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Eagle Lake Water & Sewer District
PO Box 137
243 Old Main Street
Eagle Lake, ME 04739-0137
207-444-5441
[elwsd@fairpoint.net]

December 18, 2023

Mr., John Pietroski
Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028

Dear Mr. Pietroski,

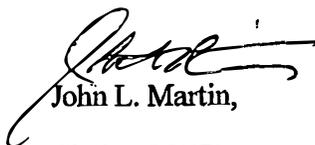
The Board of Trustees of Eagle Lake Water & Sewer District is requesting that the Board of Pesticides Control designate the district's public water supply, which is wellhead protection area along Eagle Lake as a Critical Pesticide Control Area and have a total ban on the use of pesticide and herbicide within this area.

The public water supply is two (2) 16" gravel pack groundwater wells, 42 feet in depth. Wells were installed in 2008 and put in service in January, 2009. In 2008 the district and the town tried to create a wellhead protection plan ordinance but failed. Over the years we have notice that abutting land owners have been active in applying herbicides and pesticides within our wellhead protection area. We have requested the abutting land owners stop this practice, but they have refused. The board of trustees is requesting your help to protect our drinking water supply.

Enclosed is a copy well site management plan, produce by our engineers and approved by the Maine Drinking Water Program, a site map, abutting land owners and mailing addresses.

Should you need additional information please contact district office at (207)-444-5441.

Sincerely,



John L. Martin,
Clerk, ELWSD

(Q). Chapter 60, Sec. 2 (B) – The request asks for a “total ban on the use of pesticide and herbicide within this area.” For clarification, is the intent to ban the use of all pesticide chemistries including minimal risk pesticides that are exempt from EPA registration (FIFRA, Section 25b).

Chapter 60, Sec. 2 (D) – The map provided depicts the 200-Day and 2,500-Day Travel Zones. Please clarify if the proposed control area is the 200-Day Travel Zone, 2,500-Day Travel Zone or the 300-foot radius well recharge zone.

(A). We want the proposed zone to cover the 500 ft radius of the well recharge zone.

Justification:

- The purpose of extending the 300 ft radius to 500 ft radius is to cover the entire residential infrastructure which could effect our well recharge zone.
- For reference the recharge zone wells are shallow gravel pack (approx. 40 ft. deep).
- It is unknown if the half-life for the products utilized would allow contaminants it to leach into the well’s recharge zone.
- In this sensitive area, it is impossible to monitor pesticide/herbicide application activities.
- Residents or applicators are not forthcoming in notifying our organization when they will occur.
- Applicators do not voluntarily supply SDS (MSDS) information prior to application for our approval.
- Normally, we only witness applicators after they have applied products.
- One of the residents has a perimeter drain around foundation that discharges in the well recharge zone. It is unknown if contaminants are being discharged into the well recharge zone.
- If this pesticide/herbicide restriction is not approved, the Maine Drinking Water Program will require us to conduct pesticide monitoring/sampling.
 - This would be very costly for our organization and would not guarantee contamination to our wells/groundwater.
 - It is more significantly more expensive after contamination than prevention (moving wells or cleanup).
 - Potential for legal action from contamination or sickness in the future.
 - This preventative measure would better protect the town citizens/customers from contamination.

(Q). Chapter 60, Sec. 2 (E) – The request acknowledges abutting landowners use of herbicides and pesticides. Can you elaborate on the purpose for the use of those pesticides, i.e. lawncare, tick & mosquito control, structural pest control, etc.?

(A). The purposes for the applications were for infrastructure pest control (ants/earwigs), herbicide lawncare (weeds), invasive wildlife control (Canada Geese).

Further information:

- We will provide the SDS’ for products we were provided and what we know was applied
- It is unknown if further applications are conducted besides the activities witnessed, we are not voluntarily provided with this information.

(Q). Chapter 60, Sec. 2 (G) – The request provides evidence establishing the impacts of “agricultural” pesticides on ground and surface waters and potential risks to human health. Can information be provided regarding the use of pesticides in “residential” settings and their potential impact on ground and surface waters and the potential for adverse effects on human health?

(A). Commercial agriculture is not conducted in the zone and no residential agriculture has been witnessed

- If residential agricultural (gardens) activities are conducted, there is potential for herbicide/pesticide application in these zones.

(Q). Chapter 60, Sec. 2 (J) –Please provide a more detailed description of the proposed restrictions on the use of pesticide(s) within the proposed critical area.

(A). We are requesting that no pesticide or herbicides be applied in the 500 ft radius of our well recharge area. Also, we are requesting that no intentional activities or infrastructure be allowed to be discharged in this zone (i.e. stormwater drains, industrial activities, agricultural activities, construction activities, fueling activities, unnecessary vehicle traffic, equipment fueling, residential drainage, etc.)

Please feel free to reach out with any questions regarding this request. Staff does plan to include the pesticide use inspection report completed in September of 2022 with your request for consideration by the Board.

Clarification is requested by the close of business on Tuesday, March 26, 2024, for proper submission to the Board. A copy of Chapter 60 has been attached.

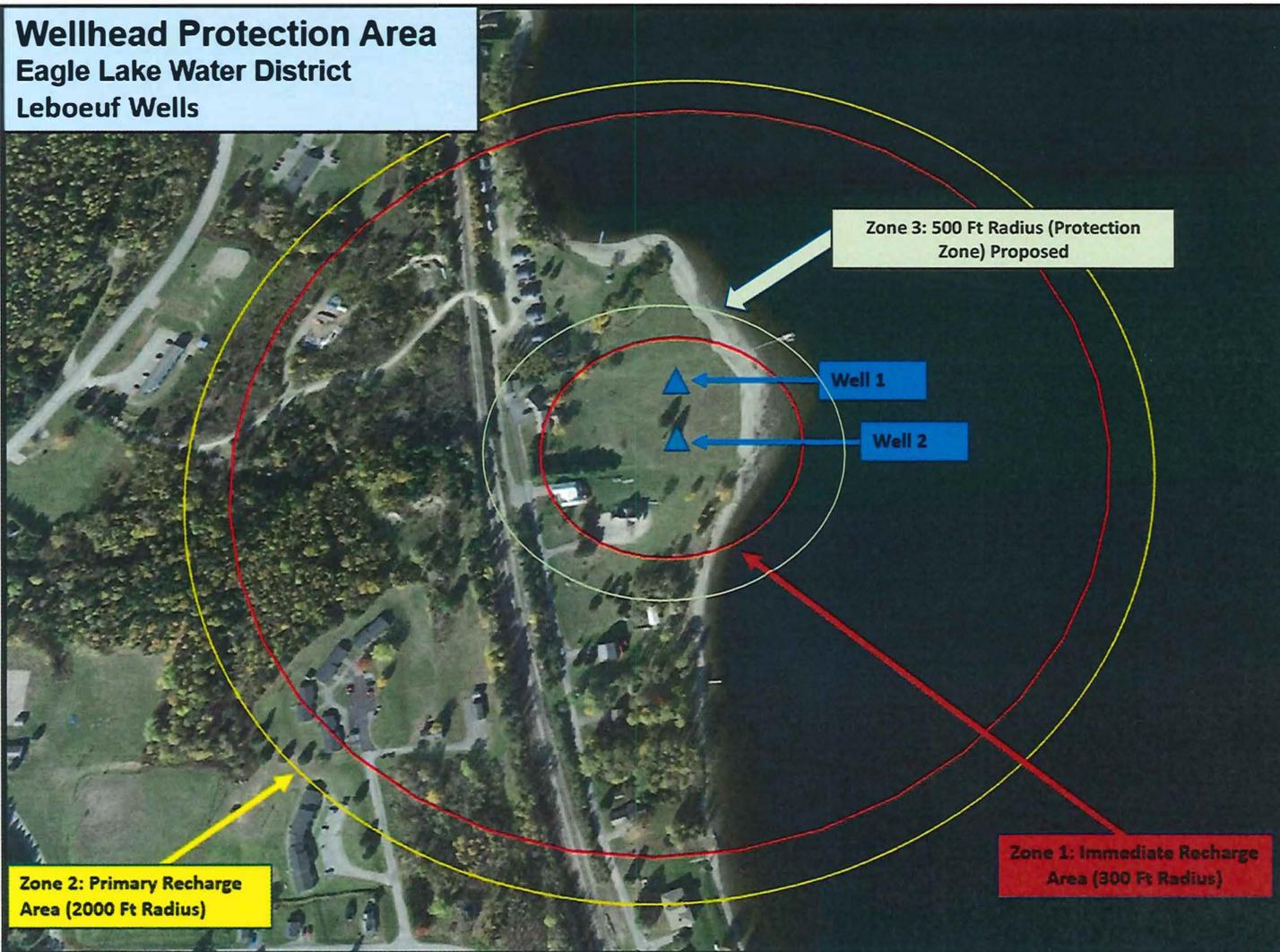
We look forward to working with you on this matter.

Eagle Lake Water & Sewer District
Eagle Lake, Maine (Public Water Source)

Land Owners located within the 200 day travel time Zone of Contribution

Tax Map / Lot	Property Owner Name	Mailing Address
16 / 29	Phillip LeBoeuf Overlook Cabins	PO Box 347, Eagle Lake, ME 04739
16 / 29 -1	ELWSD District Sewer Pumping Station # 2	PO Box 137, Eagle Lake, ME 04739
16 / 30	Phillip LeBoeuf Home	PO Box 347, Eagle Lake, ME 04739
16 / 30A	ELWSD District Wellhead Area	PO Box 137, Eagle Lake, ME 04739
16 / 31 -3	Louis & Lillian Roy Home	PO Box 347, Eagle Lake, ME 04739
16 / 31 -4	Paula Ouellette RV Lot	75 Pleasant St., Fort Kent, ME 04743
16 / 31 -5	Jonathan & Karen Trudo Home	20 Apple Blossom Lane, Kennebunkport, ME 04046
	Maine Northern Railway	103 School Street, Oakfield, ME 04763

Wellhead Protection Area
Eagle Lake Water District
Leboeuf Wells



01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 60: DESIGNATION OF CRITICAL PESTICIDE CONTROL AREAS

SUMMARY: These regulations establish criteria which the Board will use in deciding if an area should be designated as a critical pesticide control area. In addition, these regulations specify the procedures parties must follow in requesting such a designation. These regulations also define the locations that have been designated as critical areas by the Board.

1. Procedure

- A. The Board shall receive, consider and act upon petitions for designation of critical pesticide control areas in accordance with 5 M.R.S.A., Ch. 375, subchapter II. Citizen petitions shall be allowed in accordance with 5 M.R.S.A. §8055. A municipality or county may make such petition in accordance with 22 M.R.S.A. §1471-M, sub-§ 4. In addition, the Board's staff may initiate such a petition.
- B. The Board shall provide public notice and opportunity for public comment on any such petition in accordance with 5 M.R.S.A., Ch. 375, subchapter II.
- C. There shall be opportunity for local participation in Board decisions regarding the designation of critical areas, as provided by 22 M.R.S.A. §1471-V.

2. Information required in Petition

Any person or persons petitioning the Board to designate an area as a critical pesticide control area shall submit the following information in support of the petition:

- A. The name, address and telephone number of the petitioner(s) and a statement of the petitioner's interest in the proposed designation.
- B. The name of the pesticides or group of pesticides for which restrictions are sought. Petitioners may seek restrictions on specific formulations which have enhanced toxicity, rather than on all products containing the active ingredient. For purposes of this regulation, pesticides shall include both active and inert ingredients, and carriers used in any pesticide application.
- C. The name(s) and address(es) of the owner(s) of property within the proposed critical area.
- D. A map of the proposed critical area.
- E. A description of the purposes for which the pesticide(s) is or may be applied within the proposed area (if known).

- F. For petitions for designation under criteria of sections 3(A), 3(B) or 3(C), the name(s) of the species for which protection is sought and a summary of the data establishing adverse effects of pesticides upon the species.
- G. For petitions for designation under criteria of section 3(D), a copy of any applicable town ordinances, a summary of: evidence establishing that the pesticides may enter ground or surface water, hydrogeologic data which adequately defines the proposed critical area, and evidence establishing that the pesticide(s) may have an adverse effect upon the health of current or future users of the ground or surface water.
- H. For petitions for designation under criteria of section 3(E), a summary of medical and/or epidemiological evidence that exposure to the pesticide(s) causes serious and/or longstanding health effects to sensitive individuals or groups of individuals.
- I. For petitions for designation under criteria of sections 3(F) or 3(G), a copy of any management plan for the area or species.
- J. A description of the petitioner's proposed restrictions on the use of pesticide(s) within the proposed critical area.

3. **Criteria for designation**

The Board of Pesticides Control will use the following criteria to determine whether to designate a critical pesticide control area. Where the Board is persuaded by the evidence that any of these criteria are met, it may designate a critical pesticide control area and adopt additional pesticide use restrictions, prohibitions or management plans for that area as necessary to protect health, welfare and the environment.

- A. Areas where use of pesticide(s), without additional restrictions, is likely to cause the significant destruction or curtailment of the habitat or range of any animal or plant species that:
 - (1) is listed as endangered pursuant to state or federal law; or
 - (2) is listed as threatened pursuant to state or federal law; or
 - (3) is an invertebrate species ranked G1, G2 or S1 under the Natural Heritage Program of The Nature Conservancy and which is, in the Board's judgment, of natural significance.
- B. Areas where use of pesticide(s), without additional restrictions, is likely to negatively affect the mortality rate and/or reproductive capability of any animal or plant species that:
 - (1) is listed as endangered pursuant to state or federal law; or
 - (2) is listed as threatened pursuant to state or federal law; or
 - (3) is an invertebrate species ranked G1, G2 or S1 under the Maine Natural Areas Program in the Department of Conservation and which is, in the Board's judgment, of natural significance.

- C. Areas where use of pesticide(s), without additional restrictions, is likely to cause the significant destruction or curtailment of significant wildlife habitat. "Significant wildlife habitat" is as identified under the Natural Resources Protection Act, 38 M.R.S.A., Ch. 3, subchapter 1, Art. 5-A.
- D. Areas where use of pesticide(s), without additional restrictions, is likely to significantly risk the quality of surface or groundwater supplies used for human consumption.
- E. Areas where use of pesticide(s), without additional restrictions, is likely to cause serious and/or longstanding impairment of the health of sensitive individuals or groups of individuals who normally occupy such areas. The Board contemplates that this designation will require verified medical and/or epidemiological documentation of human sensitivity to one or more pesticides.
- F. Areas where use of pesticide(s), without additional restrictions, is likely to significantly harm natural or other resources owned or managed by a government agency, or is contrary to the duly adopted management plan for an area owned or managed by a government agency.
- G. Areas where use of pesticide(s), without additional restrictions, is likely to significantly harm natural resources within an area which is identified as an exemplary natural community or ecosystem of recognized exceptional qualities and has been designated for long-term ecological research and/or conservation purposes.

4. Designated Critical Pesticide Control Area

A. Dennys River Critical Pesticide Control Area

- (1) The above entitled matter having come up for public hearing on 7 March, 1978, at 2:00 p.m. before the Pesticides Control Board in Room 102 of the Science Building at the University of Maine in Machias; and the Board, having considered the evidence and arguments presented, and with a quorum present, has this day voted to declare a critical area under provisions of Title 22, Chapter 258-A, Sections 1471-F and 1471-M (2)(A), within which critical area no aerial application of pesticide is to be made without prior approval of the Board of Pesticides Control.
- (2) The critical area herein established is described as follows: Commencing at the dam at the foot of Meddybemps Lake and extending down the Dennys River to the Gilman Dam, so-called, the critical area shall include all land within one-half mile of either bank of the Dennys River; commencing at the Gilman Dam, so-called, and extending down the Dennys River to its entrance into Dennys Bay, so-called, the critical area shall include all land within one mile of either bank of the Dennys River.

FISCAL IMPACT: This rule will not impose any fiscal impact on counties or municipalities.

STATUTORY AUTHORITY: 5 M.R.S.A., § 8051 *et seq.* and 22 M.R.S.A., §§ 1471-F and M.

EFFECTIVE DATE:

July 6, 1979

AMENDED:

May 8, 1989

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

April 14, 1998

July 12, 2000

MINOR CORRECTION:

November 23, 2000 - citation in § 4(C)(4)

AMENDED:

December 24, 2000 - repealed §4(C)

December 26, 2011 – filing 2011-475

CORRECTIONS:

February, 2014 – agency names, formatting

Summary of Comments Received Regarding Proposed Amendments Rules

Board of Pesticides Control CMR 01-026 Chapter 60

#	Name and Affiliation	Comment	Agency Response
1	Phil LeBoeuf, landowner, Eagle Lake	<ul style="list-style-type: none"> • Speaking on behalf of affected homeowners. • Understands that there are several issues with PFAS contamination in groundwater, but through some research, he found that this is typically through sludge spreading and not pesticides. Searched the BPC’s website and the web for more information related to PFAS in pesticides and groundwater contamination and couldn’t find any relevant information. • Reviewed the inspector report by Keith Brown, and agreed with the reports findings. • Currently uses Northern Turf Management’s services, which is a 	<ul style="list-style-type: none"> • The Board appreciates the affected homeowners giving public comments. • The Board understands that one of the reasons for PFAS contamination in groundwater is from the application of municipal sludge spread on agricultural sites. It is also understood that some pesticides may contain or be contaminated with PFAS. The state of Maine has taken extraordinary steps to remove PFAS-contaminated products from the channels of trade, pursuant to 38 M.R.S. § 1614. As a result of our inspections, the pesticides reviewed were used in accordance with the label. Through the pesticide registration review process, EPA determines that no undue harm will come to human health and the environment when the pesticide is used in accordance with the label. • The Board understands that affected homeowners were able to review the inspector reports. • The Board is aware that the pesticide applications in question were

		<p>licensed company with BPC and a licensed applicator is applying the pesticides.</p> <ul style="list-style-type: none"> • The products they use are federally registered and approved, and are safe to use around wellheads. These wellheads are 150 feet from the area that is being treated with pesticides, and the groundwater aquifer is located deep below the lake. • As shoreline property owners, they are required to abide by the Shoreland Zoning Ordinance, which regulates all activities within 250 ft of the waterfront. • Given that no rules are being broken, products are applied by a licensed professional, and there is no history of lawncare products contaminating the groundwater, the Board should not prohibit the use of legally approved lawncare products to private property in the vicinity of the town wellheads. 	<p>inspected by staff. None of the products applied carried groundwater advisories and were applied in accordance with the label.</p> <ul style="list-style-type: none"> • Shoreland Zoning Ordinances are regulated by municipalities, as required by the Mandatory Shoreland Zoning Act, which is regulated by the Maine Department of Environmental Protection. BPC rules related to water quality are in 01-026 C.M.R. ch. 29. • The BPC’s findings on the complaints made for this site are included in the inspector reports prepared by staff, where no violations were found. The Board understands the complexity of this issue and will consider public comment as it moves forward in its decision-making.
2	John Martin, Trustee, Eagle Lake Water and Sewer District	<ul style="list-style-type: none"> • Gave a brief history of the district, including findings that the last 	<ul style="list-style-type: none"> • The Board understands the historic issues related to finding drinking water

		<p>groundwater source was found to not be suitable in 2004.</p> <ul style="list-style-type: none"> • The district spent \$4 million looking for a new public drinking water source. • Actions of the Camden pesticide case is what lead to them seeking the critical pesticide control area designation. • Understands Mr. LeBoeuf's concerns, they purchased land from the family in order to install the wellheads. • Wants to ensure that they prevent contamination and protect the water source for the public. 	<p>sources for Eagle Lake and that this was an expensive endeavor.</p> <ul style="list-style-type: none"> • While the Board understands that the Camden case had widespread media attention, it was a separate case involving blatant off-label use of an herbicide within the shoreland zone that resulted in environmental harm. Enforcement action taken on this case can be found on the Board's website. • The BPC understands that the land was purchased privately to secure the property for wellhead installation and maintenance. • BPC has a rule related to water quality protection, 01-026 C.M.R. ch. 29. Additionally, all pesticides are reviewed and registered by the EPA then separately registered in Maine for use. These registration processes consider water quality and environmental concerns when registering pesticides to determine if there are risks of environmental contamination related to use. Some labels have additional standards to protect water quality.
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3	Patrick Vaillancourt, Owner, Northern Turf Management	<ul style="list-style-type: none"> • His company has been servicing Mr. LeBoeuf’s property for several years. • Discussed their use of IPM, and states that the concerns for groundwater are valid. • When these products are used correctly, in and around private and public water supplies, they have never had any issues or found any in research on the topic. These products do not move past the target pest and using plant health and IPM to reduce groundwater contamination. • Placing a prohibition on using pesticides within 500 feet of public wellheads handicaps private landowners from dealing with pest issues on their own valuable land. Gave examples of tree pests destroying valuable tree stands, rodents that could damage structural integrity, and turf pests that could cause soil erosion which might lead to greater runoff. • The Board must consider the fact that if they act on this prohibition, it would only impact licensed applicators. A person will do what 	<ul style="list-style-type: none"> • BPC understands the history of landscaping services for this site. • BPC understands that applicators in this area are cautious and using integrated pest management to ensure that water quality is not affected by pesticide use. • BPC agrees that when used in accordance with the label, pesticides should not move past the target site and impact non-target sites and organisms. In some cases, pest management can be necessary to not only contain the pest but prevent future issues and property damage from occurring. • While there is no proposed rule at this point, it’s likely that any prohibition in place would prohibit pesticide use from both commercial applicators and homeowners in the area affected. The BPC encourages both homeowners and applicators to utilize integrated pest management to evaluate and manage any pest issues they have.
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		<p>they need to in order to protect their person property.</p> <ul style="list-style-type: none"> • This rule would set a dangerous precedent that all pesticides are bad and will impact public drinking sources. 	<ul style="list-style-type: none"> • Anyone can send a petition to the Board for a critical pesticide control area pursuant to 01-026 C.M.R. ch. 60. This starts a regulatory process adjacent to the Administrative Procedures Act (5 M.R.S. §§ 8001-11008) that is initiated upon receipt of a petition. The BPC follows the process and then makes any necessary determinations about whether to adopt a rule based on the process that includes the opportunity for public feedback on the petition.
4	Robert H. Mann, Senior Director of Technical & Regulatory Affairs, National Association of Landscape Professionals (NALP)	<ul style="list-style-type: none"> • NALP is commenting on behalf of their members in Maine. • Pesticides on turfgrass and ornamental plants used in accordance with the label does not present a concern for contamination of gravel packed wells. • Concerns related to pesticides used in proximity to drinking water sources is already addressed by EPA during the registration process, as FIFRA requires EPA to investigate such concerns. 	<ul style="list-style-type: none"> • BPC appreciates NALP giving public comment. • All pesticides used in accordance with the label should have low risk of environmental contamination, including those used for turfgrass and ornamental. • BPC agrees that EPA does consider potential environmental contamination when registering and reviewing products, which includes reviewing relevant publications and studies on active ingredients and their

		<ul style="list-style-type: none"> • The district has not presented any evidence that pesticides have been detected in the groundwater, and to outright ban all pesticides in this area is broad and counterproductive. • Turfgrass root systems are biochemically active and can remove pollutants from the environment before they reach water sources. • Using best management practices and integrated pest management protocols are effective in maximizing environmental benefits of turfgrass while minimizing quantity of fertilizer, pesticides, and water used during maintenance. 	<p>ability to leach through soil. Through the pesticide registration review process, EPA determines that no undue harm will come to human health and the environment when the pesticide is used in accordance with the label.</p> <ul style="list-style-type: none"> • The district made the critical pesticide control area designation petition on the basis that there is a potential for groundwater contamination. The district is not required to prove contamination to request a designation. See 01-026 C.M.R. Ch. 60 for details on required materials to make a designation petition. • There is evidence that some plants can uptake contaminants from soil particles, typically referred to as phytoremediation. The amount and efficacy of this depends on the site, soil type, soil condition, and plants used for remediation. • BPC agrees that applicators should be employing integrated pest management and using best management practices when pesticide applications are needed. Additionally, the BPC has a public policy to minimize reliance on pesticides and use integrated pest
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			management wherever possible 22 M.R.S. § 1471-X.
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