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**01 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES**

**026 BOARD OF PESTICIDES CONTROL**

**Chapter 41: SPECIAL RESTRICTIONS ON PESTICIDE USE**

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

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**Section 1. ALDICARB (TEMIK®)**

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

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

**Section 2. TRICHLORFON (DYLOX, PROXOL)**

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

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

**Section 3.      HEXAZINONE (VELPAR, PRONONE)**

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

**A.      Prohibition of Certain Air-Carrier Application Equipment**

It shall be unlawful to apply any liquid pesticide mixture containing the active ingredient hexazinone with any application equipment that utilizes a mechanically generated airstream to propel the spray droplets unless the airstream is directed downward.

**B.      Licenses Required**

I.      No person shall purchase, use or supervise the use of any pesticide containing the active ingredient hexazinone unless they have obtained a private or commercial pesticide applicators license from the Board.

II.     No person shall:

a.      Distribute any pesticide containing the active ingredient hexazinone without a restricted use pesticide dealer's license from the Board; or

b.      Distribute any pesticide containing the active ingredient hexazinone to any person who is not licensed as a private or commercial pesticide applicator by the Board.

**C.      Records and Reporting**

Dealers distributing pesticides containing the active ingredient hexazinone shall keep records of such sales and provide reports to the Board as described in Chapter 50, "Record Keeping and Reporting Requirements."

**Section 4.      AQUATIC HERBICIDES**

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

**A.      Board Publication of List**

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

**B.      Licenses Required**

I.      Unless exempted under Chapter 41, Section 4 (B) (III), no person shall purchase, use or supervise the use of any aquatic herbicides identified on the Board's

annual listing unless they have obtained a private or commercial pesticide applicator's license from the Board.

II. No person shall:

- a. Distribute any aquatic herbicides identified on the Board's annual listing without a restricted use pesticide dealer's license from the Board; or
- b. Unless exempted under Chapter 41, Section 4 (B) (III), distribute any aquatic herbicides identified on the Board's annual listing to any person who is not licensed as a private or commercial applicator by the Board.

III. Registered herbicides containing only the active ingredients erioglaucline (Acid Blue 9 or FD&C Number 1, CAS Registry No. 1934-21-0) and/or tartrazine (Acid Yellow 23 or FD&C Yellow Number 5, CAS Registry No. 2650-18-2 (trisodium salt) or 3844-45-9 (triammonium salt)) are exempt from the applicator licensing requirements described in Chapter 41, Section 4 (B) (I) and Chapter 41, Section 4 (B) (II) (b).

C. Disclosure

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

D. Records and Reporting

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

E. Use of Best Management Practices

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

**Section 5. PLANT-INCORPORATED PROTECTANTS**

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

**A. Definitions**

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

**B. License or Certificate Required**

No person shall:

- I. Distribute any plant-incorporated protectant without either a general use pesticide dealer license or a (restricted or limited use) pesticide dealer license from the Board; and
- II. Distribute a plant-incorporated protectant to any person who does not have in his/her possession a valid product-specific training certificate, as required by Section 5(E).

**C. Dealer Requirements**

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

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

**D. Grower Requirements**

- I. All users of plant-incorporated protectants shall maintain the records listed below for a period of two years from the date of planting. Such records shall be kept current by recording all the required information on the same day the crop is planted. These records shall be maintained at the primary place of business and

shall be available for inspection by representatives of the Board at reasonable times, upon request.

- a. Site and planting information, including town and field location, a map showing crop location and refuge configuration in relation to adjacent crops within 500 feet that may be susceptible to cross-pollination;
- b. Total acres planted with the plant-incorporated protectant and seeding rate;
- c. Total acres planted as refuge and seeding rate;
- d. Detailed application information on any pesticide applied to the refuge as described in Section 1(A) of Chapter 50, "Record Keeping and Reporting Requirements"; and
- e. Planting information for each distinct site including:
  - i. date and time of planting; and
  - ii. brand name of the plant-incorporated protectant used.

II. There are no annual reporting requirements for growers.

E. Product-Specific Requirements

I. Requirements for plant-incorporated protectant corn containing *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production.

- a. Prior to purchasing or using plant-incorporated protectant corn containing any *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production, the grower must have attended a Board-approved training session and possess a valid product-specific training certificate.
- b. Product-specific training certificates shall be issued following each Board-approved session. The certificates will remain valid until December 31 of the second year after issuance.
- c. Non-Bt-corn growers whose crops are or will be located within 500 feet of a prospective Bt-corn planting site can request that the Bt-corn grower protect the non-Bt-corn crop from pollen drift.
  - i. the request must be made prior to planting of the Bt-corn crop;
  - ii. the request must identify the non-Bt-corn crop to be protected;  
and
  - iii. the growers may agree on any method for protection but, if an agreement cannot be reached,

1. the Bt-corn grower must plant any refuge required by the Bt-corn grower agreement, grower guide or product label in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt-corn crop; or
2. if no refuge is required, the Bt-corn grower shall maintain at least a 300-foot Bt-corn-free buffer to non-Bt-corn crops.

~~When non-Bt corn crops are or will be located within 500 feet of a prospective Bt corn planting site, the any refuge required by the grower agreement, grower guide or product label must be planted in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt corn crop. If no refuge is required, the Bt corn grower shall maintain at least a 300 foot Bt corn free buffer to non-Bt corn crops. Unless otherwise agreed, this standard shall apply:~~

- ~~i. when the non-Bt corn grower notifies the owner or lessee of the land to be planted with Bt corn;~~
  - ~~ii. the notice is given prior to planting of the Bt corn crop; and~~
  - ~~iii. such notice identifies the non-Bt corn crop to be protected.~~
- d. Bt-corn growers are encouraged to follow all best management practices developed by the Board or the Department of Agriculture, Food and Rural Resources.

II. Dealers distributing Bt-sweet corn shall only sell the seed in quantities large enough to plant one acre or more.

F. Confidentiality

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

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STATUTORY AUTHORITY: 5 M.R.S.A. §§ 8051 *et seq.*  
 7 M.R.S.A. §§ 601-610;  
 22 M.R.S.A. §§ 1471-A, 1471-B, 1471-C, 1471-D, 1471-M.

EFFECTIVE DATE:  
 March 8, 1981 (Captan)

AMENDED:  
 May 7, 1981 (Trichlorfon)  
 January 2, 1984 (Aldicarb)

May 8, 1988 (Trichlorfon)  
August 5, 1990 (Captan)  
August 17, 1996 (Hexazinone)  
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

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

CONVERTED TO MS WORD:

March 11, 2003

AMENDED:

May 12, 2003 - Section 4 added

NON-SUBSTANTIVE CORRECTIONS:

June 24, 2003 - summary only

AMENDED:

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

April 30, 2007 – filing 2007-154

February 3, 2008 – filing 2008-36