroid follicular cell adenomas in male rats only. The mode of action (MOA) is not relevant to humans, supporting the conclusion that thiabendazole does not pose a carcinogenic hazard to humans.

Chemical Name	NTP/IARC/OSHA Carcinogen
Other ingredients	No
1H-Benzimidazole, 2-(4-thiazolyl)-	No

Other Toxicity Information

None

Toxicity of Other Components

Other ingredients

Not Applicable

Target Organs

Active Ingredients

Thiabendazole: Thyroid, liver, spleen, kidney, gall bladder, blood

Inert Ingredients

Other ingredients: Not Applicable

12. ECOLOGICAL INFORMATION

Eco-Acute Toxicity

Thiabendazole:

Bird (Bobwhite Quail) LD50 Oral > 2250 mg/kg

Fish (Trout) 96-hour LC50 0.56 ppm

Invertebrate (Water Flea) 48-hour EC50 0.81 mg/l

Environmental Fate

Thiabendazole:

The information presented here is for the active ingredient, thiabendazole.
Low bioaccumulation potential. Stable in soil and water. Sinks in water (after 24 h).

13. DISPOSAL CONSIDERATIONS

Disposal:

Do not reuse product containers. Dispose of product containers, waste containers, and residues according to local, state, and federal health and environmental regulations.

Characteristic Waste: Corrosive D002

Listed Waste: Not Applicable

14. TRANSPORT INFORMATION

DOT Classification

Ground Transport - NAFTA
Not regulated

Comments

Water Transport - International
Proper Shipping Name: Environmentally Hazardous Substance, Liquid, N.O.S. (Thiabendazole), Marine Pollutant
Hazard Class: Class 9
Identification Number: UN 3082
Packing Group: PG III

Air Transport - International
Proper Shipping Name: Environmentally Hazardous Substance, Liquid, N.O.S. (Thiabendazole)
Hazard Class: Class 9
Identification Number: UN 3082
Packing Group: PG III

15. REGULATORY INFORMATION

Pesticide Registration:

This chemical is a pesticide product registered by the Environmental Protection Agency and is subject to certain labeling requirements under federal pesticide law. These requirements differ from the classification criteria and hazard information required for safety data sheets, and for workplace labels of non-pesticide chemicals. Following is the hazard information as required on the pesticide label:

Caution: Harmful if swallowed. Harmful if inhaled. Avoid breathing spray mist. May irritate skin. Avoid contact with skin or eyes.

EPA Registration Number(s):

100-892

EPCRA SARA Title III Classification:

Section 311/312 Hazard Classes: Acute Health Hazard

Section 313 Toxic Chemicals: Thiabendazole 26.6% (CAS No. 148-79-8)

California Proposition 65:

This product does not contain chemicals known to the State of California to cause cancer and birth defects or other reproductive harm.

CERCLA/SARA 304 Reportable Quantity (RQ):

None

RCRA Hazardous Waste Classification (40 CFR 261):

Corrosive D002

TSCA Status:

Exempt from TSCA, subject to FIFRA

16. OTHER INFORMATION

NFPA Hazard Ratings		HMIS Hazard Ratings	
Health:	1	Health:	1
Flammability:	1	Flammability:	1
Instability:	0	Reactivity:	0

0	Minimal
1	Slight
2	Moderate
3	Serious
4	Extreme
*	Chronic

Syngenta Hazard Category: A

For non-emergency questions about this product call:

1-800-334-9481

Original Issued Date: 6/5/1989

Revision Date: 6/30/2015 Replaces: 7/21/2014

Section(s) Revised: 13

The information and recommendations contained herein are based upon data believed to be correct. However, no guarantee or warranty of any kind, expressed or implied, is made with respect to the information contained herein.

Form Approved, OMB No. 2070–0055

United States Environmental Protection Agency
Office of Pesticide Programs. Registration Division (7505C)
Washington, DC 20460

Application for/Notification of State Registration of a Pesticide To Meet a Special Local Need

(Pursuant to section 24(c) of the Federal Insecticide, Fungicide, and Rodenticide Act as Amended

For State Use Only
Registration No. Assigned
Date Registration Issued

1. Name and Address of Applicant for Registration
Syngenta Crop Protection, LLC
PO Box 18300
Greensboro, NC 27419

2. Product is (Check one)
EPA-Registered ☒ — EPA Registration Number: 100-892
New (not EPA-registered) ☐ Attach EPA Form 8570–4, Confidential Statement of Formula for new products. — EPA Company Number: 100

3. Active Ingredient(s) in Product
Thiabendazole Hypophosite

4. Product Name
Arbotect® 20-S

5. If this is a food/feed use, a tolerance or other residue clearance is required. Cite appropriate regulations in 40 CFR Part 180. 186, and/or 186. N/A – non-food, non-feed use

6. Type of Registration (Give details in Item 13 or on a separate page, properly identified and attached to this form):
- ☐ a. To permit use of a new product.
- ☒ b. To amend EPA registration for one or more of the following purposes:
  - ☐ (1) To permit use on additional crops or animals.
  - ☐ (2) To permit use at additional rates.
  - ☒ (3) To permit use against additional pests.
  - ☐ (4) To permit use of additional application techniques or equipment.
  - ☒ (5) To permit use at different application sites.
  - ☐ (6) Other (specify below) See paragraph 13

7. Nature of Special Local Need (check one)
- ☐ There is no pesticide product registered by EPA for such use.
- ☒ There is no EPA–registered pesticide product which, under the conditions of use within the State, would be as safe and/or as efficacious for such use within the terms and conditions of EPA registration.
- ☐ As appropriate EPA–registered pesticide product is not available.

8. If this registration is an amendment to an EPA–registered product, is it for a "new use" as defined in 40 CFR 152.3?
☐ Yes (discuss in Item 13 below) ☒ No

9. Has an EPA Registration or Experimental Use Permit for this chemical even been (check applicable box(es), if known):
☒ Sought ☒ Issued ☐ Denied ☐ Cancelled ☐ Suspended
☒ Registration ☐ Experimental Use Permit ☐ No Previous Permit Action

10. Has FIFRA section 24(c) registration for this use of the product ever, by another State, been (check appropriate box(es), if known):
☒ Sought ☒ Issued ☐ Denied ☐ Revoked

If any of the above are checked, list States in Item 13 below.

☐ No FIFRA section 24(c) Action

11. Endangered Species Act: (Give details in Item 13 or on a separate page, properly identified and attached to this form.)

Identify the counties where this pesticide will be used. If Statewide, indicate "all."
ALL

Provide a list of Federally protected endangered/threatened species which occur in the areas of proposed use. Attached

Certification

I certify that the statements I have made on this form and all attachments thereto are true, accurate, and complete. I acknowledge that any knowingly false or misleading statement may be punishable by fine or imprisonment or both under applicable law.

12. Indicate use status of Special Local Need, i.e.. planned dates of use:
From: March 2024 To: December 31, 2028

Signature of Applicant or Authorized Representative
Pat Dinnen

Title: Pat Dinnen, Regulatory Manager
Telephone Number: 336-632-2494
Date: February 28, 2024

13. Comments (attach additional sheet. if needed)

Similar SLN's exist in CT, MA, NJ, NY, OH

Determination by State Agency

This registration is for a Special Local Need and is being issued in accordance with section 24(c) of FIFRA, as amended. To the best of our knowledge, the information above is correct, except as noted in "Comments" below or in attachments

Name, Title. and Address of State Agency Official	Comments (by State Agency Only)	Received by EPA
Title		
Telephone Number / Date		

Listed species with spatial current range believed to or known to occur in Maine

Notes:

- This report includes species only if they have a **Spatial Current Range** in ECOS.
- **As of 02/13/2015 the data in this report has been updated to use a different set of information.** Results are based on where the species is believed to or known to occur. The FWS feels utilizing this data set is a better representation of species occurrence. Note: there may be other federally listed species that are not currently known or expected to occur in this state but are covered by the ESA wherever they are found; Thus if new surveys detected them in this state they are still covered by the ESA. The FWS is using the best information available on this date to generate this list.
- This report shows listed species or populations believed to or known to occur in ME
- This list does not include experimental populations and similarity of appearance listings.
- Click on the highlighted scientific names below to view a Species Profile.

Listed Species

Sort by group: ☑

CSV

Show All entries Search:

12 Species Listings

Scientific Name	Common Name	Where Listed	Region	ESA Listing Status
Birds				

Scientific Name	Common Name	Where Listed	Region ℹ	ESA Listing Status ℹ
Charadrius melodus	Piping Plover	[Atlantic Coast and Northern Great Plains populations] - Wherever found, except those areas where listed as endangered.	5	Threatened
Sterna dougallii dougallii	Roseate tern	Northeast U.S. nesting population	5	Endangered
Calidris canutus rufa	rufa red knot	Wherever found	5	Threatened
Fishes				
Salmo salar	Atlantic salmon	Gulf of Maine DPS	5	Endangered
Flowering Plants				
Platanthera leucophaea	Eastern prairie fringed orchid	Wherever found	3	Threatened
Pedicularis furbishiae	Furbish lousewort		5	Threatened
Isotria medeoloides	Small whorled pogonia		5	Threatened
Insects				
Bombus affinis	Rusty patched bumble bee	Wherever found	3	Endangered
Mammals				
Lynx canadensis	Canada Lynx	Wherever Found in Contiguous U.S.	6	Threatened

Scientific Name	Common Name	Where Listed	Region	ESA Listing Status
Myotis septentrionalis	Northern Long-Eared Bat	Wherever found	3	Endangered
Reptiles				
Eretmochelys imbricata	Hawksbill sea turtle	Wherever found	4	Endangered
Dermochelys coriacea	Leatherback sea turtle	Wherever found	4	Endangered

Showing 1 to 12 of 12 entries

Previous 1 Next

8

DEC 22 2023

5

Eagle Lake Water & Sewer District
PO Box 137
243 Old Main Street
Eagle Lake, ME 04739-0137
207-444-5441
[elwsd@fairpoint.net]

December 18, 2023

Mr., John Pietroski
Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028

Dear Mr. Pietroski,

The Board of Trustees of Eagle Lake Water & Sewer District is requesting that the Board of Pesticides Control designate the district's public water supply, which is wellhead protection area along Eagle Lake as a Critical Pesticide Control Area and have a total ban on the use of pesticide and herbicide within this area.

The public water supply is two (2) 16" gravel pack groundwater wells, 42 feet in depth. Wells were installed in 2008 and put in service in January, 2009. In 2008 the district and the town tried to create a wellhead protection plan ordinance but failed. Over the years we have notice that abutting land owners have been active in applying herbicides and pesticides within our wellhead protection area. We have requested the abutting land owners stop this practice, but they have refused. The board of trustees is requesting your help to protect our drinking water supply.

Enclosed is a copy well site management plan, produce by our engineers and approved by the Maine Drinking Water Program, a site map, abutting land owners and mailing addresses.

Should you need additional information please contact district office at (207)-444-5441.

Sincerely,

John L. Martin,

Clerk, ELWSD

Eagle Lake Water & Sewer District
Eagle Lake, Maine (Public Water Source)

Land Owners located within the 200 day travel time Zone of Contribution

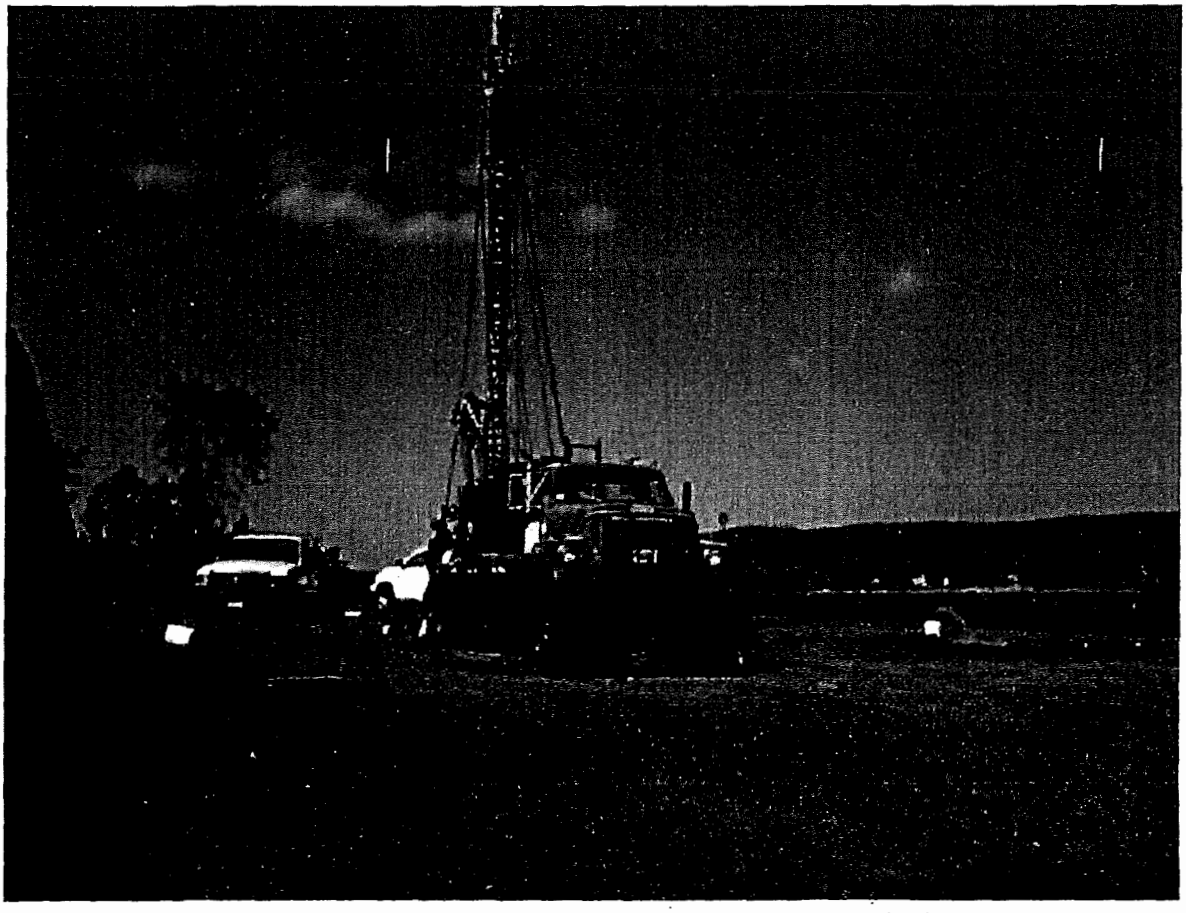
Tax Map / Lot	Property Owner Name	Mailing Address
16 / 29	Phillip LeBoeuf Overlook Cabins	PO Box 347, Eagle Lake, ME 04739
16 / 29 -1	ELWSD District Sewer Pumping Station # 2	PO Box 137, Eagle Lake, ME 04739
16 / 30	Phillip LeBoeuf Home	PO Box 347, Eagle Lake, ME 04739
16 / 30A	ELWSD District Wellhead Area	PO Box 137, Eagle Lake, ME 04739
16 / 31 -3	Louis & Lillian Roy Home	PO Box 347, Eagle Lake, ME 04739
16 / 31 -4	Paula Ouellette RV Lot	75 Pleasant St., Fort Kent, ME 04743
16 / 31 -5	Jonathan & Karen Trudo Home	20 Apple Blossom Lane, Kennebunkport, ME 04046
	Maine Northern Railway	103 School Street, Oakfield, ME 04763

200-DAY AND 2,500-DAY TRAVEL ZONE MANAGEMENT PLAN

LEBOEUF WELL SITE

EAGLE LAKE WATER AND SEWER DISTRICT
EAGLE LAKE, MAINE

September 2008



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Engineering a Better Environment

200-DAY AND 2,500-DAY TRAVEL ZONE MANAGEMENT PLAN

LEBOUEF WELL SITE

EAGLE LAKE WATER AND SEWER DISTRICT
EAGLE LAKE, MAINE

SEPTEMBER 2008

Prepared By:

Wright-Pierce
230 Commerce Way, Suite 302
Portsmouth, NH 03801

200 DAY AND 2,500 DAY TRAVEL ZONE MANAGEMENT PLAN

LEBOUEF WELLS SITE

EAGLE LAKE WATER AND SEWER DISTRICT
EAGLE LAKE, MAINE

TABLE OF CONTENTS

Section 1

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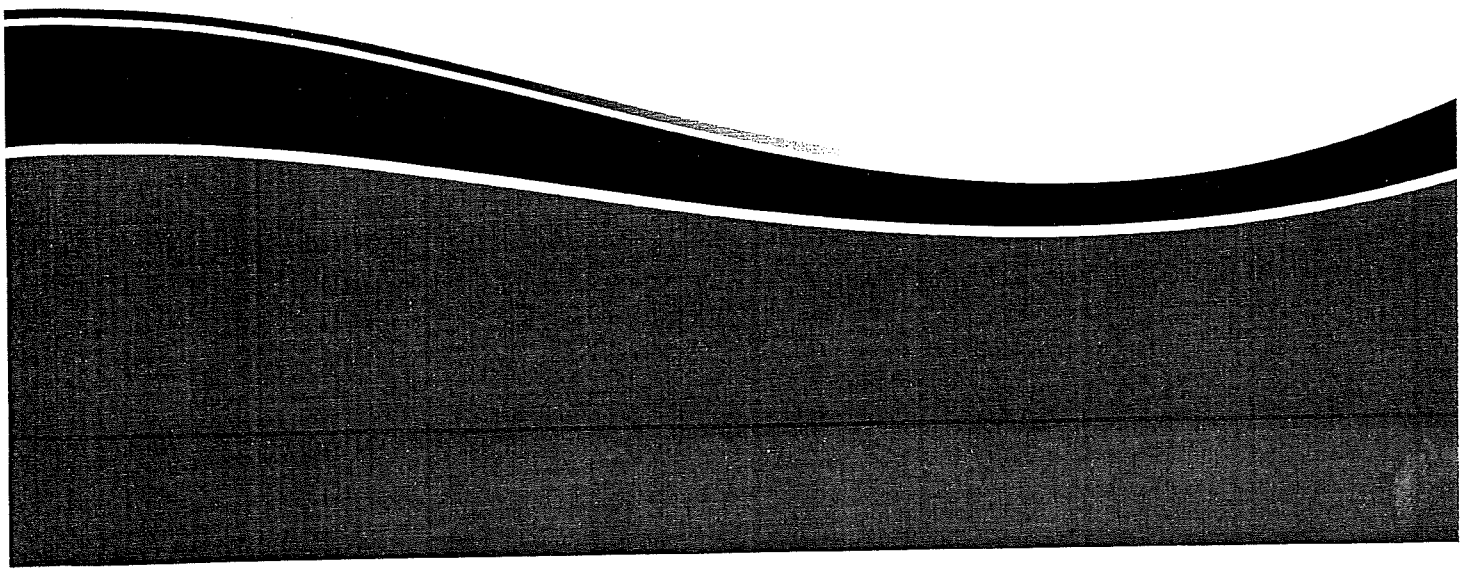
Engineering a Better Environment



SECTION 1
INTRODUCTION

In 1986, amendments to the Federal Safe Drinking Water Act (SDWA) law established the Wellhead Protection (WHP) Program. Under these amendments, each state was called upon to develop and submit to the United States Environmental Protection Agency (USEPA) for approval, a plan that would protect groundwater which supplies wells, wellfields, springs, and tunnels that provide drinking water to the general public. Also specified in the SDWA are the basic, minimum elements that states must address and include in their WHP plans.

State of Maine's *"Rules Relating To Drinking Water"* (10-144, Chapter 231) requires a plan be prepared that describes how the owner of a municipal well will manage land use activities within a well's wellhead protection area. The purpose of this plan is to help protect groundwater quality through land use activities and controls that will prevent groundwater contamination.

The State of Maine's Drinking Water Program granted the Eagle Lake Water and Sewer District final approval for its LeBouef Well on March 24, 2008. This well approval was conditioned on the preparation of 2,500-Day Travel Zone Management Plan for the LeBouef Well. This approval letter, along with other correspondence between the Eagle Lake Water and Sewer District and the State of Maine's Drinking Water Program is included in Appendix A.

The basic physical details of the LeBouef Well are presented below:

1.1 LeBouef Wells

The LeBouef Well Site is located on Furlong Road on the western shore of Eagle Lake. Two 16-inch diameter gravel developed wells, known as PW-1 and PW-2, were constructed on the property in November 2007 by the Layne-Christensen Company of Dracut, Massachusetts. PW-1 is 42 feet deep and is located approximately 200 feet

west of Eagle Lake. PW-2 is located 145 feet south of PW-1 (approximately 180 feet from Eagle) and is also 42 feet deep. PW-1 will act as the primary well and PW-2 will serve as a back-up to PW-1. Pump tests of these wells, conducted in November and December, 2007 indicated each well can produce approximately 200 gallons per minute when pumped individually. See Figure 1 for the location of these wells.

Section 2

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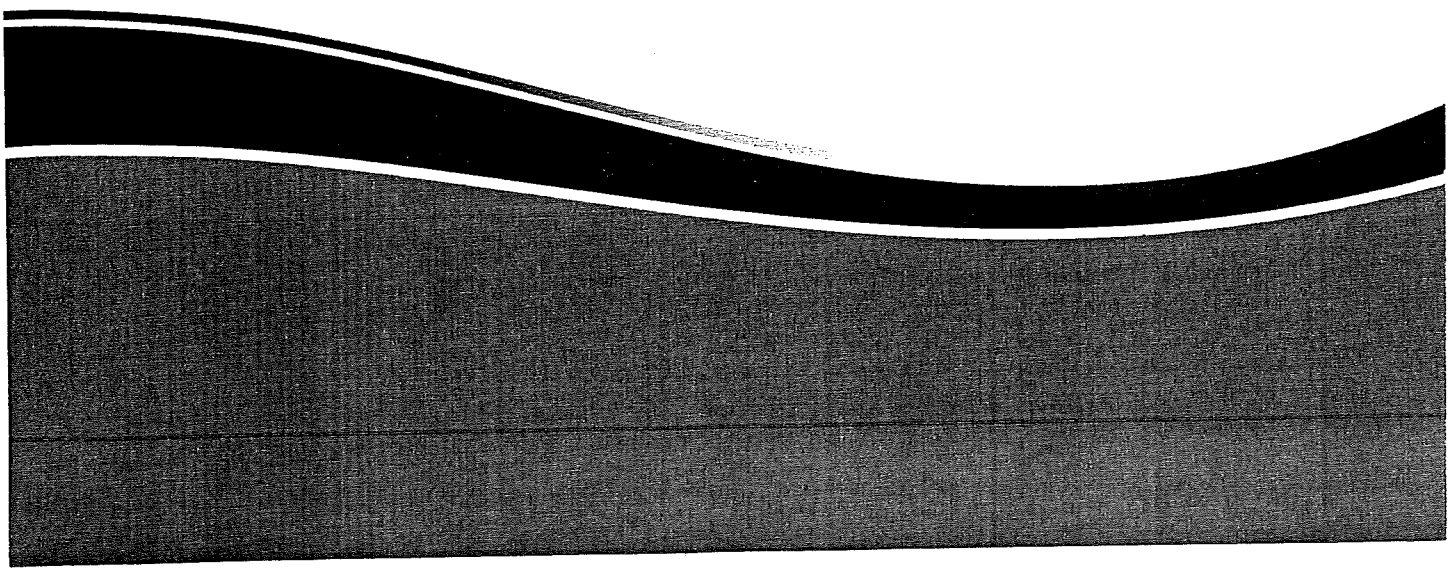
Engineering a Better Environment



SECTION 2

200-DAY AND 2,500-DAY TRAVEL ZONE WELLHEAD PROTECTION AREAS

In Maine, wellhead protection area boundaries are established by determining the distance (boundary to well) that groundwater would travel over a period of 200 days and 2,500 days of well operation. These boundaries are determined through the use of sophisticated groundwater computer models and are customized for the specific hydrogeologic conditions around each well. Ideally, a water system is to own the all the property within the 200-day time of travel zone. Easements, aquifer protection zoning ordinances or other land use controls are typically required for the area within the 2,500-day time of travel zone.

Below are the details for the 200-Day and 2,500-Day Travel Zone for the LeBouef Wells.

2.1 LeBouef Wells

The 200-day travel zone for the LeBouef Wells is approximately circular shaped and is approximately 650 feet long (north - south) and 650 feet wide (east-west). The 2,500-day travel zone is more oval shaped and is approximately 850 feet long (north - south) and 650 feet wide (east - west). These time of travel zones were determined as part of a study that is summarized in a report titled, *"Request for Final Approval for a New Public Water Supply Well"* dated March, 2008 that was prepared by Wright-Pierce for the Eagle Lake Water and Sewer District. The 200-day and 2,500-day time of travel zones are shown on Figure 1 (Section 1).

Section 3

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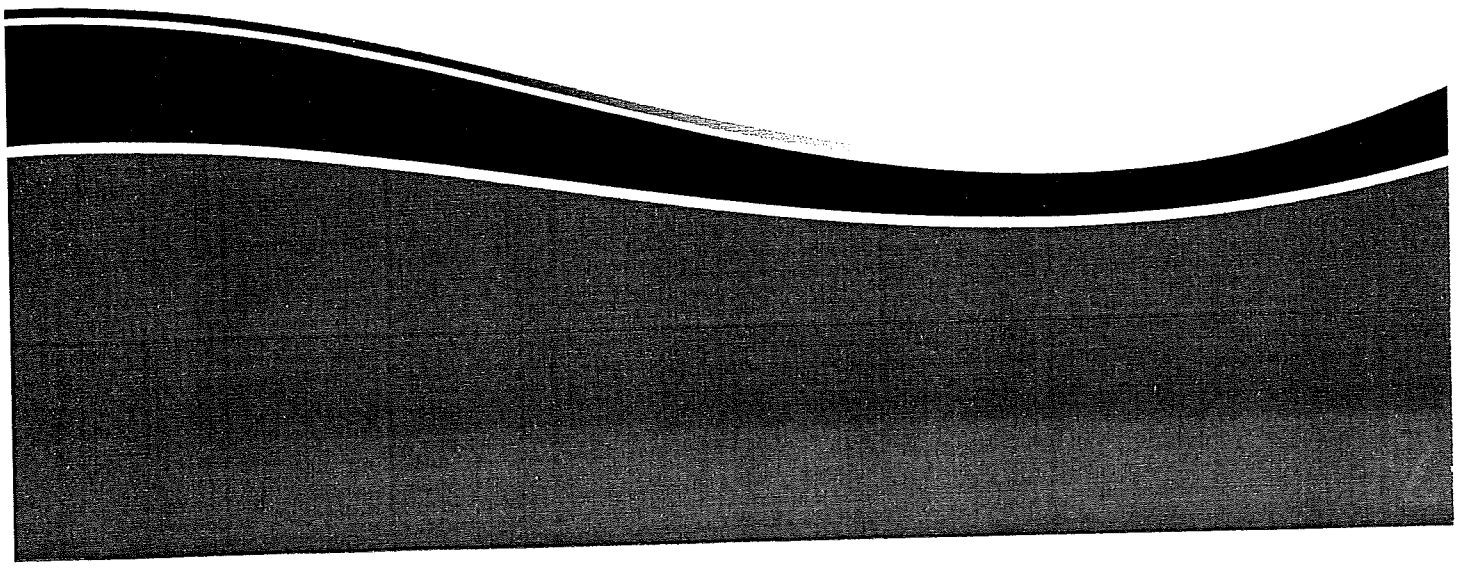
Engineering a Better Environment



SECTION 3

POTENTIAL CONTAMINANT SOURCES (PCS) IDENTIFICATION AND DESCRIPTION

Using the State of Maine's Geographic Information System (GIS) system, threats to groundwater quality from known Potential Contaminant Sources (PCS) located within the wells' 200-day and 2,500-day time of travel zone were identified. The State of Maine Department of Environmental Protection maintains a database of PCS in a system known as the Maine Environmental and Geographic Analysis Database (EGAD)

EGAD, (formerly known as the Environmental and Groundwater Analysis Database) was originally designed to store site and water quality information and currently includes spatially located data for 39 different types of potential and actual sources of contamination to groundwater in Maine. Table 1 lists the 39 types of Potential Contaminant Sources.

TABLE 1

Maine's EGAD Database PCS Site Types
Agricultural Chemical Use
Agriculture Nitrate Bacteria
Ash Utilization Site
Automobile Graveyard/Junkyard
Bulk Fuels Storage/Distribution Facility
Compost Site
Construction/Demolition
Dry Cleaner
Engineered Subsurface Wastewater Disposal System
Industrial Complex
Infiltration Retention Basin
Landfill Commercial
Landfill Municipal

Table 1 (continued)
Maine's EGAD Database PCS Site Types

Landfill Special Waste
Leaking Above-ground Storage Tank
Leaking Underground Storage Tank
Marina/Boat Yards
Mystery Spill
NPS Golf Courses Etc
RCRA Large Quantity Generators
RCRA Medium Quantity Generators
RCRA Remediation
RCRA Small Quantity Generators
Residuals Utilization Site
Resource Extraction Activities (Gravel Pits)
SWAT Surface Water Ambient Toxics - Lakes
SWAT Surface Water Ambient Toxics - Rivers/Streams
Sand/Salt Storage
Sanitary and Industrial WWTF
Septage Disposal Storage Site
Sludge Utilization Site
Surface Impoundments SIA
Surface Spill
Transfer Station
Uncontrolled Site (All Others)
Uncontrolled Site DOD
Uncontrolled Site NPL
Underground Injection Sites
Unsewered Subdivisions
Woodyards/Lumberyards/Piles

Below are the details for the PCS's located in the 200 and 2,500-day travel zones for the LeBouef Wells.

3.1 LeBouef Wells

The State of Maine's EGAD data base did not indicate any PCS in the LeBouef Wells' 200 and 2,500-day time of travel zones. The nearest PCS sites were two underground storage tank sites (two tanks each) located approximately 1,000 feet and 1,600 feet to the southwest of the production wells.

The PCS sites in the vicinity of the LeBouef Wells Wellhead Protection Areas are shown on Figure 1.

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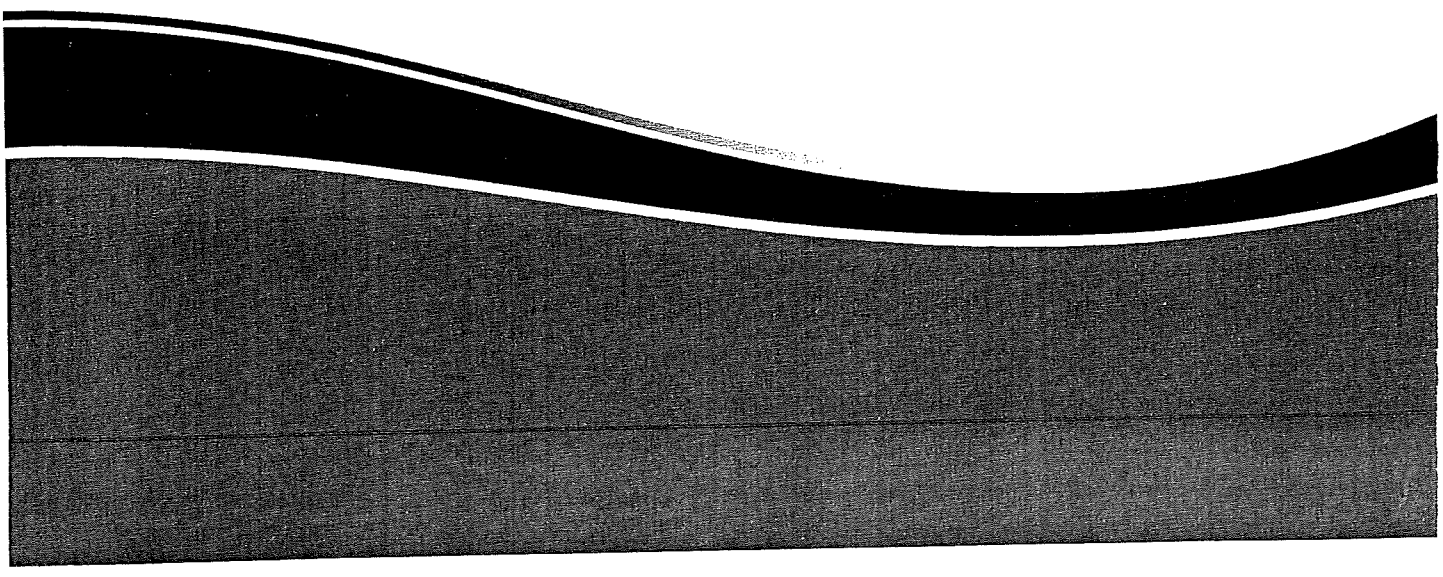
Section 4



SECTION 4

WELLHEAD PROTECTION OUTREACH AND GUIDANCE

Educating owners of property that are located within the 200-day 2,500-day travel time wellhead protection areas of the need to protect groundwater quality is a key component of Eagle Lake Water and Sewer District's wellhead protection strategy. Therefore, the names and addresses of all property owners that own land inside the wellhead protection area for the LeBouef Wells have been tabulated using information from the Town of Eagle Lake Tax Assessor's office. This property owner information is included in Appendix B.

A generic cover letter that explains the importance of wellhead protection has been prepared and is included in Appendix C. This letter will be mailed to the property owner along with a groundwater protection guidance document prepared by the Maine Rural Water Association titled *"The Safe Home Program"*. This document provides comprehensive groundwater protection "Do's and Don'ts" and a copy is included in Appendix D.

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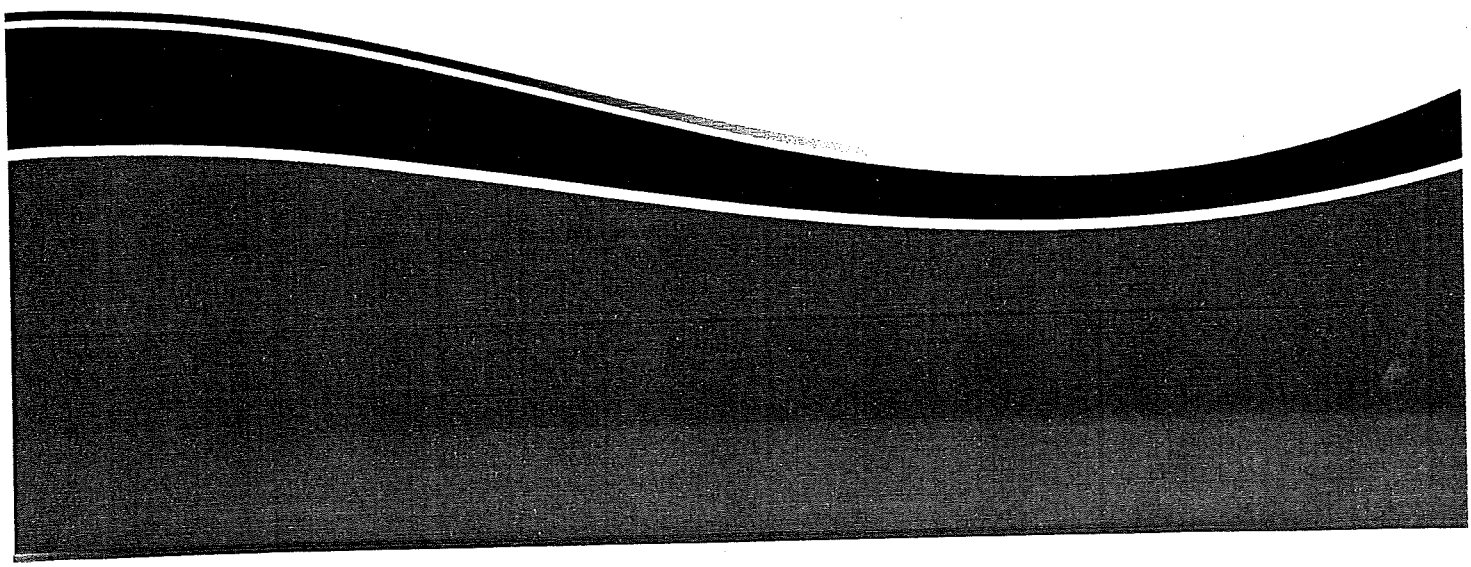
Section 5



SECTION 5

LONG-TERM WELLHEAD PROTECTION STRATEGIES

Ideally, all properties located within the wellhead protection area of the LeBouef Wells would be owned by the Eagle Lake Water and Sewer District or their land uses controlled through legal easements. The 200-day time of travel zone contains 7 properties and the 2,500-day time of travel zone contains 8 properties (see Figure 1). However, because these properties are located on Eagle Lake, they are very expensive and the cost of acquisition or easements would have an unacceptable adverse impact on water rates.

When land ownership or easements cannot be obtained for the properties in the wellhead protection areas, typically a water district would seek to incorporate a wellhead protection ordinance into its zoning regulations. However, the Eagle Lake Water and Sewer District recently attempted to enact a wellhead protection ordinance and was met with significant local opposition. Therefore the district will focus its efforts on public outreach and education through mailings and public informational meetings. Public outreach is discussed in Section 4.

Finally, on June 20, 2007, the State of Maine amended Chapter 353 of their public laws to require Natural Resource Protection Act (NRPA) permitting for activities within the shoreland zone of public water supplies. Rules established by this new law, which are expected to be issued within the next few years, will likely provide additional protection for the LeBouef wells.

For reference, a model Wellhead Protection Ordinance is included in Appendix E.

Appendix A

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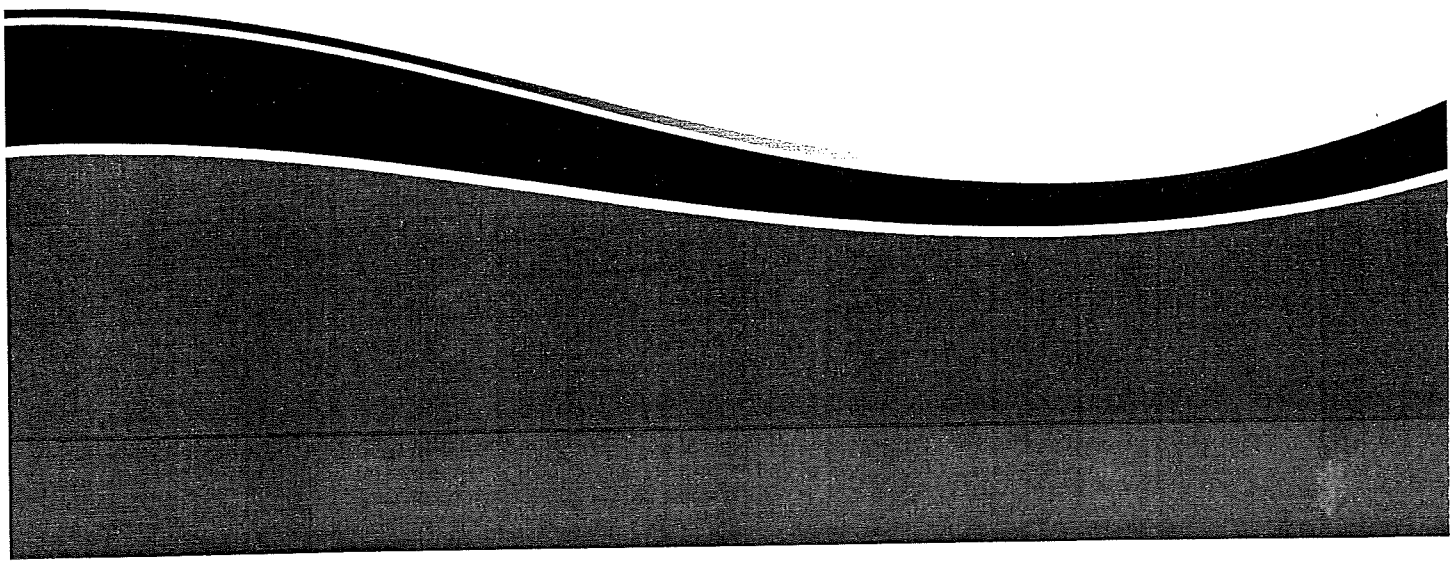
Engineering a Better Environment



Maine Center for Disease Control and Prevention
An Office of the Department of Health and Human Services
John E. Baldacci, Governor Brenda M. Harvey, Commissioner

Department of Health and Human Services
Maine Center for Disease Control and Prevention
286 Water Street
11 State House Station
Augusta, Maine 04333-0011
Tel: (207) 287-2070
Fax: (207) 287-4172; TTY: 1-800-606-0215

March 24, 2008

Mr. Gerald Raymond
Eagle Lake Water & Sewer District
P.O. Box 137
Eagle Lake, ME 04739

COPY

RE: Final Approval for Water Supply Wells PWSID # 90480

Dear Mr. Raymond:

The Department has reviewed the 'Request for Final Approval' submitted by Wright-Pierce for the two gravel packed wells constructed in November 2007. These wells are designated PW-1 and PW-2 and are located on the LeBoeuf site. In the materials presented, the well specifications and water quality analysis results meet all applicable State and Federal standards.

Final approval is granted for wells PW-1 and PW-2 subject to the following requirements:

1. The District must develop and implement an effective wellhead protection plan for the new wells. The Plan must include either ownership or legal control over the delineated 2,500 day contributing area for the wells. This control may take the form of a local ordinance restricting activities in the area, or of an easement on the land within the area that will accomplish the same purpose.

2. As a water district, chlorination facilities are required and continuous chlorination must be in operation upon initial utilization of the wells. Chlorination must continue for no fewer than 60 days. . The District may petition to discontinue chlorination after the two month period.

3. Tests for gross alpha from each well must be conducted as soon as possible to fulfill the requirement of two quarterly tests. This follows the initial tests for gross alpha done in November.

4. First Year Water Testing: Monthly testing for bacteria for at least 12 months. Annual testing for nitrate/nitrite and volatile organic compounds. To a six-month testing schedule for lead/copper. Quarterly testing for disinfectant by-products. Quarterly composite tests for Radium 228 (TSVY) to be collected in the first two calendar quarters that the wells are on-line.

These testing requirements pertain to the groundwater sources only and exclude the current water testing requirements for surface water. You will be notified in the future regarding any additional routine monitoring requirements.

Please contact us if you have any questions or concerns.

Sincerely,

Lawrence R. Girvan, P.E.
Field Services Engineer 768-3610
Drinking Water Program

Lindy Moceus
Compliance Officer 287-8402

Ec: Andy Tolman

Maine Drinking Water Program Well to Contamination Source Setback Waiver Form

Rev B 1/9/2007

System Name: *Eagle Lake Water District*
System Contact Name: *Gerry Raymond*
PWSID# (If applicable):*90480*
DWP Field Inspector: *Larry Girvan*
DWP Waiver Reviewer:(Field Inspection Team Manager or DWP Geologist:

Date: *8/15/07*

1. What is the measured setback the waiver is requested for? (Attach drawings and describe)
   220' From Saucier Residence

2. What circumstance warrants a setback reduction waiver: *Maintain 150' setback from Eagle Lake surface water and allow sufficient land area to locate backup production well PW 2 (see attached site plan) in a location where high yield sand and gravel sediment is likely to exist on the LeBeouf Site. Saucier and LeBeouf residences are on municipal sewer system. Septic systems do not exist within 600 feet of the proposed well sites.*

3. If setback is less than 150 feet, was a hydrogeological study completed by a certified Geologist?

   ☐ Yes (attach report)
   ☐ No If No, why was the study not completed? (e.g. septic pretreatment required, study not needed? other?)

4. Waiver granted? ☑ Yes ☐ No

   Explain reasoning:
   Existing residential building poses limited risk. Well site highly constrained by geologic and regulatory restrictions.

5. Record waiver conditions (e.g. septic pretreatment, extended well casing or jazwell seal, monitoring requirements):
   Applicant shall delineate actual protection zone (200 day travel time New activities within that zone will be reviewed by Eagle Lake PB and DWP.

DWP Authorizing Signature (Field Inspection Team Manager or DWP Geologist):

Andrews L. tolman Date: 8/22/07

Retain this form in the PWS file.

APPROVED BY: Nancy Beardsley, Director

Nancy Beardsley
Signature

Effective Date

Rev A - 9/25/06 ; Rev B –1/9/07 ;
Revision Dates

;;

John Elias Baldacci
Governor

Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
(Formerly Bureau of Health)
286 Water Street
11 State House Station
Augusta, ME 04333-0011

Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

July 31, 2007

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District, PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Wellhead protection status, LeBoeuf site and potential impacts on Saucier Property, Eagle Lake

Dear Mr. Raymond:

You requested that we clarify the status of the Saucier property's wellhead protection status given the recent agreement to develop a well on the LeBoeuf site. It is our understanding that the well will be developed in the vicinity of test boring 7-05, 150 + feet from the normal high water level of Eagle Lake. A well at that location would have a preliminary 300-foot radius protection area, pending actual delineation of a 200-day travel time area. The 300-foot circle would extend on to the Saucier property, primarily in the shoreland zone.

Based on our understanding of the Eagle Lake Shoreland Zoning Ordinance, it is our expectation that the use of the Saucier property would not face significant additional restrictions by the potential of this portion of their land being within the preliminary wellhead protection area. Additionally, it is important to note that the final delineation, based on the actual contributing area, may well not include the Saucier property, although we cannot be certain of that until the hydrogeologic evaluation is complete.

Another factor that will influence the long-term land use in the area is PL 2007, Chapter 353, which provides protection for the sanitary protection area of community public water systems (either a 300 foot radius or a 200 day travel time). Any new activity (e.g., a new building) in that area would be subject to state-level review and approval. Existing, ongoing low-intensity recreational use will not be regulated under this law.

We will continue to work with Eagle Lake to provide a safe and secure public water source for your customers. Please give me a call if you have questions about this letter.

Sincerely,

Larry Girvan, P.E.
Northern Maine Field Services
Maine Drinking Water Program

Andrews L. Tolman, C.G.
Water Resources Team Leader

Cc: Larry Girvan, Terry Trott, Roger Crouse

John Elias Baldacci
Governor

Maine Department of Health and Human Services
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Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

July 6, 2007

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District, PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Wellhead protection status, LeBoeuf site and potential impacts on Saucier Property, Eagle Lake

Dear Mr. Raymond:

You requested that we clarify the status of the Saucier property's wellhead protection status given the recent agreement to develop a well on the LeBoeuf site. It is our understanding that the well will be developed in the vicinity of test boring 7-05, 150 + feet from the normal high water level of Eagle Lake. A well at that location would have a preliminary 300-foot radius protection area, pending actual delineation of a 200-day travel time area. The 300-foot circle would extend on to the Saucier property, primarily in the shoreland zone.

Based on our understanding of the Eagle Lake Shoreland Zoning Ordinance, it is our expectation that the use of the Saucier property would not face significant additional restrictions by the potential of this portion of their land being within the preliminary wellhead protection area. Additionally, it is important to note that the final delineation, based on the actual contributing area, may well not include the Saucier property, although we cannot be certain of that until the hydrogeologic evaluation is complete.

We will continue to work with Eagle Lake to provide a safe and secure public water source for your customers. Please give me a call if you have questions about this letter.

Sincerely,

Larry Girvan, P.E.
Northern Maine Field Services
Maine Drinking Water Program

Andrews L. Tolman, C.G.
Water Resources Team Leader

Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801, Jeff Musich W-P, Larry Girvan, Terry Trott, Roger Crouse

Maine Department of Health and Human Services

Maine Center for Disease Control and Prevention
Division of Environmental Health
(Formerly Bureau of Health)
286 Water Street
11 State House Station
Augusta, ME 04333-0011

John Elias Baldacci
Governor

Brenda Harvey
Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

June 27, 2007

Mr. Gerald Raymond
Superintendent
Eagle Lake Water and Sewer District
PO Box 137
Eagle Lake, Maine 04739

Subject: Purchase of Saucier Property and the Development of Production Wells

PWSID# 90480

Dear Gerry:

Thank you for meeting with me and other Drinking Water Program (DWP) staff via telephone on June 26, 2007. The Eagle Lake Water and Sewer District (District) has an option to purchase the Saucier property located on the shore of Eagle Lake. However, due to the limited foot-print of this lot, the primary wellhead protection zone will extend beyond the boundaries of the property. The DWP requires that the District have ownership or other land use controls over the primary wellhead protection zone.

The District has sought unsuccessfully for opportunities to purchase land or easement rights from the abutting property owners. The District has conducted testing on a total of 12 separate locations in an effort to identify the most viable ground water supply. The District also worked with the Town of Eagle Lake to create a municipal ordinance that would provide the necessary wellhead protection. However, the DWP understands that the Selectmen in the Town of Eagle Lake have removed the wellhead protection ordinance from the municipal ballot.

The DWP has earmarked approximately $956,000 from the Drinking Water State Revolving Fund (DWSRF) for the District for the development of a new water supply and the Community Development Block Grant Program has committed $500,000. Approximately $235,000 has been spent to-date.

Due to the District's great difficulties finding an acceptable water supply of water, the DWP agrees to the following terms:

1. The District may use DWSRF money to purchase the Saucier property and design and construct the necessary component of the new water source.
2. The District must continue working with abutting property owners and/or local government officials to obtain necessary ownership or control of the primary

wellhead protection area. The District must attain this ownership/control before the DWP will grant final approval of the new supply.

3. The District must provide evidence to the DWP that they have the rights to install and/or fully access the necessary monitoring wells to develop the groundwater model.

As you may know for the last several years the DWP has been working with the Legislature to find ways to better protect Maine's drinking water sources. This session we were successful in getting legislation passed that designates wellhead protection areas and areas around surface water intakes as protected natural resources; a very important first step in better protecting our drinking water sources. This is intended to provide a minimum acceptable level of land use control.

We are now working with the Department of Environmental Protection to develop rules that clarify the law. There are a number of steps in this process, and we will not know the shape of the new rules until after the next legislative session.

As I stated in our phone conversation, the District assumes a risk if it decides to proceed forward with this project without having the land ownership/control in place. Please do not confuse the DWP's agreement to fund this project as the DWP assuming part of that risk. The District remains the entity that is responsible for complying with State and Federal regulations and providing safe and reliably protected water to its customers in Eagle Lake.

The DWP appreciates the difficult situation you are in. We strongly support the development of a safe and reliable drinking water source in Eagle Lake. If you have any questions, please contact me at 287-5684 or roger.crouse@maine.gov.

Yours for safe drinking water,

Roger L. Crouse, P.E.
Assistant Director
Maine Drinking Water Program

Ec Andy Tolman, Nate Saunders, Nancy Beardsley, Tera Pare, Jeff Musich and Gary Smith –WP, Karen Asselin –MMBB

John Elias Baldacci
Governor

Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
(Formerly Bureau of Health)
286 Water Street
11 State House Station
Augusta, ME 04333-0011

Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

June 6, 2007

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Preliminary Hydrogeologic Approval well construction and testing, Saucier Site, Eagle Lake

Dear Mr. Raymond:

We have reviewed a draft report dated June 1, 2007 from Wright-Pierce, concerning location of a production well or wells for Eagle Lake. The current proposal is for naturally developed gravel wells on the Saucier property, located more than 150 feet from mean high water of the lake. We understand that this report will become part of the final hydrogeologic report for the system, and that this is an interim submittal.

The plan for development and testing is appropriate, and we have also reviewed the language and coverage of your proposed wellhead protection ordinance for this area. It meets our minimum standards for new source protection.

Based on the information available in these reports, we believe that a well on the Saucier site is acceptable from a source protection standpoint. Final well approval will depend on the characteristics of well(s) as they are developed. This approval is separate from the Environmental Review required for SRF.

Sincerely,

Larry Girvan, P.E.
Northern Maine Field Services
Maine Drinking Water Program

Andrews L. Tolman, C.G.
Water Resources Team Leader

Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801, Jeff Musich W-P, Larry Girvan, Terry Trott, Roger Crouse

John Elias Baldacci
Governor

Maine Department of Health and Human Services

Maine Center for Disease Control and Prevention
(Formerly Bureau of Health)
286 Water Street
11 State House Station
Augusta, ME 04333-0011

Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

May 9, 2006

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Location of production wells at Eagle Lake

Dear Mr. Raymond:

On May 4, Drinking Water Program (DWP) staff and Wright-Pierce staff conducted a conference call to clarify the location and path to approval for the new Eagle Lake wells. Determining the location of the wells is complicated by two potential sources of contamination. The first potential source of contamination is the proximity to surface water. All wells located less than 150 feet from a surface water body must be tested, using Microscopic Particulate Analysis (MPA), to determine if the wells are under the direct influence of surface water. Wells that are determined to be under the direct influence of surface water are subject to the provisions of the Surface Water Treatment Rule. Since the early 1990s the DWP has used a definition of the edge of the surface water body that is consistent with the definition of the "Normal high water line" found in Maine Statute (38 MRSA, §480B).

In a letter dated November 18, 2005, the DWP authorized development and testing of new wells on the LeBoef property. That letter was based on Wright-Pierce's November, 2005 request for preliminary approval report, which indicated that the well was to be located "152 feet from the Eagle Lake shoreline". The DWP did not recognize during the review of the report that the shoreline identified was not the statutory edge of the lake, but rather an observed summer water level.

On May 3, 2006, Larry Girvan and Bill Johnson of the DWP, measured from the normal high water line of Eagle Lake to the staked well locations. The distances were determined to be 119 and 125 feet. Since the staked locations are less than the 150 feet from a surface water body, any wells constructed at these points would need to be tested to determine if they are under the direct influence of surface water.

The second potential source of contamination is the existing home on the LeBoef property. The State of Maine Rules Relating to Drinking Water requires that "New wells shall be located at least 300 feet away from potential contamination sources." (Section 3. G. 2. f. iii.). In the subsequent paragraph (iv) the DWP has the ability to "grant a waiver on a case-by-case basis." The locations of the wells, as staked on May 3, 2006, are more than 300 feet from the existing home. Moving the wells further away from surface water, to avoid the required MPA testing, will result in the home being located within the 300 foot circle. However, since no subsurface disposal field exists on the property, the DWP would approve a waiver if a strong management plan is implemented.

Larry Girvan is anticipating meeting Gary Smith from Wright –Pierce, at the LeBoef property on May 15, 2006 to help delineate the 150 foot set-back from surface water. If you have any questions, please contact me at 287-6196.

Sincerely,

Andrews L. Tolman
Education and Technical Assistance Team Leader
Maine Drinking Water Program

Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801, Jeff Musich, Larry Girvan, Terry Trott, Roger Crouse

John Elias Baldacci
Governor

Maine Department of Health and Human Services
Maine Center for Disease Control and Prevention
(Formerly Bureau of Health)
286 Water Street
11 State House Station
Augusta, ME 04333-0011

John R. Nicholas
Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

November 18, 2005

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Preliminary Approval, Pump test plan and hydrogeologic evaluation, Eagle Lake.

Dear Mr. Raymond:

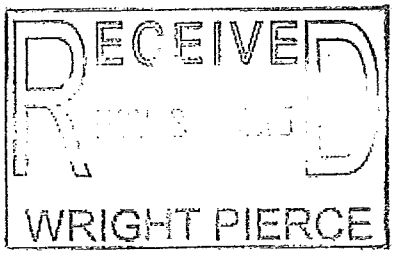
We have reviewed the November, 2005 report prepared by Wright-Pierce for the LeBoef site. The plan presents a clear understanding of the site hydrogeologic conceptual model, as well as an appropriate plan for testing that model's assumptions during the production well pump test.

The pumping test plan includes a variable duration, depending on the system response. This is appropriate for this setting, with both a positive and negative boundary condition to evaluate. We note that a delineation of the contributing area (200 and 2,500 day travel time) will be required for final approval of the production well, along with an effective wellhead protection plan that provides for ownership or legal control of activities in the contributing area.

We wish you good luck in the well installation and development process. Please keep us appraised of your progress, so that we can work together to provide Eagle Lake with safe drinking water.

Sincerely,

Andrews L. Tolman
Manager Source Protection,
Maine Drinking Water Program
286 Water Street, 3rd Floor
Augusta, ME 04333-0011

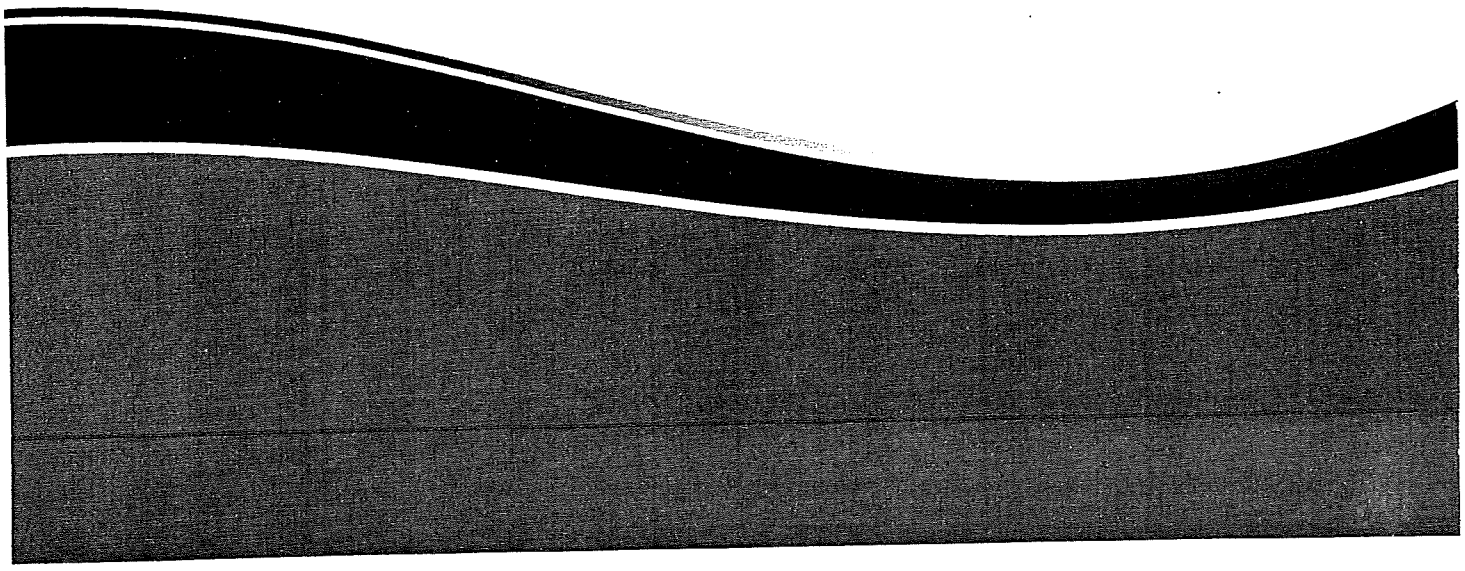


Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801

Appendix B

WRIGHT-PIERCE™

Engineering a Better Environment



Eagle Lake Water & Sewer District
Eagle Lake, Maine **(Public Water Source)**

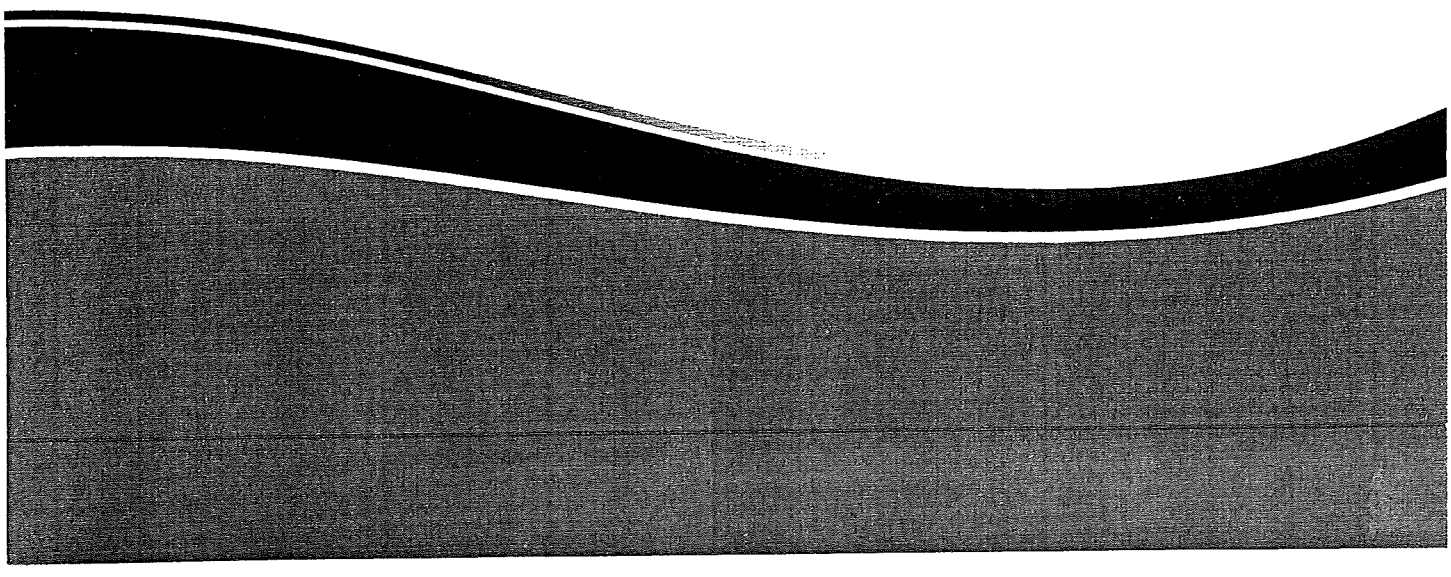
Land Owners located within the 200 day travel time Zone of Contribution

Tax Map / Lot	Property Owner Name	Mailing Address
16 / 29	Phillip LeBoeuf Overlook Cabins	PO Box 347, Eagle Lake, ME 04739
16 / 29 -1	ELWSD District Sewer Pumping Station # 2	PO Box 137, Eagle Lake, ME 04739
16 / 30	Phillip LeBoeuf Home	PO Box 347, Eagle Lake, ME 04739
16 / 30A	ELWSD District Wellhead Area	PO Box 137, Eagle Lake, ME 04739
16 / 31 -3	Louis & Lillian Roy Home	PO Box 347, Eagle Lake, ME 04739
16 / 31 -4	Paula Ouellette RV Lot	75 Pleasant St., Fort Kent, ME 04743
16 / 31 -5	Jonathan & Karen Trudo Home	20 Apple Blossom Lane, Kennebunkport, ME 04046
	Maine Northern Railway	103 School Street, Oakfield, ME 04763

Appendix C

WRIGHT-PIERCE

Engineering a Better Environment



September 1, 2008

Name
Address
Eagle Lake, ME 04090

Subject: Eagle Lake Water and Sewer District
Wellhead Protection Area Information for Homeowners - LeBouef Wells
Eagle Lake Tax Map _____, Lot_____

Dear Property Owner:

As you may be aware, the Eagle Lake Water and Sewer District (ELWSD) uses groundwater wells as water sources for its municipal water supply system. In order to supply the safest and highest quality drinking water to its customers, ELWSD is committed to keeping these water sources as pristine and free of land use related contamination as possible.

This letter is to notify you that your property is located within a wellhead protection area for new groundwater wells located on the LeBouef property between Dube Lane and Old Main Street. As part of the municipal groundwater well approval process, State of Maine Drinking Water Program rules require a wellhead protection area be established around municipal water supply wells. The wellhead protection area boundaries are established by determining the distance (boundary to well) that groundwater would travel over a period of 2,500 days of well operation.

Land use activities on your property could affect the quality of groundwater that reaches the LeBouef Well Site. We, therefore, urge you to be aware of, and avoid, activities that can adversely impact groundwater quality.

Enclosed please find some information that explains how you can protect your groundwater quality. We hope you will take a moment to review this material and follow its recommendations to prevent groundwater contamination. If water for your home is supplied by an on-site private well, this information will also help to ensure your family's water remains clean and safe to drink.

If you have any question regarding this letter or the enclosed materials, please do note hesitate to contact me at the Eagle Lake Water and Sewer District at 207-444-5441. Thank you for helping keep our community's groundwater safe and clean.

Sincerely,

Gerry Raymond, Superintendent
Eagle Lake Water and Sewer District

Gerry Raymond's Responses to Critical Pesticide Control Area Questions From BPC

(Q). Chapter 60, Sec. 2 (B) – The request asks for a "total ban on the use of pesticide and herbicide within this area." For clarification, is the intent to ban the use of all pesticide chemistries including minimal risk pesticides that are exempt from EPA registration (FIFRA, Section 25b).

Chapter 60, Sec. 2 (D) – The map provided depicts the 200-Day and 2,500-Day Travel Zones. Please clarify if the proposed control area is the 200-Day Travel Zone, 2,500-Day Travel Zone or the 300-foot radius well recharge zone.

(A). We want the proposed zone to cover the 500 ft radius of the well recharge zone.

Justification:

- The purpose of extending the 300 ft radius to 500 ft radius is to cover the entire residential infrastructure which could effect our well recharge zone.
- For reference the recharge zone wells are shallow gravel pack (approx. 40 ft. deep).
- It is unknown if the half-life for the products utilized would allow contaminants it to leach into the well's recharge zone.
- In this sensitive area, it is impossible to monitor pesticide/herbicide application activities.
- Residents or applicators are not forthcoming in notifying our organization when they will occur.
- Applicators do not voluntarily supply SDS (MSDS) information prior to application for our approval.
- Normally, we only witness applicators after they have applied products.
- One of the residents has a perimeter drain around foundation that discharges in the well recharge zone. It is unknown if contaminants are being discharged into the well recharge zone.
- If this pesticide/herbicide restriction is not approved, the Maine Drinking Water Program will require us to conduct pesticide monitoring/sampling.
    - This would be very costly for our organization and would not guarantee contamination to our wells/groundwater.
    - It is more significantly more expensive after contamination than prevention (moving wells or cleanup).
    - Potential for legal action from contamination or sickness in the future.
    - This preventative measure would better protect the town citizens/customers from contamination.

(Q). Chapter 60, Sec. 2 (E) – The request acknowledges abutting landowners use of herbicides and pesticides. Can you elaborate on the purpose for the use of those pesticides, i.e. lawncare, tick & mosquito control, structural pest control, etc.?

(A). The purposes for the applications were for infrastructure pest control (ants/earwigs), herbicide lawncare (weeds), invasive wildlife control (Canada Geese).

Further information:

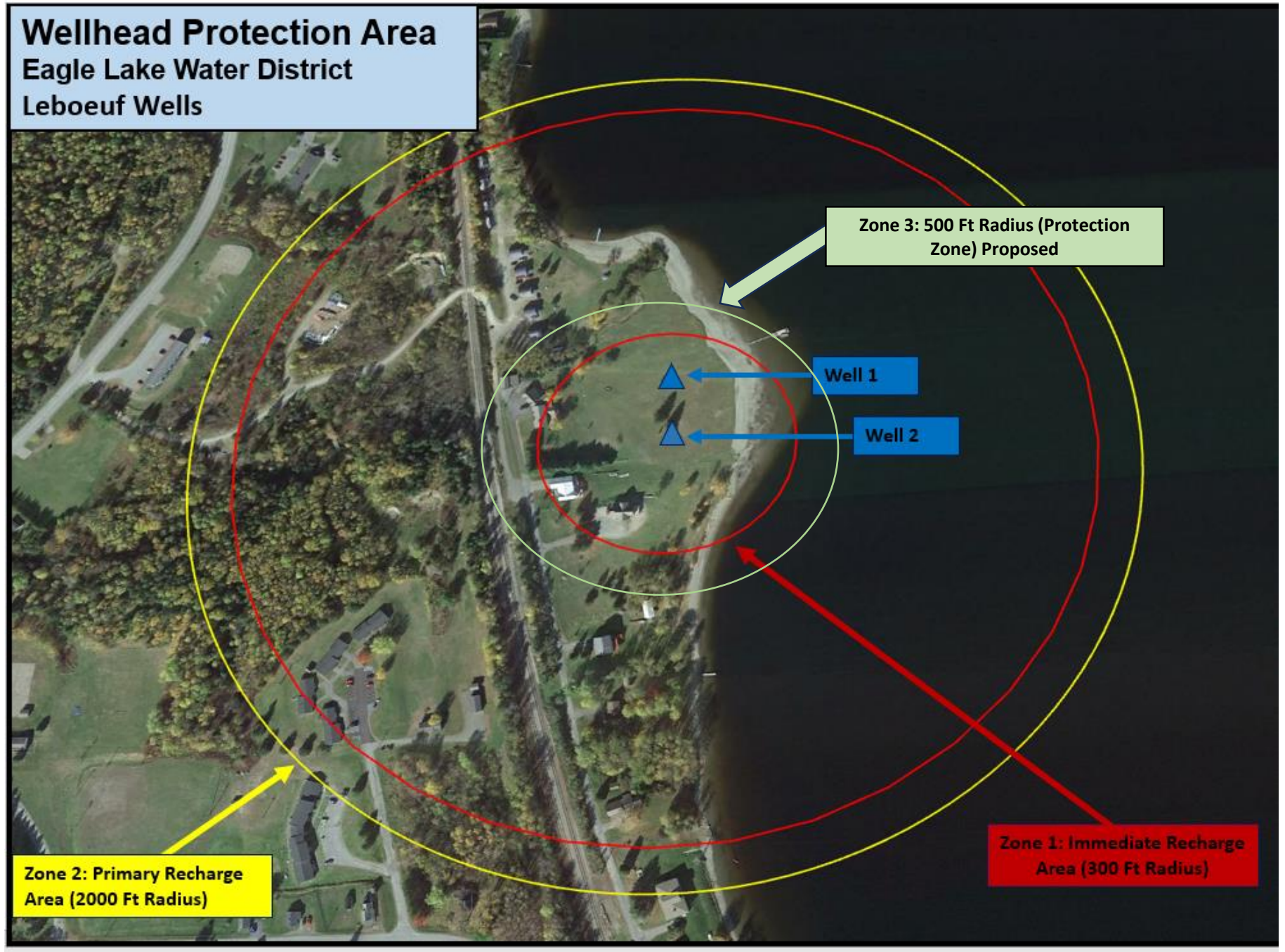
- We will provide the SDS' for products we were provided and what we know was applied
- It is unknown if further applications are conducted besides the activities witnessed, we are not voluntarily provided with this information.

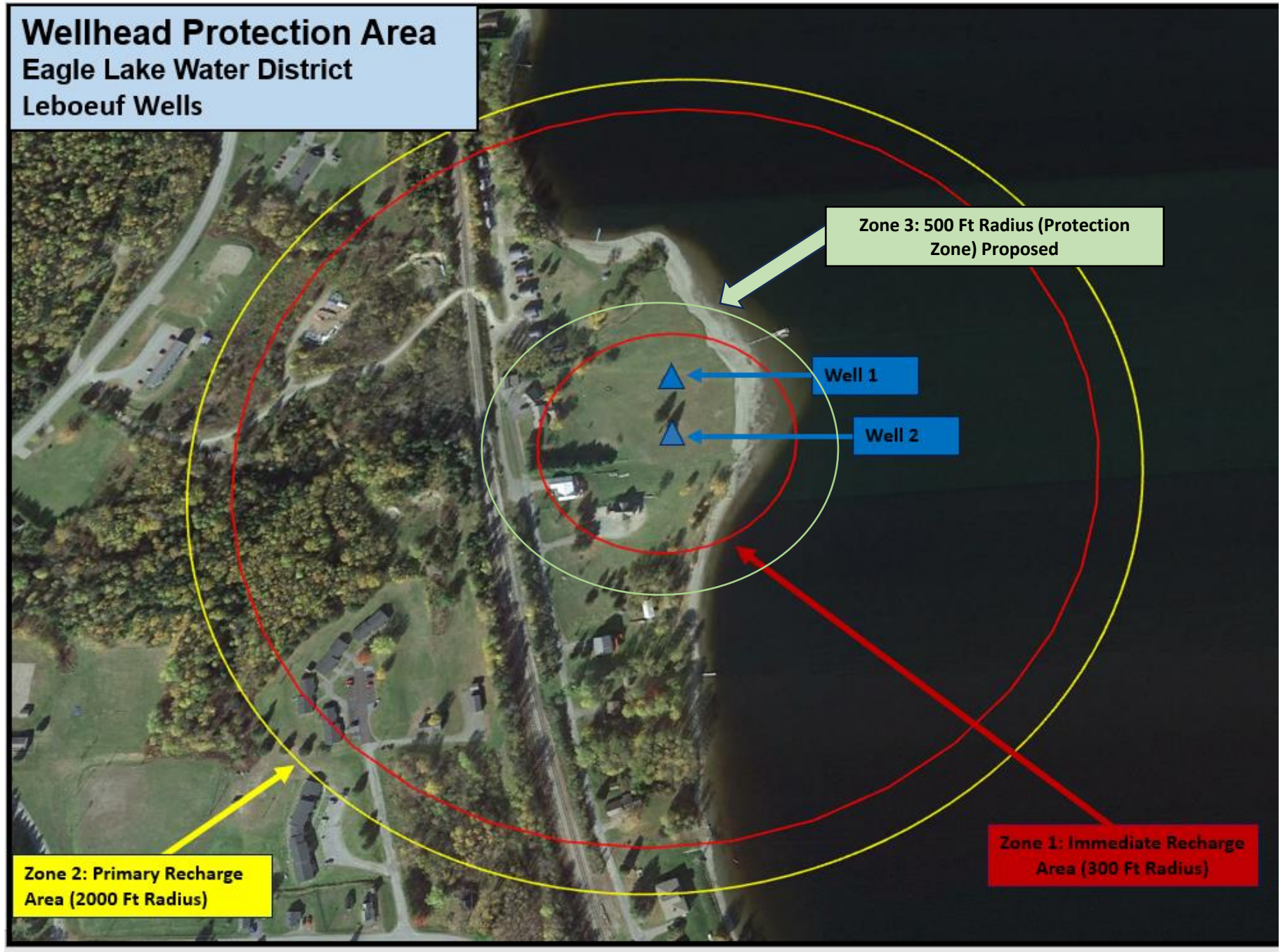
(Q). Chapter 60, Sec. 2 (G) – The request provides evidence establishing the impacts of "agricultural" pesticides on ground and surface waters and potential risks to human health. Can information be provided regarding the use of pesticides in "residential" settings and their potential impact on ground and surface waters and the potential for adverse effects on human health?
(A). Commercial agriculture is not conducted in the zone and no residential agriculture has been witnessed

- If residential agricultural (gardens) activities are conducted, there is potential for herbicide/pesticide application in these zones.

(Q). Chapter 60, Sec. 2 (J) –Please provide a more detailed description of the proposed restrictions on the use of pesticide(s) within the proposed critical area.
(A). We are requesting that no pesticide or herbicides be applied in the 500 ft radius of our well recharge area. Also, we are requesting that no intentional activities or infrastructure be allowed to be discharged in this zone (i.e. stormwater drains, industrial activities, agricultural activities, construction activities, fueling activities, unnecessary vehicle traffic, equipment fueling, residential drainage, etc.)

Please feel free to reach out with any questions regarding this request. Staff does plan to include the pesticide use inspection report completed in September of 2022 with your request for consideration by the Board.
Clarification is requested by the close of business on Tuesday, March 26, 2024, for proper submission to the Board. A copy of Chapter 60 has been attached.
We look forward to working with you on this matter.


Wellhead Protection Area
Eagle Lake Water District
Leboeuf Wells
Zone 3: 500 Ft Radius (Protection Zone) Proposed
Well 1
Well 2
Zone 1: Immediate Recharge Area (300 Ft Radius)
Zone 2: Primary Recharge Area (2000 Ft Radius)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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

MAINE BOARD OF PESTICIDES CONTROL DIRECTOR APPOINTMENT POLICY

Adopted XXX

Background

Title 22 §1471-B outlines the organization of the Board of Pesticides Control. Under this section, the Board is to approve the appointment of the Director, who oversees all staff and works to ensure that staff, the Board, and the Department are meeting regulatory requirements. At the April 5, 2024 Board Meeting, the Board discussed the new director appointment and voted to create a policy formalizing the approval process mentioned in Title 22 §1471-B.

Approval Process

Under Title 22 §1471-B, the director and their appointment is described as:

4. *The commissioner shall appoint a director, with the approval of the board. The director is the principal administrative, operational and executive employee of the board. The director shall attend and participate in all meetings of the board, but may not vote. The director, with the approval of the commissioner and the board, may hire any competent professional personnel and other staff the director considers necessary. All employees of the board are subject to Title 5, Part 2. The director may obtain office space, goods and services as required.*

The Board of Pesticides Control will grant approval of new directors through one of the following means:

1. A formal vote to approve the selected candidate.
2. An active board member sitting on the hiring committee for the director.
3. Another process that similarly will give board members the ability to review and approve the candidate

Official approval by vote should occur after the department selects a candidate following DACF's interview process.

Proposed Administrative Consent Agreement
Background Summary

Subject: Orkin, LLC
DBA Mainely Ticks
P.O. Box 70
Wells, ME 04090

Date of Incident(s): July 2021 – April 2022

Background Narrative: On April 27, 2022, the Board received an anonymous complaint alleging that two Company applicators were spraying residential properties in the area of Payeur Circle in Sanford, Maine, in rainy conditions. On April 27, 2022, a Board representative visited the Payeur Circle area in Sanford and located seven pesticide application postings with Company markings dated April 27, 2022. The Board representative noted it had rained the previous night, light rain had continued throughout the day, and the ground was wet. National Oceanic and Atmospheric Administration (NOAA) records from the Sanford Regional Airport, which is situated just over three miles from Payeur Circle indicate light rain fell throughout the morning of April 27, and trace amounts of rain fell throughout the afternoon.

On May 3, 2022, the Board representative conducted a follow up inspection with the Company employees responsible for the pesticide applications made in Sanford on April 27. The Board representative ascertained that David Scotton and James Nassif applied Cross Check Plus Multi-Insecticide, EPA Reg. No 279-3206-10404 to at least seven residential properties in Sanford, Maine, on April 27, 2022.

During the investigation described above, the Board representative discovered that two Company applicators had been certified but not licensed with the Company dating back to the previous calendar year. A review of the applicator records revealed that a total of 461 pesticide applications were made by Company employees Brian Rice and David Scotton in 2021 and 2022 while neither applicator held a valid Company applicator's license. Rice made 281 of the unlicensed applications and Scotton made 180 unlicensed applications.

Summary of Violations: CMR 01-026, Chapter 31, Section 1 (A) prohibits commercial application of pesticides by applicators who are not properly licensed. The Company committed 461 violations of CMR 01-026, Chapter 31, Section 1 (A), of which 460 are considered subsequent violations pursuant to 7 M.R.S. § 616-A(2)(A)(2).

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 circumstances described above constitute seven violations of 7 U.S.C. § 136j(a)(2)(G) and 7 M.R.S. § 606(2)(B).

Rationale for Settlement: The employees responsible for the violations noted have been removed from the company. The new branch manager at Mainely Ticks has worked with BPC staff to ensure compliance with licensure and enhance training to avoid future violations. To avoid expensive and prolonged court proceedings, BPC staff with the guidance of the Office of the Attorney General negotiated this settlement with Orkin, LLC DBA Mainely Ticks and the Rollins Corporation managment.

Attachments: Proposed Consent Agreement

MAR 29 2024

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

CK#1236034S
CK Date 3-6-24
CK Amt $2286.00

In the Matter of:	)	ADMINISTRATIVE CONSENT
Orkin LLC	)	AGREEMENT
DBA Mainely Ticks	)	AND
PO Box 70	)	FINDINGS OF FACT
Wells, ME 04090		

This Agreement by and between Orkin LLC doing business as Mainely Ticks (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 Officer 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 amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the Company provides a variety of pest control and pesticide application services across the United States, including in Maine.

2. That on April 27, 2022, the Board received an anonymous complaint alleging that two Company applicators were spraying residential properties in the area of Payeur Circle in Sanford, Maine, in rainy conditions.

3. That on April 27, 2022, a Board representative visited the Payeur Circle area in Sanford and located seven pesticide application postings with Company markings and dated April 27, 2022. The Board representative noted it had rained the previous night, light rain had continued throughout the day, and the ground was wet.

4. That during the course of the investigation described in paragraph three, the Board representative interviewed a Company client whose property abuts Little Pond in Sanford, Maine, in such a way that any runoff from the property would enter the pond. The homeowner stated he was surprised to see the application taking place in the rain.

5. That on May 3, 2022, the Board representative conducted a follow up inspection with the Company employees responsible for the pesticide applications made in Sanford on April 27. The Board representative ascertained that David Scotton and James Nassif applied Cross Check Plus Multi-Insecticide, EPA Reg. No 279-3206-10404 to at least seven residential properties in Sanford, Maine, on April 27, 2022.

6. That the Board representative obtained National Oceanic and Atmospheric Administration records from the Sanford Regional Airport, which is situated just over three miles from Payeur Circle. Said records indicate light rain fell throughout the morning of April 27, and trace amounts of rain fell throughout the afternoon.

7. That the Cross Check Plus Multi-Insecticide label contains the following statements:
   a. Do not make applications during rain;
   b. This pesticide is extremely toxic to fish and aquatic invertebrates;
   c. Applying this product in calm weather when rain is not predicted for the next 24 hours will help to ensure that wind or rain does not blow or wash pesticide off the treated area.

8. That the applications described in paragraph five were conducted while it was raining.

9. That the circumstances described in paragraphs five through eight constitute use of a pesticide inconsistent with the product label.

10. 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.

11. That the circumstances described in paragraphs five through ten constitute seven 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).

12. That during the course of the investigation described herein, the Board representative discovered that two Company applicators had been certified but not licensed with the Company dating back to the previous calendar year. As a result, the Board representative obtained copies of the Company's pesticide application records for the relevant period.

13. That a review of the records described in paragraph twelve revealed that a total of 461 pesticide applications were made by Company employees Brian Rice and David Scotton in 2021 and 2022 while neither applicator held a valid Company applicator's license. Rice made 281 of the unlicensed applications and Scotton made 180 unlicensed applications.

14. That CMR 01-026, Chapter 31, Section 1 (A) prohibits commercial application of pesticides by applicators who are not properly licensed.

15. That the circumstances described in paragraphs twelve through fourteen constitute 461 violations of CMR 01-026, Chapter 31, Section 1 (A).

16. That the Company expressly waives:

    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.

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

18. That in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraphs eleven and fifteen, the Company agrees to pay a penalty to the State of Maine in the sum of $22,860.00 by November 16, 2023. (Please make checks payable to Treasurer, State of Maine).

19. 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 18) on the express condition that all actions listed in Paragraph 18 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 18.

20. 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 19 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 and/or M.R. Civ. P. 80H.

21. 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.

22. 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.

23. 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.

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

ORKIN LLC

By: Bonnie M. Ralz Date: 1/16/24

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

John Pietroski, Acting Director

APPROVED:

By: _____ Date: _____

Carey Gustanski, Assistant Attorney General

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

JANET T. MILLS
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

May 3, 2024

Mr. Eben Baker
Stantec Consulting Services Inc.
30 Park Dr.
Topsham, ME 04086

RE: Variance Permit for CMR 01-026, Chapters 29 for Vegetation Control in Cushing, ME

Dear Mr. Baker:

This letter will serve as your variance permit for the broadcast application of herbicides to two private lots on Stones Point Road in Cushing, Maine. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase.

The Board has authorized the issuance of two-year permits for Chapter 29. Therefore, this permit is valid until December 31, 2025, as long as applications are consistent with the information provided on the variance request. Please notify the Board, in advance, of significant changes, particularly if you plan to use a different product from those listed.

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

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

Sincerely,

Alexander Peacock

Alexander Peacock
Director

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING

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

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

I. David Crocker (505) 982-0809
Name Telephone Number

Company Name

258 and 294 Stones Point Road	Cushing	ME	04563
Address	City	State	Zip

II. Eben Baker CMA-5675
Master Applicator (if applicable) License Number

30 Park Drive	Topsham	ME	04086
Address	City	State	Zip

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

IV. Area(s) where pesticide will be applied:
Herbicide will be applied to two patches of remant Japanese knotweed in areas previously treated in 2023 under a separte BPC variance approval. The two patches, totaling approvximately 4,700 square feet, are located on private lots at 258 and 294 Stones Point Road in Cushing, Maine. Some of the patches are located within 25 feet of marine waters. The knotweed stands themselves are not located in wetlands. Areas of rocky ledge separates the knotweed stands from the high tide line.

V. Pesticide(s) to be applied:(Including EPA Registration Number)
Rodeo (glyphosate), EPA Reg. No. 62719-324 with an application rate of 3-5% by volume

VI. Purpose of pesticide application:
The purpose of the 2024 control effort is to continue to reduce the extent and density of previously treated Japanese knotweed stands located on private lots along the marine shoreline. Two applications will be performed in 2024, approximately 4 weeks apart. The second application will be performed to treat any areas missed during the first treatment or to treat any new sprouts.

VII. Approximate dates of spray application:

First treatment: approximately May 20-31, weather dependent

Second treatment: approximately June 17-28, weather dependent

VIII. Application Equipment:

A hand-pumped backpack sprayer will be used on the majority of the patches. Any stems close to the shore or overhanging the water will be treated using the "clip-and-drip" method, using a squirt bottle.

IX. Standard(s) to be varied from:

Performing an herbicide application within 25 feet from the high-water mark of marine waters.

X. Method to ensure equivalent protection:

Along the immediate shoreline, we will use the "clip-and-drip" method on any plants that hang over the edge of the water and where a foliar application may risk overspray into the water. In these areas, stems will be cut neear ground level and herbicide will be dripped directly onto the cut stem. This method reduces the risk of drift to protected resources. Foliar, broadcast applications will be performed under low wind conditions (2-10 mph and blowing away from the water) and will not be performed during rain or if rain is forecasted within 24 hours. Broadcast sprays will be directed away from the shoreline to minimize the possibility of drift to the water.

XI. Revegetation Plan (attach separately if necessary)

The owner reseeded with native grasses following 2023 treatments but intends to perform a follow-up application of native grass see following the 2024 treatments. Additional native shrubs species will be planted along the shoreline and scattered throughout the area. Following this second treatment, the owner will continue to control the knotweed in future years through regular cutting or mowing.

Signed: Eben Baker Date: 4/1/2024

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

Rev. 8/2013

Approximate Invasive Species Control Areas

258 and 294 Stones Point Road, Cushing, Maine

Legend

- Approximate Herbicide Application Areas
- Cushing Parcel Data

Stones Point Rd

Stones Point Rd

Fire Rd 55

Fire Rd 56

Seavey Ln

Seavey Ln

Google Earth

N

500 ft

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

May 24, 2024

Basswood Environmental, LLC
Erik Lema
32 Brentwood Rd.
Cape Elizabeth, ME 04107

RE: Variance permit for CMR 01-026 Chapter 29, Basswood Environmental, LLC

Greetings,

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

The Board authorizes the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2025, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of changes, particularly if you plan to use a different product from those listed.

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

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

Sincerely,

Alexander Peacock

Alexander Peacock
Director

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING

PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

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

I. Erik Lema (207) 518-8442
Name Telephone Number

Basswood Environmental LLC
Company Name

32 Brentwood Rd Cape Elizabeth ME 04107
Address City State Zip

II. Erik Lema CMA-5752
Master Applicator (if applicable) License Number

Same as above
Address City State Zip

III. **As part of your application, please send 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:

Saco, Factory Island Development

V. Pesticide(s) to be applied:

Alligare Triclopyr 3 and Glyphosate 5.4

VI. Purpose of pesticide application:

Invasive plant control in vegetative buffer

VII. Approximate dates of spray application:

End of May through September 2024, approx 2 applications total across the site

VIII. Application Equipment:

Backpack sprayer (foliar) and dabber/brush for cut-stem

IX. Standard(s) to be varied from:

Use within 25-feet of high water of the Saco River, greater than 25% of total site

X. Method to ensure equivalent protection:

Low volume foliar application and extensive use of cut-stem. Application only during appropriate weather conditions, no application below mean high water, application to cut vegetation (no spraying above waist height). Note: extensive revegetation plan developed by York Co. Soil and Water and approved by Saco River Corr. Commission attached.

Signed: Erik Lema Date: 4/30/2024

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

Rev. 8/2013

BASSWOOD ENVIRONMENTAL

PHOTOGRAPHIC LOG

Client Name:	**Site Location:**	**Project No.**
N/A	Factory Island, Saco	N/A

Photo No.	**Date:**
1	4/24/24

Photo Location:
Saco River

Direction Photo Taken:
N/A

Description:
Area cut by landscapers over the winter. Major infestation – note remnant bittersweet in trees.

Photo No.	**Date:**
2	4/24/24

Photo Location:
Saco River

Direction Photo Taken:
N/A

Description:
Alternate view

Photo No.	Date:
3	4/24/24

Photo Location:
Saco River

Direction Photo Taken:
N/A

Description:
Alternate view

Photo No.	Date:
4	4/24/24

Photo Location:
Saco River

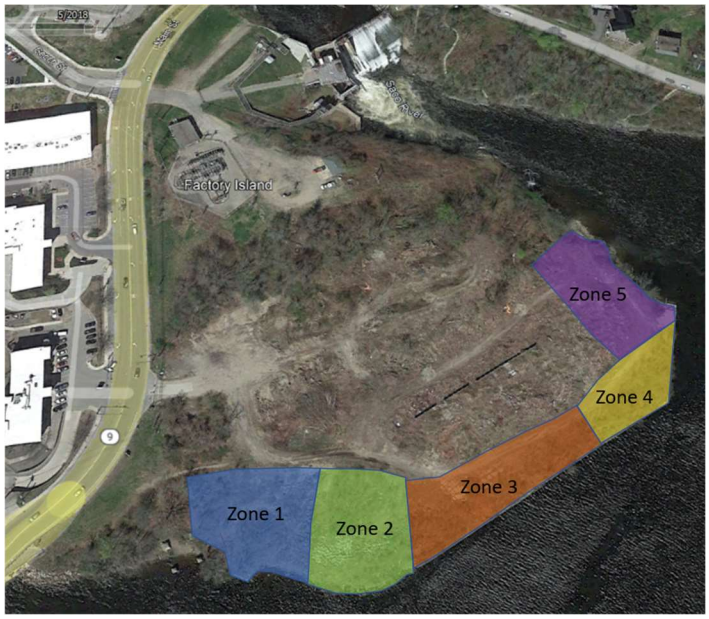
Direction Photo Taken:
N/A

Description:
Alternate view

Saco Island-Restoration Draft Summary Plan

Prepared by York County Soil & Water Conservation District

This is a brief summary of recommendations for the restoration of the 75' buffer on Saco Island/Factory Island located in the Saco River in the urban area of Saco, Maine.



We have broken the shoreline into several zones with priorities for replanting.

Zone 1: Property line to granite pile

Zone 2: Granite pile

Zone 3: Granite pile to end of cut area

Zone 4: Uncut area to point

Zone 5: Point to northwest shore

Brief description of characteristics of the site:

Soils on site are described as compact gravel fill, urban. The island is located within the Saco River at the head of tide just below the first dam. It is located in the Ecoregion Level III: Northeastern Coastal Zone (59f). The vegetation on the site is dominated by black locust, red maple, silver maple, and red oak. Conifers are absent from the site but are found on both shores both upstream and downstream. The buffer has been recently cut, with lots of stumps remaining. There is beaver activity, including recent activity targeting the red and silver maples in Zones 1 and 5. The invasives on the sites are part of an invasive management plan previously written.

Priority Restoration and Description:

Restoration Priority 1- Zone 3 – this area had the most vegetation removed and will need significant plantings to restore the buffer. The dominate tree species remaining on the site is black locust (95%) and scattered red maple (5%). There are many stumps remaining from the recent cut that are not identifiable, but we expect the majority are black locust. There is a sizeable patch on knotweed accessible for treatment. Other invasives on the site should be treated or removed prior to planting. Seeding a cover crop of native grasses will help with the excess nitrogen and provide soil cover before and after planting.

1a. The cement foundation from the old factory foundation is present and exposed. We recommend soil brought in to create a mound planting- 2-4 ft deep to enable deeper rooted vegetation to be planted. Soils can be layered with stump grindings or other branch material to help create a cycle of decomposition to build healthy soils over time. The mound needs to blend in the landscape and the existing berm of mulch along the road/cement edge should be increased as it has decomposed over the last couple years. Grasses and pollinator species can be seeded in and this area would be managed as a no mow zone. Soil tests are recommended to be done every 3 years post planting to evaluate soil PH, as cement releases lime as is decomposes and can make the soil alkaline.

1b. Invasive management - There is a sizeable patch of knotweed that is recommended for priority treatment. Chemical treatment using cut stem techniques is the most effective way to manage the knotweed in the buffer. Manual removal is not recommended due to the soil disturbance created when removing the extensive root system. Chemical treatment will be effective at killing the root system. Without treatment, the area will become a monoculture of knotweed that as it matures creates soil erosion concerns along the shoreline. There is also significant growth of bittersweet, multiflora rose, and barberry. These species need to be identified and treated as well. Smaller shrubs can be manually removed, otherwise cut stem treatment is recommended for these species as well. Passive management technique using narrow wire fencing weighed down on to of the knotweed patch will split new stem as they try to grow.

1c. Planting recommendations for this zone include:

- trees to create a canopy to shade out the invasive species. These include species from 2 categories: early successional species and crop tree species. Tree sizes will vary between ½’ diameter to 1.5” diameter.
- Multi-sized native shrubs to create structure and root growth
- perennial grasses or wildflowers will be seeded in to help stabilize the soil and provide cover

1d. Timeline for planting (see table below). Planting to be coordinated with construction activities. YCSWCD will provide oversight and conduct site walks to check in with landscaper as planting progresses. The landscaper will work with YCSWCD to find native species substitutions if nursery stock is not available. If weather conditions are not conducive to planting (drought, high heat), YCSWCD will be contacted to discuss the timeline. It is expected that planting will take place in late June/early July and that plants will be properly cared for to ensure survival.

Step	Description	Percent of job to be completed	Timeline
Cover Crop	**Perennial wildflower/conservation native grass mix**	**100%**	**July 1, 2022**
Cover Crop-reseed	**Overseed cover crop in fall or spring**	**100%**	**November 1, 2022 or April 30, 2023**
Mulch Berm	**Add conservation mulch or stump grindings to bare soil and create a visual berm at the 75’**	**100%**	**June 15, 2022**

	from high water mark to define the no disturbance zone.		
Invasive plant management	**Manage priority species: Asiatic bittersweet and Japanese knotweed.**	**100%**	**June 15, 2022**
Buffer Planting	**Replant replacement trees and shrubs in the buffer starting with the shoreline and extending 75' from HWM. (see instructions for restoration over concrete pad where is extends into the buffer)**	**60 Remaining 40%**	**October 1, 2022 June 15, 2023**

Species	**Type**	**Size**	**Quantity**
Willows (gray, pussy willow)	**shrub**	**Stakes (dormant season)**	**50**
Red osier dogwood	**Shrub**	**1 gal**	**20**
High bush blueberry	**shrub**	**1 gal**	**35**
Witch hazel	**Shrub**	**1 gal**	**15**
Spicebush (Lindera benzoin)	**Shrub**	**1 gal**	**15**
Native rhododendron (Rhododendron maximum	**Shrub**	**2 gal**	**10**
Labrador Tea	**Shrub**	**1gal**	**12**
Shadblow serviceberry	**Shrubby tree**	**2 gal**	**10**
Red Maple	**Tree**	**1.5"diameter/1"diameter**	**50**
Silver Maple	**Tree**	**1.5 diameter**	**30**
Redbud maple	**Tree**	**1" diameter**	**10**
White Pine	**Tree**	**1" diameter/2 gal pot**	**20**
Flowering dogwood	**Tree**	**1.5 diameter/1"diameter**	**8**
River Birch	**Tree**	**1.5 diameter (cluster form or single trunk)**	**10**
Red Oak	**Tree**	**1.5" diameter**	**25**
Pagoda dogwood	**Tree**	**1" diameter**	**5**
White Birch	**Tree**	**1" diameter**	**15**
New England wildflower seed mix	**Seed**	**Mix 1 to 2 ratio with grass mix**	
New England dry restoration grass mix	**Seed**	**35lbs/acre**	

Restoration Priority 2- Zone 5

Zone 5 faces the northeast shoreline near the dam. The buffer is very thin in this zone with invasive shrubs and only a few mature trees. This zone extends past the access road towards the interior. The steep shoreline in in a natural state (no concrete retaining wall). Willows and alders will help stabilize the bank and tolerate flooding. There was no mechanical harvest on the river side of the access road but the were shrubs and trees removed on the interior of the road within the buffer zone. Replanting is recommended to increase the width of the buffer. Trees, shrubs and grasses (used as a cover crop) will be planted to fill in the buffer. The vegetation removed was a combination of shrubs and trees not identifiable but not of significant size (2-6"diameter). Replanting recommendations will be similar to Zone 1.

Step	Description	Percent of job to be completed	Timeline
Cover Crop	**Perennial wildflower/conservation native grass mix**	**100%**	**June 15, 2022**
Cover Crop-reseed	**Overseed cover crop in fall or spring**	**100%**	**November 1, 2022 or April 30, 2023**
Mulch Berm	**Add conservation mulch or stump grindings to bare soil and create a visual berm at the 75' from high water mark to define the no disturbance zone.**	**100%**	**June 15, 2022**
Invasive plant management	**Identify and remove or treat invasive species**	**100%**	**June 15, 2022**
Buffer planting	**Replant replacement trees and shrubs in the buffer starting with the shoreline and extending 75' from HWM. Trees need to replanted in the same grid they were removed. On the shoreline use willow stakes to help stabilize the bank. The majority of trees cut were on the inside of the road within the 75' buffer.**	**60% Remaining 40%**	**October 1, 2022 June 15, 2023**

Species	Type	Size	Quantity
Willow	**Shrub**	**Stakes**	**75**
Red Maple	**Tree**	**1.5"diameter**	**20**
High bush Blueberry	**Shrub**	**1 gal**	**20**
Red Oak	**Tree**	**1.5" Diameter**	**12**
White Pine	**Tree**	**2" Diameter**	**15**
Witch hazel	**Shrub**	**1 gal**	**10**
New England wildflower seed mix	**Seed**	**Mix 1 to 2 ratio with grass mix**	
New England dry restoration grass mix	**Seed**	**35lbs/acre**	

Restoration Priority 3- Zone 4

Zone 4 on the shore side of the access road is relatively untouched. However, it is choked with invasive species such as bittersweet, multiflora rose, barberry. It is recommended that invasive treatment be done. Native tree and shrub species need to be planted to increase biodiversity. The Zone is 95% Black Locust and some Red Maples. Planting native shrubs and trees will increase the structure within the buffer and help shade out the invasives. Invasive treatment in this zone can be done in conjunction with adjacent Zone 3.

4a-The cement foundation from the old factory foundation is present and exposed and is adjacent to Zone 3. The mound planting using hugelkulture design can be applied in this zone with the ability to contour the site into the landscape. In order to establish more than just grasses, the soil depth must be at least 3-4'deep. We recommend soil brought in to create a mound planting- 3-4 ft deep to enable deeper rooted vegetation to be planted. Soils can be layered with stump grindings or other branch material to help create a cycle of decomposition to build healthy soils over time. The mound needs to blend in the landscape and the existing berm of mulch along the road/cement edge should be increased as it has decomposed over the last couple years. Grasses and pollinator species can be seeded in and this area would be managed as a no mow zone. Soil tests are recommended to be done every 3 years post planting to evaluate soil PH, as cement releases lime as is decomposes and can make the soil alkaline.

Step	**Description**	**Percent of job to be completed**	**Timeline**
Mulch berm	Mulch exposed soil and create a mulch berm at the 75" from HWM to visually define the buffer zone.	100%	June 15, 2022
Cover crop	Seed in native wildflower and native grass mix as a cover crop.	100%	June 15, 2022
Replanting	Once invasive treatment has been completed, YCSWCD will reevaluate the site for replanting recommendations. Willow stakes, native shrubs may be planted in open spaces.	60-100%	October 15, 2022/June 1, 2023

Restoration Priority 4 -Zone 1

Zone 1 had trees removed, however the remaining vegetation present is dominated by silver maple, red maple, red oak, big-toothed aspen, and black locust. There are invasive shrubs that could be treated when the other zones are treated. Replanting with early successional species will increase the canopy cover to shade out the invasives. A variety of shrubs and native trees can be planted here to complement what is on site. The shoreline in this zone in natural and should have willow stakes added in late fall to increase shoreline vegetation.

Step	Description	Percent of job to be completed	Timeline
Cover Crop	**Perennial wildflower/conservation native grass mix**	**100%**	**July 1, 2022**
Cover Crop-reseed	**Overseed cover crop in fall or spring**	**100%**	**November 1, 2022 or April 30, 2023**
Mulch Berm	**Add conservation mulch or stump grindings to bare soil and create a visual berm at the 75' from high water mark to define the no disturbance zone.**	**100%**	**June 15, 2022**
Invasive plant management	**Manage priority species: Asiatic bittersweet and Japanese knotweed.**	**100%**	**June 15, 2022**
Buffer Planting	**Replant trees and shrubs**	**100%**	**July 15, 2022**

Species	Type	Size	Quantity
Willows (gray, pussy willow)	**shrub**	**Stakes (dormant season)**	**50**
Witch hazel	**Shrub**	**1 gal**	**10**
Buttonbush	**Shrub**	**1 gal**	**10**
Shadblow serviceberry	**Shrubby tree**	**2 gal**	**10**
Red Maple	**Tree**	**1.5"diameter/1"diameter**	**20**
Silver Maple	**Tree**	**1.5 diameter**	**25**
Redbud maple	**Tree**	**1" diameter**	**5**
White Pine	**Tree**	**1" diameter/2 gal pot**	**10**
Flowering dogwood	**Tree**	**1.5 diameter/1"diameter**	**5**
River Birch	**Tree**	**1.5 diameter (cluster form or single trunk)**	**5**
Red Oak	**Tree**	**1.5" diameter**	**10**
New England wildflower seed mix	**Seed**	**Mix 1 to 2 ratio with grass mix**	
New England dry restoration grass mix	**Seed**	**35lbs/acre**	

Restoration Priority 5 - Zone 2- Zone 2 is the location of the granite that was piled on the site from previous buildings. The developer has expressed they would like to use this granite in construction. If that is approved, this site should be revisited once the granite is removed, after which a planting plan will be developed. Trees were removed in zone 2 in the buffer as well as damage to several standing trees were noted. Tree species in this zone are dominated by black locus (95%) with some oaks and maples present. This area has invasives similar to the other zones and management of them can occur at the same time as the other zones.
YCSWCD will revisit this site once the granite has been removed to reassess the planting plan based on site conditions. Trees will need to be replanted and it is recommended to cover crop and plant shrubs in the area to build up a natural buffer. The granite currently acts as a stabilizer but once removed, all soil that may be disturbed should be stabilized immediately. YCSWCS will provide oversight.

Step	Description	Percent of job to be completed	Timeline
Mulch berm	Mulch exposed soil and create a mulch berm at the 75" from HWM to visually define the buffer zone.	100%	June 5, 2022
Cover crop	Seed in native wildflower and native grass mix as a cover crop.	100%	October 1 2022
Replanting Plan	TBD once the granite is removed, YCSWCD will revisit the site and prepare a replanting plan.		October 1, 2022

Other notes:

Management of invasives:

The Invasive Management plan needs to be executed by qualified staff who are able to identify invasive species. Due to similarity with our native species, there is a need to make sure we treat invasives appropriately. Invasives that are removed need to be disposed of properly as many species not only reproduce by seed, but also by root cuttings or pieces of vegetation. A licensed Master Applicator will need to be hired to complete any chemical treatment.

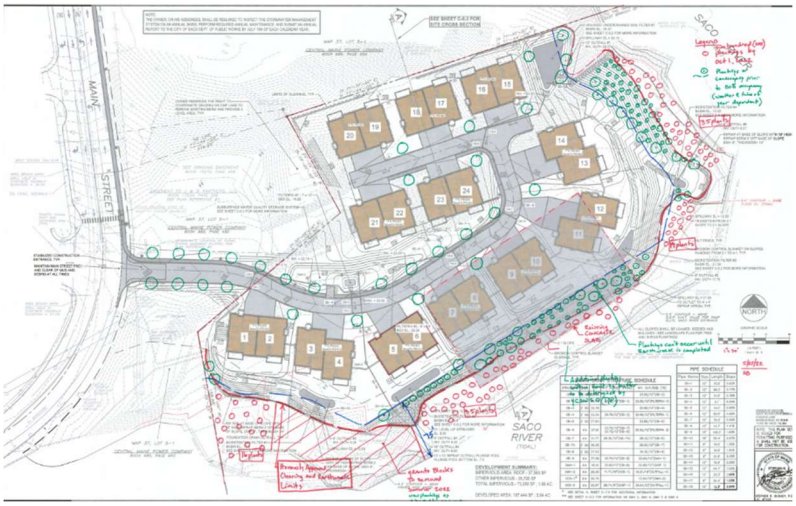
Monitoring:

It is recommended that SWCD staff, acting as a 3rd party, walk the site during and after planting to answer any questions and make sure planting densities are followed as prescribed in the final design

plan. SWCD staff will visit the site again the following year to evaluate plant health and recommend any replanting of trees, shrubs, plants as needed. A vegetative survey is recommended at year 3, 5, and 10 to capture the success of buffer planting and to make recommendations if additional planting is needed. Any plant material that does not become established or dies will require replanting.
SWCD staff can assist with identification of invasive species and work with a Master Applicator to manage the invasives that require chemical treatment. Soil tests should be taken pre planting, and at 1 year. These should be repeated in year 3, 5, and 10 for the vegetative survey.

Wildlife concern - Beaver activity- due to the numerous trees and stumps that show evidence of beaver activity, it is recommended that as many native tree along the shoreline (including those that are planted) by wrapped with wire to prevent chewing. Another option is to apply a layer of paint with a sand additive (to increase abrasiveness of the paint) which will also deter chewing. Increasing the density of shrubs will also make it harder for the beaver to access the trees. If problems persist, please call Maine Department of Inland Fisheries and Wildlife or USDA-APHIS for permits and tools to help manage the beaver.

Timeline – the developer will communicate with YCSWCD the timing of construction. We recommend plantings in the zones be prioritized so that they do not impede construction in a reasonable timeframe. The developer presented the following as a reasonable timing of replanting based on the timing and order of work. We feel it is reasonable to plant in the red zone for a completion date of October 1, 2022. Plantings in the green zone will occur as soon as construction/ground work is complete and will be communicated to YCSWCD.



Planting – all material planted needs to be properly cared for to ensure survivability. All plantings need to be watered for 3 weeks post planting if the weather. YCSWCD will provide site visits to assist with advice and evaluate plant material and regeneration of the buffer. If a planting does not survive, it will need to be replaced with the same species and size. If the same size is not available, a larger diameter tree can be planted in its place but not smaller diameter. If a larger diameter tree is not available, then YCSWCD recommends replacing with the next closest size and plant 2 new trees for every one that does not make it.

PROPER PLANTING METHODS

Step by step planting instructions are described below (from https://www.pwd.org/sites/default/files/planting-and-maintaining-vegetation.pdf). The materials you will need, such as plants, compost and loam, can be purchased from local nurseries.

1. Water the plant while it is still in its container. Dig a hole 2 times the width of the container and as deep as the soil level in the container.
2. Remove the root ball from the container and loosen the outside layer of the root system either by scoring with a knife or pulling by hand.
3. Set the plant in the middle of the hole. The top of the root ball should be at or slightly below normal ground level. If not, remove the plant and adjust the hole. Keep in mind that planting too deeply can kill the plant.
4. Backfill 2/3 of the planting hole with soil. If the original soil is very poor and the plant requires better soil conditions, mix in no more than 25% loam and/or compost with the original soil.
5. Fill the planting hole with water. This will result in a "moat" around the soil ball. When this drains completely, re-fill with water again.
6. After the water has drained, backfill the rest of the hole to ground level, and gently press the soil down to remove air pockets. Water thoroughly once more to remove any remaining air pockets.
7. Place no more than 2" to 4" of mulch around the plant, but keep the mulch a few inches away from the trunk or branches emerging from the root ball. For the first year after planting a tree or shrub, keep a mulch ring around the outer edge of the hole to allow water to soak into the soil. Cover leftover bare soil with additional mulch or move to areas where it will not erode into the lake

MAINTENANCE OF YOUR PLANTINGS

YEAR ONE

Deep, weekly watering is a must during the first year of planting. Most plants that die in the first season do so because of inadequate watering. Make sure the water reaches the depth of the root ball. Planting areas can be weeded, but should not be raked.

AFTER ONE YEAR

After the first year, you should only need to water if there is a lack of normal rainfall. Once the plants are well established, you can let the planted area naturalize so that you do not need to replenish mulch or weed. The "duff" layer of leaves and pine needles will serve as natural mulch.

SHOULD I APPLY FERTILIZER?

If plants appear to be growing well, they should not require fertilization. Fertilizer can actually harm newly developing roots, and summer/fall applications can prevent shrubs and trees from hardening off in time for winter. Applying compost is the best way to fertilize plants on shorefront properties.

NATIVE PLANT SELECTION

Plants native to Maine's climate have been recommended in this planting plan. The use of native plants in your landscape is important for the following reasons:

1. Native plantings are appropriate for the regional climate, have adapted to this area, and therefore require much less maintenance.
2. Native plants have significant wildlife value, as they are used by birds and animals as a food source and breeding habitat.
3. Roughly one-third of New England's native species are endangered due to invasive exotic species that displace natives.
4. There are many beautiful native plants available at local nurseries in our area. Using native species celebrates the uniqueness and beauty of Maine!

INVASIVE SPECIES TO AVOID

The following list is from the Maine Invasive Species Network, University of Maine, and can be found online at: https://extension.umaine.edu/invasivespecies/home/id-resources2/

AMUR MAPLE (Acer ginnala)
NORWAY MAPLE (Acer platanoides)
BISHOP'S WEED (Aegopodium podagraria)
TREE OF HEAVEN (Ailanthus altissima)
GARLIC MUSTARD (Alliaria petiolata)
FALSE INDIGO (Amorpha fruticosa)
PORCELAIN BERRY (Ampelopsis glandulosa)
COMMON MUGWORT (Artemisia vulgaris)
JAPANESE BARBERRY (Berberis thunbergii)
COMMON BARBERRY (Berberis vulgaris)
ASIATIC BITTERSWEET (Celastrus orbiculatus)
AUTUMN OLIVE (Elaeagnus umbellata)
WINGED EUONYMUS OR BURNING BUSH (Euonymus alatus)
CYPRESS SPURGE (Euphorbia cyparissias)
CHINESE BINDWEED (Fallopia baldschuanica)
JAPANESE KNOTWEED (Fallopia japonica)
GLOSSY BUCKTHORN (Frangula alnus)
DAME'S ROCKET (Hesperis matronalis)
ORNAMENTAL JEWELWEED (Impatiens glandulifera)
YELLOW IRIS (Iris pseudacorus)
COMMON PRIVET (Ligustrum vulgare)
JAPANESE HONEYSUCKLE (Lonicera japonica)
AMUR OR BUSH HONEYSUCKLE (Lonicera maackii)
MORROW'S HONEYSUCKLE (Lonicera morrowii)
TATARIAN HONEYSUCKLE (Lonicera tatarica)
PURPLE LOOSESTRIFE (Lythrum salicaria)
JAPANESE STILT GRASS (Microstegium vimineum)
PAULOWNIA (Paulownia tomentosa)
MILE-A-MINUTE WEED (Persicaria perfoliata)
AMUR CORK TREE (Phellodendron amurense)
WHITE COTTONWOOD (Populus alba)
BLACK LOCUST (Robinia pseudoacacia)
MULTIFLORA ROSE (Rosa multiflora)

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

May 2, 2024

Noah Tucker
F A Bartlett Tree Expert Co.
9 Washington Ave, Ste. 3
Scarborough, ME 04074

RE: Variance permit for CMR 01-026 Chapter 29, F A Bartlett Tree Expert Co.

Dear Mr. Tucker,

The Board of Pesticides Control considered your application for variance from Chapter 29. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase. Cheetah Pro (EPA Reg. #228-743) requires four hours to become rainfast. To prevent the chance of runoff do not apply if rain is forecast within four hours of application.

The Board authorizes the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2025, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of changes, particularly if you plan to use a different product from those listed.

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

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

Sincerely,

Alexander Peacock

Alexander Peacock
Director

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING

DEPARTMENT OF Agriculture Conservation & Forestry

PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

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

I. Aaron Engebreth ( ) 207-956-7430
Name Telephone Number

Company Name
8 Chester Street Portland, ME 04103
Address City State Zip

II. Noah Tucker CMA-4242
Master Applicator (if applicable) License Number
9 Washington Avenue Scarborough, ME 04074
Address City State Zip

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

IV. Area(s) where pesticide will be applied:

Product will be applied on the slope between the house and water from the northern most property line to the southern most property line.

V. Pesticide(s) to be applied:(Including EPA Registration Number)

Cheetah Pro EPA REG NO: 228-743

VI. Purpose of pesticide application:

Product will be used to eliminate the Japanese Knotweed that has completely taken over the hillside. The goal is to restore native vegetation to the area that has been suppressed by knotweed colony.

VII. Approximate dates of spray application:

Product will be applied three times: once in late may at first emergence, again mid-july, and again at the beginning of September, to ensure that new growth does not reach a height above 12 inches.

After the first season of application, additional applications may be necessary to continue to suppress the knotweed in future seasons.

VIII. Application Equipment:

Non Powered Low Pressure Backpack

IX. Standard(s) to be varied from:

Chapter 29 Section 6 A

X. Method to ensure equivalent protection:

In order to prevent run off, we will be treating the knotweed while growth is low to the ground (6-12 inches), as the knotweed had previously been cut and treated.

We will only be spot treating individual leaves, rather than a general broadcast treatment. This will keep volume of pesticide applied as low as possible while staying maximally effective.

XI. Revegetation Plan (attach separately if necessary)

Revegetation Plan will be enacted by Audet Enterprises after adequate suppression has been achieved.

Signed: Jason J. [illegible] Date: 9, February, 2024

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

Rev. 8/2013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Google

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EPA Publishes Update on Herbicide Strategy Progress

Released on April 16, 2024

The U.S. Environmental Protection Agency (EPA) is releasing an update to its draft Herbicide Strategy, which is part of the Agency's plan to improve how it meets its Endangered Species Act (ESA) obligations. The purpose of this update is to describe some improvements that EPA plans to make as it continues finalizing the strategy to increase flexibility and improve ease of implementation while still protecting federally listed species. The Agency expects to publish the final strategy in August 2024.

The draft strategy, which EPA released for public comments in July 2023, describes whether, how much, and where mitigations may be needed to protect listed species from agricultural uses of conventional herbicides. The goal is for EPA to use the strategy to proactively determine mitigations for registration and registration review actions for herbicides even before EPA, the U.S. Fish and Wildlife Service (FWS), and the National Marine Fisheries Service (NMFS) formally complete the lengthy ESA determination on whether an herbicide has effects on a listed species. By adopting these early mitigations, EPA can begin protecting listed species while FWS and NMFS are making their ESA determinations.

The strategy itself does not impose any requirements or restrictions on pesticide use. Rather, EPA will use the strategy to inform mitigations for new active ingredient registrations and registration review of conventional herbicides. Thus, for any herbicide, mitigations from the strategy will not become effective until EPA adopts labels (following public comment) for that herbicide as part of a new active ingredient registration or registration review decision.

EPA received extensive comments on the draft strategy, with many reiterating the importance of protecting listed species from herbicides. Commenters also identified concerns with specific aspects of the draft strategy and suggested revisions. EPA plans to make a number of improvements to the draft based on this feedback, with the primary changes falling into three categories.

- Making the strategy easier to understand. Many commenters noted the complexity of the strategy to determine the amount of mitigation a label requires for a particular pesticide—up to nine points of mitigation. In response, EPA is simplifying its approach, such as by using four tiers—none, low, medium, high—to describe the amount of mitigation that may be needed for each herbicide. EPA also plans to create educational materials that concisely explain the four-tier mitigation approach.

- Increasing flexibility for growers to implement the mitigation measures in the strategy. EPA expects to expand its mitigation measures, especially for specialty crops such as cherries and mint, to include new measures such as erosion barriers, reservoir tillage, and soil carbon amendments. EPA is also working with the U.S. Department of Agriculture (USDA) and other organizations to identify other measures to add to the mitigation menu that can reduce pesticide runoff and erosion. In May 2024, for example, the EPA and USDA will host a workshop with agricultural stakeholders to identify other possible measures to add to the menu.
- Reducing the amount of mitigation that may be needed when growers have already adopted voluntary practices to reduce pesticide runoff or where runoff potential is lower due to geography. For example, in areas of the country with flat lands or minimal precipitation where runoff potential is low, growers may need less or no additional measures to use agricultural herbicides, compared to what is currently in the draft strategy. EPA is also considering whether growers could meet any necessary mitigation requirements if they participate in agricultural conservation programs or work with qualified experts to design and implement mitigation measures.

In addition to these types of improvements, EPA is also working on other changes to the Herbicide Strategy and how it is implemented. For many listed species, the maps used in the draft strategy for determining where mitigation measures would apply are often too broad, covering areas not needed to conserve the species. EPA is working with FWS and others to develop a process for refining maps for hundreds of species. This process could then be used by applicants for registration actions and by others to produce draft maps for the agencies to consider. Through this work, EPA expects that the land area subject to the pesticide restrictions under the final strategy could shrink for many species.

EPA appreciates the thoughtful perspectives from multiple stakeholders on the draft strategy and other ESA efforts. EPA continues to consider the public comments, meet with stakeholders, and collaborate with FWS, USDA, and state agencies. EPA expects to publish the final strategy by August 30, 2024.

The full update, along with additional details regarding the strategy, are available in the public docket EPA-HQ-OPP-2023-0365 at www.regulations.gov <https://www.regulations.gov/> and on EPA's website <https://epa.gov/endangered-species/biological-opinions-available-public-comment-links-final-opinions-and-links>.

Pesticides Home <https://epa.gov/pesticides>

A-Z Index <https://epa.gov/pesticides/z-index-pesticide-topics>

Antimicrobial Pesticides <https://epa.gov/pesticides/antimicrobial-pesticides>

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International Activities Related to Pesticides <https://epa.gov/pesticides/international-activities-related-pesticides>

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

LAST UPDATED ON APRIL 24, 2024

Discover.

Accessibility Statement <https://epa.gov/accessibility/epa-accessibility-statement>

Budget & Performance <https://epa.gov/planandbudget>

Contracting <https://epa.gov/contracts>

EPA www Web Snapshot <https://epa.gov/utilities/wwwepagov-snapshots>

Grants <https://epa.gov/grants>

No FEAR Act Data <https://epa.gov/ocr/whistleblower-protections-epa-and-how-they-relate-non-disclosure-agreements-signed-epa>

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Hotlines <https://epa.gov/aboutepa/epa-hotlines>

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Frequent Questions <https://epa.gov/home/frequent-questions-specific-epa-programstopics>

Follow.

EPA Proposes to Cancel All but One Use of Pesticide Acephate to Protect Human Health

Released on April 30, 2024

Today, the U.S. Environmental Protection Agency (EPA) is releasing a proposed interim decision (PID) to cancel all but one use of the pesticide acephate. This decision is based on EPA's updated human health draft risk assessment (HH DRA) and drinking water assessment (DWA) that were released last year <https://epa.gov/pesticides/epa-publishes-updated-risk-assessments-chemical-acephate>, which showed significant dietary risks from drinking water for currently registered uses of acephate. EPA also identified worker, homeowner, and ecological risks that would be mitigated by the proposed cancellations.

Acephate is an organophosphate (OP) pesticide that is registered for both agricultural uses, such as cotton and soybean, and non-agricultural uses, such as tree injections for forestry and ant mound treatment around homes. Acephate interacts with the nervous system by inhibiting the acetylcholinesterase (AChE) enzyme. This process makes the pesticide effective against insects, but it can also occur in mammals, including humans, depending on the level of acephate exposure. At high levels of OP exposures, AChE inhibition can lead to neurological effects such as tremors, fatigue, and nausea. AChE inhibition has been found to be the most sensitive human health effect for evaluating exposures to acephate.

The Agency is proposing to maintain the use of acephate for tree injection because it does not contribute to drinking water exposure, there are no risks for workers, and, with label changes, would not pose risks to the environment. Tree injections allow the pesticide to move throughout the tree to control pests. This use of acephate is only allowed for use on trees that do not produce food for human consumption.

Acephate is proceeding through EPA's standard registration review process. The revised HH DRA and DWA released in August 2023 and the PID released today are open for public comment for 60 days. Commenters may propose alternative mitigation for the Agency's consideration for some or all uses of acephate, and the Agency will respond to these comments in the Interim Decision. If EPA determines that alternative mitigation options that are voluntarily agreed to by the registrant can address the identified risks to satisfy the standard for continued registration of the pesticide, this could allow EPA to put protections in place faster than the statutorily required process for involuntary cancellation <https://epa.gov/pesticide-tolerances/pesticide-cancellation-under-epas-own-initiative> that can take up to five years. Acephate is one of 18 OPs currently in registration review, with many scheduled to have interim decisions between 2024-2026.

For more information on the registration review of acephate and to provide comments on the PID and updated assessments, please visit the acephate docket on regulations.gov <https://www.regulations.gov/> under the docket ID EPA-HQ-OPP-2008-0915 <https://www.regulations.gov/docket/epa-hq-opp-2008-0915>.

Pesticides Home <https://epa.gov/pesticides>

A-Z Index <https://epa.gov/pesticides/z-index-pesticide-topics>

Antimicrobial Pesticides <https://epa.gov/pesticides/antimicrobial-pesticides>

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

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Comment Period Ends: **42 Days**

NOTICE

Pesticide Registration Review: Proposed Decisions for Several Pesticides

Posted by the **Environmental Protection Agency** on Apr 30, 2024

Comment (/commenton/EPA-HQ-OPP-2008-0915-0058)

View More Documents 53 (/docket/EPA-HQ-OPP-2008-0915/document)

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Give Feedback

Content

Action

Notice.

Summary

This notice announces the availability of EPA's proposed interim decisions (PIDs) and amended PIDs for the following pesticides: Acephate, Captan, Ferbam, Thiram, and Ziram. EPA is opening a 60-day public comment period for these proposed interim registration review decisions.

Dates

Comments must be received on or before July 1, 2024.

Addresses

Submit your comments through *https://www.regulations.gov* using the docket identification (ID) number for the pesticide of interest as identified in Table 1 of Unit I. Follow the online instructions for submitting comments. Do not submit electronically any information you consider to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Additional instructions on commenting and visiting the docket, along with more information about dockets generally, is available at *https://www.epa.gov/dockets.*

For Further Information Contact

For pesticide specific information: The Chemical Review Manager for the pesticide of interest is identified in Table 1 of Unit I.

For general information: Melanie Biscoe, Pesticide Re-Evaluation Division (7508P), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave. NW, Washington, DC 20460-0001; telephone number: (202) 566-0701; email address: *biscoe.melanie@epa.gov.*

Supplementary Information

I. What action is the Agency taking?

Pursuant to 40 CFR 155.58(a), this notice announces the availability of EPA's proposed interim and proposed registration review decisions for the pesticides shown in table 1 and opens a 60-day public comment period on the proposed interim registration review decisions.

Table 1—Proposed Interim Registration Review Decisions

Registration review case name and No.	**Docket ID No.**	**Chemical review manager and contact information**
Acephate Case Number 0042	EPA-HQ-OPP-2008-0915	Kent Fothergill, *fothergill.kent@epa.gov,* (202) 566-1943.
Captan (Amended) Case Number 0120	EPA-HQ-OPP-2013-0296	Christina Scheltema, *scheltema.christina@epa.gov,* (202) 566-2272.
Ferbam (Amended) Case Number 8000	EPA-HQ-OPP-2015-0567	DeMariah Koger, *koger.demariah@epa.gov,* (202) 566-2288.
Thiram (Amended) Case Number 0122	EPA-HQ-OPP-2015-0433	DeMariah Koger, *koger.demariah@epa.gov,* (202) 566-2288.
Ziram (Amended) Case Number 8001	EPA-HQ-OPP-2015-0568	DeMariah Koger, *koger.demariah@epa.gov,* (202) 566-2288.

II. What is the Agency's authority for taking this action?

EPA is conducting its registration review of the chemicals listed in the table 1 of unit I pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) section 3(g) (7 U.S.C. 136a(g)) and the Procedural Regulations for Registration Review at 40 CFR part 155, subpart C. FIFRA section 3(g) provides, among other things, that pesticide registrations are to be reviewed every 15 years. Consistent with 40 CFR 155.57, in its final registration review decision, EPA will ultimately determine whether a pesticide continues to meet the registration standard in FIFRA section 3(c)(5) (7 U.S.C. 136a(c)(5)). As part of the registration review process, the Agency has completed a proposed interim or proposed decision for each of the pesticides listed in Table 1 of Unit I.

The registration review docket for a pesticide includes documents related to the registration review case. Among other things, these documents describe EPA's rationales for conducting additional risk assessments for the registration review of the pesticides included in Table 1 of Unit I, as well as the Agency's subsequent risk findings and consideration of possible risk mitigation measures. The proposed interim and proposed registration review decisions are supported by the rationales included in those documents.

Consistent with 40 CFR 155.58(a), EPA provides for at least a 60-day public comment period on proposed interim and proposed registration review decisions. This comment period is intended to provide an opportunity for public input and a mechanism for initiating any necessary amendments to the proposed decision.

For additional background on the registration review program, see: *https://www.epa.gov/pesticide-reevaluation.*

III. Does this action apply to me?

This notice is directed to the public in general and may be of interest to a wide range of stakeholders including environmental, human health, farm worker, and agricultural advocates; the chemical industry; pesticide users; and members of the public interested in the sale, distribution, or use of pesticides. Since others also may be interested, the Agency has not attempted to describe all the specific entities that may be affected by this action. If you have any questions regarding the applicability of this action to a particular entity, consult the Chemical Review Manager for the pesticide of interest identified in table 1 of unit I.

IV. What should I consider as I prepare my comments for EPA?

In submitting a comment to EPA, please consider the following:

1. *Submitting CBI.* Do not submit this information to EPA through *regulations.gov* or email. Clearly mark the part or all the information that you claim to be CBI. For CBI information on a disk or CD-ROM that you mail to EPA, mark the outside of the disk or CD-ROM as CBI and then identify electronically within the disk or CD-ROM the specific information that is claimed as CBI. In addition to one complete version of the comment that includes information claimed as CBI, a copy of the comment that does not contain the information claimed as CBI must be submitted for inclusion in the public docket. Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR part 2.

2. *Tips for preparing your comments.* When preparing and submitting your comments, see the commenting tips at: *https://www.epa.gov/dockets/commenting-epa-dockets.*

3. *Environmental justice.* EPA seeks to achieve environmental justice, the fair treatment and meaningful

involvement of any group, including minority and/or low-income populations, in the development, implementation, and enforcement of environmental laws, regulations, and policies. To help address potential environmental justice issues, the Agency seeks information on any groups or segments of the population who, as a result of their location, cultural practices, or other factors, may have atypical or disproportionately high and adverse human health impacts or environmental effects from exposure to the pesticides discussed in this document, compared to the general population.

All comments should be submitted using the methods in ADDRESSES and must be received by EPA on or before the closing date. These comments will become part of the docket for the pesticides included in Table 1 in Unit I. The Agency will consider all comments received by the closing date and may respond to comments in a "Response to Comments Memorandum" in the docket and/or in any subsequent interim or final registration review decision, as appropriate.

Authority: 7 U.S.C. 136 *et seq.*

Dated: April 23, 2024.
Timothy Kiely,
Acting Director, Pesticide Re-Evaluation Division, Office of Pesticide Programs.
[FR Doc. 2024-09181 Filed 4-29-24; 8:45 am]
BILLING CODE 6560-50-P

Abstract

Federal Register for Tuesday, April 30, 2024 (89 FR 34241) (FRL–11907–01– OCSPP) EPA–HQ–OPP–2017–0750; Pesticide Registration Review; Proposed Decisions for Several Pesticides; Notice of Availability

Received Date

Apr 30, 2024

More Details

Guidance Document: Reporting Requirements for Pesticide Dealers and Distributors in Maine

The Maine Board of Pesticides Control (BPC) has the power to establish standards for issuing licenses or renewals to pesticide dealers under Title 22 § 1471-M. Reporting and recordkeeping by dealers is required under Title 22§1471-G. General pesticide dealer license requirements are listed under Title 22 § 1471-W. Restricted use pesticide dealer license requirements are listed in rule, CMR01-026 Chapter 50. This document is intended to outline requirements for all pesticide dealers in Maine.

Definitions

Title 7 § 604

> "Pesticide" means:
> A. Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests; [PL 2021, c. 673, §2 (NEW).]
> B. Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and [PL 2021, c. 673, §2 (NEW).]
> C. Any substance or mixture of substances intended to be used as a spray adjuvant. [PL 2021, c. 673, §2 (NEW).]*
> "Pesticide" includes a highly toxic pesticide.
>
> "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier or similar agent that is intended to be used with any other pesticide as an aid to the application or the effect of it and that is in a package or container separate from that of the other pesticide.

*As of 2021, spray adjuvants are now considered pesticides and must be reported when completing pesticide reporting requirements for all dealers and applicators.

Title 22 § 1471-C

> "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this State.
>
> "General use pesticide dealer" means any person who distributes general use pesticides.
>
> "General use pesticide" means any pesticide that is required to be registered by the board pursuant to Title 7, chapter 103, subchapter 2-A and that is not a restricted use or limited use pesticide, as defined in this section. Pesticides restricted or limited by the board are listed by the board
>
> "Pesticide dealer" means any person who distributes limited or restricted use pesticides.

CMR 01-026 Chapter 10. Definitions

> NN. "Pesticide dealer" means any person who distributes limited or restricted-use pesticides, including but not limited to sales personnel in an outlet, field salesmen, and

manufacturers' representatives selling pesticides directly to the consumer or who accept orders for pesticides.

OO. "Pesticide distributor" means any person required to be licensed to distribute general, restricted or limited use pesticides

Q. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this state. This also means giving free samples of unregistered products to any person. Sales of hardware, such as doorknobs and pushplates, shall not be considered distribution for the purposes of this definition.

License Type: General Use

Wholesalers/Manufacturers/Sub-Contractors

Any entity outside or inside of Maine that intends to sell a product within Maine is considered a distributor. Distributors must hold a general-use pesticide license to sell general-use pesticides and report purchases from manufacturers and/or sub-contractors who distribute and wholesalers that pesticides are sold to. These requirements are outlined in Title 22 §1471-W.

Retailers

Retailers are not defined in statute or rule, but if they sell general-use pesticides, they are considered a general-use pesticide dealer under Title 22 § 1471-C and must have a license. Retailers (including large box stores) are not required to submit sales reports, only reports of where pesticides are purchased from. These requirements are outlined in Title 22 §1471-W, as are the exemptions.

§1471-W. General use pesticide dealers

1. License required. Unless exempted under subsection 5, no person may distribute general use pesticides without a license.
[PL 1989, c. 93, §2 (NEW).]

2. Issuance of license. The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of $20 for a calendar year or any part of a calendar year. The Board of Pesticide Control may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. Any person licensed to distribute restricted use pesticides is considered licensed to distribute general use pesticides without any additional fee. All fees collected under this section are deposited in the Board of Pesticides Control Special Fund.
[PL 1997, c. 454, §9 (AMD).]

3. Records; reporting. Any person who distributes general use pesticides to licensed general use pesticide dealers in the State shall keep and maintain records

of these sales for annual reporting purposes. These annual reports must include the names of all licensed general use pesticide dealers to whom general use pesticides were distributed, the names of the pesticides, the United States Environmental Protection Agency registration number and the quantity sold. These records must be kept for 2 years after the end of the calendar year. For the purposes of this subsection, "distributes" means sells, ships or delivers general use pesticides to a licensed general use pesticide dealer engaged in retail sales. The board may adopt rules to further clarify who is responsible for reporting under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.
[PL 1997, c. 139, §1 (RPR).]

4. Violations; penalty.
[PL 1989, c. 93, §2 (NEW); PL 1989, c. 841, §10 (RP).]

5. Exemptions. The following situations are exempt from the provisions of this section.
A. Any person may distribute the following products without a general use pesticide dealer license:

(1) Household use pesticide products with no more than 3% active ingredients;
(2) The following products, which have limited percentages of active ingredients:
(a) Dichlorovos (DDVP) impregnated strips with concentrations not more than 25% in resin strips and pet collars;
(3) The following products with unlimited percentages of active ingredients:
(a) Pet supplies such as shampoos, tick and flea collars and dusts;
(b) Disinfectants, germicides, bactericides and virucides;
(c) Insect repellents;
(d) Indoor and outdoor animal repellents;
(e) Moth flakes, crystals, cakes and nuggets;
(f) Indoor aquarium supplies;
(g) Swimming pool supplies;
(h) Pediculocides and mange cure on humans;
(i) Aerosol products; and
(j) General use paints, stains, and wood preservatives and sealants. [RR 2021, c. 2, Pt. B, §92 (COR).]
B. The board may promulgate rules to exempt the sale of additional general use pesticide products from the dealer licensing provisions of this section. [PL 1989, c. 93, §2 (NEW).]

License Type: Restricted Use

Wholesalers/Manufacturers/Sub-Contractors/Retailers

Any entity outside or inside of Maine that intends to sell a product within Maine is considered a distributor. Distributors must hold a restricted-use pesticide license to sell restricted-use pesticides and report all sales and purchases made for general, limited, and restricted-use pesticides. These requirements are outlined in BPC's rules, CMR01-026 Chapter 50 Section 2 (B).

"B. **Annual Pesticide Sales Reports.** Pesticide dealers licensed to sell limited and restricted use pesticides must provide the Board with a calendar year-end report of total sales of all limited, restricted and general use pesticides before their pesticide dealer license can be renewed. The Board will furnish report forms."

Forms Required

General Use Pesticide Dealer – all entities distributing within Maine

Annual Pesticide Dealer Sales Report

Company Name

Directions to upload Sales Report to Board of Pesticides Control online portal:

- log onto BPC portal. (If you do not already have a login please got to www.maine.gov/bpc to create one)
- click on 'my profiles' in the top right corner; then click on your company name
- on left side of screen select 'upload documents/reports'
- select document 'category' and 'year' from dropdown menus, then click 'upload document'
- select annual report document file from your computer and click submit
- file will appear on screen- to finish attaching to profile click submit and you will see statement that your document has been sent for review.

Please list ALL companies from which you receive pesticides (Name, Address, Phone Number)

Please list ALL companies to which you distribute pesticides (Name, Address, Phone Number)

*use a second form if more room is required.

General Use Pesticide Dealer Sales Report for 2023 Distribution

Company Name	
Company Address	
Company Contact & Telephone Number	

Sales Report Status: ☐ No Pesticides Sold or Offered for Sale
Required: Check One ☐ No Reportable Sales

Plant Incorporated Protectant Status: Applicant intends to distribute plant-incorporated protectants, e.g., Bt Field Corn
Required: Check One ☐ Yes ☐ No

Pesticide Trade Name	EPA Registration Number	Total Number Units Sold	Weight/Volume per Unit

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Restricted Use Pesticide Dealer – Report to other distributors (wholesalers, sub-contractors, and any entity distributing within Maine)

Restricted, Limited and General Use Pesticide Dealer Sales Report for 2023 Sales TO OTHER DISTRIBUTORS

Federal Tax ID Number:	
Company Name:	
Company Address:	
Company Contact and Telephone #	

Name _____

Pesticide Trade Name	EPA Registration Number	Total Number of Units Sold	Weight/Volume per Unit

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Restricted, Limited and General Use Pesticide Dealer Sales Report for 2023 Sales TO CONSUMERS

Federal Tax ID Number:	
Company Name:	
Company Address:	
Company Contact and Telephone #	

Name _____

Pesticide Trade Name	EPA Registration Number	Total Number of Units Sold	Weight/Volume per Unit

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