

**01-001 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES****Chapter 9: RULE REQUIRING USE OF BEST MANAGEMENT PRACTICES FOR GROWING CROPS TO MINIMIZE CROSS CONTAMINATION**

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**SECTION 1. SUMMARY**

This rule requires all persons planning to grow any crop to follow best management practices in order to maintain the integrity of all crops and minimize potential conflict between farmers. It also describes several best management practices a person must consider in planning and producing the crop.

**SECTION 2. DEFINITIONS**

As used in this chapter, the following terms have the following meanings.

1. **Best management practices (BMPS)** – means those practices that are determined by the Commissioner of the Maine Department of Agriculture, Food & Rural Resources to be a preferred method or practice based upon best reasonably available and economically feasible methods and technologies that are technically and environmentally sound. BMPs are those practices best suited to preventing, reducing or correcting agriculture-related problems.
2. **Cross-contamination** – means the unintentional transfer and incorporation of genetic material between a genetically engineered crop, by cross-pollination or other means, and a non-genetically engineered crop or a wild population.
3. **Genetically engineered (GE)** – means the application of in vitro nucleic acid techniques, including recombinant deoxyribonucleic acid and direct injection of nucleic acid into cells or organelles, or the fusion of cells beyond the taxonomic family, that overcome natural physiological reproductive or recombinant barriers and that are not techniques used in traditional breeding and selection.
4. **Seed dealer** - means a person who cleans, processes, sells or offers for sale a genetically engineered plant part, seed or plant in the State.
5. **Manufacturer** - means a person that produces or commercializes a genetically engineered plant part, seed or plant, not including a farm operation for the purposes of Title 17, section 2805.
6. **Technology use agreement** – means an agreement between a manufacturer and a farmer that controls the right to plant a given genetically engineered plant part, seed or plant on a specific area of land for a certain period of time.

**SECTION 3. REQUIREMENT TO FOLLOW BEST MANAGEMENT PRACTICES (BMPs)**

1. Any person planning to grow crops must follow best management practices in selecting fields and cultivating the crop in order to maintain the integrity of all crops and minimize potential conflict between farmers.
2. Any person planning to grow a GE crop must also verify the type of seeds to be planted, read

and understand the licensing agreement issued by the biotech seed supplier, follow all planting instructions, retain copies of any licensing agreements, and know the distance pollen is likely to travel.

3. Any person planning to grow a GE crop must also comply with the applicable Board of Pesticides Control regulations in Chapter 28 – Notification Provisions for Outdoor Pesticide Applications, and if it contains a plant incorporated pesticide, comply with Chapter 41- Special Restrictions on Pesticide Use.
4. The BMPs described in this rule were developed based on advice from a working committee composed of University of Maine Cooperative Extension scientists, conventional growers and organic growers. They were selected not only because they represent best available technology but also because they make both economic and environmental sense by providing the most benefit for the least cost. Furthermore, the BMPs may be revised over time as new research proceeds and agricultural knowledge is expanded.

#### **SECTION 4. BEST MANAGEMENT PRACTICES (BMPs)**

1. Know your neighbors and neighboring crops.
  - A. Crop growers must be proactive and visually inspect both the fields they intend to plant and any adjacent land to see if there are any fields that could potentially be at risk from pollen transfer. Equally, the person concerned about cross-pollination or outcrossing must be proactive and seek to know when a person is growing a crop that could affect his/her crop.
  - B. Crop growers concerned about pollen transfer who see that there are adjacent fields managed by other farmers must initiate conversations with these neighbors to determine what crops they will be growing and discuss how to preserve the integrity of their crops before they are planted. These actions will minimize concerns over cross pollination and further the Department's goal of co-existence.
  - C. If there are conflicts or concerns about communication, the Department, the Board of Pesticides Control or Cooperative Extension may be able to help identify issues and possible solutions. A formal mediation process is also available and details may be found in the Department's Manual of Best Management Practices.
2. Employ the protective procedures most appropriate for the crop and the characteristics of the site after considering the following:
  - A. Plant sensitive crops as far as possible from neighbors who grow these crops;
  - B. Understand the differences between wind-pollinated, insect pollinated or self-pollinated crops and that the type of pollination will result in very different buffer and setback distances;
  - C. Establish setbacks of 300 feet for corn, yellow crookneck squash and zucchini and note that none are needed for alfalfa, canola, potatoes, sugar beets and tomatoes;

- D. Create a time separation by planting crops at least ten days apart from the date your neighbor plants the same crop to minimize potential crop contamination;
  - E. Be aware of the direction of prevailing winds and the likelihood of pollen drift;
  - F. Separate fields, or change their orientation to minimize common borders;
  - G. Arrange the design of any required refuge area to minimize the opportunity for pollen drift onto an adjacent crop;
  - H. Be aware that large fields next to large fields have more chance of cross-pollinating;
  - I. Destroy border rows because most contamination happens at the edges and this action helps minimize the possibility of contaminated seed crops;
  - J. Utilize natural buffers, and if there are ongoing problems, plant a hedge or some other kind of buffer to minimize conflict over the longer term noting that the taller or thicker the barrier between fields, the less chance of cross-contamination; and
  - K. Recognize line of sight issues and be aware that if you can see your neighbor's field there is a higher chance of pollen or bees moving between the fields.
3. Learn more about the development of this rule and additional details about GE crops by reviewing the Department's Manual of Best Management Practices.
  4. As the Department identifies additional resources and approaches to this issue, those resources will be added to the Department's Manual of Best Management Practices for Maine Agriculture which may be downloaded from the Department's website.

#### **SECTION 5. COMPLAINTS THAT BEST MANAGEMENT PRACTICES NOT FOLLOWED**

1. Any person who believes that a grower is not following best management practices must notify the Department in writing and explain what practices are not being followed.
2. The Department will investigate and resolve any complaints according to the procedures established in applicable statutes and regulations.

STATUTORY AUTHORITY: 7 M.R.S.A. Chapter 1, §12 and 7 M.R.S.A. Chapter 103, §1051 - §1054

EFFECTIVE DATE: April 30, 2010