



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION I**

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OFFICE OF THE
REGIONAL ADMINISTRATOR

8/18/2023

Megan L. Patterson, Director
Maine Department of Agriculture, Conservation and Forestry
Bureau of Agriculture, Food, and Rural Resources
Division of Animal and Plant Health
28 State House Station
Augusta, Maine 04333

Dear Ms. Patterson:

I am pleased to inform you that the Environmental Protection Agency (EPA) has approved the Maine Department of Agriculture, Conservation and Forestry Board of Pesticides Control (ME BPC) pesticide applicator certification plan (Plan), modified in response to the 2017 revisions to the Certification of Pesticide Applicators regulation at 40 C.F.R. Part 171. Section 11 of the Federal Insecticide, Fungicide, Rodenticide Act (FIFRA) requires certifying authorities to have an EPA-approved certification plan to certify applicators of Restricted Use Pesticides (RUPs). The ME BPC's modified certification plan was submitted to EPA by March 4, 2020, the regulatory deadline, and subsequently amended in response to EPA feedback. Its final version, dated July 24, 2023, meets or exceeds the standards of 40 C.F.R. Part 171. Upon receipt of this letter, ME BPC may certify pesticide applicators and continue with certification implementation per the modified plan.

In its Plan, ME BPC states that it "has environmental regulatory authority and jurisdiction statewide, including in Indian country, for all environmental regulatory purposes, including for the purposes of carrying out all functions of the State of Maine Certification Plan prepared for the United States Environmental Protection Agency in accordance with 40 C.F.R. § 171.303." Because of the significant time and resources needed to address the State's assertion of authority to regulate activities on Indian country under FIFRA, EPA is not making a determination on such authority as part of this decision. Consistent with EPA's approach to the State's assertion of jurisdiction under other environmental regulatory programs recently, EPA will continue working to address the State's assertion of authority through potential measures including but not limited to, consultation with the federally recognized Indian tribes in Maine, consistent with Executive Order 13175 (Nov. 6, 2000) and EPA's Policy on Consultation and Coordination with Indian Tribes (May 4, 2011). This approach allows EPA to move forward with approval of the Plan without interruption to certification and training of applicators while it continues to work on the State's assertion of jurisdiction in Indian country.

FIFRA § 11(c) requires EPA and states to make integrated pest management (IPM) instructional materials available upon request in coordination with the Pesticide Safety Education Programs (PSEPs) but prohibits certifying authorities from requiring instruction, or that any individual be shown to be

competent, with respect to IPM techniques. Therefore, EPA approves this Plan except for any requirement on IPM instruction or competency standards and with the understanding that the ME BPC will coordinate with the state PSEP to make IPM instructional materials available upon request. No further action is required on your part.

EPA approves and expects the ME BPC to implement the plan according to the schedule in Section 13 of the plan, including the commitments to complete all statutory and regulatory changes. Certified applicators will be brought into compliance as they recertify, no later than December 31, 2029. EPA Region 1 is available to provide technical assistance to the ME BPC in response to questions or the need for additional plan modifications.

Thank you very much for all your effort on this undertaking. EPA looks forward to continuing to work with you in the coming years to meet our shared goal of protecting applicators, the public, and the environment from the risks associated with the use of RUPs.

Sincerely,

David W. Cash
EPA Regional Administrator
EPA Region 1

cc:

Amanda Beal, DACF Commissioner
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