

**POKAGON BAND OF POTAWATOMI INDIANS
PESTICIDE MANAGEMENT POLICY**

1. PURPOSE

The purpose of this Policy is to promote the health, safety and general welfare of the Band by establishing standards governing the possession, use, application, storage and disposal of Pesticides within Band Land by Departments and Contractors on behalf of Departments.

2. SCOPE

- (a) This Policy applies to all Departments and Contractors.
- (b) This Policy does not apply to the Pokagon Gaming Authority, Mno-Bmadsen, or any wholly owned entities thereof.
- (c) This Policy does not apply to possession, use, application, storage or disposal of Pesticides for residential use by persons living within Band Land or by contractors hired by such persons.

3. CONSTRUCTION

- (a) This Policy shall be liberally construed in favor of the Band and is not intended to limit or repeal any Band power, authority, right or immunity.
- (b) Nothing in this Policy is intended to, or shall grant, expand or confirm in any way whatsoever, the jurisdiction of any state, rather all Michigan Law and Indiana Law which are made applicable under this Policy are extended solely as a matter of Band policy.
- (c) Nothing in this Policy shall serve as a concession or admission of any nature whatsoever regarding the jurisdiction of any state or any burden arising from compliance with any Michigan Law or Indiana Law.

3. DEFINITIONS

- (a) “Applicable Law” means Band Law, Federal Law, Michigan Law and Indiana Law.
- (b) “Applicator” means any person who applies a Pesticide.
- (c) “Band” means the Pokagon Band of Potawatomi Indians.
- (d) “Band Land” means all land the title to which is held in trust by the United States for the benefit of the Band or is held in fee by the Band or any wholly owned entity thereof.
- (e) “Band Law” means all acts, codes, ordinances, regulations or other legislative action of the Tribal Council and all rulings of the Band court system.

- (f) “Contractor” means any person or entity engaged by the Band to perform any service for any Department within Band Land.
- (g) “Department” means any program or department of the Band which is subordinate to the Tribal Council.
- (h) “DNR” means the Band’s Department of Natural Resources.
- (i) “Federal Law” means all applicable federal laws governing the possession, use, application, storage or disposal of Pesticides.
- (j) “Indiana Law” means all substantive laws of the State of Indiana governing possession, use, application, storage or disposal of Pesticides, which law is hereby incorporated into this Policy; and
- (k) “Michigan Law” means all substantive laws of the State of Michigan governing possession, use, application, storage or disposal of Pesticides, which law is hereby incorporated into this Policy; and
- (l) “Pesticide” means any insecticide, fungicide, rodenticide and herbicide which is naturally derived or synthetically produced and causes, or is able to cause, the death of, or the modification of, a normal life cycle.
- (m) “Policy” means this Pesticide Management Policy.
- (n) “Tribal Council” means the governing body of the Band established pursuant to Article X of the Band’s Constitution.

4. PERMITTED PESTICIDES

- (a) Only Pesticides which are registered and authorized in accordance with Federal Law and Michigan Law may be possessed, used, applied or stored by Departments, or Contractors on behalf of Departments, within Band Land located within the State of Michigan.
- (b) Only Pesticides which are registered and authorized in accordance with Federal Law and Indiana Law may be possessed, used, applied or stored by Departments, or Contractors on behalf of Departments, within Band Land located within the State of Indiana.

5. STANDARDS

Each Department that directly, or through a Contractor, possesses, uses, applies, stores or disposes of any Pesticides shall ensure that:

- (a) All possession, use, application, storage and disposal of Pesticides within Band Land located within the State of Michigan complies with Band Law, Federal Law and Michigan Law;
- (b) All possession, use, application, storage and disposal of Pesticides within Band Land located within the State of Indiana complies with Band Law, Federal Law and Indiana Law;
- (c) Pesticides are used as the last option, considering whether use is economically or logistically feasible and is consistent with the best interests of time and project goals, with preference given to natural alternatives such as manual labor;
- (d) Applicators meet all requirements under Applicable Law, including without limitation, possessing all required licenses and certifications;
- (e) Applicators comply with Applicable Law and all labels, warnings and instructions, including without limitation, any designed to protect persons and natural resources;
- (f) Pesticides are handled, mixed and applied in a safe and proper manner to avoid unintended harm to persons or natural resources;
- (g) Applicators use personal protective equipment, such as goggles, rubber gloves and protective suits, when recommended or required;
- (h) Pesticides are applied at appropriate times considering weather conditions and other environmental factors;
- (i) Pesticides are properly labeled and secured at all times, including without limitation, during transport to the application site (i.e., lids on securely and containers not allowed to spill or leak during transit);
- (j) Pesticides are safely and properly stored when not in use, which may include, without limitation, storage in an appropriate chemical cabinet;
- (k) Pesticides are not stockpiled, but rather only anticipated amounts of Pesticide needed for a pest season are purchased;
- (l) Pesticides, mixtures containing Pesticides and Pesticide containers are disposed of in a safe and proper manner, which may include disposal at a hazardous materials clean sweep; and
- (m) Pesticide application equipment is kept in good working order and safely and properly cleaned following each Pesticide application.

6. ADMINISTRATION

- (a) Departments shall report annual application of every Pesticide to DNR no later than December 15th each year. The report shall be made using the Pesticide Application Annual Report Form attached as Exhibit 1.

- (b) If any Department violates this Policy, including without limitation, by failing to timely file the Pesticide Application Annual Report Form, DNR shall report the noncompliance to the Government Manager who, in regard to Departments subject to the authority of the Government Manager, shall take appropriate remedial action.
- (c) DNR will review every Pesticide Application Annual Report Form to assess potential impacts of each Pesticide on persons and natural resources. The assessment will be based, in part, on the factors listed in Exhibit 2.
- (d) If DNR concludes that a Pesticide presents an unacceptable threat to persons or natural resources, DNR shall prepare an annual report, which shall, without limitation: (i) describe use of the Pesticide within Band Land; (ii) describe the unacceptable threat to persons and natural resources; and (iii) recommend a course of action, which may include imposing limitations or prohibitions on the Pesticide. The recommended course of action will be based, in part, on the standards set forth in Exhibit 3.
- (e) DNR shall provide the annual report to the Government Manager and Tribal Council and shall present the report to Tribal Council.
- (f) Following presentation of the annual report, Tribal Council may act on the recommendations contained in the annual report.
- (g) DNR shall promptly inform every Department of all Pesticides which are subject to Tribal Council action and shall maintain and distribute annually, to every Department, a list which identifies all such Pesticides and summarizes all limitations and prohibitions imposed by Tribal Council.

EXHIBIT 2 – DNR ASSESSMENT FACTORS

Item	Source	Details
EPA Registration Number	EPA PPLS ¹	-
Manufacturer	EPA PPLS ¹	-
Trade Name	Application	Name on product label
Substance Origin	IUPAC ²	Natural, synthetic, etc.
Mode of Action	IUPAC ²	Selective, systemic, etc.
Volatility	IUPAC ²	Environmental fate, vapor pressure at 25° C (mPa), Interpretation section
Leaching Potential	IUPAC ²	Environmental fate, GUS leaching potential, Interpretation section
Groundwater Index	IUPAC ²	Environmental fate, SCI-GROW groundwater index (µg/L for a 1 kg/ha or 1 L/ha application rate)
Soil Degradation	IUPAC ²	Persistence in soils under various conditions
Soil Linear Movement	IUPAC ²	Soil mobility
Environmental Fate	NPIC ³	Environmental fate of chemical and its breakdown byproducts
Bioconcentration	IUPAC ²	Measure of chemical sharing between organism and water, usually fish
Bioaccumulation	IUPAC ²	Measure of potential for increase in chemical concentrations in food chains
Human Carcinogenicity	EPA IRIS ⁴	EPA Weight of Evidence measure of potential for human carcinogenicity
Carcinogen	IUPAC ²	Potential of chemical to cause cancer in humans
Mutagen	IUPAC ²	Potential of chemical to cause DNA damage in humans
Endocrine Disrupter	IUPAC ²	Potential of chemical to disrupt endocrine system in humans
Reproduction/Developmental Defects	IUPAC ²	Potential of chemical to cause reproductive or developmental defects in humans
Cholinesterase Inhibitor	IUPAC ²	Potential of chemical to affect neurotransmitters in humans
Neurotoxicant	IUPAC ²	Potential of chemical to cause damage to the central nervous system in humans
Respiratory Tract Irritant	IUPAC ²	Potential of chemical to cause respiratory tract irritation in humans
Skin Irritant	IUPAC ²	Potential of chemical to cause skin irritation in humans
Eye Irritant	IUPAC ²	Potential of chemical to cause eye irritation in humans

¹ Environmental Protection Agency Pesticide Product Label System

² International Union for Pure and Applied Chemistry

³ National Pesticide Information Center

⁴ Environmental Protection Agency Integrated Risk Information System

EXHIBIT 3 – DNR RECOMMENDATION STANDARDS

Item	Interpretation
EPA Registration Number	Must be an EPA registered and approved pesticide for use on Band Land
Manufacturer	-
Trade Name	-
Substance Origin	Natural chemicals are preferred over synthetic chemicals
Mode of Action	Selective chemicals are preferred to non-selective chemicals
Volatility	Non- or low-volatility preferred; highly volatile chemicals may need restrictions for storage and mixing conditions
Leaching Potential	Taken from the Groundwater Ubiquity Score (GUS). Extremely low scores are preferred, intermediate to high scores on sandy soils with low organic matter should have restrictions placed on use on them (i.e. mixing, no immediate rainfall), or not approved
Groundwater Index	Compare with aquatic ecotoxicology LD ₅₀ scores on IUPAC report for interpretation
Soil Degradation	Non-persistent chemicals are preferred
Soil Linear Movement	Non- to slightly mobile chemicals are preferred, interpret in relation to GUS and leachability scores plus site conditions to determine additional restrictions
Environmental Fate	Non-persistent or organic byproducts are preferred, interpret in conjunction with leachability and groundwater index for additional restrictions
Bioconcentration	Low potential preferred, interpret in tandem with leachability scores plus aquatic ecotoxicology LD ₅₀ scores on IUPAC report
Bioaccumulation	Low potential preferred
Human Carcinogenicity	"Not likely to be carcinogenic to humans" preferred, other categories interpreted with environmental mobility scores to determine restriction level
Carcinogen	Known carcinogens will have heavy use restrictions or will be denied
Mutagen	Known mutagenic chemicals will have heavy use restrictions or will be denied
Endocrine Disrupter	Known endocrine disruptors will have heavy use restrictions or will be denied
Reproduction/Developmental Defects	Chemicals known to cause these defects will have heavy use restrictions or will be denied
Cholinesterase Inhibitor	Chemicals known to interfere with neurotransmitters will have heavy restrictions or will be denied
Neurotoxicant	Chemicals known to adversely affect the central nervous system will have heavy restrictions or will be denied
Respiratory Tract Irritant	Chemicals known to irritate the respiratory tract will have use and storage restrictions
Skin Irritant	Chemicals known to irritate the skin will have use and storage restrictions
Eye Irritant	Chemicals known to irritate eyes will have use and storage restrictions