



TIMBERLAND DIVISION

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Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333

Dear Board Chair,

As a commercial applicator in both aerial forestry and invasive plant management in the State of Maine, I am asking the Board for clarification on the definition of “**Emerged Wetland Plants**” as specified in Chapter 29, Section 6.A.V.c. If emerged wetland species are present, the site is defined as a “Wetland” and any broadcast application requires a 25-foot buffer. In both forestry and invasive plant management, the labelled products we use, allow for treatment to seasonably dry wetlands, sites having temporary surface waters, equipment ruts, and other depressions caused by management activities (See enclosed labels for Oust XP, EPA reg. No. 432-1552, page 4 and Arsenal Applicator’s Concentrate, EPA Reg. No. 214-299, page 4). Often these sites may contain “emerged wetland species” such as, cattails, purple loosestrife, phragmites, sedges, etc. These species often continue to grow when surface waters are no longer present, and can exist on seasonably dry wetland sites, dry road ditches, and skidder ruts.

There is a current movement in Maine’s aerial softwood release and site preparation programs to flag and mark these areas defined above since the State of Maine’s regulations are stricter than those found on the label. This is leading to an extremely expensive endeavor to mark and flag all skidder ruts, and seasonable dry wetland on a forestry site prior to any aerial operation is undertaken. The understanding is that these areas listed above as permissible on the labels are classified as wetlands in Maine’s Chapter 29 regulations.

Our hope as both forest landowners and applicators is to be able to follow the label specifications and not the stricter implications as specified in Chapter 29. Significant wetlands and sensitive areas are appropriately buffered and mapped as specified in the MBPC suggested BMP’s for aerial application (enclosed).

I have also enclosed a few pictures of the types of areas we are worrying about during our annual aerial herbicide release and site preparation programs in Maine. I look forward to discussing this issue with you further at the Maine Board of Pesticides Control May meeting. Thank you for your time and consideration.

Sincerely,

Ronald C. Lemin, Jr.

Enclosures (3)



Cattails growing in seasonably dry wet area. This would be defined as a Wetland by Chapter 29. Applicator would need to buffer 25 feet for broadcast application.



Example of a depression created from a harvesting or logging operation. Notice beginning of cattail growth. This would also need to be buffered by 25 feet as a wetland defined by Chapter 29.

- b. Applications may be performed only with a hydraulic hand-held spray gun or air-assisted sprayers.
- c. Applications may be performed only in a manner in which the applicator directs the spray away from marine waters.
- d. Applications may not be made when the wind is blowing toward marine waters.
- e. Applications may be performed only when the wind is equal to or greater than 2 miles per hour and blowing away from marine waters.

CHAPTER 29

Section 6. Buffer Requirement

- A. No person shall make an outdoor terrestrial broadcast application of pesticides, except for applications made to control arthropod vectors of human disease or stinging insects, within twenty-five (25) feet from the mean high water mark of:
 - I. Any lake or pond, except ponds that are confined and retained completely upon the property of one person and do not drain into or have a surficial connection with any other waters of the State;
 - II. Rivers
 - III. Any stream depicted as a solid or broken blue line on the most recent edition of the U.S. Geological 7.5-minute series topographic map or, if not available, a 15minute series topographic map;
 - IV. Estuarine and marine waters as defined under 38 M.R.S.A. §361-A (5); or
 - V. Wetlands, except man-made wetlands that are designed and managed for agricultural purposes, which are:
 - a. connected to great ponds at any time of the year; or
 - b. characterized by visible surface water; or
 - c. dominated by emergent or aquatic plants.
- B. An applicator may vary from the standards imposed under Chapter 29, Section 6 (A) by obtaining a permit to do so from the Board. Permit applications shall be made on such forms as the Board provides and shall include at least the following information:

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OUST XP LABEL

any requirements specific to your State or Tribe, consult the agency in your State responsible for pesticide regulation.

PRODUCT INFORMATION

Oust® XP Herbicide is a dispersible granule that is mixed in water and applied as a spray or impregnated on dry, bulk fertilizer. Oust® XP Herbicide controls many annual and perennial grasses and broadleaf weeds in forestry and non-crop sites.

Oust® XP Herbicide may be used for general weed control on terrestrial noncrop sites and for selective weed control in certain types of unimproved turf grasses on these same sites. Oust® XP Herbicide may also be used for selective weed control in forest site preparation and in the release of certain conifers and hardwoods. Oust® XP Herbicide can be tank mixed with other herbicides registered for use in forestry and noncrop sites; when tank mixing, use the most restrictive limitations from the labeling of both products.

When applied as spray, Oust® XP Herbicide controls weeds by both preemergence and postemergence activity. When applied on dry fertilizer, Oust® XP Herbicide controls weeds by preemergence activity. When applied as a spray, the best results are obtained when the application is made before the early stages of weed growth before weeds develop an established root system. When applied on dry fertilizer, the best results are obtained when the application is made before weed emergence. The best results are obtained when the application is made before or during the early stages of weed growth before weeds develop an established root system. Moisture is required to move Oust® XP Herbicide into the root zone of weeds for preemergence control.

This product may be applied on forestry and non-agricultural sites that contain areas of temporary surface water caused by collection of water between planting beds, in equipment ruts, or in other depressions created by management activities. It is permissible to treat intermittently flooded low lying sites, seasonal dry flood plains and transitional areas between upland and lowland sites when no water is present. It is also permissible to treat marshes, swamps and bogs after water has receded, as well as seasonally dry flood deltas. DO NOT make applications to natural or man-made bodies of water such as lakes, reservoirs, ponds, streams and canals.

A drift control agent may be used at the manufacturer's listed rate in the application of Oust® XP Herbicide.

Oust® XP Herbicide is noncorrosive, nonflammable, non-volatile and does not freeze.

For best postemergence results, apply Oust® XP Herbicide to young, actively growing weeds. The use rate depends upon the weed species, weed size at application, and soil texture. The degree and duration of control may depend on the following:

- weed spectrum and infestation intensity
- weed size at application
- environmental conditions at and following treatment
- soil pH, soil moisture, and soil organic matter

STORAGE AND DISPOSAL (continued)

Container Handling (continued)

Triple rinse as follows: To clean the container before final disposal, empty the remaining contents from this container into application equipment or mix tank. Fill the container about 10% full with water. Agitate vigorously or recirculate water with the pump for 2 minutes. Pour or pump rinsate into application equipment or rinsate collection system. Repeat this rinsing procedure two more times.

When this container is empty, replace the cap and seal all openings that have been opened during use; return the container to the point of purchase or to a designated location. This container must only be refilled with a pesticide product. Prior to refilling, inspect carefully for damage such as cracks, punctures, abrasions, worn-out threads and closure devices. Check for leaks after refilling and before transport. **DO NOT** transport if this container is damaged or leaking. If the container is damaged, or leaking, or obsolete and not returned to the point of purchase or to a designated location, triple rinse emptied container and offer for recycling, if available, or dispose of container in compliance with state and local regulations.

IMPORTANT

DO NOT use on food or feed crops. **DO NOT** use on Christmas trees. **DO NOT** treat irrigation ditches, or water used for crop irrigation or for domestic uses. Keep from contact with fertilizers, insecticides, fungicides, and seeds to prevent unintentional exposure of desirable vegetation to **Arsenal® herbicide Applicators Concentrate**.

DO NOT apply or drain or flush equipment on or near sensitive desirable plants, or on areas where their roots may extend, or in locations where the chemical may be washed or moved into contact with their roots. **DO NOT** side trim desirable vegetation with this product. Prevent drift of spray to desirable plants.

Clean application equipment after using this product by thoroughly flushing with water.

GENERAL INFORMATION

Arsenal herbicide Applicators Concentrate is a surfactant-free aqueous solution to be mixed in water and generally applied as a postemergence spray for control of most annual and perennial grasses, broadleaf weeds, vines and brambles, and hardwood brush and trees for forestry site preparation and release of conifers from woody and herbaceous competition.

Arsenal herbicide Applicators Concentrate may be used for selective woody and herbaceous weed control in natural regeneration of certain conifers (see **CONIFER RELEASE TREATMENTS**). **Arsenal herbicide Applicators Concentrate** may also be mixed in water and used for stump and cut-stem treatment for control of unwanted woody vegetation. **Arsenal herbicide Applicators Concentrate** may be applied to control undesirable woody vegetation along forest roads that are contiguous with the treated forestry area.

Arsenal herbicide Applicators Concentrate is also recommended for the control of undesirable vegetation along nonirrigation ditchbanks and for the establishment and maintenance of wildlife openings, except in the state of California. See use directions for **STUMP AND CUT-STEM TREATMENTS, HERBACEOUS WEED CONTROL, and USE OF ARSENAL HERBICIDE APPLICATORS CONCENTRATE FOR SPOT TREATMENT OF UNDESIRABLE HARDWOOD VEGETATION.**

Arsenal herbicide Applicators Concentrate may be applied on forestry sites that contain areas of temporary surface water caused by the collection of water between planting beds, in equipment ruts, or in other depressions created by forest management activities, except in the states of California and New York. It is permissible to treat drainage ditches, intermittent drainage, intermittently flooded low-lying sites, seasonally dry flood plains, and transitional areas between upland and lowland sites when no water is present, except in the states of California and New York. Only the edge of drainage ditches can be treated for drainage ditches that contain water. It is also permissible to treat marshes, swamps, and bogs after water has receded, as well as seasonally dry flood deltas, except in the states of California and New York. **DO NOT** make applications to natural or man-made bodies of water such as lakes, reservoirs, ponds, streams, rivers and canals.

SYMPTOMOLOGY

Arsenal herbicide Applicators Concentrate is readily absorbed through foliage and roots and is translocated rapidly throughout the plant, with accumulation in the meristematic regions. Treated plants stop growing soon after spray application. Chlorosis first appears in the youngest leaf tissue. In perennials, the herbicide is translocated into the roots, thus preventing most resprouting. Chlorosis and tissue necrosis may not be apparent in some plant species for several weeks after application. Woody plants, brush, and trees normally **DO NOT** display the full extent of herbicide control until several months following application.

MIXING AND APPLICATION INSTRUCTIONS

MANAGING OFF-TARGET MOVEMENT

The following information is provided as general guidance for managing off-target movement. Specific use recommendations for **Arsenal herbicide Applicators Concentrate** may differ depending on the application technique used and the vegetation management objective. **Spray Drift:** Avoiding spray drift at the application site is the responsibility of the applicator. The interaction of many equipment-related and weather-related factors determines the potential for spray drift. The applicator and the grower are responsible for considering all these factors when making decisions.

Spray drift from applying this product may result in damage to sensitive plants adjacent to the treatment area. Only apply this product when the potential for drift to these and other adjacent sensitive areas (e.g. residential areas,