

**Proposed Administrative Consent Agreement
Background Summary**

Subject: Emerald Valley Ranches, LLC
498 West Presque Isle Rd.
Caribou, ME 04736

Date of Incident(s): July 2023

Background Narrative: On July 7, 2023, the Board received an anonymous complaint alleging that the Company had applied chlorpyrifos to its broccoli fields during 2023, and that migratory agricultural workers applied chlorpyrifos. The complainant alleged that the workers were not wearing respirators and had used their bare hands to smooth off the top of the hoppers containing the granular pesticide.

During the course of the inspection the licensed private applicator who holds a managerial/ownership position with the Company, provided a written statement to the inspector in which stated that the Company ceased the use of chlorpyrifos following the 2022 season.

On July 17, 2023, the inspector visited two broccoli fields grown by the Company in Caribou, Maine. The inspector obtained a set of three samples from each field consisting of one broccoli sample and two soil samples. The Massachusetts Pesticide Analysis Laboratory provided reports to the Board demonstrating that chlorpyrifos was present in all six samples.

On July 19, 2023, the licensed private applicator called the Board's offices and spoke to Manager of Compliance. Admitting—despite previous written statements to the contrary—that in the spring of 2023, Emerald Valley Ranch had applied Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505, to the two broccoli fields sampled by the Board.

Summary of Violations: CMR 01-026, . ch. 41, § 7 required that—as of September 20, 2022—anyone applying a pesticide containing chlorpyrifos must first obtain a permit issued by the Board and possess a valid applicator's license issued by the Board. The Company did not obtain a permit from the Board prior to making the 2023 chlorpyrifos applications

That pursuant to 01-026 C.M.R. ch. 50, § 1(A), commercial agricultural producers must maintain records of all pesticide applications. During 2022 and 2023, the Company did not maintain pesticide application records for any of the chlorpyrifos applications described in the agreement.

That the pesticide label for Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505, states—in part—that “loaders, applicators and all other handlers must wear: Coveralls over long-sleeved shirt and long pants, chemical-resistant gloves, chemical-resistant footwear plus socks and a NIOSH-approved dust/mist filtering respirator with MSHA/NIOSH approved number prefix TC-21C or NIOSH-approved respirator with any R, P, or HE filter.”

That 40 C.F.R. § 170.507(b)(10)(i)-(iii) requires that agricultural employers to provide to handlers required to wear a respirator: a fit test which conforms to the provisions of 29 C.F.R. § 1910.134; training on the use of the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of 29 C.F.R. § 1910.134(k)(1)(i)-(vi); and a medical evaluation by a physician or other licensed health care professional that conforms to the provisions of 29 C.F.R. § 1910.134 to ensure the handler's physical ability to safely wear the respirator specified on the pesticide product labeling.

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.

40 C.F.R. § 170.122 requires agricultural employers to display in a central location, where it can readily be seen and read by workers and handlers, information about each pesticide application made on the agricultural establishment including the location, the product name and EPA registration number, the time and date of the application, and the restricted entry interval. The Company did not post information about the use of the Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505 during 2022 or 2023.

7 M.R.S. § 607(1) requires that all pesticides distributed into the State of Maine to first be registered by the Board. Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505 was not registered for use in the State of Maine during 2022 or 2023.

Rationale for Settlement: The Company entered into an Administrative Consent Agreement and Findings of Fact with the Board on March 13, 2025, to resolve multiple violations of State and federal pesticide law. The licensed private applicator showed remorse for their actions and was cooperative throughout the remainder of the investigation process, including a season-long examination of the crop conducted by the Bureau of Agriculture that required testing for contamination before the crop could be sent to market during the 2023 season. The Company worked with BPC to ensure that the remaining inventory was properly disposed of. Maine Mobile Health provided and continues to provide worker protection standard training for company workers and handlers in their native language.

Attachments: Proposed Consent Agreement

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

In the Matter of:)	ADMINISTRATIVE CONSENT
Emerald Valley Ranches LLC)	AGREEMENT
498 West Presque Isle Road)	AND
Caribou, Maine 04736)	FINDINGS OF FACT

This Agreement, by and between Emerald Valley Ranches LLC (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 Office 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, as amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the 130th Maine Legislature enacted Public Law 2021, Chapter 105, which was signed into law by the Governor on June 8, 2021. The bill became effective on October 18, 2021.
2. That Chapter 105 prohibits the distribution of a pesticide containing chlorpyrifos in the State beginning January 1, 2022, and requires the Board to regulate the use of existing stocks of chlorpyrifos through a permitting system.
3. That in response to Public Law 2021, Chapter 105, on May 6, 2022, the Board adopted an interim policy to guide issuance of permits as required by Public Law 2021, Chapter 105, pending the final adoption of a rule amendments to CMR 01-026, Chapter 41.
4. That in response to Public Law 2021, Chapter 105, the Board promulgated a rule, codified in CMR 01-026, Chapter 41, Section 7, which implemented a permitting requirement governing the use of chlorpyrifos in the State of Maine. The effective date of the rule was September 20, 2022.
5. That the Company operates a broccoli growing enterprise in Aroostook County, Maine, producing approximately 2,000 acres of broccoli annually. Produce from the operation is distributed as fresh pack broccoli throughout the Eastern Seaboard of the United States.
6. That on July 7, 2023, the Board received an anonymous complaint alleging that the Company had applied chlorpyrifos to its broccoli fields during 2023, and that migratory agricultural workers applied the chlorpyrifos. The complainant alleged that the workers were not wearing respirators and had used their bare hands to smooth off the top of the hoppers containing the granular pesticide.
7. That as a result of the complaint described in Paragraph 6, a Board inspector visited the Company headquarters to conduct a follow-up inspection on July 7, 2023.

8. That during the course of the inspection described in Paragraph 7, Drew Ayer, licensed private applicator who holds a managerial/ownership position with the Company, provided a written statement to the inspector in which Ayer stated that the Company ceased the use of chlorpyrifos following the 2022 season.
9. That during the course of the inspection described in Paragraph 7, the inspector requested permission to view Company facilities in which pesticides were stored.
10. That during the course of the inspection described in Paragraph 7, the inspector was shown a Company pesticide storage facility, and determined that no chlorpyrifos was present in the storage area observed.
11. That on July 17, 2023, the inspector visited two broccoli fields grown by the Company in Caribou, Maine. The inspector obtained a set of three samples from each field consisting of one broccoli sample and two soil samples.
12. That the samples described in Paragraph 11 were subsequently shipped overnight to the Massachusetts Pesticide Analysis Laboratory in Amherst, Massachusetts.
13. That over a three-day period between July 19 and July 21, the Massachusetts Pesticide Analysis Laboratory provided reports to the Board demonstrating that chlorpyrifos was present in all six samples collected by the Board inspector on July 17, 2023.
14. That on July 19, 2023, Ayer called the Board's offices and spoke to Manager of Compliance Alex Peacock. Ayer admitted—despite previous written statements to the contrary—that in the spring of 2023, Emerald Valley Ranch had applied Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505, to the two broccoli fields sampled by the Board.
15. That during a subsequent conversation later in the day between Ayer and Peacock, Ayer acknowledged that the Company started 2023 with 200 50-pound bags of Drexel Chlorpyrifos 15G in inventory.
16. That on July 19, 2023, a Board inspector traveled to a different Company facility and documented the presence of 24 50-pound bags of Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505, at a Company storage location that had not been disclosed prior to that date. The 24 bags represented the total product remaining as of that date.
17. That the Board inspector subsequently placed a Stop Sale Use or Removal Order, pursuant to 7 M.R.S. § 612, on the remaining inventory of the Drexel Chlorpyrifos 15G because lawful use of the product was prohibited by the provisions of 01-026 C.M.R. ch. 41, § 7.
18. That during the inspection described in Paragraph 7, the Board inspector obtained a copy of an invoice from Ayer issued by Whitaker Distribution, Inc., of Virginia Beach, Virginia, showing that Emerald Valley Ranch had purchased 600 50-pound bags of Drexel Chlorpyrifos 15G (30,000 pounds) on October 4, 2021.

19. That based on the information obtained by the Board and described in Paragraphs 14-18, the Company estimated that it applied 20,000 pounds of Drexel Chlorpyrifos 15G to its broccoli fields in 2022, and 8,800 pounds in 2023, which equals the product available to start 2023 minus the remaining inventory.
20. That during the conversations that took place with Peacock on July 19, Ayer stated that the Company applied Drexel Chlorpyrifos 15G at a rate of 13 pounds per acre. Accordingly, the Company would have applied Drexel Chlorpyrifos 15G to approximately 1,538 acres of broccoli in 2022 and 667 acres in 2023.
21. That in a letter dated July 24, 2023, the Commissioner of the Maine Department of Agriculture, Conservation and Forestry (Department) condemned the Company's 2023 broccoli crop pursuant to 22 M.R.S. § 2159.
22. That as a result of the July 24 letter, the Company provided the Department with an inventory listing all of the Company's 2023 broccoli fields together with their size, location, and planting date.
23. That 01-026 C.M.R. ch. 41, § 7 required that—as of September 20, 2022—anyone applying a pesticide containing chlorpyrifos must first obtain a permit issued by the Board and possess a valid applicator's license issued by the Board.
24. That the Company did not obtain a permit from the Board prior to making the 2023 chlorpyrifos applications described in this agreement.
25. That the actions described in Paragraphs 23 and 24 constitute multiple violations of 01-026 C.M.R. ch. 41, § 7.
26. That the Company is a “commercial agricultural producer” as defined under 01-026 C.M.R. ch. 10, § 2(H).
27. That pursuant to 01-026 C.M.R. ch. 50, § 1(A), commercial agricultural producers must maintain records of all pesticide applications.
28. That during 2022 and 2023, the Company did not maintain pesticide application records for any of the chlorpyrifos applications described in the agreement.
29. That the actions described in Paragraphs 26-28 constitute multiple violations of 01-026 C.M.R. ch. 50, § 1(A).
30. That chlorpyrifos is classified as an organophosphate.
31. That the pesticide label for Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505, states—in part—that “loaders, applicators and all other handlers must wear: Coveralls over long-sleeved shirt and long pants, chemical-resistant gloves, chemical-resistant footwear plus socks and a NIOSH-approved dust/mist filtering respirator with MSHA/NIOSH approved

number prefix TC-21C or NIOSH-approved respirator with any R, P, or HE filter.”

32. That the pesticide label for Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505, also states—in part—“AGRICULTURAL USE REQUIREMENTS. Use this product only in accordance with its labeling and with the Worker Protection Standard (WPS), 40 CFR Part 170. This standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, 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), restricted entry interval (REI), and notification of workers. The requirements in this box only apply to uses of this product that are covered by the WPS.”
33. That 40 C.F.R. § 170.507(b)(10)(i)-(iii) requires that agricultural employers to provide to handlers required to wear a respirator: a fit test which conforms to the provisions of 29 C.F.R. § 1910.134; training on the use of the respirator specified on the pesticide product labeling in a manner that conforms to the provisions of 29 C.F.R. § 1910.134(k)(1)(i)-(vi); and a medical evaluation by a physician or other licensed health care professional that conforms to the provisions of 29 C.F.R. § 1910.134 to ensure the handler’s physical ability to safely wear the respirator specified on the pesticide product labeling.
34. That during 2022 and 2023, the Company did not provide respirators, fit tests, or medical evaluations as required by the Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505 label and 40 C.F.R. § 170.507.
35. 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.
36. That the circumstances described in Paragraphs 31-35 constitute multiple 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).
37. That the circumstances described in Paragraphs 31-35 constitute multiple violations of 40 C.F.R. § 170.507.
38. That 40 C.F.R. § 170.122 requires agricultural employers to display in a central location, where it can readily be seen and read by workers and handlers, information about each pesticide application made on the agricultural establishment including the location, the product name and EPA registration number, the time and date of the application, and the restricted entry interval.
39. That the Company did not post information about the use of the Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505 during 2022 or 2023.

40. That the circumstances described in Paragraphs 32, 38, and 39 constitute multiple 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).
41. That the circumstances described in Paragraphs 32, 38, and 39 constitute multiple violations of 40 CFR Part 170.122
42. That 7 M.R.S. § 607(1) requires that all pesticides distributed into the State of Maine to first be registered by the Board.
43. That Drexel Chlorpyrifos 15G, EPA Reg. No. 19713-505 was not registered for use in the State of Maine during 2022 or 2023 pursuant to 7 M.R.S § 607(1).
44. That 01-026 C.M.R. ch. 20, § 1(B) prohibits the use of pesticides not registered in the State.
45. That the circumstances described in Paragraphs 14, 19, 20, 42, 43, and 44 constitute multiple violations of 01-026 C.M.R. ch. 20, § 1(B).
46. 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.
47. That this Agreement, and any potential admissions contained herein, shall not become effective unless and until the Board accepts it.
48. 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 25, 29, 36, 37, 40, 41, and 45, the Company agrees to pay a penalty to the State of Maine in the sum of \$5,000.00, with \$1,000.00 of the penalty suspended provided that the Company does not commit any violations of Federal or State of Maine pesticide law over a two-year period beginning on the effective date of this Agreement. (Please make checks payable to Treasurer, State of Maine.)
49. That in the event the Company commits any violations of Federal or State of Maine pesticide law—as determined by Board staff in the normal course of compliance investigations—over the two-year period beginning on the effective date of this Agreement, the suspended portion of the penalty becomes immediately due and payable.
50. The Board and OAG grant a release of their causes of actions against the Company, and its officers, directors, employees and agents for the specific violations cited in Paragraph 48 on the express condition that all actions listed in Paragraph 48 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 48.

51. 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 50 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.
52. 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.
53. 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.
54. 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.
55. By signing and executing this Agreement, the Company knowingly, intentionally, permanently, and irrevocably waives any and all defenses it has or may have with respect to the enforcement of this Agreement, including the enforcement of this Agreement as a final administrative order and a money judgment pursuant to 14 M.R.S. § 3138.

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

EMERALD VALLEY RANCHES LLC

By: *Drew P. Ayer* Date: 3-13-2025

Type or Print Name: Drew P. Ayer

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____
Alexander Peacock, Director

APPROVED:

By: _____ Date: _____
Carey Gustanski, Assistant Attorney General