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EPA Takes Action to Address Risk from Chlorpyrifos and Protect Children's Health

EPA measures will stop the use of the pesticide chlorpyrifos on food

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Contact Information

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WASHINGTON - The U.S. Environmental Protection Agency (EPA) announced it will stop the use of the pesticide chlorpyrifos on all food to better protect human health, particularly that of children and farmworkers.

In a final rule released today, EPA is revoking all “tolerances” for chlorpyrifos, which establish an amount of a pesticide that is allowed on food. In addition, the agency will issue a Notice of Intent to Cancel under the Federal Insecticide, Fungicide, and Rodenticide Act to cancel registered food uses of chlorpyrifos associated with the revoked tolerances.

“Today EPA is taking an overdue step to protect public health. Ending the use of

chlorpyrifos on food will help to ensure children, farmworkers, and all people are protected from the potentially dangerous consequences of this pesticide,” **said Administrator Michael S. Regan.** “After the delays and denials of the prior administration, EPA will follow the science and put health and safety first.”

Chlorpyrifos is an organophosphate insecticide used for a large variety of agricultural uses, including soybeans, fruit and nut trees, broccoli, cauliflower, and other row crops, as well as non-food uses. It has been found to inhibit an enzyme, which leads to neurotoxicity, and has also been associated with potential neurological effects in children.

The steps the agency is announcing today respond to the Ninth Circuit’s order <https://cdn.ca9.uscourts.gov/datastore/opinions/2021/04/29/19-71979.pdf> directing EPA to issue a final rule in response to the 2007 petition filed by Pesticide Action Network North America and Natural Resources Defense Council. The petition requested that EPA revoke all chlorpyrifos tolerances, or the maximum allowed residue levels in food, because those tolerances were not safe, in part due to the potential for neurodevelopmental effects in children.

Under the previous Administration, EPA denied the petition in 2017 and denied the subsequent objections in 2019. These denials were challenged in the Ninth Circuit Court of Appeals in 2019 by a coalition of farmworker, health, environmental, and other groups. In April 2021, the Court found that “...EPA had abdicated its statutory duty under the Federal Food, Drug and Cosmetic Act...” to “conclude, to the statutorily required standard of reasonable certainty, that the present tolerances caused no harm.” In its decision, the Court ordered EPA to grant the petition, issue a final rule in which the agency either modifies the chlorpyrifos tolerances with a supporting safety determination or revokes the tolerances, and modify or cancel food-use registrations of chlorpyrifos.

EPA has determined that the current aggregate exposures from use of chlorpyrifos do not meet the legally required safety standard that there is a reasonable certainty that no harm will result from such exposures. A number of other countries, including the European Union and Canada, and some states including California, Hawaii, New York, Maryland, and Oregon have taken similar action to restrict the use of this pesticide on food.

While farmers have historically relied on chlorpyrifos, its use has been in decline due to restrictions at the state level and reduced production. Additionally, some alternatives have been registered in recent years for most crops. There are also other chemistries and insect growth regulators available for certain target pests. EPA is committed to reviewing replacements and alternatives to chlorpyrifos.

The U.S. has a safe and abundant food supply, and children and others should continue to eat a variety of foods, as recommended by the federal government and nutritional experts. Washing and scrubbing fresh fruits and vegetables will help remove traces of bacteria, chemicals, and dirt from the surface. Very small amounts of pesticides that may remain in or on fruits, vegetables, grains, and other foods decrease considerably as crops are harvested, transported, exposed to light, washed, prepared, and cooked.

This action will also be incorporated into the ongoing registration review for chlorpyrifos. EPA is continuing to review the comments submitted on the chlorpyrifos proposed interim decision <<https://www.regulations.gov/document/epa-hq-opp-2008-0850-0971>>, draft revised human health risk assessment <<https://www.regulations.gov/document/epa-hq-opp-2008-0850-0944>>, and draft ecological risk assessment <<https://www.regulations.gov/document/epa-hq-opp-2008-0850-0940>>. These documents are available in the chlorpyrifos registration review docket EPA-HQ-OPP-2008-0850 <<https://www.regulations.gov/docket/epa-hq-opp-2008-0850>> at www.regulations.gov <<http://www.regulations.gov>>.

After considering public comments, the agency will proceed with registration review for the remaining non-food uses of chlorpyrifos by issuing the interim decision, which may consider additional measures to reduce human health and ecological risks. More information on the registration review process is available here. <<https://epa.gov/pesticide-reevaluation/registration-review-process>>

More information about chlorpyrifos and the final tolerance rule is available on EPA's website <<https://epa.gov/ingredients-used-pesticide-products/chlorpyrifos>>

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01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

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), (4) aquatic herbicides in the State of Maine; ~~and~~ (5) plant-incorporated protectants and (6) chlorpyrifos (Dursban, Lorsban).

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.

Section 3. HEXAZINONE (VELPAR, PRONONE)

The registration of hexazinone is subject to the following limitations and conditions.

A. Licenses Required

No person shall use or supervise the use of any pesticide containing the active ingredient hexazinone unless they have obtained an applicators license in accordance with 22 M.R.S. §1471-D.

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.

Section 5. PLANT-INCORPORATED PROTECTANTS

The registration, distribution and use of plant-incorporated protectants are subject to the following limitations and conditions:

A. Definitions

"Plant-incorporated protectant" means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance.

B. License Required

No person shall distribute any plant-incorporated protectant without either a general use pesticide dealer license or a (restricted or limited use) pesticide dealer license from the Board.

C. Dealer Requirements

Dealers distributing plant-incorporated protectants are subject to the following requirements:

- I. General use and (restricted or limited use) pesticide dealers shall notify the Board of their intent to distribute plant-incorporated protectants on all initial license and license renewal application forms provided by the Board.
- II. General use and (restricted or limited use) pesticide dealers shall maintain sales records showing the list of the names and addresses of all purchasers of plants, plant parts or seeds containing plant-incorporated protectants. These records must be made available to representatives of the Board for inspection at reasonable times, upon request, and must be maintained for two calendar years from the date of sale.
- III. Any general use and (restricted or limited use) pesticide dealer who discontinues the sale of plant-incorporated protectants shall notify the Board in writing and shall provide the Board, upon request, with all records required by Section 5(C)II of this chapter.

D. Grower Requirements

- I. All users of plant-incorporated protectants shall maintain the records listed below for a period of two years from the date of planting. Such records shall be kept current by recording all the required information on the same day the crop is planted. These records shall be maintained at the primary place of business and shall be available for inspection by representatives of the Board at reasonable times, upon request.
 - a. Site and planting information, including town and field location, a map showing crop location and refuge configuration in relation to adjacent crops within 500 feet that may be susceptible to cross-pollination;
 - b. Total acres planted with the plant-incorporated protectant and seeding rate;
 - c. Total acres planted as refuge and seeding rate;
 - d. Detailed application information on any pesticide applied to the refuge as described in Section 1(A) of Chapter 50, "Record Keeping and Reporting Requirements"; and
 - e. Planting information for each distinct site including:
 - i. date and time of planting; and
 - ii. brand name of the plant-incorporated protectant used.
- II. There are no annual reporting requirements for growers.

E. Product-Specific Requirements

- I. Requirements for plant-incorporated protectant corn containing *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production.
 - a. Prior to planting plant-incorporated protectant corn containing any *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for

its production, the grower must have completed a Board-approved training course and possess a valid product-specific training certificate.

- b. Product-specific training certificates shall be issued following each Board-approved session. The certificates will remain valid until December 31 of the third year after issuance.
 - c. Non-Bt-corn growers whose crops are or will be located within 500 feet of a prospective Bt-corn planting site can request that the Bt-corn grower protect the non-Bt-corn crop from pollen drift.
 - i. the request must be made prior to planting of the Bt-corn crop;
 - ii. the request must identify the non-Bt-corn crop to be protected; and
 - iii. the growers may agree on any method for protection but, if an agreement cannot be reached,
 - 1. the Bt-corn grower must plant any refuge required by the Bt-corn grower agreement, grower guide or product label in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt-corn crop; or
 - 2. if no refuge is required, the Bt-corn grower shall maintain at least a 300-foot Bt-corn-free buffer to non-Bt-corn crops.
 - d. Bt-corn growers are encouraged to follow all best management practices developed by the Board or the Department of Agriculture, Conservation and Forestry.
- II. Dealers distributing Bt-sweet corn shall only sell the seed in quantities large enough to plant one acre or more.

F. Confidentiality

Any person providing information to the Board in connection with the record-keeping and reporting requirements of Section 5 of this chapter may designate that information as confidential in accordance with 7 M.R.S.A. §20.

Section 6. CHLORPYRIFOS (DURSBAN, LORSBAN)

The registration of chlorpyrifos (Dursban, Lorsban) is subject to the following limitations and conditions.

- A. No person shall use or supervise the use of any pesticide containing the active ingredient chlorpyrifos unless they have obtained a private or commercial applicator's license from

the Board, possess the pesticide in the State before January 1, 2022, and obtain a temporary use authorization permit from the Board.

B. Permit applications shall be made on such forms as the Board provides and shall include at least the following information:

I. The name, address and telephone number of the applicant;

II. The brand name of the pesticides to be applied;

III. The date on which the pesticides were purchased;

IV. The approximate quantity of the pesticides possessed; and

V. The purpose for which the pesticide application(s) will be made.

C. Within 30 days after a complete application is submitted, the Board or its staff shall issue a permit if:

I. The permit application is received prior to December 31, 2022;

II. The applicant possesses a valid pesticide applicator license issued by the State;

III. The pesticides proposed for use were purchased prior to January 1, 2022;

The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as required by the permit, the applicant shall undertake the application in accordance with all of the procedures described in their permit request and all other applicable legal standards. Permits issued by the Board under this section shall not be transferable or assignable except with further written approval of the Board and shall be valid only for the period specified in the permit.

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
April 30, 2007 – filing 2007-154
February 3, 2008 – filing 2008-36
July 16, 2009 – filing 2009-253 (final adoption, major substantive)
May 3, 2012 – filing 2012-99 (final adoption, major substantive)

CORRECTIONS:
February, 2014 – agency names, formatting

AMENDED:
December 9, 2014 – Section 3, filing 2014-283