

TITLE 15 - ENVIRONMENT

CHAPTER 3 - INTERIM PESTICIDE PROTOCOL

Legislative History: The "Interim Pesticide Control Protocol" was adopted by Resolution No. 02-558 on November 18, 2002.

Related Legislation: Resolution No. 02-558 was amended by Resolution No. 02-559 (to clarify that the Legislative Council Domestic Affairs Committee reviewed, but did not recommend approval of, the Interim Pesticide Control Protocol) on November 18, 2002.

**TOHONO O'ODHAM NATION
ENVIRONMENTAL PROTECTION AGENCY
DEPARTMENT OF PUBLIC SAFETY
PESTICIDE PREVENTION PROGRAM
INTERIM PESTICIDE CONTROL PROTOCOL**

(I) Applicator Requirements

- (A) Certification.** All commercial applicators working within the Tohono O'odham Nation are required to hold a current applicator certification from the State of Arizona.
- (B) Business License.** All commercial applicators working within the Tohono O'odham Nation are required to obtain a business license from the Tohono O'odham Nation pursuant to the Transaction Privilege Tax Ordinance, No. 03-81 and its amendments.
- (C) Federal Laws.** The requirements of the Federal Insecticide, Fungicide, and Rodenticide Act are applicable to all pesticide applications on the Tohono O'odham Nation.

(II) Duty to Notify. All pesticide applicators are hereby charged with the duty to notify the Pesticide Program of the Tohono O'odham Nation Environmental Protection Agency of all applications of pesticides within the boundaries of the lands of the Nation.

(A) *Exempted Applications*.

- (1)** This section shall not apply to persons applying pesticides in their own residences.
- (2)** This section shall not apply to a pesticide product deployed in the form of a self-contained bait or trap, to gel or paste deployed as a crack and crevice treatment, to any pesticide exempted from regulation by the United States Environmental Protection Agency pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act [7 U.S.C. 136 et seq.] or to antimicrobial pesticides, including sanitizers and disinfectants.

(III) Notification.

- (A) Pre-Application Notification.** The applicator shall submit prior written notice, via fax, U.S. mail, or hand delivery as long as it is received at least 24 hours before the application of pesticides. Shorter notice may be provided if necessary, upon prior written

approval by the TONEPA.

- (1) **Form.** The notice shall include at a minimum all of the information included on the attached "Pesticide Application Pre-Notification Form." See Attachment A. Other forms may be used upon prior written approval by the TONEPA.
 - (2) **Current Labels.** It is the responsibility of the applicator to monitor changes in the pesticide labels for the products they are applying. The applicator shall provide to the TONEPA a copy of the actual current label for the product being applied as part of the pre-application notification. If the label is unchanged since last submitted to TONEPA, it is not necessary to submit a duplicate. If the label has changed, a copy of the updated label must be provided to TONEPA prior to the application.
 - (3) **Regular or Recurring Applications.** If an applicator provides regular scheduled applications to predetermined sites, a copy of the schedule and list of sites may be submitted in lieu of separate pre-notifications for each application, upon written approval by the TONEPA. This does not exempt such applicator from providing current labels for each pesticide used as described in (III)(A)(2) above
- (B) **Post Application Report.**
- (1) **Purpose:** To provide information on what pesticides were actually used, the amount, and the conditions at the site at the time of application.
 - (2) **Post-Application Report.** The applicator shall provide a post-application report to the TONEPA within 10 calendar days after an application.
 - (3) **Forms.** Applicators are encouraged to use existing forms, such as those already required by the State of Arizona, to reduce administrative burden. For example:
 - (a) For Agricultural (aerial & non-aerial) applications, the completed Form 1080 may be submitted. See Attachment B for a sample.
 - (b) For Structural Applications, a copy of the invoice. See Attachment C for a sample.
 - (c) Site Pre-Treatment for termites and other pests. A copy of the tag similar to the one in Attachment D shall be provided to the TONEPA.
- (IV) **Contact Information.** All forms and correspondence should be sent to :

Tohono O'odham Nation
Environmental Protection Agency

Pesticide Regulatory Program
PO Box 837 Sells, AZ 85634
Phone: (520) 383-8113 Fax: (520) 383-8114

- (V) **Observations.** The TON Pesticide Program is available on a limited basis to observe applications as they occur, to determine whether the application is being conducted correctly. These observations shall:
- (A) Be conducted at the written request of the person who originally ordered the application or the applicator (see attached form),
 - (B) Require at least 24 hours prior notice to the Pesticide Program for scheduling purposes
 - (C) Not be considered to be regulatory inspections,
 - (D) Result in an Observation Report to be submitted by the Tohono O'odham Nation Pesticide Program to the person who ordered the application.
- (VI) **Effective Date.** This Interim Pesticide Control shall be effective immediately upon approval by the Nation
- (VII) **Definitions:** The following words used in this Interim Protocol have the following meanings:
- (A) "Application of a pesticide" means the application of pesticide product on to an area for the purpose of preventing, destroying, repelling, or mitigating any pest.
 - (B) "Applicator" means any person who applies pesticides...including commercial and non-commercial applications, but excluding the application of pesticides by a person at their own residence.
 - (C) "Chairman" means the Chairman of the Tohono O'odham Nation.
 - (D) "Lands of the Nation" means all lands within the territorial jurisdiction of the Nation, whether or not the Nation has an ownership interest in the land, including but not limited to tribal trust land, allotted land, patented land, homesteads, leased land, and rights of way. Included within the territorial jurisdiction of the Nation are the lands established by the following Executive Orders: December 12, 1882, modified by June 17, 1909 (Gila Bend); July 1, 1874 (San Xavier); February 1, 1917 (Sells); and the following Acts of Congress: the Act of February 21, 1931 (Sells); the Act of September 10, 1978 (Florence); and such other lands as may have been or may hereafter be added thereto by

purchase, gift, Act of Congress or otherwise.

- (E) "Nation" means the Tohono O'odham Nation, a federally recognized Indian Tribe, organized under a constitution adopted by the Nation on January 18, 1986 and approved by the Acting Deputy Assistant Secretary-Indian Affairs(Operations) on March 6, 1986 pursuant to Section 16 of the Act of June 18, 1934 (48 Stat.987, 25 U.S.C. §476)**
- (F) "Pesticide" means (1) any substance or mixture of substances intended for preventing, destroying, repelling, or mitigating any pest, (2) any substance or mixture of substances intended for use as a plant regulator, defoliant, or desiccant, and (3) any nitrogen stabilizer.**



TOHONO O'ODHAM NATION

Department of Public Safety
Environmental Protection Agency
Pesticide Regulatory Program

P.O. Box 837 Sells, AZ 85634
Voice: (520) 383-4353 Fax: (520) 383-8114
elopez@toua.net



PRE - TREATMENT NOTIFICATION FORM

PROJECT NAME _____ DATE _____

Company Name _____ Business Lic. # _____

Phone Number _____

Address _____

Name of Applicator _____ Certification # _____

Chemical Applied _____ EPA Reg # _____

Site Location/Lot # _____

Site Specs/Sq. feet/Linear feet _____

Rate/Volume _____ Total Volume _____

Target Pest _____

Time On Site _____ Time off Site _____

Contact Name _____
(Who called for application ?)

Address _____

Phone Number _____

LABEL ON FILE WITH THE TOHONO O'ODHAM EPA OFFICE YES NO

IF NOT, PLEASE SEND TO ADDRESS ABOVE.

HELENA CHEMICAL COMPANY
1107 N. V.I.P. BLVD
CASA GRANDE AZ 85222

FORM 1080

Form #: 18647

ADA-OFFICE-USE-ONLY
10/17/02

HELENA CHEMICAL CO

248

10/17/02

SELLER: TOHONO O'ODHAM NATION

PSP 10609

DATE: PINAL

BROWER: DEFOLIATION

COUNTY: PINAL

PMA AREA YES NO
DATE TO BE APPLIED 10/18/02

HARVEST-DATE: 10/30/02 LBL REENTRY INTERVAL: 72

WS REENTRY INTERVAL: 72

LABEL DAYS TO HARVEST: 7

CROP	SECTION	TOWN	RANGE	ACRES	CROP	SECTION	TOWN	RANGE	ACRES
COTTON	10	9 S	4 E	40.60					
COTTON	34	9 S	4 E	62.50					

ADDITIONAL-FIELD-DESCRIPTION:

Fields: 5L S/S(5.8); 5M S/S(5.3); 5N S/S(5.3);
5O S/S(5.3); 5P S/S(5.2); 5R S/S(7.1); 5Q S/S(6.6); 14G S/S(12.7);
14H S/S(15.1); 14I BT(17); 14J BT(17.7)

PRODUCT / BRAND NAME	EPA REGISTRATION NO.	RATE & UNIT OF MEASURE/ACRE	DILUTION/ 100 GAL.	TOTAL CHEMICAL
GINSTAR	264-634	8.69 FLOZ	0.00	7.00 GAL
COTTON QUIK	68891-7-1812	1.55 PT	0.00	20.00 GAL
AGRIDEX	sticker/spreader	0.96 PT	0.00	12.50 GAL
TOTAL ACRES	103.10	TOTAL VOLUME PER ACRE	5.00	DEQ SOIL-APPLIED YES NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO
				SUPPLEMENTAL LABEL REQUIRED YES NO <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO AIR GROUND

field(s) must be posted.

LABEL-RESTRICTIONS / SPECIAL-INSTRUCTIONS:

** USE UP 2 GALLONS OF GINSTAR LEFT AT STRIP **

CUSTOM FARM SERVICE

STANFIELD, AZ

APPLICATOR: DELIVERY-LOCATION

THE UNDERSIGNED CERTIFIES THAT THE ABOVE INSTRUCTIONS COMPLY WITH ALL LAWS AND RULES.

GROWER/AGENT'S SIGNATURE

OR

ADVISOR'S SIGNATURE

PGP/PCA NO. 3476

A.R.S.3-363

PESTICIDE APPLICATION REPORT

I, the undersigned, certify that an application of pesticides was made by the designated applicator in strict compliance with the above written recommendation. Instructions on the date and under the conditions specified below:

EQUIP. TAG-NO.	TOTAL TIMES	WIND DIRECTION & VELOCITY	DATE APPLIED
_____	_____	_____	_____

DEVIATION-FROM-INSTRUCTIONS:

COMPANY NAME: PGP/PCA NO.

GROWER / APPLICATOR SIGNATURE: PUP/PUC NO.

PRINT OPERATOR(S)/PILOT NAME: AAP NO.

COPY-DISTRIBUTION: 1 & 2—Applicator 3—Advisor 4—Seller 5—Grower

NOTE: This document must be submitted to the ADA NO LATER than the Monday following the week in which the application was made—EXCEPT when holidays intervene.

**Tohono O'odham Nation
Pesticide Program
Structural Pest Control Observation Form**

Date				Time:				#							
Company								Bus. Lic. No.							
Street Address								TON Lin. No.							
City:						State:				Zip:					
Business Phone						Cellular Phone									
<input type="checkbox"/> Primary <input type="checkbox"/> Branch (Identify)						Field Location:									
Person interviewed:						Certification # CAT:				Registered <input type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> N?A					
Compliance		A. () OFFICE AND RECORDS						COMPLIANCE		C. [] CHEMICAL STORAGE					
#	yes	no	N/A	() RUP RECORDS REVIEWED						#	yes	no	N/A	[] ALL ON TRUCK [] RUP	
1				License displayed						1				Storage area posted / signed / locked	
2				Office registered						2				Ventilated storage	
3				Name as registered						3				Pesticide registered / labeled	
4				Qualifications / supervision						4				Pesticide in proper containers	
5				Employees certified						5				Pesticide locked in view when unattended	
6				Employees registered						6				Containers properly prepared for disposal	
7				Records maintained						7				Pesticide/ container disposal per label	
8				Records complete (<i>TONEPA Office</i>)						COMPLIANCE		D. SAFETY PROVISION			
FOR "C" LICENSE ONLY								#	yes	no	N/A				
1				Certified applicator						1				Poison control number posted	
2				Pretreatment records						2				Usable first aid kit available	
3				Calibration records						3				Usable fire extinguisher available	
Compliance		B. [] VEHICLE INSPECTION						4				Personal protective equipment			
#	yes	no	N/A							5				Adequate lighting	
1				Identification card in possession						6				Potable water / washing facility	
2				Operator registered / certified						7				Measuring / pouring devices	
3				Truck/trailer signs in view of public						8				Spill containment materials	
4				Locked storage or direct view						9				Labels / MSDS	
5				Equipment in safe working order						Remarks:					
6				Equipment calibrated - "C" license											
7				Blackflow prevention/ anti-siphon device											
YEAR / VEHICLE MAKE		STATE / PLATE #													
INSPECTOR'S SIGNATURE								DATE				ACKNOWLEDGMENT OF OBERVATION INSPECTION			

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting an Interim Pesticide Protocol for the Tohono O'odham Nation)

RESOLUTION NO. 02-558

1 **WHEREAS, the Tohono O'odham Nation is devoted to the goals of protecting the environment**
2 **and safe guarding the health and well being of the Nation's members; and**

3 **WHEREAS, Article XVIII of the Constitution of the Tohono O'odham Nation sets out the Council's**
4 **continuing responsibility to assure for all members safe and healthful surroundings;**
5 **and**

6 **WHEREAS, the Pesticides Regulatory Program under the Nation's Department of Public Safety**
7 **was established by Resolution No. 2000-017. The Nation is currently implementing**
8 **a Pesticides Regulatory Program and is responsible for determining the extent of**
9 **pesticide use on the Nation and developing the regulatory infrastructure to ensure**
10 **that pesticide related activities on the Nation's lands occur in a responsible manner;**
11 **and**

12 **WHEREAS, the Pesticide Program has recently conducted a Pesticide Assessment, attached as**
13 **Exhibit A and incorporated by this reference, that shows that there is a significant**
14 **amount of pesticides being applied on the lands of the Nation, including construction**
15 **pretreatment, structural, and agricultural applications; and**

16 **WHEREAS, the Program is currently consulting with affected agencies, programs and farms on**
17 **how to create an effective regulatory program; and**

18 **WHEREAS, while that consultation is occurring, there exists an immediate need for an interim**
19 **protocol to collect specific data about pesticide use on the Nation, including quantity,**
20 **type, and location of applications as well as applicator certification status and**
21 **pesticide storage and disposal; and**

22 **WHEREAS, an Interim Pesticide Control Protocol was developed by the Program, attached as**
23 **Exhibit B and incorporated by this reference, to monitor pesticides usage until such**
24 **time as the Nation can enact a Pesticide Code; and**

25 **WHEREAS, this Resolution and its attachments have been reviewed by the Domestic Affairs**
26 **Committee which recommends approval by the Legislative Council.**

27 **NOW, THEREFORE, BE IT RESOLVED that the Department of Public Safety, Environmental**
28 **Protection Agency's Pesticide Program Interim Pesticide Control Protocol, as**
29 **attached, are hereby adopted.**

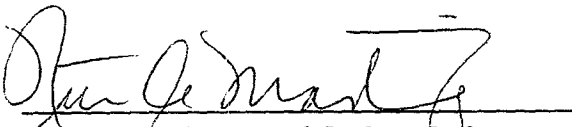
RESOLUTION NO. 02-558

(Adopting an Interim Pesticide Protocol for the Tohono O'odham Nation)

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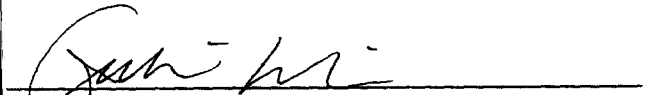
The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08TH Day of NOVEMBER, 2002 at a meeting at which a quorum was present with a vote of 1,263.75 FOR; 811.75 AGAINST; -0- NOT VOTING; and 342.0 [09] ABSENT, pursuant to the powers vested in the Council by Section 1 (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Rita A. Martinez, Legislative Chairwoman

14th day of November, 2002

ATTEST:


Julianna Saraficio, Acting Legislative Secretary

08 day of November, 2002.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 14th day of November, 2002 at 3:11 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL



Rita A. Martinez, Legislative Chairwoman

APPROVED

on the 18 day of November, 2002

DISAPPROVED

at 10:45 o'clock, A.M.


EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

RESOLUTION NO. 02-558

(Adopting an Interim Pesticide Protocol for the Tohono O'odham Nation)

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Returned to the Legislative Secretary on the 18th day of
November, 2002, at 2:09 o'clock, P.M.

Juliana Saraficio for
Juliana Saraficio, Acting Legislative Secretary

RESOLUTION OF THE TOHONO O'ODHAM LEGISLATIVE COUNCIL
(Adopting an Interim Pesticide Protocol for the Tohono O'odham Nation
(Amends Resolution No. 02-558))

RESOLUTION NO. 02-559

- 1 **WHEREAS, the Tohono O'odham Nation is devoted to the goals of protecting the environment**
2 **and safe guarding the health and well being of the Nation's members; and**
- 3 **WHEREAS, Article XVIII of the Constitution of the Tohono O'odham Nation sets out the Council's**
4 **continuing responsibility to assure for all members safe and healthful surroundings;**
5 **and**
- 6 **WHEREAS, the Pesticides Regulatory Program under the Nation's Department of Public Safety**
7 **was established by Resolution No. 2000-017. The Nation is currently implementing**
8 **a Pesticides Regulatory Program and is responsible for determining the extent of**
9 **pesticide use on the Nation and developing the regulatory infrastructure to ensure**
10 **that pesticide related activities on the Nation's lands occur in a responsible manner;**
11 **and**
- 12 **WHEREAS, the Pesticide Program has recently conducted a Pesticide Assessment, attached as**
13 **Exhibit A and incorporated by this reference, that shows that there is a significant**
14 **amount of pesticides being applied on the lands of the Nation, including construction**
15 **pretreatment, structural, and agricultural applications; and**
- 16 **WHEREAS, the Program is currently consulting with affected agencies, programs and farms on**
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- 18 **WHEREAS, while that consultation is occurring, there exists an immediate need for an interim**
19 **protocol to collect specific data about pesticide use on the Nation, including quantity,**
20 **type, and location of applications as well as applicator certification status and**
21 **pesticide storage and disposal; and**
- 22 **WHEREAS, an Interim Pesticide Control Protocol was developed by the Program, attached as**
23 **Exhibit B and incorporated by this reference, to monitor pesticides usage until such**
24 **time as the Nation can enact a Pesticide Code; and**
- 25 **WHEREAS, this Resolution and its attachments have been reviewed by the Domestic Affairs**
26 **Committee.**
- 27 **NOW, THEREFORE, BE IT RESOLVED that the Department of Public Safety, Environmental**
28 **Protection Agency's Pesticide Program Interim Pesticide Control Protocol, as**
29 **attached, are hereby adopted.**

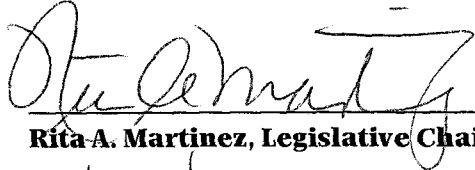
RESOLUTION NO. 02-559

(Adopting an Interim Pesticide Protocol for the Tohono O'odham Nation (Amends Resolution No. 02-558))

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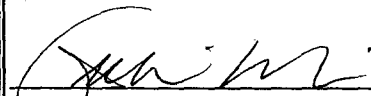
The foregoing Resolution was passed by the Tohono O'odham Legislative Council on the 08TH. Day of NOVEMBER, 2002 at a meeting at which a quorum was present with a vote of 1,473.25 FOR; 301.85 AGAINST; 300.4 NOT VOTING; and 342.0 [09] ABSENT, pursuant to the powers vested in the Council by Section 1 (f) of Article VI of the Constitution of the Tohono O'Odham Nation, adopted by the Tohono O'Odham Nation on January 18, 1986; and approved by the Acting Deputy Assistant Secretary - Indian Affairs (Operations) on March 6, 1986, pursuant to Section 16 of the Act of June 18, 1934 (48 Stat. 984).

TOHONO O'ODHAM LEGISLATIVE COUNCIL


Rita A. Martinez, Legislative Chairwoman

14th day of November, 20 02

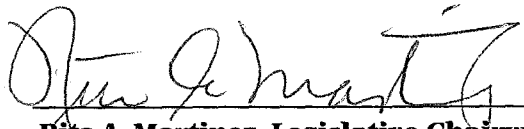
ATTEST:


Julianna Saraficio, Acting Legislative Secretary

08 day of November, 20 02.

Said Resolution was submitted for approval to the office of the Chairman of the Tohono O'Odham Nation on the 14th day of November, 20 02 at 3:11 o'clock, P.M., pursuant to the provisions of Section 5 of Article VII of the Constitution and will become effective upon his approval or upon his failure to either approve or disapprove it within 48 hours of submittal.

TOHONO O'ODHAM LEGISLATIVE COUNCIL

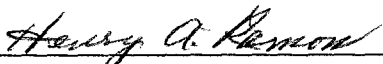

Rita A. Martinez, Legislative Chairwoman

APPROVED

on the 18 day of November, 20 02

DISAPPROVED

at 10:47 o'clock, A.M.


EDWARD D. MANUEL, Chairman
TOHONO O'ODHAM NATION

RESOLUTION NO. 02-559

(Adopting an Interim Pesticide Protocol for the Tohono O'odham Nation (Amends Resolution No. 02-558))

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Juliana Saraficio for
Juliana Saraficio, Acting Legislative Secretary