

01 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

026 BOARD OF PESTICIDES CONTROL

Chapter 41: SPECIAL RESTRICTIONS ON PESTICIDE USE

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) and (4) aquatic herbicides in the State of Maine.

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.

~~A. Limited Use List~~

~~Any formulation containing trichlorfon (Dylox) is classified as a limited use pesticide.~~

~~B. Notice~~

~~Any person who applies trichlorfon (Dylox) by aircraft or air carrier application equipment or who contracts or arranges for such applications of trichlorfon (Dylox) shall provide notice in conformity with this regulation.~~

~~I. Notice shall be given to:~~

~~a. All persons who maintain a home or fruit or vegetable garden on property which abuts the application site; or~~

~~b. To the public.~~

~~II. Notice pursuant to B(I)a shall be given in writing at least twenty four (24) hours and not more than two months prior to application.~~

~~III. Notice pursuant to B(I)b shall be given by publication in a newspaper of general circulation in the area of the state affected at least twenty four (24) hours and not more than two months prior to application.~~

~~IV. Notice shall be in the form provided by the Board and will contain at minimum:~~

~~a. The name of the chemical to be applied;~~

~~b. The boundaries of the application site;~~

~~c. The name and address of the person supplying notice;~~

~~d. Any medical or environmental warnings contained on the product labeling plus, if it is not already included on the label, a sentence stating that the compound has demonstrated some mutagenic effects in bacterial cell cultures; and~~

~~e. Instructions directing those persons notified to contact the person supplying notice if they wish to obtain information regarding precise time of application.~~

~~V. Arrangements for more specific notice pursuant to Section B(IV)e shall be made by the individual parties involved.~~

~~C. Permits~~

~~A permit to use such limited use pesticide may be issued by the Board when it finds that the criteria of Chapter 40, Section 2(e) are satisfied. The Board may impose reasonable conditions on such permits as it deems necessary to protect the health, safety and general welfare of the environment and the people of the State of Maine. Conditions may include, without limitation, requirements for demonstrating that the pest infestation will cause substantial economic harm if it goes untreated by the limited use pesticide, for posting areas to be treated and for observing no spray buffers.~~

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

C. Disclosure

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

D. Records and Reporting

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

E. Use of Best Management Practices

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

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

AMENDED: 2007

**BASIS STATEMENT FOR ADOPTION OF
AN AMENDMENT TO CHAPTER 41—SPECIAL RESTRICTIONS ON
PESTICIDE USE**

BASIS STATEMENT: Chapter 41 of the Board's rules describes special limitations placed upon the use of (1) aldicarb (Temik 15G) in proximity to potable water bodies; (2) trichlorfon (Dylox); (3) hexazinone (Velpar, Pronone) and (4) aquatic herbicides in the State of Maine. The Board has proposed an amendment to Section 2 that would replace the historical use restrictions for trichlorfon with new use restrictions pertinent to present-day use on turf. The amendment would also change Section 4 to exempt purchasers of certain food-grade pond dyes from applicator licensing requirements, in order to provide a heretofore unavailable option for controlling nuisance algal growth in private ponds.

All three comments received pertained to trichlorfon and were in support of this amendment. One comment indicated that using trichlorfon for grub control would eliminate the need for more frequent, broadcast applications of other, less effective pesticides. The Board is concerned about exposure to trichlorfon, an organophosphate, especially for children. However, the Board also recognized that the only effective alternative to trichlorfon for grub control on turf is the use of preventive treatments that must be applied before there is evidence of an infestation, resulting in many unnecessary pesticide applications. The Board concluded that both concerns are adequately addressed in the new rule since there are additional use restrictions that will minimize the chances of human exposure.

No comments were received pertaining to pond dyes. The Board determined that the food-grade pond dyes posed minimal environmental risks, especially when used consistent with Best Management Practices as outlined in the new rule. This change will provide a much-needed tool for unlicensed applicators to use in private ponds. Consequently, the Board decided it was appropriate to adopt the proposed amendment.

RESPONSE TO COMMENTS—PROPOSED AMENDMENTS TO CHAPTER 41

Commenter	WRITTEN COMMENTS	Board Response
CHAPTER 41		
June Boston, Boston Co Golf & Athletic Fields	Supports proposed amendment, saying it will be a very important tool in “our IPM toolchest.” Indicated that since trichlorfon is effective for grub control, need for broadcast applications of Merit will be unnecessary.	The Board agreed with the comment.
Rick Perruzzi, City of South Portland Parks and Recreation Department	Supports proposed amendment and having applicator water in trichlorfon according to the label.	The Board agreed with the comment.
Terry Shoemaker, Sterling Insect & Lawn Control	Supports proposed amendment, but has concerns about the requirement of having the applicator water in trichlorfon, that this might set a precedent for all other products that need to be watered in. While he says they (applicators) can do the watering in, why can’t the homeowner do it, if they have an automatic watering system that would come on that same day at a specified time?	The Board recognized that the requirement to ensure the product is watered in would create a duty that lawn care companies aren’t used to, but felt it was necessary to ensure that children are not exposed to an organophosphate.