

**Maine Department of Agriculture, Conservation
and Forestry**

**Board of Pesticides Control
State of Maine Certification Plan**

**United States Environmental Protection Agency
Federal Regulations 40 CFR Part 171**

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INTRODUCTION

This State Plan is in response to the Environmental Protection Agency (EPA) federal revision to the Code of Federal Regulations (CFR), Certification of Pesticide Applicators 40 CFR 171 as outlined in the Federal Register, Vol. 82, No. 2, dated January 4, 2017 (82 FR 952). The final rule became effective on March 6, 2017. This State Plan compares Maine's regulations and policies to the CFR to identify actions that the State of Maine must take to comply with federal standards. These actions include revisions in regulations.

On September 28, 1976, notice was published in the Federal Register (41 FR 42698) of the intent of the Regional Administrator, EPA Region 1, to approve on a contingency basis, the Maine State Plan for Certification of Pesticide Applicators. (Maine State Plan). Contingent approval was requested by the State of Maine pending promulgation of regulations necessary to permit Maine to carry out FIFRA responsibilities. On August 12, 1977, the EPA granted final approval to the Maine State Plan.

This State Plan was drafted by the Maine Department of Agriculture, Conservation and Forestry, Board of Pesticides Control (BPC). The BPC is Maine's lead agency for pesticide oversight. The BPC is attached to the Maine Department of Agriculture, Conservation and Forestry for administrative and staffing purposes. Policy decisions are made by a seven-member, public board. The seven members of the public board must include: three persons knowledgeable about pesticides in agriculture, forestry, or commercial applications; one person with medical background; and one who holds a faculty position at the University of Maine with expertise in Integrated Pest Management. The two remaining members are chosen to represent the public and must come from different geographic areas of the state. All members are nominated by the Governor and approved by the Legislature. The Board of Pesticides Control has pesticide rule-making authority.

As required for states that allow the use of restricted use pesticides, the plan includes descriptions of requirements for individuals handling such pesticides. Restricted Use Pesticides (RUPs) require a certification to purchase and apply. RUPs are defined by federal regulation as a “...*pesticide that is classified for restricted use under the provisions of section 3(d) of FIFRA and 40 CFR part 152, subpart I.*” The State of Maine adopts all federally restricted use pesticides as state-restricted, and can also establish greater use restrictions on pesticides than federal requirements.

SECTION 1. CERTIFICATION PLAN ADMINISTRATION

(a) STATE LEAD AGENCY DESIGNATION (GOVERNOR LETTER) AND POINT OF CONTACT

CFR 40 §171.303(b)(6)(i)

The state plan must include a written statement from the Governor designating the lead agency as responsible for administering the state plan. The plan must identify the State Lead Agency (SLA) that will have primary responsibility for submission and implementation of the state certification plan and for coordination with all other agencies or organizations that are involved in administering portions of the C&T Plan in the state. Provide the name, job title, email address, mailing address and phone number for the primary contact for the SLA for the certification plan.

State Response: The Board of Pesticides Control (BPC) is the lead agency for the regulation of all pesticides in Maine. The BPC is affiliated with the Maine Department of Agriculture, Conservation and Forestry for administrative and staffing purposes.



Janet T. Mills
GOVERNOR

STATE OF MAINE
OFFICE OF THE GOVERNOR
1 STATE HOUSE STATION
AUGUSTA, MAINE
04333-0001

November 12, 2021

Deb Szaro, Acting Regional Administrator/Deputy Regional Administrator
United States Environmental Protection Agency Region 1
5 Post Office Square
Mail Code ORA 01-4
Boston, MA 02109

Nancy Barmakian, Director
Land, Chemicals, and Redevelopment Division
United States Environmental Protection Agency Region 1
5 Post Office Square
Mail Code LCRD 07-5
Boston, MA 02109

Dear Ms. Szaro and Ms. Barmakian:

Pursuant to CFR 40 §171.303(b)(6)(i), I hereby designate the Maine Department of Agriculture, Conservation and Forestry, Board of Pesticides Control as the lead agency responsible for administering the state certification plan and for the regulation of pesticides, including the certification and training of those who use and apply restricted use pesticides in the State of Maine.

Sincerely,



Janet T. Mills
Governor



PRINTED ON RECYCLED PAPER

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TTY USERS CALL 711
www.maine.gov

FAX: (207) 287-1034

State of Maine State Lead Agency (SLA)

SLA name:	Board of Pesticides Control (BPC)
SLA primary contact name:	Megan Patterson
SLA primary contact title:	Division Director
Email address for SLA primary contact:	megan.l.patterson@maine.gov
Phone number for SLA primary contact:	(207) 287-2731
Mailing address for SLA primary contact:	Maine Department of Agriculture, Conservation and Forestry (MDACF) Board of Pesticides Control 28 State House Station Augusta, Maine 04333

OTHER AGENCIES AND CONTACTS

Cooperating agency name:	University of Maine Cooperative Extension
Cooperating agency role:	Pesticide Safety Education, applicator manual development, preparation, and review; educational sessions support, conduct pesticide exam training
Name of Primary Contact:	Hannah Carter
Title of Primary Contact:	Dean
Email address for primary contact:	hcarter@maine.edu
Phone number for primary contact:	(207) 581-3238
Mailing address for primary contact:	University of Maine Maine Cooperative Extension 5741 Libby Hall Room 102 Orono, Maine 04469-5741

Explanation of agency coordination process: The BPC (SLA), and the cooperating agency, University of Maine Cooperative Extension (UMCE), work closely together to develop programs for pesticide license recertification credits, conduct pesticide exam training, and to write, edit, and select appropriate pesticide applicator exam study manuals and other related materials.

(c) QUALIFIED PERSONNEL

40 CFR §171.303(b)(6)(iii)

The state plan must provide a list of qualified personnel including number of staff, job titles and job functions of the SLA staff involved in the applicator certification program, and the staff of all cooperating agencies or organizations involved in the applicator certification program.

State Response: Table 1 is the BPC Staffing Summary. A complete list of 2022 State of Maine BPC staff currently holding these positions is found in Attachment 1C1; 2022 Board of Pesticides Control Staff. The 2022 Public Board Members is found in Attachment 1C2.

Table 1. Staffing Summary, Board of Pesticides Control
SLA Personnel Dedicated to the Certification Program

Position Title	Function	Full Time Employees
Director	Rulemaking, Special Projects, Legislation, General Information, Board Meetings, Variances	0.5
Manager of Compliance	Complaints/Incidents, Enforcement, Pesticide Disposal	0.25
Manager of Pesticide Programs	Licensing, Recertification Programs, Exams, Federal Grants, Pesticide Use	1
Toxicologist	Food Safety, Health Issues, Pesticide Labels, Pesticide Risks and Human Health	0.25
Registrar	Pesticide Registrations, Pesticide Labeling, Emergency Registration, Special Local Needs Registration, Experimental Use Permits, Limited Use Permits	0
Water Quality Specialist	Water Quality, Endangered Species.	0
Policy & Regulations Specialist	Rulemaking, BPC Portal, BPC Website, Got Pest Website, Yardscaping, School IPM	0.5
Certification & Licensing Specialist	Licensing, Recertification Programs, Exams, Manuals Worker Protection Standards, Pesticide Use	1
Office Manager	General Information, Licensing Information, Exam Scheduling, Accounts, Applicator Licenses	0.75
Licensing Clerk	Applicator/Dealer Licenses, Recertification Credits, Pesticide Sales and Use Data, Exam Scheduling	1
Inspector	District 2, Central Coastal Maine	0.25
Inspector	District 1, Southern Maine	0.25
Inspector	District 3, Downeast Maine	0.25
Inspector	District 4, Central Inland Maine	0.25
Inspector	District 5, Northern Maine	0.25

Table 2. Staffing Summary, University of Maine Cooperative Extension Contributors		
Position Title	Function	Full Time Employees
Dean	Maine Cooperative Extension	1
Pesticide Safety Education Professional and Manual Writer	Worker Protection Standards, Manual Writing, and Review, Educational Programs	1
IPM Coordinator University of Maine	IPM in Crops, Schools, Pests	1

Table 3. Department of Agriculture, Conservation and Forestry Contributors		
Position Title	Function	Number of Full Time Employees
IPM Coordinator	Maine Department of Agriculture, Conservation and Forestry IPM Coordinator, Educational Programs	1
State Apiarist	Pollinator Protection, Hive Protection	1
Plant Health Entomologist	Insect Identification	1
Horticulturist	Hemp, Invasive Species, Educational Programs	1
Plant Health Specialist	Plant Health Specialist, Educational Programs	1
Forest Entomologist	Forest Health, Insect Identification, Educational Programs	1

(d) SUFFICIENT RESOURCES

40 CFR §171.303(b)(6)(iv)

The state plan must include a statement affirming the commitment of the lead agency and cooperating agencies/organizations to ensure they'll have sufficient resources to carry out the program as outlined in their plan.

State Response: The State of Maine has sufficient federal and state resources to carry out the program.

State Affirmation Statement - The State of Maine is committed to ensuring there are sufficient resources available to carry out the applicator certification program as detailed in this State Certification Plan. The state statutes and regulations below describe the state's regulatory commitment; particularly the establishment of regulations to manage restricted use pesticides, regulations establishing the Board of Pesticides Control, rulemaking authority, enforcement authority, and state product registration. Title 7: Chapter 103, Subchapter 2-A, §607.

(e) **JURISDICTION**

40 CFR §171.301(a)

A certification issued under the EPA-approved [SLA] certification plan is valid within [state/tribal] legal boundaries, excluding areas of Indian country as defined at 18 U.S. Code § 1151 and 40 CFR 171.3.

State Response: Maine has environmental regulatory authority and jurisdiction statewide, including in Indian country, for all environmental regulatory purposes, including for the purposes of carrying out all functions of the State of Maine Certification Plan prepared for the United States Environmental Protection Agency in accordance with 40 C.F.R. § 171.303.

§6204. Laws of the State to apply to Indian Lands

Except as otherwise provided in this Act, all Indians, Indian nations, and tribes and bands of Indians in the State and any lands or other natural resources owned by them, held in trust for them by the United States or by any other person or entity shall be subject to the laws of the State and to the civil and criminal jurisdiction of the courts of the State to the same extent as any other person or lands or other natural resources therein. [PL 1979, c. 732, §§ 1, 31 (NEW).]

SECTION 2. LEGAL AUTHORITIES

(a) WRITTEN OPINION - Attorney General

40 CFR §171.303(b)(6)(iv)

The state plan must include a written opinion from the state attorney general or from the legal counsel of the SLA that states that the lead agency and other cooperating agencies have the legal authority necessary to carry out the state certification plan.

State Response: A written statement from the State of Maine Assistant Attorney General designating the BPC as the lead agency in the State of Maine for the regulation of pesticides. The powers given the Board by those statutes include, *inter alia*, broad authority including legal authority necessary to carry out the state certification plan.

AARON M. FREY
ATTORNEY GENERAL



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November 1, 2019

Megan Patterson, Director
Maine Board of Pesticides Control
28 State House Station
Augusta, Maine 04333-0028

Re: **Legal authority of the Board of Pesticides Control**

Dear Director Patterson:

You have requested that I provide a written opinion that the Maine Board of Pesticides Control has the legal authority to carry out all of the functions of the State of Maine Certification Plan prepared for the United States Environmental Protection Agency in accordance with 7 C.F.R. § 171.303. I am pleased to give such an opinion based on my review of the State Plan, as well as my knowledge and review of Maine pesticide statutes and regulations.

Pursuant to 7 M.R.S. Chapter 103, subchapter 2-A and 22 M.R.S. Chapter 258-A, the Board is established as the lead agency in the State of Maine for the regulation of pesticides. The powers given to the Board by those statutes include, *inter alia*, broad authority to: establish and enforce standards for the certification of pesticide applicators; establish standards for the issuance and renewal of licenses of pesticide dealers; register pesticides for use in this State; place limitations, conditions and restrictions on the use of pesticides in this State; impose reporting requirements; enforce violations of pesticide laws; adopt such rules as are necessary to carry out its statutory powers; to suspend or revoke the certification of any applicator for violations of the pesticide laws; and to impose penalties for pesticide law violations either through administrative consent agreements or by court order. Exercising its authority, the Board has adopted extensive rules to fully implement the pesticide laws, specifically tailoring those rules to comply with federal pesticide standards where necessary.

Therefore, it is my opinion that the Maine Board of Pesticides Control has the requisite legal authority to carry out the State Certification Plan.

Please let me know if you need anything else from me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark A. Randlett".

Mark A. Randlett
Assistant Attorney General

(b) LAWS AND REGULATIONS – State of Maine Statutes and Rules

40 CFR §171.303(b)(7)

The state plan must include a complete copy of all state laws and regulations relevant to the certification plan.

State Response:

A copy of all the state laws and regulations relevant to the certification plan are as follows:

- Attachment 2B1, (Title 7 M.R.S., Chapter 103, subchapter 2-A)
- Attachment 2B2, (Title 22 M.R.S., Chapter 258-A) and
- Attachment 2B3, (22 M.R.S.A., Chapter 258-A, Chapter 10 Definitions, and Terms).

Link to Title 7: <http://www.mainelegislature.org/legis/statutes/7/title7sec601.html>

Link to Title 22: <http://www.mainelegislature.org/legis/statutes/22/title22ch0sec0.html>

Link to Regulations: <https://www.maine.gov/dacf/php/pesticides/laws.shtml>

Table 4. Maine Revised Statutes Abbreviation Codes	
Abbreviation	Definition
aff	affected
amd	amended
cor	corrected
new	enacted
ral	reallocated
rnu	renumbered
rp	repealed
rpr	repealed and replaced
RR	Revisor's Report

(c) PROVISIONS FOR GROUNDS FOR DENYING, SUSPENDING, OR REVOKING A CERTIFICATION

40 CFR § 171.303(b)(7)(i)

The state plan must include the citation to the specific state laws and regulations that demonstrate specific legal authority for provisions for and listing of the acts which would constitute grounds for denying, suspending, or revoking a certification. At a minimum, include misuse of a pesticide, falsifications of records required to be maintained by the certified applicator, a criminal conviction under section 14(b) of FIFRA, a final order imposing civil penalty under section 14(a) of FIFRA, and conclusion of a State enforcement action for violations of State laws or regulations relevant to the State Certification Plan.

State Response: The citation is 22 M.R.S. §1471-D.

22 M.R.S. §1471-D (7). Certification and licenses

7. Suspension

- A. If the board determines that there may be grounds for revocation of a license or certificate, it may temporarily suspend said license or certificate pending inquiry and opportunity for hearing, provided that such suspension shall not extend for a period longer than 45 days. [1975, c. 397, §2 (NEW).]
- B. The board shall notify the licensee or certificate holder of the temporary suspension, indicating the basis therefor and informing the licensee or certificate holder of the right to request a public hearing. [1983, c. 819, Pt. A, §47 (AMD).]
- C. If the licensee or certificate holder fails to request a hearing within 20 days of the date of suspension, such right shall be deemed waived. If the licensee or certificate holder requests such a hearing, notice shall be given at least 20 days prior to the hearing to the licensee or certificate holder and to appropriate federal and state agencies. In addition, public notice shall be given by publication in a newspaper of general circulation in the State and such other publications as the board deems appropriate. [1983, c. 819, Pt. A, §48 (AMD).]
- D. This subsection is not governed by the provisions of Title 4, chapter 5 or Title 5, chapter 375. [1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF).] [1999, c. 547, Pt. B, §39 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

Maine Rules-Suspension

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL

APPLICATORS, Section 6, G,

Reports. Annual Summary Reports described in Chapter 50, Section 2(A) must be submitted for each calendar year by January 31 of the following year. In the event a required report is not received by the due date, the person's license is temporarily suspended until the proper report is received or until a decision is rendered at a formal hearing as described in 22 MRSA §1471-D (7)

APPLICATORS, Section 6, H, Expiration

III. Also, all licenses within a company/agency are suspended if the licensed Master is terminated from employment or dies.

Chapter 34: CERTIFICATION AND LICENSING PROVISIONS/PESTICIDE

DEALERS, Section 5, A,

Each dealer shall be responsible for the acts of those people in his/her employ and the dealer's license shall be subject to denial, suspension or revocation for any violation of the statute or regulations, whether committed by the dealer, his/her office, agent, employee, or other person acting in concert or participation with him/her.

Chapter 35: CERTIFICATION AND LICENSING PROVISIONS / SPRAY

CONTRACTING FIRMS, Section 3, D

Reports. Annual Summary Reports described in Chapter 50, Section 2(A) must be submitted for each calendar year by January 31 of the following year. In the event a required report is not received by the due date, the person's license is temporarily suspended until the proper report is received or until a decision is rendered at a formal hearing as described in 22 MRSA §1471-D (7).

Chapter 35: CERTIFICATION AND LICENSING PROVISIONS / SPRAY
CONTRACTING FIRMS, Section 3, F

Refusal to Renew. The Board may refuse to renew a license if it is not in accordance with any of the requirements hereof or if the Board makes, as to the licensee, any of the findings set forth in 22 M.R.S.A. §1471-D (8), which describe the bases for a decision by the Administrative Court to suspend or revoke a license. If the Board determines that there is evidence sufficient to refuse to renew a license, it shall give notice and an opportunity for a hearing before the Board prior to making that determination final.

Chapter 35: CERTIFICATION AND LICENSING PROVISIONS / SPRAY
CONTRACTING FIRMS, Section 4, B

Each spray contracting firm shall be responsible for the acts of those people in its employ and its license shall be subject to denial, refusal to renew, suspension, or revocation, and such firm shall otherwise be punishable under the law, for any violation of the statutes or regulations, whether committed by the owner, chief officer, agent, employee or other person acting in concert or participation with it.

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS, Section 2, A

Annual Summary Reports by Commercial Applicators. Annual summary reports must be submitted for each calendar year by January 31 of the following year. In the event a required report is not received by the due date, the person's license may be temporarily suspended until the proper report is received or until a decision is tendered at a formal hearing as described in 22 M.R.S.A. §1471-D(7). The report filed with the Board by or on behalf of commercial applicators shall contain the following information for each site or crop treated: quantity of each pesticide used, EPA registration number and total area treated (where applicable) for each pesticide.

Chapter 70: ADJUDICATORY PROCEEDINGS, Section 2, A, 5

The continuation of a temporary suspension of a license, certification or permit pursuant to 22 M.R.S.A. §1471-D(7)(C).

Maine Rules-Revocation

22 M.R.S. §1471-D (8). Certification and licenses

8. Revocation. The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

- A. Is no longer qualified; [1975, c. 397, §2 (NEW).]
- B. Has engaged in fraudulent business practices in the application or distribution of pesticides; [1975, c. 397, §2 (NEW).]
- C. Used or supervised the use of pesticides applied in a careless, negligent, or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [1975, c. 397, §2 (NEW).]
- D. Has stored, transported, or otherwise distributed pesticides in a careless, faulty, or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety, or welfare; [1975, c. 397, §2 (NEW).]
- E. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [1975, c. 397, §2 (NEW).]

- F. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [1975, c. 397, §2 (NEW).]
- G. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [1981, c. 470, Pt. A, §67 (AMD).]
- H. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [1981, c. 470, Pt. A, §67 (AMD).]
- I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [1977, c. 694, §341 (NEW).]
 - i. [1983, c. 819, Pt. A, §49 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

Maine Rules- Revocation

Chapter 35: CERTIFICATION AND LICENSING PROVISIONS / SPRAY CONTRACTING FIRMS, Section 3, F

Refusal to Renew. The Board may refuse to renew a license if it is not in accordance with any of the requirements hereof or if the Board makes, as to the licensee, any of the findings set forth in 22 M.R.S.A. §1471-D (8), which describe the bases for a decision by the Administrative Court to suspend or revoke a license. If the Board determines that there is evidence sufficient to refuse to renew a license, it shall give notice and an opportunity for a hearing before the Board prior to making that determination final.

Chapter 70: ADJUDICATORY PROCEEDINGS, Section 18, B, 4

Failure to comply with a subpoena lawfully issued in the name of the Board and not revoked or modified by the Board as provided in this section shall be punishable by a fine of not less than \$500 and not more than \$5,000, or by imprisonment not to exceed 30 days, or both.

(d) PROVISIONS FOR REVIEWING, SUSPENDING, OR REVOKING A CERTIFICATION

40 CFR § 171.303(b)(7)(ii)

The state plan must include the citation to the specific state laws and regulations that demonstrate specific legal authority for provisions for reviewing and where appropriate, suspending or revoking an applicator's certification based on the grounds listed in the plan (for denying, suspending, and revoking certification of applicators) or a criminal conviction under section 14(b) of FIFRA, a final order imposing civil penalty under section 14(a) of FIFRA, or conclusion of a State enforcement action for violations of State laws or regulations relevant to the State Certification Plan.

State Response: The citation is 22 M.R.S. §1471-D. 8. Revocation, Letter Q.

8. Revocation. The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

- J. Is no longer qualified; [1975, c. 397, §2 (NEW).]
- K. Has engaged in fraudulent business practices in the application or distribution of pesticides; [1975, c. 397, §2 (NEW).]
- L. Used or supervised the use of pesticides applied in a careless, negligent, or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [1975, c. 397, §2 (NEW).]
- M. Has stored, transported, or otherwise distributed pesticides in a careless, faulty, or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety, or welfare; [1975, c. 397, §2 (NEW).]
- N. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [1975, c. 397, §2 (NEW).]
- O. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [1975, c. 397, §2 (NEW).]
- P. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [1981, c. 470, Pt. A, §67 (AMD).]
- Q. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [1981, c. 470, Pt. A, §67 (AMD).]**
- R. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [1977, c. 694, §341 (NEW).]

[1983, c. 819, Pt. A, §49 (AMD); 1999, c. 547, Pt. B, §78 (AMD); 1999, c. 547, Pt. B, §80 (AFF).]

(e) PROVISIONS FOR ASSESSING CIVIL AND CRIMINAL PENALTIES

40 CFR § 171.303(b)(7)(iii)

The state plan must include the citation to the specific state laws and regulations that demonstrate specific legal authority for provisions for assessing criminal and civil penalties for violations of the laws and regulations relevant to the Certification Plan.

State Response: The complete citation is located in Attachment 2E1; 22 M.R.S. §1471-J 7 M.R.S. §616-A. Penalties

22 M.R.S. §1471-J. PENALTIES

A person who violates any provision of this chapter or any order, rule, decision, certificate or license issued by the board or commits any act constituting a ground for revocation, except acts punishable under section 1471-D, subsection 8, paragraphs A and H, commits a civil violation subject to the penalties established in Title 7, section 616-A. [1989, c. 841, §8 (AMD

SECTION HISTORY 1975, c. 397, §2 (NEW). 1975, c. 623, §26A (AMD). 1975, c. 770, §§91,92 (RPR). 1989, c. 841, §8 (AMD).

7 M.R.S. §616-A. Penalties

2-A. Criminal violation A person may not intentionally or knowingly violate this subchapter or Title 22, chapter 258-A, a rule adopted under this subchapter or Title 22, chapter 258-A or a restriction of a registration issued pursuant to this subchapter. A person who violates this subsection commits a Class E crime. Notwithstanding Title 17-A, section 1604, subsection 1 and sections 1704 and 1705, the court may impose a sentencing alternative of a fine of not more than \$7,500 or a term of imprisonment of not more than 30 days, or both, for each violation. Prosecution under this subsection is by summons and not by warrant. A prosecution under this subsection is separate from an action brought pursuant to subsection 2.

[PL 2019, c. 113, Pt. C, §1 (AMD).]

(f) PROVISIONS FOR RIGHT OF ENTRY FOR INSPECTIONS

40 CFR § 171.303(b)(7)(iv)

The state plan must include the citation to the specific state laws and regulations that demonstrate specific legal authority for provisions for right of entry by consent or warrant by State officials at reasonable times for sampling, inspection, and observation purposes.

State Response: The citation is 22 M.R.S. §1471-H.

22 M.R.S. §1471-H. INSPECTION

Upon presentation of appropriate credentials, the chair or any member of the board or any authorized employee or consultant of the board may enter upon any public or private premises at reasonable times for the purpose of inspecting any equipment, device or apparatus used in applying pesticides; inspecting storage and disposal areas; inspecting or investigating complaints of injury to persons or land from pesticides; observing the use and application of pesticides; sampling pesticides in use or storage; and sampling pesticide residues on crops, foliage, soil, water or elsewhere in the environment. Upon denial of access to the board or its agents, the board or its agents may seek an appropriate search warrant in a court of competent jurisdiction.

Notwithstanding other provisions of this section, a board member or any authorized employee or consultant of the board may enter public or private premises without notification if an emergency exists. The need to take a residue sample in a timely manner constitutes an emergency under this section. [1989, c. 841, §7 (AMD).]

(g) PROVISIONS FOR MAKING IT UNLAWFUL TO APPLY RUPs UNLESS CERTIFIED

40 CFR § 171.303(b)(7)(v)

The state plan must include the citation to the specific state laws and regulations that demonstrate specific legal authority for provisions for making it unlawful for persons to use RUPs other than certified or noncertified applicators working under the supervision of a certified applicator.

State Response: The citation is 22 M.R.S. §1471-D.

22 M.R.S. §1471-D. CERTIFICATION AND LICENSES

1. Certification required; commercial applicators and spray contracting firms. Certification is required for commercial applicators and spray contracting firms as follows.

- A. No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator; and [1983, c. 819, Pt. A, §42 (NEW).]
- B. No spray contracting firm may use or supervise the use of any pesticide within the State without prior certification from the board [1985, c. 122, §2 (AMD).] [1985, c. 122, §2 (AMD) .]

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

1. Individual Certification and Company/Agency Licensing Requirements

B. All commercial applicators responsible for the supervision of noncertified applicators of restricted use pesticides must ensure compliance with training, record keeping, and all other requirements as indicated in 40 CFR 171.201(c) “Supervision of Noncertified Applicators” (2017).

2. Certification required, private applicators. No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the board, provided, that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator [1975, c. 397, §2 (NEW) .]

(h) PROVISIONS FOR COMMERCIAL APPLICATOR RECORDKEEPING

40 CFR § 171.303(b)(7)(vi)

Provisions requiring certified commercial applicators to record and maintain for the period of at least two years routine operational records containing information on types, amounts, uses, dates, and places of application of restricted use pesticides and for ensuring that such records will be available to appropriate State officials. Such provisions must require commercial applicators to record and maintain, at a minimum, all of the following:

- (A) The name and address of the person for whom the restricted use pesticide was applied.*
- (B) The location of the restricted use pesticide application.*
- (C) The size of the area treated.*
- (D) The crop, commodity, stored product, or site to which the restricted use pesticide was applied.*
- (E) The time and date of the restricted use pesticide application.*
- (F) The brand or product name of the restricted use pesticide applied.*
- (G) The EPA registration number of the restricted use pesticide applied.*
- (H) The total amount of the restricted use pesticide applied per location per application.*
- (I) The name and certification number of the certified applicator that made or supervised the application, and, if applicable, the name of any noncertified applicator(s) that made the application under the direct supervision of the certified applicator.*

State Response: The citation is: 22 M.R.S. §1471-G, and in Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

22 M.R.S. §1471-G. REPORTS

2. Applicators and firms to maintain certain records. All commercial applicators and spray contracting firms shall maintain, for a period of at least 2 years, records indicating the type and amount of pesticide used, the area of use and such other information as the board may require. Said applicators and firms shall provide such information, notification and reports as the board, by regulation, may require. [PL 1983, c. 819, Pt. A, §50 (AMD).] SECTION HISTORY PL 1975, c. 397, §2 (NEW). PL 1983, c. 819, §A50 (AMD).

- (A) The name and address of the person for whom the restricted-use pesticide was applied.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

- II. Pesticide application records shall include, at a minimum:
 - a. Site information including town and location, crop or site treated, target organism, customer and customer address_(where applicable);

(B) *The location of the restricted use pesticide application.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

- II. Pesticide application records shall include, at a minimum:
 - a. Site information including town and location, crop or site treated, target organism, customer and customer address_(where applicable); and
 - i. for broadcast applications, size of treated area (when completed);
 - ii. for volumetric applications as described on the label, the volume treated;
 - iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).
 - b. Application information. For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

(C) *The size of the area treated.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

- II. Pesticide application records shall include, at a minimum:
 - a. Site information including town and location, crop or site treated, target organism, customer and customer address_(where applicable); and

- i. for broadcast applications, size of treated area (when completed);
- ii. for volumetric applications as described on the label, the volume treated;
- iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).

(D) *The crop, commodity, stored product, or site to which the restricted use pesticide was applied.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

II. Pesticide application records shall include, at a minimum:

- a. Site information including town and location, crop or site treated, target organism, customer and customer address (where applicable); and

(E) *The time and date of the restricted use pesticide application.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

II.

- b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

(F) *The brand or product name of the restricted use pesticide applied.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

(G) *The EPA registration number of the restricted use pesticide applied.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

(H) *The total amount of the restricted use pesticide applied per location per application.*

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

c. **Rate information.** For each distinct site, application rate information must be maintained as follows:

i. **Restricted Use Pesticides.** For restricted use pesticides, applicators shall record the total amount of pesticide applied (undiluted).

ii. **General Use Pesticides.** For general use pesticides, applicators shall record:

(1) rate information as described in (i.) above; or

(2) the mix ratio and the total mix applied; or

(3) the mix ratio and the mix per unit area applied.

(I) The name and certification number of the certified applicator that made or supervised the application, and, if applicable, the name of any noncertified applicator(s) that made the application under the direct supervision of the certified applicator.

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

1. Individual Certification and Company/Agency Licensing Requirements

B. All commercial applicators responsible for the supervision of noncertified applicators of restricted use pesticides must ensure compliance with training, record keeping, and all other requirements as indicated in 40 CFR 171.201(c) "Supervision of Noncertified Applicators" (2017)

(i) PROVISIONS FOR RUP DEALER RECORDKEEPING.

40 CFR § 171.303(b)(7)(vii)

Provisions requiring restricted use pesticide retail dealers to record and maintain at each individual dealership, for the period of at least two years, records of each transaction where a restricted use pesticide is distributed or sold to any person, excluding transactions solely between persons who are pesticide producers, registrants, wholesalers, or retail sellers, acting only in those capacities. Records of each such transaction must include all of the following information:

- (A) Name and address of the residence or principal place of business of each certified applicator to whom the restricted use pesticide was distributed or sold, or if applicable, the name and address of the residence or principal place of business of each noncertified person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.*
- (B) The certification number on the certification document presented to the seller evidencing the valid certification of the certified applicator authorized to purchase the restricted use pesticide, the State, Tribe, or Federal agency that issued the certification document, the expiration date of the certified applicator's certification, and the category(ies) in which the applicator is certified relevant to the pesticide(s) sold.*
- (C) The product name and EPA registration number of the restricted use pesticide(s) distributed or sold in the transaction including any applicable emergency exemption or State special local need registration number.*
- (D) The quantity of the restricted use pesticide(s) distributed or sold in the transaction.*
- (E) The date of the transaction.*

State Response: The citations are: 22 MRS §1471-D. and 22 M.R.S. §1471-G, and in Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

22 M.R.S. §1471-D. Certification and licenses

No person shall be certified as a pesticide dealer unless that person has demonstrated knowledge of pesticide classifications, formulations, labeling, safety, storage and applicable laws and regulations. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

22 M.R.S. §1471-G. REPORTS

- 1. Pesticide dealers to maintain certain records.** All pesticide dealers shall maintain records of pesticide distribution for a period of at least 2 years and shall provide such reports and information as the board may, by regulation, require. [1975, c. 397, §2 (NEW) .]

(A) Name and address of the residence or principal place of business of each certified applicator to whom the restricted use pesticide was distributed or sold, or if applicable, the name and address of the residence or principal place of business of each noncertified person to whom the restricted use pesticide was distributed or sold for application by a certified applicator.

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

B. Limited Use/Restricted Use Pesticide Sales Records

I. Licensed pesticide dealers shall maintain records of each sale of a restricted/limited use pesticide on their sales slips and the customer's name, and license number must be recorded on every invoice or electronic record involving that individual. Licensed pesticide dealers must also maintain records to verify that sales of restricted/limited use pesticides to unlicensed purchasers are only made where a licensed applicator is employed to supervise the use of the restricted/limited use products. These records must include the name, address, license number, issuing agency, expiration date, and categories of certification (if applicable) of each person to whom the restricted use pesticide was distributed or sold. These records are to be available for inspection by representatives of the Board at reasonable times, upon request, and are to be maintained for two calendar years from the date of sale.

(B) The certification number on the certification document presented to the seller evidencing the valid certification of the certified applicator authorized to purchase the restricted use pesticide, the State, Tribe, or Federal agency that issued the certification document, the expiration date of the certified applicator's certification, and the category(ies) in which the applicator is certified relevant to the pesticide(s) sold.

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

B. Limited Use/Restricted Use Pesticide Sales Records

I. Licensed pesticide dealers shall maintain records of each sale of a restricted/limited use pesticide on their sales slips and the customer's name, and license number must be recorded on every invoice or electronic record involving that individual. Licensed pesticide dealers must also maintain records to verify that sales of restricted/limited use pesticides to unlicensed purchasers are only made where a licensed applicator is employed to supervise the use of the restricted/limited use products. These records must include the name, address, license number, issuing agency, expiration date, and categories of certification (if applicable) of each person to whom the restricted use pesticide was distributed or sold. These records are to be available for inspection by representatives of the Board at reasonable times, upon request, and are to be maintained for two calendar years from the date of sale.

(C) The product name and EPA registration number of the restricted use pesticide(s) distributed or sold in the transaction including any applicable emergency exemption or State special local need registration number.

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

B. Limited Use/Restricted Use Pesticide Sales Records

II. Pesticide dealer records shall also include the signature of purchaser or his/her agent, the product name, the EPA registration number, state special local need registration (SLN) number (if applicable), the quantity and size of containers purchased, and the date of purchase.

(D) The quantity of the restricted use pesticide(s) distributed or sold in the transaction.

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

B. Limited Use/Restricted Use Pesticide Sales Records

II. Pesticide dealer records shall also include the signature of purchaser or his/her agent, the product name, the EPA registration number, state special local need registration (SLN) number (if applicable), the quantity and size of containers purchased, and the date of purchase.

(E) The date of the transaction.

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

B. Limited Use/Restricted Use Pesticide Sales Records

II. Pesticide dealer records shall also include the signature of purchaser or his/her agent, the product name, the EPA registration number, state special local need registration (SLN) number (if applicable), the quantity and size of containers purchased, and the date of purchase.

SECTION 3. COMMERCIAL APPLICATOR CERTIFICATION CATEGORIES [§ 171.101]

(a) OPTION 2 : STATE ADOPTS ITS OWN COMMERCIAL APPLICATOR CATEGORIES AND STANDARDS.

49 CFR § 171.101

OPTION 2: STATE ADOPTS ITS OWN COMMERCIAL APPLICATOR CATEGORIES AND

STANDARDS. If the state had adopted its own categories and standards, then the state must provide a statement that the state has adopted its own standards (that meet or exceed federal standards at § 171.101 and 171.103) and provide all of the following:

- A list and detailed description of all categories and subcategories and the citations for the State laws and/or regulations. States must provide the list of state categories/subcategories in the table below, along with the category/subcategory description and an indication of the closest comparable EPA Federal category.***
- A list and detailed description of the category standards for certification adopted by the State and the citations for the State laws and/or regulations.***

State Response: The citation is 22 M.R.S.A., Section 1471-D and Chapter 31.

State Affirmation Statement: All commercial applicators using or supervising the use of pesticides and operating in Maine are required to be certified in one or more commercial applicator categories that are applicable to their business operations. The state has adopted its own commercial applicator categories and standards. The State of Maine's standards for commercial applicator certifications meet or exceed EPA's standards. Successful completion of certification requirements will qualify an applicator to use or supervise the use of any pesticides, including those classified by EPA as "restricted use".

Table 5 Maine Categories and Associated Federal Categories

Category/Subcategory Name & Category Number	Maine BPC Category/Subcategory Description	Closet Comparable EPA Federal Category
Agricultural – Animal Maine: 1A	This subcategory includes commercial applicators using or supervising the use of pesticides on animals and to places on or in which animals are confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire as pesticide applicators are included in this subcategory; however, those persons applying pesticides as drugs or medication during the course of their normal practice are not included.	Agricultural - Livestock
Agricultural – Plant Maine: 1B	This subcategory includes commercial applicators using or supervising the use of pesticides in the production of crops including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops	Agricultural – Crop Pest Control
Agricultural - Plant Option 1 Limited Commercial Blueberry Maine: 1B	This option includes commercial applicators using or supervising the use of pesticides in the production of blueberries only.	Agricultural – Crop Pest Control
Agricultural - Plant Option 2 Chemigation Maine: 1B	This option includes commercial applicators using or supervising the use of pesticides applied through irrigation equipment in the production of crops	Agricultural – Crop Pest Control
Agricultural - Plant Option 3 Agricultural Soil Fumigation Maine: 1B	This option includes commercial applicators using or supervising the use of soil fumigant pesticides in the production of crops.***	Agricultural – Crop Pest Control
Agricultural - Plant Option 4 Post-Harvest Treatment Maine: 1B	This option includes commercial applicators using or supervising the use of pesticides in the post-harvest treatment of food crops.	Agricultural – Crop Pest Control
Forest Pest Management Maine: 2	This category includes commercial applicators using or supervising the use of pesticides in forests, forest nurseries, Christmas trees, and forest seed producing areas.	Forest Pest Control
Ornamental and Turf Pest Control -Outdoor Ornamentals Maine: 3A	This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of outdoor ornamental trees, shrubs and flowers.	Ornamental and Turf Pest Control
Ornamental and Turf Pest Control -Turf Maine: 3B	This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of turf, such as at turf farms, golf courses, parks, cemeteries, athletic fields and lawns.	Ornamental and Turf Pest Control

Ornamental and Turf Pest Control -Indoor Ornamentals Maine: 3C	This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of live plants in shopping malls, businesses, residences and institutions	Ornamental and Turf Pest Control
Seed Treatment Maine: 4	This category includes commercial applicators using or supervising the use of pesticides on seeds.	Seed Treatment
Aquatic Pest Control - General Aquatic Maine: 5A	This subcategory includes commercial applicators using or supervising the use of pesticides applied directly to surface water, including but not limited to outdoor application to public drinking water supplies, golf course ponds, rivers, streams and wetlands.	Aquatic Pest Control
Aquatic Pest Control - Sewer Root Control Maine: 5B	This subcategory includes commercial applicators using or supervising the use of pesticides applied to sewers to control root growth in sewer pipes	Aquatic Pest Control
Vegetation Management - Rights-of-Way Vegetation Management Maine: 6A	This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation on utility, roadside and railroad rights-of-way.	Right-of Way Pest Control: maintenance of Public Roads
Vegetation Management - General Vegetation Management Maine: 6B	This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation (including invasive plants) on sites not included in category VI a including, but not limited to, municipal and other publicly owned properties, industrial or commercial plants and buildings, lumber yards, airports, tank farms, storage areas, parking lots, sidewalks, and trails.	Right-of Way Pest Control: maintenance of Public Roads
Industrial, Institutional, Structural and Health Related Pest Control- General Maine: 7A	This subcategory includes commercial applicators using or supervising the use of pesticides in, on or around human dwellings, office buildings, institutions such as schools and hospitals, stores, restaurants, industrial establishments (other than in Category 6) including factories, warehouses, food processing plants, food or feed transportation facilities and other structures, vehicles, railroad cars, ships, aircraft and adjacent areas; and for the protection of stored, processed or manufactured products. This subcategory also includes commercial applicators using or supervising the use of pesticides to control rodents on refuse areas and to control other pests, including but not limited to birds and mammals.	Industrial, Institutional, Structural and Health-Related Pest Control
Industrial, Institutional, Structural and Health Related Pest Control- Fumigation Maine: 7B	This subcategory includes commercial applicators using or supervising the use of fumigants or fumigation techniques in any type of structure or transportation device.	Industrial, Institutional, Structural and Health-Related Pest Control

Industrial, Institutional, Structural and Health Related Pest Control- Disinfectant and Biocide - 1. Disinfectant and Biocide Treatments Maine: 7C1	This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems.	Industrial, Institutional, Structural and Health-Related Pest Control
Industrial, Institutional, Structural and Health Related Pest Control- Disinfectant and Biocide - 2. Swimming Pool and Spa Maine: 7C2	This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in swimming pools and spas.	Industrial, Institutional, Structural and Health-Related Pest Control
Industrial, Institutional, Structural and Health Related Pest Control- Disinfectant and Biocide - 3. Mold Remediation Maine: 7C3	This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems.	Industrial, Institutional, Structural and Health-Related Pest Control
Industrial, Institutional, Structural and Health Related Pest Control- Wood Preserving Maine: 7D	This subcategory includes commercial applicators using or supervising the use of restricted use pesticides to treat lumber, poles, railroad ties and other types of wooden structures including bridges, shops and homes. It also includes commercial applicators applying general use pesticides for remedial treatment to utility poles.	Industrial, Institutional, Structural and Health-Related Pest Control
Industrial, Institutional, Structural and Health Related Pest Control- Biting Fly Pests and Other Arthropod Vectors Maine: 7E	This subcategory includes commercial applicators and non-public health governmental officials using or supervising the use of pesticides in management and control of biting flies & other arthropod vectors of public health and public nuisance importance including, but not limited to, ticks, mosquitoes, black flies, midges, and members of the horsefly family.	Industrial, Institutional, Structural and Health-Related Pest Control
Industrial, Institutional, Structural and Health Related Pest Control- Termite Pests Maine: 7F	This subcategory includes commercial applicators using or supervising the use of pesticides to control termites	Industrial, Institutional, Structural and Health-Related Pest Control
Public Health Pest Control - Biting Fly Pests Maine: 8A (a) (a) For government officials only	This subcategory includes governmental officials using pesticides in management and control of potential disease vectors or other pests having medical and public health importance including, but not limited to, mosquitoes, black flies, midges, and members of the horsefly family.	Public Health Pest Control
Public Health Pest Control - Other Pests Maine: 8B (a) (a) For government officials only	This subcategory includes governmental officials using pesticides in programs for controlling other pests of concern to public health including, but not limited to, ticks and birds and mammal vectors of human disease.	Public Health Pest Control

Regulatory Pest Control Maine: 9 (a) (a) For government officials only	This category includes governmental employees using pesticides in the control of pests regulated by the U.S. Animal and Plant Health Inspection Service or some other governmental agency.	Regulatory Pest Control
Demonstration and Research Pest Control Maine: 10 (b) (a) Requires another certification category	This category includes all individuals who (1) demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration, (2) conduct field research with pesticides, and in doing so, use or supervise the use of pesticides. Individuals who conduct only laboratory-type research are not included. Applicants seeking certification in this category must also become certified in whatever category/subcategory they plan to make applications under.	Demonstration and Research Pest Control
Aerial Pest Control Maine: 11(b) (a) Requires another certification category	This category includes commercial applicators, including pilots and co-pilots, applying or supervising the application of pesticides by means of any aircraft. Applicants seeking certification in this category must also become certified in whatever category/subcategory they plan to make applications under	Aerial

**** To Clarify: To distinguish the Agricultural Plant Option 3 Agricultural Fumigation category from the 7B Structural Fumigation category, the word “soil” will be added. The revised title will be: “Agricultural Plant Option 3 Agricultural Soil Fumigation.”*

The “Agricultural Plant Option 3 Agricultural Soil Fumigation” description will read: “This option includes commercial applicators using or supervising the use of soil fumigant pesticides in the production of crops.”

Citation and list/detailed description of Maine category standards for commercial certification.

Citation: Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

3. Competency Standards for Certification of Commercial Applicators

- A. Applicants seeking commercial certification must establish competency in the general principles of safe pest control by demonstrating knowledge of basic subjects including, but not limited to, pesticide labeling, safety, environmental concerns, pest organisms, pesticides, equipment, application techniques and applicable laws and regulations. (Core Exam).
- B. Applicants seeking commercial certification must demonstrate competency in each applicable category or subcategory. (Category Exam). Competency in the applicable category or subcategory shall be established as follows:

List and detailed description of Maine category standards for commercial certification

I. Agricultural Animal and Plant Pest Control

- a. **Agricultural Animals.** Applicants seeking certification in the subcategory of Animal Pest Control as described in Section 2(A)(I)(a) must demonstrate knowledge of animals, their associated pests, and methods of pest control. Areas of practical knowledge shall include specific toxicity, residue potential, relative hazards of different formulations, application techniques, and hazards associated with age of animals, stress, and extent of treatment.
- b. **Agricultural Plant.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

Category Standards will be added to Maine Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

- *Federal Category: "Agricultural Plant"*
 - *Agricultural Plant 1B-Option 1: Limited Commercial Blueberry*
 - *Agricultural Plant 1B-Option 2: Chemigation*
 - *Agricultural Plant 1B-Option 3: Agricultural Soil Fumigation Maine will adopt 40 CFR 171.103(13) Soil Fumigation by reference.*
 - *Agricultural Plant 1B-Option 4: Post Harvest Treatment*

II. Forest Pest Management

Applicants seeking certification in the category of Forest Pest Management as described in Section 2(A)(II) must demonstrate practical knowledge of forest vegetation management, forest tree biology and associated pests. Such required knowledge shall include population dynamics of pest species, pesticide-organism interactions, integration of pesticide use with other pest control methods, environmental contamination, pesticide effects on non-target organisms, and use of specialized equipment. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

III. Ornamental and Turf Pest Control

- a. **Outdoor Ornamentals.** Applicants seeking certification in the Outdoor Ornamental subcategory as defined in Section 2(A)(III)(a) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of trees, shrubs and floral plantings. Such knowledge shall include potential phytotoxicity, undue pesticide persistence, and application methods, with particular reference to techniques used in proximity to human habitations. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- b. **Turf.** Applicants seeking certification in the Turf subcategory as described in Section 2(A)(III)(b) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of turf. Such knowledge shall include potential phytotoxicity, undue pesticide persistence, and application methods, with particular reference to techniques used in proximity to human habitations. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- c. **Indoor Ornamentals.** Applicants seeking certification in the Indoor Ornamental subcategory described in Section 2(A)(III)(c) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of indoor ornamental plantings. Such knowledge shall include pest recognition, proper pesticide selection, undue pesticide persistence, and application methods with particular reference to techniques used in proximity to human presence.

IV. Seed Treatment

Applicants seeking certification in the category of Seed Treatment as described in Section 2(A)(IV) must demonstrate practical knowledge of seed types and problems requiring chemical treatment. Such knowledge shall include seed coloring agents, carriers and binders which may affect germination, hazards associated with handling, sorting, and mixing in the treatment process, hazards of introduction of treated seed into food and feed channels, and proper disposal of unused treated seeds.

V. Aquatic Pest Control

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and

potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

- b. **Sewer Root Control** - Applicants seeking certification in the subcategory of Sewer Root Control as described in Section 2(A)(V)(b) must demonstrate practical knowledge of proper methods of sewer root control pesticide application, application to pipes, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include potential effects on water treatment plants, movement of pesticides into off target pipes or buildings and the hazards of sewer gases.

VI. **Vegetation Management**

Applicants seeking certification in the subcategories under Vegetation Management as described in Section 2(A)(VI) (a-b) must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include an ability to recognize target organisms and circumstances specific to the subcategory, awareness of problems of runoff, root pickup and aesthetic considerations associated with excessive foliage destruction and "brown-out", and an understanding of the mode of action of herbicides, and reasons for the choice of particular chemicals for particular problems, importance of the assessment of potential impact of spraying on adjacent public and private properties and activities, and effects of spraying on fish and wildlife species and their habitat. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

Category Standards will be added to Maine Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

- *Federal Category: "Right of Way Pest Control:*
 - *Maintenance of Public Roads to Maine Vegetation Management-Rights of Way Vegetation Management and,*
 - *Maine Vegetation Management-General Vegetation Management*

VII. **Industrial, Institutional, Structural and Health Related Pest**

- a. **General.** Applicants seeking certification in the subcategory of General Pest Control as described in Section 2(A)(VII)(a) must demonstrate a practical knowledge of a wide variety of pests and methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses,

methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

- b. **Fumigation.** Applicants seeking certification in the subcategory Fumigation as described in Section 2(A)(VII)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees and customers.

Category Standards will be added to Maine Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

- *Federal Category: Non Soil Fumigation; Maine will maintain the term “Fumigation” for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(14).*

c. **Disinfectant and Biocide Treatments.**

1. **Disinfectant and Biocide Treatments.** Applicants seeking certification in the subcategory of Disinfectant and Biocide Treatments as described in Section 2(A)(VII)(c)(1) must demonstrate practical knowledge of water organisms and their life cycles, drinking water treatment plant designs, cooling water system designs, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
2. **Swimming Pool & Spa.** Applicants seeking certification in the subcategory of Swimming Pool & Spa as described in Section 2(A)(VII)(c)(2) must demonstrate practical knowledge of water organisms and their life cycles, pool and spa design systems, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
3. **Mold Remediation.** Applicants seeking certification in the subcategory of Mold Remediation as described in Section 2(A)(VII)(c)(3) must demonstrate practical knowledge of mold and problematic microbial organisms, their life cycles, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.

- d. **Wood Preserving.** Applicants seeking certification in the Wood Preserving Subcategory described in Section 2(A)(VII)(d) must demonstrate practical knowledge in wood destroying organisms and their life cycles, nonchemical control methods, pesticides appropriate for wood preservation, hazards

associated with their use, proper handling of the finished product, proper disposal of waste preservatives, and proper application techniques to assure adequate control while minimizing exposure to humans, livestock and the environment.

- e. **Biting Fly and Other Arthropod Vector Pests.** Applicants seeking certification in the subcategory of Biting Fly and Other Arthropod Vector Pest control as described in Section 2(A)(VII)(e) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- f. **Termite Pests.** Applicants seeking certification in this subcategory must demonstrate a practical knowledge of Termite pests and methods for their control. Such knowledge shall include identification of termites and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

VIII. **Public Health Pest Control**

- a. **Biting Fly and Other Arthropod Vector Pests.** Applicants seeking certification in the subcategory of Biting Fly and Other Arthropod Vector Pest Control as described in Section 2(A)(VIII)(a) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- b. **Other Pests.** Applicants seeking certification in the subcategory of Other Pest Control as described in Section 2(A)(VIII)(b) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall

be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

IX. Regulatory Pest Control

Applicants seeking certification in the category of Regulatory Pest Control as described in Section 2(A)(IX) must demonstrate practical knowledge of regulated pests and applicable laws relating to quarantine and other regulations of pests. Such knowledge shall also include environmental impact of pesticide use in eradication and suppression programs, and factors influencing introduction, spread, and population dynamics of relevant pests. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

X. Demonstration and Research Pest Control

Applicants seeking certification in the category of Demonstration and Research Pest Control as described in Section 2(A)(X) must demonstrate practical knowledge in the broad spectrum of activities involved in advising other applicators and the public as to the safe and effective use of pesticides. Persons involved specifically in demonstration activities will be required to demonstrate knowledge of pesticide-organism interactions, the importance of integrating chemical and non-chemical control methods, and a grasp of the pests, life cycles and problems appropriate to the particular demonstration situation. Field researchers will be required to demonstrate general knowledge of pesticides and pesticide safety, as well as a familiarity with the specific standards of this Section which apply to their particular areas of experimentation. All individuals certified in this category must also be certified in one or more of the previous categories or subcategories which represent at least 80% of their practice. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

XI. Aerial Pest Control

Applicants seeking certification in the category of Aerial Pest Control as described in Section 2(A)(XI) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Applicants must also demonstrate competency in the specific category or subcategory in which applications will be made, as described in paragraphs I, II, VI and VIII herein. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

*Category Standards will be added to Maine Chapter 31: CERTIFICATION AND LICENSING
PROVISIONS/COMMERCIAL APPLICATORS*

- *Federal Category: Aerial; Maine will maintain the term Aerial for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(15).*

SECTION 4. PRIVATE APPLICATOR CERTIFICATION CATEGORIES [§ 171. 105]

(a) OPTION 2: STATE ADOPTS ITS OWN PRIVATE APPLICATOR CATEGORIES AND STANDARDS.

40 CFR § 171.105

OPTION 2: STATE ADOPTS ITS OWN PRIVATE APPLICATOR CATEGORIES AND STANDARDS.

If the state had adopted its own categories and standards for private applicators, then the state must provide a statement that the state has adopted its own standards (that meet or exceed federal standards at § 171.105) and provide all the following:

- A list and detailed description of all private applicator categories and subcategories and the citations for the State laws and/or regulations. States must provide the list of state categories/subcategories in the table below, along with the category/ subcategory description and an indication of the closest comparable EPA Federal category.***
- A list and detailed description of the category standards for certification adopted by the State and the citations for the State laws and/or regulations.***

State Response: MRS Title 22 §1471-D. Certification and licenses

2. Certification required, private applicators. No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the board, provided, that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

Maine has Private Applicator competency standards in **Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS**

1. Competency Standards for Certification - Private Applicator

- A. No person shall be certified as a private applicator unless he has fulfilled requirements demonstrating his knowledge of basic subjects including pesticide label comprehension, ability to read and understand pesticide labeling, safety, environmental concerns, stewardship, pest organisms, pesticides, equipment, application techniques, responsibilities for supervisors of non-certified applicators, and applicable laws and regulations. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans (core exam).

Maine will adopt 40 CFR 171.105 (a) (1 through 11) Competency Standards into Chapter 32 by reference.

Maine Private Categories and Associated Federal Categories

Table 6 Maine Private Categories and Associated Federal Categories		
Maine Category/Subcategory Name	Statutory Authority	Closet Comparable EPA Federal Category
Animal	22 M.R.S. §1471-D	Agricultural Pest Control-Livestock Pest Control
Blueberry	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Cranberry	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Forage	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Forestry	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Greenhouse	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Nursery	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Orchard Fruit	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Potatoes	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Small Fruit	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Vegetables	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control
Turf	22 M.R.S. §1471-D	Agricultural Pest Control-Crop Pest Control

Federal Private Applicator Categories-Adopted by the State of Maine

Table 7. Federal Private Applicator Categories Adopted by the State of Maine.

Federal Categories Adopted	Adopted Federal Standards (Y/N)	State Law/Reg Citation
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Soil Fumigation	Y	Chapter 32
Non-Soil Fumigation	Y	Chapter 32
Aerial Pest Control	Y	Chapter 32

The Federal Private Applicator categories adopted in Chapter 32 are Supplemental Certification Categories. Applicants seeking supplemental private certification must demonstrate competency in each applicable category (Category Exam).

Competency Standards: Chapter 32

1. Competency Standards for Certification - Private Applicator

- B. No person shall be certified as a private applicator unless he has demonstrated knowledge of the general principles of pest control for his major commodity, including specific pests of the crop, their life cycle, and proper timing of control measures to be efficacious (Commodity Exam).

The Federal Private Applicator categories adopted in Chapter 32 are Supplemental Certification Categories.

**Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS;
(2)(B)(4)**

(b) Categories for Supplemental Certification of Private Applicators.

- a. **Soil Fumigation.** This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.
- b. **Non-soil Fumigation.** This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device.
- c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft.

Category Standards will be added to Maine Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

Competency Standards:

- *Soil Fumigation Competency Standards at 40 CFR 171.103(d)(13); adopted by reference in Chapter 32.*
- *Non-Soil Fumigation Competency Standards at 40 CFR 171.103(d)(14); adopted by reference in Chapter 32.*
- *Aerial Pest Control Competency Standards at 40 CFR 171.103(d)(15); adopted by reference in Chapter 32.*

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS;

5. Competency Standards for Supplemental Certification of Private Applicators

Applicants seeking supplemental private certification must demonstrate competency in each applicable category (Category Exam). Competency in the applicable category shall be established as follows:

- b. Soil Fumigation. Applicants seeking supplemental certification in the category of Soil Fumigation as described in Section 2(B)(4)(a) must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (d) (2017).
- c. Non-soil Fumigation. Applicants seeking supplemental certification in the category of Structural Fumigation as described in Section 2(B)(4)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (e) (2017).
- d. Aerial Pest Control. Applicants seeking supplemental certification in the category of Aerial Pest Control as described in Section 2(B)(4)(c) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (f) (2017).

SECTION 5. LIMITED USE CERTIFICATION CATEGORIES [IF APPLICABLE]. [§ 171. 303(a)(4), § 171. 303(b)(2) and § 171. 303(b)(2)(ii)(A)] States must provide a list of all limited use categories the state has adopted for commercial applicators and the standards of competency for any such categories.

Not applicable.

Limited use pesticides may be purchased and used only by applicators licensed by the Board provided in Chapters 31 and 32 and holding a permit from the Board as provided in subsections E and F below.

Chapter 40: MAINE RESTRICTED AND LIMITED USE PESTICIDES

Section 2. PROHIBITED AND LIMITED USE PESTICIDES

- A. All products containing the following active ingredients shall be classified as limited use pesticides in Maine:
- | | |
|------------|---|
| Aldrin | Methyl Parathion (Microencapsulated forms only) |
| Chlordane | |
| Heptachlor | Sodium monofluoroacetate (Compound 1080) |
| Lindane | Toxaphene |
- B. Limited use pesticides may be sold only by restricted use pesticide dealers licensed by the Board as provided in Chapter 34.
- C. Limited use pesticides may be purchased and used only by applicators licensed by the Board as provided in Chapters 31 and 32 and holding a permit from the Board as provided in subsections E and F below.
- D. An application to use any limited use pesticides shall be made to the Board in writing on such forms as may be provided by the Board. Applications shall include, at a minimum,

the chemical to be used, the pest or pests which are the target of such chemical application, the vegetation to which it will be applied, the location and detailed description of the application site, and the amount of land to be covered by such application. When, in the opinion of the Board, any bona fide emergency prevents a written application to the Board, such application may be made orally to any member or employee of the Board. Failure of any applicator to exercise due diligence or to reasonably anticipate any situation which would create the need for the use of any limited use pesticide shall not be considered an emergency within the scope of this section.

- E. The Board may grant such applicant permission to use or apply any limited use pesticide if the Board determines that (1) the pesticide applicator is appropriately licensed, (2) an unusually heavy infestation of insects or other pests creates the prospect of a significant economic loss to the applicant or any other person or creates a public health hazard, (3) no suitable chemical, biological or other method is available to prevent or reduce the impact of such infestation to an acceptable level, (4) the use of such limited use pesticide will not create an undue risk to human life nor cause significant detrimental effects upon the environment, and (5) such use is in compliance with FIFRA and the rules and regulations promulgated thereunder. Permission to use such limited use pesticide may be granted upon such reasonable terms and conditions as the Board deems necessary to protect the health, safety and general welfare of the environment and the people of the State of Maine and to achieve the purpose of the statute. Permission to use any limited use pesticide during any bona fide emergency situation may be granted upon the oral consent of a majority of the Board given to the director or chairman of the Board or such other member of the Board who received the oral application. Such oral consent shall thereafter be confirmed in writing by such members to the director within ten (10) days.
- F. The outdoor use or application of benzene hexachloride (including lindane) for the purpose of controlling mosquitoes and other biting flies is hereby prohibited in the State of Maine

SECTION 6. STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS.
[§ 171. 101 and 171.103]

OPTION 2: STATE ADOPTS ITS OWN STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS

State Response: The citation is 22 M.R.S.A., Section 1471-D and Chapter 31.

State Affirmation Statement: The state has adopted its own standards for certification of Commercial Applicators. The State of Maine's standards for commercial applicator certifications

40 CFR § 171.101 OPTION 2: STATE ADOPTS ITS OWN STANDARDS FOR CERTIFICATION OF COMMERCIAL APPLICATORS. *If the state had adopted its own standards for commercial applicator certification, then the state must provide a statement that the state has adopted its own standards that meet or exceed federal standards at § 171.101 and 171.103 and provide all of the following:*

(a) **MINIMUM AGE REQUIREMENT.** [§171. 103(a)(1)] *[Must be in state laws or regulations.] Documentation that the state has adopted a minimum age requirement for commercial applicator certification of at least 18 years old. The documentation must include the citation and copy of the specific provisions for adoption of the state minimum age requirements and should be included with the plan as Attachment 6-A.*

(b) **CORE STANDARDS OF COMPETENCY.** [§171. 103(c)] *[Must be in state laws or regulations.] Documentation that the state has adopted core standards of competency that meet or exceed federal standards at § 171 .101 and 171 .103 . The documentation must include the citation and copy of the specific provisions that document that the state has adopted core standards of competency that meet or exceed federal standards and should be included with the plan as Attachment 6 -B.*

(c) **EXAMINATION STANDARDS.** [§171. 103(a)(2)] *[Not required to be in state laws or regulations.] A detailed description of the State's certification examination standards for commercial applicators and an explanation and documentation of how they meet/ exceed federal exam administration standards at §171 .103 (a)(2) (and listed in Appendix A), including a description of any alternative identification that a State will authorize for qualification for certification in addition to a valid, government-issued photo identification. The documentation should explain the specific provisions that document that the state has adopted examination standards that meet or exceed federal standards and should be included with the plan as Attachment 6 -C.*

(d) **STANDARDS FOR LIMITED USE CATEGORY CERTIFICATION, IF APPLICABLE.** [§171. 103(a)(4), §171.103(a)(4)(iii) and §171. 103(a)(4)(v)] *[Must be in state laws or regulations i f state has one or more.] States must provide all the following documentation if they have established any limited use category certifications:*

- *Documentation that the state has adopted core standards of competency that meet or exceed federal standards at § 171.101 and 171.103 and a requirement that candidates for certification in a limited use category pass the written examination covering the core standards at § 171 .103 (c) and demonstrate practical knowledge of the principles and practices of pest control and proper and effective use of restricted use pesticide(s) covered by the limited use category. States must provide a detailed description of the core standards of competency if they are different than those used for all other commercial applicator categories.*

- *A detailed description of the process by which applicators must demonstrate practical knowledge of the principles and practices of pest control and proper and effective use of the restricted use pesticides authorized under the limited use category based on the competency standards identified in Section 5 of the plan. [NOTE: This does not have to be accomplished by a written examination.] The documentation must include the citation and copy of the specific provisions that document that the state has adopted standards for limited use category certification that meet or exceed federal standards and should be included with the plan as Attachment 6 - D.*

(e) **EXCEPTIONS, IF APPLICABLE.** [§171. 103(e)] *[Must be in state laws or regulations if the state has this exception. State can exceed federal regulations – meaning state is not required to have this exception.] States must provide a detailed description and documentation of any exceptions to the state certification requirements for commercial applicators (e. g., persons conducting laboratory research involving restricted use pesticides and/ or Doctors of Medicine and Doctors of Veterinary Medicine applying restricted use pesticides to patients during the course of the ordinary practice of those professions). The documentation must include the citation and copy of the specific provisions that document that the state has adopted the exceptions to certification for commercial applicators and should be included with the plan as Attachment 6-E.*

meet or exceed EPA's standards.

(a)) **MINIMUM AGE REQUIREMENT.** [§171.103(a)(1)] Documentation that the state has adopted a minimum age requirement for commercial applicator certification of at least 18 years old. The documentation must include the citation and copy of the specific provisions for adoption of the state minimum age

requirements.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

1. Certification Procedures for Commercial Applicators

A. **Initial Certification.** Individuals attempting to certify as a commercial applicator must be at least 18 years of age.

(b) **CORE STANDARDS OF COMPETENCY.** [§171.103(c)] The documentation must include the citation and copy of the specific provisions that document that the state has adopted core standards of competency that meet or exceed federal standards.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS (4)

2. Competency Standards for Certification of Commercial Applicators

A. Applicants seeking commercial certification must establish competency in the general principles of safe pest control by demonstrating knowledge of basic subjects including, but not limited to, pesticide labeling, safety, environmental concerns, pest organisms, pesticides, equipment, application techniques and applicable laws and regulations. (Core Exam).

The State of Maine will adopt 40 CFR 171.103 (c) into Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS by reference.

B. Applicants seeking commercial certification must demonstrate competency in each applicable category or subcategory. (Category Exam). Competency in the applicable category or subcategory shall be established as follows:

I. Agricultural Animal and Plant Pest Control

a. **Agricultural Animals.** Applicants seeking certification in the subcategory of Animal Pest Control as described in Section 2(A)(I)(a) must demonstrate knowledge of animals, their associated pests, and methods of pest control. Areas of practical knowledge shall include specific toxicity, residue potential, relative hazards of different formulations, application techniques, and hazards associated with age of animals, stress, and extent of treatment.

b. **Agricultural Plant.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge

of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

Federal Category: “Agricultural Plant” Category Standards will be added for:

- *Agricultural Plant 1B-Option 1: Limited Commercial Blueberry*
- *Agricultural Plant 1B-Option 2: Chemigation*
- *Agricultural Plant 1B-Option 3: Agricultural Soil Fumigation Maine will adopt 40 CFR 171.103(13) Soil Fumigation.*
- *Agricultural Plant 1B-Option 4: Post Harvest Treatment*

II. **Forest Pest Management**

Applicants seeking certification in the category of Forest Pest Management as described in Section 2(A)(II) must demonstrate practical knowledge of forest vegetation management, forest tree biology and associated pests. Such required knowledge shall include population dynamics of pest species, pesticide-organism interactions, integration of pesticide use with other pest control methods, environmental contamination, pesticide effects on non-target organisms, and use of specialized equipment. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

III. **Ornamental and Turf Pest Control**

- a. **Outdoor Ornamentals.** Applicants seeking certification in the Outdoor Ornamental subcategory as defined in Section 2(A)(III)(a) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of trees, shrubs, and floral plantings. Such knowledge shall include potential phytotoxicity, undue pesticide persistence, and application methods, with particular reference to techniques used in proximity to human habitations. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.
- b. **Turf.** Applicants seeking certification in the Turf subcategory as described in Section 2(A)(III)(b) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of turf. Such knowledge shall include potential phytotoxicity, undue pesticide persistence, and application methods, with particular reference to techniques used in proximity to human habitations. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

- c. **Indoor Ornamentals.** Applicants seeking certification in the Indoor Ornamental subcategory described in Section 2(A)(III)(c) must demonstrate practical knowledge of pesticide problems associated with the production and maintenance of indoor ornamental plantings. Such knowledge shall include pest recognition, proper pesticide selection, undue pesticide persistence, and application methods with particular reference to techniques used in proximity to human presence.

IV. **Seed Treatment**

Applicants seeking certification in the category of Seed Treatment as described in Section 2(A)(IV) must demonstrate practical knowledge of seed types and problems requiring chemical treatment. Such knowledge shall include seed coloring agents, carriers and binders which may affect germination, hazards associated with handling, sorting, and mixing in the treatment process, hazards of introduction of treated seed into food and feed channels, and proper disposal of unused treated seeds.

V. **Aquatic Pest Control**

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects, and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.
- b. **Sewer Root Control** - Applicants seeking certification in the subcategory of Sewer Root Control as described in Section 2(A)(V)(b) must demonstrate practical knowledge of proper methods of sewer root control pesticide application, application to pipes, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include potential effects on water treatment plants, movement of pesticides into off target pipes or buildings and the hazards of sewer gases.

VI. **Vegetation Management**

Applicants seeking certification in the subcategories under Vegetation Management as described in Section 2(A)(VI) (a-b) must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include an ability to recognize target organisms and circumstances specific to the subcategory, awareness of problems of runoff, root pickup and aesthetic considerations associated with excessive foliage destruction and "brown-out", and an understanding of the mode of action of herbicides, and reasons for the choice of particular chemicals for particular problems, importance of the assessment of potential impact of spraying on adjacent public and private properties and activities, and effects of spraying on fish and wildlife species and their habitat. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

Federal Category: "Right of Way Pest Control: Category Standards will be added for:

- *Maintenance of Public Roads to Maine Vegetation Management-Rights of Way Vegetation Management and,*
- *Maine Vegetation Management-General Vegetation Management*

VII. Industrial, Institutional, Structural and Health Related Pest

- a. **General.** Applicants seeking certification in the subcategory of General Pest Control as described in Section 2(A)(VII)(a) must demonstrate a practical knowledge of a wide variety of pests and methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.
- b. **Fumigation.** Applicants seeking certification in the subcategory Fumigation as described in Section 2(A)(VII)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees and customers.

Federal Category: Non Soil Fumigation; Maine will maintain the term "Fumigation" for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(14).

- c. **Disinfectant and Biocide Treatments.**

1. **Disinfectant and Biocide Treatments.** Applicants seeking certification in the subcategory of Disinfectant and Biocide Treatments as described in Section 2(A)(VII)(c)(1) must demonstrate practical knowledge of water organisms and their life cycles, drinking water treatment plant designs, cooling water system designs, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
 2. **Swimming Pool & Spa.** Applicants seeking certification in the subcategory of Swimming Pool & Spa as described in Section 2(A)(VII)(c)(2) must demonstrate practical knowledge of water organisms and their life cycles, pool and spa design systems, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
 3. **Mold Remediation.** Applicants seeking certification in the subcategory of Mold Remediation as described in Section 2(A)(VII)(c)(3) must demonstrate practical knowledge of mold and problematic microbial organisms, their life cycles, labels, and hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
- d. **Wood Preserving.** Applicants seeking certification in the Wood Preserving Subcategory described in Section 2(A)(VII)(d) must demonstrate practical knowledge in wood destroying organisms and their life cycles, nonchemical control methods, pesticides appropriate for wood preservation, hazards associated with their use, proper handling of the finished product, proper disposal of waste preservatives, and proper application techniques to assure adequate control while minimizing exposure to humans, livestock and the environment.
- e. **Biting Fly and Other Arthropod Vector Pests.** Applicants seeking certification in the subcategory of Biting Fly and Other Arthropod Vector Pest control as described in Section 2(A)(VII)(e) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.
- f. **Termite Pests.** Applicants seeking certification in this subcategory must demonstrate a practical knowledge of Termite pests and methods for their control. Such knowledge shall include identification of termites and knowledge of life cycles, formulations appropriate for various indoor and

outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

VIII. Public Health Pest Control

- a. **Biting Fly and Other Arthropod Vector Pests.** Applicants seeking certification in the subcategory of Biting Fly and Other Arthropod Vector Pest Control as described in Section 2(A)(VIII)(a) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.
- c. **Other Pests.** Applicants seeking certification in the subcategory of Other Pest Control as described in Section 2(A)(VIII)(b) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

IX. Regulatory Pest Control

Applicants seeking certification in the category of Regulatory Pest Control as described in Section 2(A)(IX) must demonstrate practical knowledge of regulated pests and applicable laws relating to quarantine and other regulations of pests. Such knowledge shall also include environmental impact of pesticide use in eradication and suppression programs, and factors influencing introduction, spread, and population dynamics of relevant pests. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

X. Demonstration and Research Pest Control

Applicants seeking certification in the category of Demonstration and Research Pest Control as described in Section 2(A)(X) must demonstrate practical knowledge in the broad spectrum of activities involved in advising other applicators and the public as to the safe and effective use of pesticides. Persons

involved specifically in demonstration activities will be required to demonstrate knowledge of pesticide-organism interactions, the importance of integrating chemical and non-chemical control methods, and a grasp of the pests, life cycles and problems appropriate to the particular demonstration situation. Field researchers will be required to demonstrate general knowledge of pesticides and pesticide safety, as well as a familiarity with the specific standards of this Section which apply to their particular areas of experimentation. All individuals certified in this category must also be certified in one or more of the previous categories or subcategories which represent at least 80% of their practice. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

XI. Aerial Pest Control

Applicants seeking certification in the category of Aerial Pest Control as described in Section 2(A)(XI) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Applicants must also demonstrate competency in the specific category or subcategory in which applications will be made, as described in paragraphs I, II, VI and VIII herein. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

Federal Category: Aerial; Maine will maintain the term Aerial for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(15).

4. Competency Standards for Certification of Commercial Applicator/Master

A. Regulations Exam. An applicant seeking certification as a commercial applicator/master must successfully complete a closed book exam on the appropriate chapters of the Board's regulations. The passing grade shall be 80%. An applicant must successfully complete the regulations exam before being allowed to proceed to the master exam. The staff may waive the requirements for the closed book regulation exam if it determines that a pest management emergency exists necessitating the issuance of a nonresident license pursuant to Section 6 B. of this chapter, provided that the staff verbally reviews the pertinent regulations with the applicant prior to issuing a nonresident license.

(c) EXAMINATION STANDARDS. [§171.103(a)(2)] The State of Maine's certification examination standards for commercial applicators meet or exceed

federal exam administration standards at §171 .103 (a)(2).

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

5. Certification Procedures for Commercial Applicators

A. **Initial Certification.** Individuals attempting to certify as a commercial applicator must be at least 18 years of age.

I. **Application for Exams.** Individuals applying to take exams must submit a completed application and associated fees. All fees are waived for governmental employees.

a. Information shall include name, home address, company address, name and telephone number of supervisor and categories for which certification is desired.

b. A non-refundable fee of \$10.00 for each core, category or subcategory exam shall accompany the application.

c. Study materials for other than the regulations exam are available through the University of Maine Cooperative Extension Pest Management Office for a fee.

d. A non-refundable fee of \$10.00 for the regulations exam and \$40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulations exam will be sent to the applicant upon receipt of their application and the required fees.

II. Appointment for Exams

a. Exams will be scheduled by Board staff. It is the responsibility of the applicant to reschedule if necessary.

b. All exam fees shall be forfeited if an applicant fails to notify the Board that he/she cannot sit for the exams on the scheduled date at least 24 hours in advance of the scheduled exam. Applicants who cancel their exam appointment two times in a row shall also forfeit their exam fees. Re-application shall require an additional \$15.00 fee.

c. Exams will be available year-round on an appointment basis at the Board's office in Augusta.

d. Exams may also be offered at other locations designated by the Board staff. Appointments for these exams should be arranged by application with the Board's office in Augusta.

III. Exams

- a. Applicants shall take a closed book core exam plus a closed book category technical exam on each applicable category or subcategory for which they anticipate making pesticide applications.
- b. In addition to the exams described above in sections (a), applicants for commercial applicator/master certification must complete a closed book written regulations exam as well as a master exam. Applicants for commercial applicator/master must successfully complete the core and at least one category exam or the combined exam before being eligible to take the master exams. Applicants must also successfully complete the regulations exam before being allowed to commence on the master exam.

IV. Examination Procedures. All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.

- a. Applicant shall present a valid government issued identification to the moderator prior to commencement of exams.
- b. Applicants should be present and ready to take the exams at the appointed time.
- c. Applicants shall not talk during the examination period.
- d. Applicants shall not be allowed to bring any books, papers, cellular telephones, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.
- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.

V. Qualification Requirements. An applicant must achieve a passing score of 80 percent on each exam.

- a. An applicant who fails the core exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.
- b. An applicant who fails a category exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.
- c. An applicant who passes the core and one category exam shall be considered eligible for operator level licensing in that particular category so long as that person will be working under the supervision of a Master

applicator. If at a later date the applicant wishes to add another category, only the appropriate category exam shall be required.

d. An applicant who fails a master exam must re-apply and pay all required fees and may not retake the examination prior to 6 days after the date of such failed examination.

e. Any applicant must pass both the core and at least one category exam by December 31 of the third year from the date on which the first exam was passed.

f. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retaking.

VI. **Expiration.** Certification under this Section will expire on December 31st of the third year after the date of successful completion of required exams and on December 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.

VII. An applicant's original certification period shall not be extended due to the applicant qualifying for another category or upgrading to the master level.

STATE OF MAINE EXAMINATION PROCESS:

Learning Materials:

The State of Maine provides for certification by examination only. Learning materials needed for examination preparation are identified in the certification process. The learning materials can be purchased through the University of Maine Cooperative Extension.

The State of Maine uses "core" learning materials developed by the University of Maine Cooperative Extension and the State of Maine Department of Agriculture, Conservation and Forestry.

Learning materials for category examination preparation have been selected or developed by the University of Maine Cooperative Extension and the State of Maine Department of Agriculture, Conservation and Forestry, supported with EPA OPP/Worker Safety Branch funds.

Learning materials are carefully reviewed, vetted for applicability, and evaluated for quality and accuracy to determine compliance with federal requirements before being incorporated into the state program.

State specific materials such as state laws and regulations are also part of the learning materials used for examination preparation.

Learning materials undergo periodic review by the University of Maine Cooperative Extension and the State of Maine Department of Agriculture, Conservation and Forestry, to determine whether the materials are relevant, practical, meet the needs of applicators and address pesticide use and safety.

The State of Maine does not allow for use of reference materials during the examination.

Examinations:

The State of Maine Department of Agriculture, Conservation and Forestry offers two options to take the commercial exams.

Option 1: Applicants may elect to take the core and category exams at the MDACF office in Augusta, Maine. The exams provided in Augusta are offered once per month.

Option 2: Take the exams at testing centers located across the State of Maine.

Exams are proctored electronically and by testing center staff if the exam is taken at a State of Maine testing center.

Exams given in person are proctored by designated BPC staff who is not seeking certification at any examination he/she/they are proctoring.

Examination questions are designed and constructed using professional practices developed by the staff trained in testing techniques. Questions are evaluated for difficulty, fairness, bias, and other factors before being included in any exam.

The questions reflect the content of the educational materials. The goal is to determine the candidate's ability to apply the knowledge gained from examination preparation.

Types of questions include true/false, or multiple choice. The exams include a pesticide label with five to ten related questions.

The response options to examination questions are developed to ensure they reflect the questions and promote knowledge and comprehension.

Examination questions left unanswered are counted as incorrect.

The State of Maine uses a passing score of 80 percent for commercial certification as the measure of demonstrated competency. Based on certification program historical data and analytics, established passing scores have proven to be sufficient to ensure a minimum standard of competency.

The passing score for all examinations is communicated at the outset of the exam as well as in examination informational materials.

Exam passing rates vary by category. The number of exam questions varies by category, ranging from 25 questions to 50 questions.

Individual scores are sent to exam candidates via email/US Mail in 10 days.

Oral Examinations:

An oral examination is part of the State of Maine commercial master certification process. The manual is provided by the Department of Agriculture, Conservation and Forestry.

Oral examinations are administered only once the candidate has received a passing score of 80 percent on the written regulations examination.

The oral exam is given by a designated Maine Department of Agriculture, Conservation and Forestry staff member who is not seeking certification at any examination he/she/they are proctoring.

Oral examinations are scored on a pass/fail basis.

The score for the oral exam is provided to the candidate at the close of the exam session.

A candidate for commercial certification must pass both the written exam and the oral examination to become certified.

Examination Data:

In preparation for the FIFRA Cooperative Agreement Annual End of Year reporting, the State of Maine reviews pesticide violations to determine if any areas related to federal requirements may need additional emphasis (e.g., label violations, use information, etc.). Insights gained from this exercise may be incorporated into examination reviews or continuing education sessions. Much of this information is included in CPARD as well as the FIFRA Cooperative Agreement Template.

SUMMARY:

In summary, the Maine SLA reviews examination test questions, exam preparation materials and the number and types of questions included in the examination to maintain a rigorous program that assures competence of applicators and measures performance.

(d) STANDARDS FOR LIMITED USE CATEGORY CERTIFICATION, IF APPLICABLE. [§171.103(a)(4), §171.103(a)(4)(iii) and §171.103(a)(4)(v)] The specific provisions that document that this state has adopted standards for limited use category certification that meet or exceed federal standards.

Not Applicable.

(e) EXCEPTIONS, IF APPLICABLE. [§171.103(e)] The documentation must include the citation and copy of the specific provisions that document that the state has adopted the exceptions to certification for commercial applicators.

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.

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.

SECTION 7 . STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS. [§ 171. 105]

(a) OPTION 2: STATE ADOPTS ITS OWN STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS

40 CFR § 171.101 OPTION 2 : STATE ADOPTS ITS OWN STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS.

If the state had adopted its own standards for private applicator certification, then the state must provide a statement that the state has adopted its own standards that meet or exceed federal standards at §171.105 and provide all the following:

(a) MINIMUM AGE REQUIREMENT. [§171. 105 (g)] [Must be in state laws or regulations.]

(b) CORE STANDARDS OF COMPETENCY. [§171. 105(a)] [Must be in state laws or regulations.]

(c) DETERMINATION OF COMPETENCY AND EXAMINATION STANDARDS. [§171. 105 (h)] [Not required to be in state laws or regulations.]

State Response: The citation is 22 M.R.S.A., Section 1471-D and Chapter 32.

State Affirmation Statement: The state has adopted its own standards for certification of Private Applicators. The State of Maine's standards for private applicator certifications meet or exceed EPA's standards.

(a) MINIMUM AGE REQUIREMENT. [§171.105(g)] The documentation must include the citation and copy of the specific provisions that document adoption of the state minimum age requirements.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

2. Certification Procedures for Private Applicators

A. Initial Certification

- 1. Any person attempting to certify as a private applicator must be at least 18 years of age.**

A noncertified applicator must be at least 18 years old, except for a noncertified applicator who must be at least 16 years old when using restricted use pesticides under the direct supervision of an immediate family member. 40 CFR 171.201(2) (i through iii) will be adopted by reference.

(b) CORE STANDARDS OF COMPETENCY. [§171.105(a)] The State of Maine has general core standards of competency for private applicators that meet or exceed federal standards in Chapter 32.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

1. Competency Standards for Certification - Private Applicator

A. No person shall be certified as a private applicator unless he has fulfilled requirements demonstrating his knowledge of basic subjects including pesticide label comprehension, ability to read and understand pesticide labeling, safety, environmental concerns, stewardship, pest organisms, pesticides, equipment, application techniques, responsibilities for supervisors of non-certified applicators, and applicable laws and regulations. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans (core exam).

The State of Maine will adopt 40 CFR 171.105 (a) (1 through 11) into Chapter 32, Competency Standards by reference.

(c) DETERMINATION OF COMPETENCY AND EXAMINATION STANDARDS. [§171.105(h)] the State of Maine has adopted examination standards or alternative determinations of competency that meet or exceed federal standards and are included.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

2. Certification Procedures for Private Applicators

A. Initial Certification

1. Any person attempting to certify as a private applicator must be at least 18 years of age.

2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.

3. Exams may be taken at cooperating county University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.

4. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.

a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.

- b. Applicants should be present and ready to take the exams at the appointed time.
- c. Applicants shall not talk during the examination period.
- d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.
- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.

5. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.

- a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
- b. An applicant who fails the exam in the area of his primary commodity may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
- c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.
- d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.

6. Certification under this section will expire on October 31st of the third year after the date of successful completion of the exams and on October 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.

(d) EXCEPTIONS, IF APPLICABLE. [§171.105(i)]

Not Applicable.

STATE OF MAINE EXAMS PROCESS:

Learning Materials:

The State of Maine provides for certification by examination only. Learning materials needed for examination preparation are identified in the examination. The learning materials can be purchased through the University of Maine Cooperative Extension

The State of Maine uses “core” learning materials developed by the University of Maine Cooperative Extension and the State of Maine Department of Agriculture, Conservation and Forestry.

Learning materials for the commodity examination preparation have been developed by the University of Maine Cooperative Extension and the State of Maine Department of Agriculture, Conservation and Forestry supported with EPA OPP/Worker Safety Branch funds.

Learning materials are carefully reviewed, vetted for applicability, and evaluated for quality and accuracy to determine compliance with federal requirements before being incorporated into the state program.

State-specific materials such as state laws and regulations are also part of the learning materials used for examination preparation.

Learning materials undergo periodic review by the University of Maine Cooperative Extension and the State of Maine Department of Agriculture, Conservation and Forestry, to determine whether the materials are relevant, practical, meet the needs of applicators and address pesticide use and safety.

The State of Maine does not allow for use of reference materials during the examination.

Examinations:

The State of Maine Department of Agriculture, Conservation and Forestry (MDACF) offers three different options to take the private exams.

Option 1: Applicants may elect to take the exams at the MDACF office in Augusta, Maine. The exams in Augusta are offered once per month.

Option 2: Take the exam at testing centers located across the State of Maine.

Option 3: Applicants may take the exam at a local University of Maine Cooperative Extension office. All exam options are proctored by designated BPC staff who are not seeking certification at an exam he/she/they are proctoring.

Examination questions are designed and constructed using professional practices developed by staff who are trained in testing techniques. Questions are evaluated for difficulty, fairness, bias, and other factors before being included in any exam.

The questions reflect the content of the educational materials. The goal is to determine the ability of the candidate's ability to apply the knowledge gained from examination preparation.

Types of questions include true/false and multiple choice. The exams include a pesticide label with five to ten related questions.

The response options to examination questions are developed to ensure they reflect the questions and promote knowledge and comprehension.

Examination questions left unanswered are counted as incorrect.

The State of Maine uses a passing score of 80% for private certification as the measure of demonstrated competency. Based on certification program historical data and analytics,

established passing scores have proven to be sufficient to ensure a minimum standard of competency.

The passing score for all examinations is communicated at the outset of the exam as well as in examination informational materials.

Exam passing rates vary by category. The number of exam questions varies by category, ranging from 25 questions to 100 questions.

Exam candidates are notified via email/US Mail of their score within 10 days of exam completion.

Examination Data:

In preparation for the FIFRA Cooperative Agreement Annual End of Year reporting, the State of Maine reviews pesticide violations to determine if any areas related to federal requirements may need additional emphasis (e.g., label violations, use information, etc.). Insights gained from this exercise may be incorporated into examination reviews or continuing education sessions. Much of this information is included in CPARD as well as the FIFRA Cooperative Agreement Template.

SUMMARY:

In summary, the Maine SLA reviews examination test questions, exam preparation materials and the number and types of questions included in the examination to maintain a rigorous program that assures competence of applicators and measures performance.

SECTION 8. RECERTIFICATION STANDARDS. [§ 171. 107]

(a) State of Maine standards for recertification for applicators of restricted use pesticides meets or exceeds standards set forth by the EPA

40 CFR § 171.107

States must provide documentation that the state standards for the recertification of applicators of restricted use pesticides meet or exceed those standards prescribed by the Agency under § 171.107 (and listed in Appendix B). Such documentation must include a statement that the state has adopted its own standards that meet or exceed the standards for recertification prescribed by the Agency under § 171.107 and a detailed description of all of the State standards for recertification of private and commercial applicators, including all the following:

- *The certification period, which may not exceed five years.*
- *If recertification is based upon written examination, a description of the state's process for reviewing, and updating as necessary, the written examination(s) to ensure that the written examination(s) evaluates whether a certified applicator demonstrates the level of competency required by § 171.103 for commercial applicators or § 171.105 for private applicators.*
- *If recertification is based upon continuing education, an explanation of how the quantity, content, and quality of the State's continuing education program ensures that a certified applicator continues to demonstrate the level of competency required by § 171.103 for commercial applicators or § 171.105 for private applicators, including but not limited to:*
 - o *(A) The quantity of continuing education required to maintain certification.*
 - o *(B) The content that is covered by the continuing education program and how the state ensures the required content is covered.*
 - o *(C) The process the state uses to approve continuing education courses or events, including information about how the state ensures that any continuing education courses or events verify the applicator's successful completion of the course or event.*
 - o *(D) How the state ensures the ongoing quality of the continuing education program.*
- *If the state has adopted use of limited use category certifications, then the state must provide a detailed description of the recertification standards for the limited use category and how those standards meet or exceed the standards prescribed by the Agency under § 171.107.*

State Response: The specific provisions that accomplish the adoption of the Federal standards are in Chapter 31 for Commercial Applicators and Chapter 32 for Private Applicators.

State Affirmation Statement: The state has adopted the standards for recertification that meet or exceed the Federal standards for recertification § 171 .107.

(A) The quantity of continuing education required to maintain certification

The certification period is three years for both commercial and private applicators.
Chapter 31(Commercial) and Chapter 32 (Private)

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

5. Certification Procedures for Commercial Applicators

VI. **Expiration.** Certification under this Section will expire on December 31st of the third year after the date of successful completion of required exams and on December 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.

VII. An applicant's original certification period shall not be extended due to the applicant qualifying for another category or upgrading to the master level.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

C. **Expiration.** Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited and that person must retake and pass both the core and commodity exams to again be eligible for licensing.

(B) The content that is covered by the continuing education program and how the state ensures the required content is covered

Recertification is based on continuing education credits. Recertification credits are awarded based on the subject matter, including but not limited to; applicable laws and regulations, environmental hazards, calibration, new application techniques, label review, applicator safety, storage and disposal, pest identification and control, and integrated pest management.

For courses that are held in the state and are in person, BPC staff attend when feasible to monitor audience attendance, course content, delivery and awarding of credits. For virtual courses, the program sponsor provides a link for a BPC staff to participate and monitor. For courses BPC staff cannot attend, a MDACF person is assigned the duty to verify that the applicators were in attendance and monitor course content. For online courses, the program administrator provides attendees with a quiz to ensure attendees participated in the entire program and understand the fundamental content. The quiz is graded and those achieving a score of 80 % or greater will receive the credit.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

5. Certification Procedures for Commercial Applicators

B. Recertification of Applicators

I. Persons with current valid certification may renew that certification by either providing documentation from a substantially equivalent professional certification program approved by the board or by accumulating recertification credits during the certification period described in Section 5(A)VI according to the following schedule:

- a. **Master level** - 9 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.
 - b. **Operator level** - 6 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.
- II. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
 - a. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.
- III. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.
 - c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
- IV. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting with details of the agenda. Board staff will review program agendas and assign credit values.
 - a. One credit will be assigned for each 1 hour of presentation on appropriate topics.
 - b. An individual who conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
 - c. An individual who organizes a meeting shall be required to maintain a sign-up sheet and supervise the signing of the sheet by all applicators attending the program. That individual shall submit the signup sheet to the Board at the same time the verification attendance forms are collected and submitted to the Board.
- V. For in state programs, applicants must submit verification of attendance at approved programs to the Board. For out of state programs, applicators must submit verification of attendance; a copy of the agenda or other description of the

presentations attended. The agenda must show the length of each presentation and describe what was covered.

- VI. A person who fails to accumulate the necessary credits during their first three- year certification period will have to retake and pass all exam(s) required for initial certification. If a person fails to accumulate the necessary credits again that person must retake and pass all exam(s) required for initial certification and within one year thereafter, obtain the balance of the recertification credits which that person failed to accumulate during the previous certification period. If that person does not obtain the balance of credits needed, the Board will not renew their license until the make-up credits are accrued.
- VII. Applicants must attend the entire approved program(s) for which recertification credit is sought. No other person may complete or sign a verification form on another applicator's behalf. Any form that is completed or signed by a person other than the applicator will be deemed a fraudulent report and will not be approved by the Board for recertification credit(s). Any credit(s) approved by the Board pursuant to an attendance verification form which is subsequently determined by the Board to have been completed or signed by a person other than the applicator shall be void and may not be counted towards the applicator's recertification requirements; and any recertification issued on the basis of such credits shall be void.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

1. Recertification for Private Applicators.

- 1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Chapter 32; Section 2(A)6.
- 2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
- 3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.
 - c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
- 4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.

- a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.
 - b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.
 6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

(C)The process the state uses to approve continuing education courses or events, including information about how the state ensures that any continuing education courses or events verify the applicator's successful completion of the course or event.

The criteria for approving courses are in both Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS, and Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS.

Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.

Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.

Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.

For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.

Applicants must attend the entire approved program(s) for which recertification credit is sought. No other person may complete or sign a verification form on another applicator's behalf. Any form that is completed or signed by a person other than the applicator will be deemed a fraudulent report and will not be approved by the Board for recertification credit(s). Any credit(s) approved by the Board pursuant to an attendance verification form which is subsequently determined by the Board to have been completed or signed by a person other than the applicator shall be void and may not be counted towards the

applicator's recertification requirements; and any recertification issued on the basis of such credits shall be void.

The recertification course information sent in for approval should include the agenda, program description, speaker bio(s), time frame(s) for topics, and other program information. A recertification course will receive one credit for each hour of presentation on the appropriate topics. For courses that are held in the state and are in person, BPC staff attend as feasible to determine attendance and to ensure coverage of course content. For courses that BPC cannot attend, an MDACF staff is assigned the duty to verify that the applicators were in attendance. For online courses, the program administrator provides applicators with a "final" quiz to ensure that the applicators watched the entire program. The quiz is graded and those achieving a score of 80% or greater receive credit.

The Maine Department of Agriculture, Conservation, and Forestry allows applicators to participate in virtual recertification programs to earn credits. The same standards must be met as outlined in the in- person criteria.

(D) How the state ensures the ongoing quality of the continuing education program.

BPC staff annually review recertification course criteria. If a course does not meet the established criteria, credits are not issued.

For courses that are held in the state and are in person, BPC staff attend when feasible to monitor audience attendance, course content, delivery and awarding of credits. For virtual courses, the program sponsor provides a link for a BPC staff to participate and monitor. For courses BPC staff cannot attend, a MDACF person is assigned the duty to verify that the applicators were in attendance and monitor course content. For online courses, the program administrator provides attendees with a quiz to ensure attendees participated in the entire program and understand the fundamental content. The quiz is graded and those achieving a score of 80 % or greater will receive the credit.

SUMMARY

A certified applicator may be found eligible for recertification upon successfully completing a continuing education program pursuant to the certifying authority's State of Maine's approved certification plan.

- The Board of Pesticides Control ensures that the quantity, content, and quality of a continuing education program to maintain applicator certification and demonstrates the level of competency required by § 171.103 for commercial applicators or § 171.105 for private applicators.
- Any continuing education course or event relied upon for applicator recertification must be approved by the Board of Pesticides Control as being suitable for its purpose in the certifying authority's recertification process.
- The Board of Pesticides Control ensures that any continuing education course or event, including an online or other distance education course or event, relied upon for applicator recertification includes a process to verify the applicator's successful completion of the course or event.

Guidelines for In-Person, Virtual, Taped Video Courses and On-Line Courses that Charge a Fee.

The Board of Pesticides Control (BPC) has established a list of guidelines to help trade organizations, agencies, companies, and educational institutions who are developing and submitting recertification programs. This will include programs that are in person, virtual, taped video presentations, and on-line courses that charge a fee.

The BPC already has standard operating procedures in place that must be followed for programs seeking credit approval. That documentation can be found in Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS and Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS.

STANDARD OPERATING PROCEDURES FOR ALL RECERTIFICATION PROGRAMS

1. All recertification programs must be approved by BPC staff at least 15 days in advance of the program. The details of the program, including an agenda, must be submitted to the BPC in writing, by email, or through the BPC portal (MePERLS). When the BPC approves a program, an individual “CR Number” is assigned to each individual program and sent to the program sponsor for all future correspondence.
2. One credit will be assigned for each hour of presentation on appropriate topics. Appropriate topics are listed in number 5 below.
3. An individual who conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each one hour of presentation on approved topics.
4. An individual who organizes a meeting shall be required to maintain a sign-up sheet and supervise the signing of the sheet by all applicators attending the program. That individual shall submit that sign-up at the same time as the verification forms are collected in person. If the recertification program is virtual, the sponsor will provide a copy of the applicators signed up for the program to the BPC. The signup sheet will be sent to the BPC either in writing, by email, or on the BPC Portal (MePERLS) within two weeks after the program date. The information on the signup sheet must include the applicator’s legal name, license number, and email address.
5. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.
 - c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
6. A BPC staff member will not be charged any fee to attend a credit program whether it be in person or virtual.

Applicators must attend the entire approved program(s) for which recertification credit is sought. No other person may complete or sign a verification form on another applicator’s behalf. Any form that is completed or signed by a person other than the applicator will be deemed a fraudulent report and will not be approved by the Board for recertification credit(s). Any credit(s) approved by the Board pursuant to an attendance verification form which is subsequently determined by the Board to have been completed or signed by a person other than the applicator shall be void and may not be counted towards the applicator’s recertification requirements; and any recertification issued on the basis of such credits shall be void.

Additionally, there are specific requirements for each type of recertification program.

IN-PERSON

1. An individual who organizes a meeting shall be required to maintain a sign-up sheet and supervise the signing of the sheet by all applicators attending the program.
2. The sign-up sheet and verification attendance forms will be collected at the end of the program by a BPC staff member or designated individual approved by the BPC. That individual shall submit that sign-up at the same time as the verification forms are collected in person. The sign-up sheet will be sent to the BPC either in writing, by email, or through the BPC portal (MePERLS) within two weeks after the program date. The information on the sign-up sheet must include the applicator's full legal name, license number, and email address.

VIRTUAL

1. At least 15 days before the program, the individual who organizes a meeting must provide the virtual program link for applicators to register for meetings open to the public. This link will be posted on the BPC credit calendar. If the program is not open to the public, a link is still required to allow BPC staff to monitor the program.
2. The individual must be able to verify that the applicators seeking credits watched the entire program by one or both of the following methods:
 1. Offering a quiz after the presentation for which passing score must be 80 percent or greater; OR
 2. Offering poll questions during the presentation. For this verification approach:
 - a. the sponsor will digitally record the answers to the poll questions,
 - b. poll questions will be displayed at least every 15 minutes, and
 - c. attendees seeking credit must answer 75 percent of the poll questions.
3. The individual must provide the BPC with a verified list of applicators which includes each applicator's full legal name, Maine license number(s), and email address of the applicator within two weeks from the program date.

TAPED VIDEOS

1. The individual who organizes a training must provide a copy of the video and a relevant quiz to the BPC for review at least 15 days in advance of offering the training to the public via the BPC credit calendar or to specific trade organizations, agencies, companies, and educational institutions.
2. The individual must be able to verify the applicators seeking credit by requiring completion of a quiz after the video for which the passing score must be 80 percent or greater.
3. An individual who organizes a meeting must maintain a sign-up sheet and must supervise and verify the signing of the sheet by all applicators attending the program. The individual must, within two weeks after the program date, provide the BPC with a sign-up sheet which includes each applicator's full legal name, Maine license number(s), and email address.

4. That individual shall, at the same time, collect and submit the sign-up sheet and completed quizzes* to the BPC.
5. *Where BPC staff members are attending in-person, the required quiz may be replaced with verification attendance forms.

ONLINE COURSES THAT CHARGE A FEE

The Board of Pesticides Control (BPC) offers numerous pre-approved online recertification credit programs. These programs charge a fee which is paid for by the attendee. A list of these programs can be found at: https://www.maine.gov/dacf/php/pesticides/credit_calendar.shtml

1. The persons organizing such trainings must provide, for BPC review, a copy of the video or link to the video and a quiz.
2. The persons organizing the training must be able to verify the applicators seeking credit by offering a quiz after the video for which the passing score needs to be 80 percent or greater
3. The persons organizing the training must provide the BPC with the applicator's full legal name, Maine license number(s), and email address within two weeks of program completion.
4. The organization must provide the date on which the applicator purchased the training video as well as the date on which the applicator successfully completed the quiz.

SECTION 9 . STANDARDS FOR THE DIRECT SUPERVISION OF NONCERTIFIED APPLICATORS. [§ 171. 201]

(a) Option 2: State adopts EPA’s federal standards for direct supervision

40 CFR § 171.201

States must provide documentation that their state standards for the direct supervision of noncertified applicators by certified private and commercial applicators of restricted use pesticides meet or exceed those standards prescribed by the Agency under § 171.201 (and listed in Appendix C). If the state has adopted the Federal standards for direct supervision of noncertified applicators by certified private and/or commercial applicators prescribed by the Agency under § 171.201, then the state must provide a statement that the state has adopted the standards for direct supervision of noncertified applicators by certified private and/or commercial applicators prescribed by the Agency under § 171.201 and a citation of the specific state laws and/or regulations demonstrating that the State has adopted such standards.

State Response: The citation of the specific provisions demonstrating that the state has adopted Federal standards for direct supervision is Chapter 31 for Commercial Applicators and Chapter 32 for Private Applicators.

State Affirmation Statement: The state has adopted the standards for direct supervision of noncertified applicators by certified private and/ or commercial applicators prescribed by the Agency under 40 CFR § 171 .201.

The reference is documented in Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS and, Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

1. Individual Certification and Company/Agency Licensing Requirements

- B All commercial applicators responsible for the supervision of noncertified applicators of restricted use pesticides must ensure compliance with training, record keeping, and all other requirements as indicated in 40 CFR 171.201(c) “Supervision of Noncertified Applicators” (2017).

To address the direct supervision of non-certified applicators, The State of Maine will adopt 40 CFR 171.201 by reference to Chapter 31.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

To address the direct supervision of non-certified applicators, The State of Maine will adopt 40 CFR 171.201 by reference to Chapter 32.

SECTION 10. CREDENTIALS. [§ 171. 303]

40 CFR§ 171.303

States must provide a description below of the credentials or documents the State certifying authority will issue to each certified applicator verifying certification. If applicable, states must also describe below the limited use certification credential. The limited use credential must clearly state that the applicator is only authorized to purchase and use the specific restricted use pesticide(s) identified in that credential.

State Response: State certification sample of Commercial License is Attachment 10 A.
A sample Private License is located Attachment 10 B.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS FOR COMMERCIAL APPLICATORS

J. **Credentials Contact.** Licenses issued under this rule will include the following information:

- I. Full name of applicator
- II. License number
- III. Categories
- IV. Expiration date
- V. Maine statute under which license is issued.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

3. Licensing

E. License Issued. Licenses issued under this rule will include the following information.

- Attachment 10B, Sample of Private License

- I. Full name of applicator
- II. License number
- III. Commodities and categories
- IV. Expiration date
- II. Maine statute under which license is issued

SECTION 11. RECIPROCITY. [40 CFR § 171. 303(a)(9)]

§ 171.303(a)(9)]

[Not required to be in state laws or regulations.] A State may waive any or all the procedures specified in §171.103, §171.105, and §171.107 when certifying applicators in reliance on valid current certifications issued by another State, Tribal, or Federal agency under an EPA-approved certification plan. The State must provide an explanation below of whether, and if so, under what circumstances, the State will certify applicators based in whole or in part on their holding a valid current certification issued by another State, Tribe or Federal agency.

States must also provide documentation below with their explanation to demonstrate that reciprocal certifications are subject to all the following conditions:

- A State may rely only on valid current certifications that are issued under an approved State, Tribal or Federal agency certification plan.*
- The State has examined the standards of competency used by the State, Tribe, or Federal agency that originally certified the applicator and has determined that, for each category of certification that will be accepted, they are comparable to its own standards.*
- Any State that chooses to certify applicators based, in whole or in part, on the applicator having been certified by another State, Tribe, or Federal agency, must include in its plan a mechanism that allows the State to terminate an applicator's certification upon notification that the applicator's original certification terminates because the certificate holder has been convicted under section 14(b) of FIFRA or has been subject to a final order imposing a civil penalty under section 14(a) of FIFRA.*
- The State issuing a certification based in whole or in part on the applicator holding a valid current certification issued by another State, Tribe or Federal agency must issue an appropriate State credential or document to the applicator.*

State Response: The State of Maine, Board of Pesticides Control reserves the right to grant reciprocity.

State Affirmation Statement: If the Board of Pesticides Control determines that there is an immediate need, an applicator could be reviewed for reciprocity.

Reciprocity Review

An applicator's current license will need to be evaluated for the following criteria.

1. The license is valid for the state in which it was awarded.
2. The applicator is in good standing with the state where the license was awarded.
3. The competency standards meet or exceed the State of Maine standards for the specific category as outlined in Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS.
4. The certified applicators' reciprocal license is only valid for the calendar year.
5. The applicator is 18 years old or older.
6. The applicator has the appropriate insurance coverage.
7. The specific need for their services is immediate as determined by the BPC, thus, not allowing the applicator time to follow the proper procedures for licensure in Maine.
8. The applicator must abide by all laws and rules of the State of Maine.
9. The applicator will be required to file all of the appropriate reports as required by the BPC.
10. The applicator must pay appropriate licensing fees.
11. The applicator will be provided a copy of the written regulations manual.

In the event that the BPC decides to grant reciprocity, enforcement actions relative to the applicators' certification will be covered at the bi-annual FIFRA meetings with the other New England states. If a certifying authority revokes or terminates a certification, the BPC would review the reason and, if determined necessary, move toward adjudicative process to revoke or terminate the applicator's certification for Maine.

The State of Maine has the right to terminate a reciprocal based on conviction under FIFRA 14(b)/civil order (a). Title 22 M.R.A. Chapter 258-A: BOARD OF PESTICIDES CONTROL

8. Revocation. The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

A. Is no longer qualified; [PL 1975, c. 397, §2 (NEW).]

B. Has engaged in fraudulent business practices in the application or distribution of pesticides; [PL 1975, c. 397, §2 (NEW).]

C. Used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [PL 1975, c. 397, §2 (NEW).]

D. Has stored, transported or otherwise distributed pesticides in a careless, faulty or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety or welfare; [PL 1975, c. 397, §2 (NEW).]

E. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [PL 1975, c. 397, §2 (NEW).]

F. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [PL 1975, c. 397, §2 (NEW).]

G. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [PL 1981, c. 470, Pt. A, §67 (AMD).]

H. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [PL 1981, c. 470, Pt. A, §67 (AMD).]

I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [PL 1977, c. 694, §341 (NEW).]

[PL 1983, c. 819, Pt. A, §49 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

SECTION 12. REPORTS TO EPA. [40 CFR § 171.303(c)]

§ 171.303(c)

Requirement to submit reports to the Agency. The State must agree to submit the following reports to the Agency in a manner and containing the information that the Agency requires:

- (1) An annual report to be submitted by the State lead agency to the Agency by the date established by the Agency that includes all of the following information:***
 - (i) The number of new general private applicator certifications and recertifications issued during the last 12 month reporting period, and total number of applicators holding a valid general private applicator certification at the end of the last 12 month reporting period.***
 - (ii) For each private applicator category specified in the certification plan, the numbers of new certifications and recertifications issued during the last 12 month reporting period, and the total number holding valid certifications in each category at the end of the last 12 month reporting period.***
 - (iii) The numbers of new commercial applicator certifications and recertifications issued during the last 12 month reporting period, and the total number of applicators certified in at least one commercial applicator certification category at the end of the last 12 month reporting period.***
 - (iv) For each commercial applicator certification category or subcategory specified in the certification plan, the numbers of new certifications and recertifications issued during the last 12 month reporting period, and the total number of commercial applicators holding a valid certification in each category or subcategory at the end of the last 12 month reporting period.***

State Affirmation Statement: The State of Maine will submit the required annual reports to the EPA that the Agency requires. At the time of completion of this plan reports were submitted by BPC through EPA's Certification Plan and Reporting Database (CPARD) system. The State of Maine will submit "Any other reports reasonably required by the Agency in its oversight of restricted use pesticides" as outlined in 171.303(c)(2).

The Director of the BPC will prepare and submit to the EPA administrator an annual report by January 30th detailing the activities of the previous federal fiscal year. The report will contain the following information:

- The number of new general private applicator certifications and recertifications issued during the last 12-month reporting period, and total number of applicators holding a valid general private applicator certification at the end of the last 12-month reporting period.
- For each private applicator category specified in the certification plan, the numbers of new certifications and recertifications issued during the last 12-month reporting period, and the total number holding valid certifications in each category at the end of the last 12-month reporting period.
- The numbers of new commercial applicator certifications and recertifications issued during the last 12-month reporting period,

and the total number of applicators certified in at least one commercial applicator certification category at the end of the last 12-month reporting period.

- For each commercial applicator certification category or subcategory specified in the certification plan, the numbers of new certifications and recertifications issued during the last 12-month reporting period, and the total number of commercial applicators holding a valid certification in each category or subcategory at the end of the last 12-month reporting period.
- A description of any modifications made to the approved certification plan during the last 12-month reporting period that have not been previously evaluated by the Agency under § 171.309(a)(3).
- A description of any proposed changes to the certification plan that the State anticipates making during the next reporting period that may affect the certification program.
- A summary of enforcement activities related to the use of restricted use pesticides during the last 12-month reporting period.

SECTION 13. IMPLEMENTATION TIMEFRAME. [40 CFR § 171. 303(b)(6)(v)]

SUMMARY: Below is a detailed estimate of full implementation of the Maine Certification and Training Plan recognizing the three -year recertification period. The estimated completion of Learning Materials, Exams, & Continuing Education is December 31, 2026. Since all commercial applicator credentials expire on December 31st, conservative estimate for full implementation under the new standards is December 31, 2029.

Full implementation will be December 31, 2029.

Preliminary Actions:

March 3, 2020. Maine's Certification and Training Plan was submitted to the US Region 1 EPA for initial review and comment.

October 4, 2021. Detailed review of Maine's revised plan for certification and training was received.

July 1, 2021. Maine's Certification and Training Plan was submitted to the US Region 1 EPA for review and comment.

September 14, 2022. Reviewed Maine Certification and Training Plan with Andrea Szylvian, EPA Region 1 Project Manager

December 16, 2022. Reviewed Maine Certification and Training Plan with Andrea Szylvian, EPA Region 1 Project Manager and Robert Koethe

May 10, 2023. Reviewed Maine Certification and Training Plan with Andrea Szylvian, EPA Region 1 Project Manager and Robert Koethe

May 15, 2023. Reviewed Maine Certification and Training Plan with Andrea Szylvian, EPA Region 1 Project Manager

Regulatory/Legislative Actions:

Winter, 2024: To address 40 CFR 171.201(b) (2)(i through iii), the State of Maine, Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS PRIVATE APPLICATORS to address the minimum age requirements for noncertified applicators who are a minimum of 16 years old and who may apply restricted use pesticides under the direct supervision of a private applicator who is an immediate family member. 40 CFR 171.201(b) (2)(i through iii) will be adopted by reference.

State Plan Section 7.

Winter, 2024: To address 40 CFR 171.201(2) (1 to 4), the State of Maine, Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS PRIVATE APPLICATORS to address the direct supervision of non-certified applicators.

State Plan Section 7.

Winter, 2024: The State of Maine, Board of Pesticides Control will initiate rulemaking to Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

To distinguish Agricultural Plant Option 3 Agricultural Fumigation category from the 7B Structural Fumigation category, the word “soil” will be added; “Agricultural Plant Option 3 Agricultural Soil Fumigation.”

The Agricultural Plant Option 3 Agricultural Soil Fumigation description will read: “This option includes commercial applicators using or supervising the use of soil fumigant pesticides in the production of crops.”

State Plan Section 3.

Winter, 2024: The State of Maine, Board of Pesticides Control will initiate rulemaking to Chapter 31: Category Standards will be added to Maine Chapter 31:

- Federal Category: “Agricultural Plant”
 - Agricultural Plant 1B-Option 1: Limited Commercial Blueberry
 - Agricultural Plant 1B-Option 2: Chemigation
 - Agricultural Plant 1B-Option 3: Agricultural Soil Fumigation Maine will adopt 40 CFR 171.103(d)(13) Soil Fumigation.
 - Agricultural Plant 1B-Option 4: Post Harvest TreatmentState Plan Sections 3 and 6.
- Federal Category: “Right of Way Pest Control:
 - Maintenance of Public Roads to Maine Vegetation Management-Rights of Way Vegetation Management and,
 - Maine Vegetation Management-General Vegetation ManagementState Plan Sections 3 and 6.
- Federal Category: Non Soil Fumigation; Maine will maintain the term “Fumigation” for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(14).
State Plan Sections 3 and 6.
- Federal Category: Aerial; Maine will maintain the term Aerial for the category name. In addition to the stated competencies, commercial applicators obtaining certification in the category must demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(15).
State Plan Sections 3 and 6.

Winter, 2024: The State of Maine, Board of Pesticides Control will initiate rulemaking to Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS, Competency Standards of Certification of Commercial Applicators, to adopt 40 CFR 171.103(c) (1 through 10).

State Plan Section 6.

Winter, 2024: The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS PRIVATE APPLICATORS to adopt:

Competency Standards:

- *Soil Fumigation Competency Standards at 40 CFR 171.105(d); adopted by reference in Chapter 32.*
- *Non-Soil Fumigation Competency Standards at 40 CFR 171.105(e); adopted by reference in Chapter 32.*
- *Aerial Pest Control Competency Standards at 40 CFR 171.105(f); adopted by reference in Chapter 32.*

State Plan Section 4

Winter, 2024: The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS PRIVATE APPLICATORS, Competency Standards for Certification, to adopt 40 CFR 171.105(a) (1 through 11) by reference.

State Plan Sections 4 and 7.

Winter, 2024: The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS Standards for Direct Supervision, to adopt 40 CFR 171.201 by reference.

State Plan Section 9.

Winter, 2024: The State of Maine Board of Pesticides Control will initiate rulemaking to Chapter 32: CERTIFICATION AND LICENSING PROVISIONS PRIVATE APPLICATORS, Standards for Direct Supervision, to adopt 40 CFR 171.201 by reference.

State Plan Section 9.

Learning Materials, Exams, & Continuing Education:

Years 2024-2026: Review and as necessary revise University of Maine Cooperative Extension Core Manual, other category manuals and learning materials.

Years 2024-2026: Review and as necessary revise exams.

Attachments

Attachment 1C1; 2023 Board of Pesticides Control Staff

2022 Board of Pesticides Control Staff SLA Personnel		
Position Title	Function	Full Time Employees
Acting Director <i>John Pietroski</i>	Rulemaking, Special Projects, Legislation, General Information, Board Meetings, Variances	1
Manager of Compliance <i>Alex Peacock</i>	Complaints/Incidents, Enforcement, Pesticide Disposal	1
Manager of Pesticide Programs <i>John Pietroski</i>	Licensing, Recertification Programs, Exams, Federal Grants, Pesticide Use	1
Toxicologist <i>Pam Bryer</i>	Food Safety, Health Issues, Pesticide Labels, Pesticide Risks and Human Health	1
Registrar <i>Mary Tomlinson</i>	Pesticide Registrations, Pesticide Labeling, Emergency Registration, Special Local Needs Registration, Experimental Use Permits, Limited Use Permits	0.5
Water Quality Specialist <i>Mary Tomlinson</i>	Water Quality, Endangered Species.	0.5
Policy & Regulations Specialist <i>Karla Boyd</i>	Rulemaking, BPC Portal, BPC Website, Got Pest Website, Yardscaping, School IPM	1
Certification & Licensing Specialist <i>Amanda Couture</i>	Licensing, Recertification Programs, Exams, Manuals Worker Protection Standards, Pesticide Use	1
Office Manager <i>Peggy Lamb</i>	General Information, Licensing Information, Exam Scheduling, Accounts, Applicator Licenses	1
Licensing Clerk <i>Jan Betts</i>	Applicator/Dealer Licenses, Recertification Credits, Pesticide Sales and Use Data, Exam Scheduling	1
Inspector <i>Lucien Saucier</i>	District 2 – Central and Midcoast Maine	1
Inspector <i>Jennie Poisson</i>	District 1 – Southern Maine	0.75
Inspector <i>Heidi Nelson</i>	District 3 – Downeast Maine	0.75
Inspector <i>Shannon Gustafson</i>	District 4 – Northern Central Maine and	0.75
Inspector <i>Keith Brown</i>	District 5 – Northern Maine	0.75

- **Curtis C. Bohlen**, Director, Casco Bay Estuary Partnership, University of Southern Maine, Muskie School of Public Service, Portland (*public member*)
- **Dominic LaJoie**, Van Buren (*agricultural expertise*)
- **Robert Carlton**, Kingfield (*forestry expertise*)
- **John M. Jemison, Jr.**, water quality and soil specialist, University of Maine Cooperative Extension, Orono (*water quality and soil specialist*)
- **Patricia Ianni**, Falmouth (*public member*)
- **Dave Adams**, commercial applicator, Dasco Inc, Presque Isle (*commercial applicator expertise*)
- **Dr. Mark Neavyn**, Medical

CHAPTER 103

SUBCHAPTER 2-A

MAINE PESTICIDE CONTROL ACT OF 1975

§601. Title

This subchapter may be known and cited as the "Maine Pesticide Control Act of 1975." [PL 2005, c. 620, §1 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 620, §1 (AMD).

§602. Enforcing official

This subchapter is administered by the Board of Pesticides Control, referred to in this subchapter as the "board," established in Title 5, section 12004-D, subsection 3 and further described in Title 22, chapter 258-A. [PL 2005, c. 620, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1979, c. 731, §19 (AMD). PL 1989, c. 841, §1 (AMD). PL 1989, c. 878, §E1 (AMD). PL 1993, c. 349, §22 (RPR). PL 2005, c. 620, §2 (AMD).

§603. Declaration of purpose

(REPEALED)

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 382, §A4 (RP).

§604. Definitions

As used in this subchapter, unless the context otherwise indicates, the following terms have the following meanings. [PL 2005, c. 620, §3 (AMD).]

1. Active ingredient. "Active ingredient" means any ingredient that will prevent, destroy, repel, control or mitigate pests or that will act as a plant regulator, defoliant or desiccant.

[PL 2005, c. 620, §3 (AMD).]

2. Adulterated. "Adulterated," as applied to a pesticide, means that:

A. The pesticide's strength or purity falls below the standard of quality as expressed on the labeling under which it is sold; [PL 2005, c. 620, §3 (NEW).]

B. A substance has been substituted wholly or in part for the pesticide; or [PL 2005, c. 620, §3 (NEW).]

C. A valuable constituent of the pesticide has been wholly or in part abstracted. [PL 2005, c. 620, §3 (NEW).]

[PL 2005, c. 620, §3 (AMD).]

3. Animal. "Animal" means all vertebrate and invertebrate species, including but not limited to humans and other mammals, birds, fish and shellfish.

[PL 2005, c. 620, §3 (AMD).]

4. Beneficial insects. "Beneficial insects" means those insects that, during their life cycle, are effective pollinators of plants, are parasites or predators of pests or are otherwise beneficial.

[PL 2005, c. 620, §3 (AMD).]

5. Commissioner.

[PL 2005, c. 620, §3 (RP).]

6. Defoliant. "Defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

[PL 1975, c. 382, §3 (NEW).]

7. Desiccant. "Desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

[PL 1975, c. 382, §3 (NEW).]

8. Device. "Device" means any instrument or contrivance, other than a firearm, that is intended for trapping, destroying, repelling or mitigating any pest or any other form of plant or animal life, other than a human being and other than a bacterium, virus or other microorganism on or in a living human being or other living animal. "Device" does not include equipment used for the application of pesticides when sold separately from pesticides.

[PL 2005, c. 620, §3 (AMD).]

9. Distribute. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this State.

[PL 2005, c. 620, §3 (AMD).]

10. Environment. "Environment" includes water, air and land and all plants and human beings and other animals living therein and the interrelationships that exist among these.

[PL 2005, c. 620, §3 (AMD).]

11. EPA. "EPA" means the United States Environmental Protection Agency.

[PL 1975, c. 382, §3 (NEW).]

12. FIFRA. "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act.

[PL 1975, c. 382, §3 (NEW).]

13. Fungi. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews, molds, yeasts and bacteria, except those on or in living human beings or other living animals, and except those in or on processed food, beverages or pharmaceuticals.

[PL 2005, c. 620, §3 (AMD).]

14. Highly toxic pesticide. "Highly toxic pesticide" means any pesticide determined to be a highly toxic pesticide under FIFRA, Section 25(c)(2) or by the board under section 610, subsection 1, paragraph B.

[PL 2005, c. 620, §3 (AMD).]

15. Imminent hazard. "Imminent hazard" means a situation that exists when the continued use of a pesticide during the time required for cancellation proceedings pursuant to section 609 would likely result in unreasonable adverse effects on the environment or will involve unreasonable hazard to the survival of a species declared endangered by the United States Secretary of the Interior under United States Public Law 91-135.

[PL 2005, c. 620, §3 (AMD).]

16. Inert ingredient. "Inert ingredient" means an ingredient that is not an active ingredient.

[PL 2005, c. 620, §3 (AMD).]

17. Ingredient statement. "Ingredient statement" means a statement of the following:

A. The name and percentage of each active ingredient together with the total percentage of the inert ingredients in the pesticide; and [PL 2005, c. 620, §3 (NEW).]

B. If the pesticide contains arsenic in any form, the percentages of total and water-soluble arsenic, each calculated as elemental arsenic. [PL 2005, c. 620, §3 (NEW).]

[PL 2005, c. 620, §3 (AMD).]

18. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees and flies, and to other allied classes or arthropods whose members are wingless and usually have more than 6 legs, including but not limited to spiders, mites, ticks, centipedes and wood lice.

[PL 2005, c. 620, §3 (AMD).]

19. Label. "Label" means the written, printed or graphic matter on, or attached to, the pesticide or device or any of its containers or wrappers.

[PL 1975, c. 382, §3 (NEW).]

20. Labeling. "Labeling" means the label and all other written, printed or graphic matter:

A. Accompanying the pesticide or device at any time; or [PL 2005, c. 620, §3 (NEW).]

B. To which reference is made on the label or in literature accompanying the pesticide or device, except current official publications of EPA, the United States Department of Agriculture, the United States Department of the Interior, the United States Department of Health and Human Services, a state experiment station, a state agricultural college or other similar federal or state institutions or agencies authorized by law to conduct research in the field of pesticides. [PL 2005, c. 620, §3 (NEW).]

[PL 2005, c. 620, §3 (AMD).]

21. Land. "Land" means all land and water areas, including airspace, and all plants, animals, structures, buildings, contrivances and machinery appurtenant thereto or situated thereon, fixed or mobile, including any used for transportation.

[PL 1975, c. 382, §3 (NEW).]

22. Nematode. "Nematode" means invertebrate animals of the phylum nemathelminthes and class nematoda, that is, unsegmented roundworms with elongated fusiform or sac-like bodies covered with cuticle, and inhabiting soil, water, plants or plant parts; nematodes may also be called nemas or eelworms.

[PL 2005, c. 620, §3 (AMD).]

23. Person. "Person" means any individual, partnership, association, fiduciary, corporation or any organized group of persons whether incorporated or not.

[PL 1975, c. 382, §3 (NEW).]

24. Pest. "Pest" means any insects, rodents, nematodes, fungi, weeds, and other forms of terrestrial or aquatic plant or animal life or viruses, bacteria or other microorganisms, except viruses, bacteria or other microorganisms on or in living human beings or other living animals, that the commissioner declares to be a pest under section 610, subsection 1, paragraph A.

[PL 2005, c. 620, §3 (AMD).]

25. Pesticide. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. "Pesticide" includes "highly toxic pesticide."

[PL 2005, c. 620, §3 (AMD).]

25-A. Plant-incorporated protectant. "Plant-incorporated protectant" means a pesticidal substance that is produced and used in a living plant through genetic engineering and the genetic material necessary for the production of the pesticidal substance.

[PL 2007, c. 484, §1 (NEW).]

26. Plant regulator. "Plant regulator" means any substance or mixture of substances intended through physiological action for accelerating or retarding the rate of growth or rate of maturation or for otherwise altering the behavior of plants or the produce thereof. "Plant regulator" does not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants or soil amendments.

[PL 2005, c. 620, §3 (AMD).]

27. Protect health and the environment. "Protect health and the environment" means to protect against any unreasonable adverse effects on the environment.

[PL 2005, c. 620, §3 (AMD).]

28. Registrant. "Registrant" means a person who has registered any pesticide pursuant to the provisions of this subchapter.

[PL 1975, c. 382, §3 (NEW).]

29. Registration. "Registration" includes reregistration.

[PL 2005, c. 620, §3 (AMD).]

30. Restricted use pesticide. "Restricted use pesticide" means any pesticide or pesticide use classified for restricted use by the EPA Administrator.

[PL 2005, c. 620, §3 (AMD).]

31. Rodent. "Rodent" means any member of the animal group of the order rodentia, including but not limited to rats, mice, gophers, porcupines and squirrels.

[PL 2005, c. 620, §3 (AMD).]

32. Unreasonable adverse effects on the environment. "Unreasonable adverse effects on the environment" means any unreasonable risk to human beings or the environment, taking into account the economic, social and environmental costs and benefits of the use of any pesticide.

[PL 2005, c. 620, §3 (AMD).]

33. Weed. "Weed" means any plant that grows where it is not wanted.

[PL 2005, c. 620, §3 (AMD).]

34. Wildlife. "Wildlife" means all living things that are neither human, domesticated nor, as defined in this subchapter, pests, including but not limited to mammals, birds and aquatic life.

[PL 1975, c. 382, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1979, c. 731, §19 (AMD). PL 1989, c. 878, §E2 (AMD). PL 2005, c. 620, §3 (AMD). PL 2007, c. 484, §1 (AMD).

§605. Misbranded

The term "misbranded": [PL 2005, c. 620, §4 (AMD).]

1. False, misleading or inconspicuous labeling. As applied to any pesticide subject to this subchapter means that:

A. Its labeling bears any statement, design or graphic representation relative to the pesticide or to its ingredients that is false or misleading in any particular; [PL 2005, c. 620, §4 (AMD).]

B. It is an imitation of or is distributed under the name of another pesticide; or [PL 2005, c. 620, §4 (AMD).]

C. Any word, statement or other information required to appear on the label or labeling is not prominently placed thereon with such conspicuousness, as compared with other words, statements, designs or graphic matter, in the labeling and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use; or [PL 2005, c. 620, §4 (AMD).]

[PL 2005, c. 620, §4 (AMD).]

2. Lack of certain information. As applied to any pesticide means that:

A. The labeling does not contain a statement of the use classification under which the product is registered; [PL 2005, c. 620, §4 (AMD).]

B. The labeling accompanying it does not contain directions for use that are necessary for effecting the purpose for which the product is intended and that, if complied with, together with any requirements imposed under FIFRA, Section 3(d), are adequate to protect health and the environment; [PL 2005, c. 620, §4 (AMD).]

B-1. The label does not contain a warning or caution statement that may be necessary and that, if complied with, together with any requirements imposed under FIFRA, Section 3(d), would be adequate to protect the health and environment; [PL 2005, c. 620, §4 (NEW).]

B-2. The label does not bear an ingredient statement on that part of the immediate container, and on the outside container and wrapper of the retail package, if there is one, through which the ingredient statement on the immediate container cannot be clearly read, which is presented or displayed under customary conditions of purchase. The pesticide is not misbranded if the ingredient statement appears prominently on another part of the container as permitted pursuant to FIFRA, Section 2(q)(2)(A) if the size or form of the container makes it impracticable to place it on the part of the retail package that is presented or displayed under customary conditions of purchase; [PL 2005, c. 620, §4 (NEW).]

C. There is not affixed to its container, and to the outside container or wrapper of the retail package, if there is one, through which the required information on the immediate container cannot be clearly read, a label bearing:

(1) The name, brand or trademark under which the pesticide is sold;

(4) The net weight or measure of the content;

(5) The name and address of the manufacturer, registrant or person for whom manufactured; and

(6) The EPA registration number assigned to each establishment in which it was produced and the EPA registration number assigned to the pesticide, if required by regulations under FIFRA; [PL 2005, c. 620, §4 (AMD).]

D. The pesticide contains any substance or substances in quantities highly toxic to human beings unless the label bears, in addition to other label requirements:

(1) The skull and crossbones;

(2) The word "POISON" in red prominently displayed on a background of distinctly contrasting color; and

(3) A statement of a practical treatment, including first aid or otherwise, in case of poisoning by the pesticide; or [PL 2005, c. 620, §4 (AMD).]

E. The pesticide container does not bear a registered label or the label does not contain all the information required by this subchapter or the rules adopted under this subchapter. [PL 2005, c. 620, §4 (AMD).]

[PL 2005, c. 620, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 620, §4 (AMD).

§606. Prohibited acts

1. Unlawful distribution. A person may not distribute in the State any of the following:

A. A pesticide that has not been registered pursuant to the provisions of this subchapter; [PL 2005, c. 620, §5 (AMD).]

B. A pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; a change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product if the registration is amended to reflect that change and if that change will not violate any provision of FIFRA or this subchapter; [PL 2005, c. 620, §5 (AMD).]

C. A pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is one, through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this subchapter and rules adopted under this subchapter; [PL 2005, c. 620, §5 (AMD).]

D. A pesticide that has not been colored or discolored pursuant to section 610, subsection 1, paragraph D; [PL 2005, c. 620, §5 (AMD).]

E. A pesticide that is adulterated or misbranded or any device that is misbranded; [PL 2021, c. 105, §1 (AMD).]

F. A pesticide in containers that are unsafe due to damage; or [PL 2021, c. 105, §2 (AMD).]

G. Beginning January 1, 2022, a pesticide containing chlorpyrifos as an active ingredient. [PL 2021, c. 105, §3 (NEW).]

[PL 2021, c. 105, §§1-3 (AMD).]

2. Unlawful alteration, misuse, divulging of formulas, transportation, disposal and noncompliance. A person may not:

A. Detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this subchapter or rules adopted under this subchapter; [PL 2005, c. 620, §5 (AMD).]

A-1. Add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this subchapter or rules adopted under this subchapter; [PL 2005, c. 620, §5 (NEW).]

B. Use or cause to be used any pesticide in a manner inconsistent with its labeling or with rules of the board, if those rules further restrict the uses provided on the labeling; [PL 2005, c. 620, §5 (AMD).]

C. Use for that person's own advantage or reveal, other than to the board or proper officials or employees of the state or federal executive agencies, to the courts of this State or of the United States in response to a subpoena, to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 607 or any information judged by the board to contain or relate to trade secrets or commercial or financial information obtained by authority of this subchapter and marked as privileged or confidential by the registrant; [PL 2005, c. 620, §5 (AMD).]

D. Handle, transport, store, display or distribute pesticides in such a manner as to endanger human beings or their environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; [PL 2005, c. 620, §5 (AMD).]

E. Dispose of, discard or store any pesticides or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any water supply or waterway; [PL 2005, c. 620, §5 (AMD).]

F. Refuse or otherwise fail to comply with the provisions of this subchapter, the rules adopted under this subchapter, or any lawful order of the board; or [PL 2005, c. 620, §5 (AMD).]

G. Apply pesticides in a manner inconsistent with rules for pesticide application adopted by the board. [PL 2005, c. 620, §5 (AMD).]

[PL 2005, c. 620, §5 (AMD).]

3. Unlawful use. A person may not apply glyphosate or dicamba within 75 feet of school grounds. This subsection does not apply to residential property or land used for commercial farming.

For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings:

A. "Commercial farming" has the same meaning as in section 52, subsection 3; [PL 2021, c. 197, §1 (NEW).]

B. "Residential property" means real property located in this State that is used for residential dwelling purposes; [PL 2021, c. 197, §1 (NEW).]

C. "School" means any public, private or tribally funded elementary school as defined in Title 20-A, section 1, subsection 10, secondary school as defined in Title 20-A, section 1, subsection 32 or a nursery school that is part of an elementary or secondary school; and [PL 2021, c. 197, §1 (NEW).]

D. "School grounds" means:

(1) Land associated with a school building including playgrounds and athletic fields used by students or staff of a school. "School grounds" does not include land used for a school farm; and

(2) Any other outdoor area used by students or staff including property owned by a municipality or a private entity that is regularly used for school activities by students and staff but not including land used primarily for nonschool activities, such as golf courses, farms and museums. [PL 2021, c. 197, §1 (NEW).]

[PL 2021, c. 197, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1983, c. 558, §§1,2 (AMD). PL 1983, c. 761, §§1,2 (AMD). PL 1985, c. 506, §A6 (AMD). PL 1989, c. 878, §§E3,4 (AMD). PL 2005, c. 620, §5 (AMD). PL 2021, c. 105, §§1-3 (AMD). PL 2021, c. 197, §1 (AMD).

§607. Registration

1. Conditions requiring registration. A pesticide may not be distributed in this State unless it is registered with the board in accordance with the provisions of this subchapter, except that registration is not required if:

A. A pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and is used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under the provisions of this subchapter; or [PL 2005, c. 620, §6 (NEW).]

B. A pesticide is distributed under the provisions of an experimental use permit issued by EPA. [PL 2005, c. 620, §6 (NEW).]

[PL 2005, c. 620, §6 (AMD).]

2. Contents of statement made by applicant. The applicant for registration shall file a statement with the board, which must include:

A. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than applicant's; [PL 1975, c. 382, §3 (NEW).]

B. The name of the pesticide; [PL 1975, c. 382, §3 (NEW).]

C. Other necessary information required by the board; and [PL 2005, c. 620, §6 (AMD).]

D. A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA. [PL 1975, c. 382, §3 (NEW).]

[PL 2005, c. 620, §6 (AMD).]

3. Submission of formula. The board, when it determines it necessary in the administration of this subchapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.

[PL 2005, c. 620, §6 (AMD).]

4. Test results. The board may require a full description of all tests made and the results of those tests on any pesticide not registered pursuant to FIFRA, Section 3 or on any pesticide on which restrictions are being considered by the board. In the case of renewal of registration, the board may require a statement only with respect to test result information that is different from that furnished when the pesticide was registered or last reregistered.

[PL 2005, c. 620, §6 (AMD).]

5. Power to require other information. The board may by rules adopted under section 610 require the submission of other necessary information.

[PL 2005, c. 620, §6 (AMD).]

5-A. Confidentiality. Notwithstanding Title 1, section 402, data submitted pursuant to subsections 3, 4 and 5 that have been determined confidential by the Administrator of the United States Environmental Protection Agency in accordance with 7 United States Code, Section 136h (2007) are confidential and may not be available for public inspection.

[PL 2007, c. 597, §8 (AMD).]

6. Registration fee; programs funded. The applicant desiring to register a pesticide must pay an annual registration fee of \$160 for each pesticide registered for that applicant. Annual registration periods expire on December 31st or in a manner consistent with Title 5, section 10002, whichever is later.

The board shall monitor fee revenue and expenditures under this subsection to ensure that adequate funds are available to fund board and related department programs and, to the extent funds are available, to provide grants to support stewardship programs. The board shall use funds received under this subsection to provide:

A. An annual grant of no less than \$135,000 to the University of Maine Cooperative Extension, on or about April 1st, for development and implementation of integrated pest management programs; [PL 2019, c. 243, §1 (AMD).]

B. Funding for public health-related mosquito monitoring programs or other pesticide stewardship and integrated pest management programs, if designated at the discretion of the board, as funds allow after expenditures under paragraph A. The board may seek the advice of the Integrated Pest Management Council established in section 2404 in determining the most beneficial use of the funds, if available, under this subsection; and [PL 2019, c. 243, §1 (AMD).]

C. An annual grant of not less than \$65,000 to the University of Maine Cooperative Extension, on or about April 1st, for the development and revision of training manuals for applicator certification, licensing and recertification and to perform other aspects of pesticide education programs. The University of Maine Cooperative Extension may seek the advice of the board in establishing the pesticide education programs and shall submit an annual report on the use of the funds under this paragraph, no later than January 15th,

to the board and the joint standing committee of the Legislature having jurisdiction over pesticide education and certification matters. [PL 2019, c. 243, §1 (NEW).]

The University of Maine may not charge overhead costs against grants under this subsection.

By February 15th annually, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters detailing the grants funded by the fee under this subsection. The annual report must include a recommendation by the board as to whether the amount of the fee is adequate to fund the programs described in this subsection. The joint standing committee may report out a bill to the Legislature based on the board's recommendations.

[PL 2019, c. 243, §1 (AMD).]

7. Renewal of registration. Registrations must be renewed annually prior to January 1st. The board shall mail forms for reregistration to registrants at least 30 days prior to the due date.

[PL 2005, c. 620, §6 (AMD).]

8. Approval of application for registration.

[PL 2005, c. 620, §6 (RP).]

8-A. Approval of application for registration. The processing of an application for registration is governed by this subsection.

A. The board shall consider the required information set forth under subsections 2, 3, 4 and 5 and shall register a pesticide if it determines that:

- (1) Its composition warrants the proposed claims for it;
- (2) Its labeling and other material required to be submitted comply with the requirements of this subchapter;
- (3) It will perform its intended function without unreasonable adverse effects on the environment;
- (4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and
- (5) A need for the pesticide exists. [PL 2005, c. 620, §6 (NEW).]

B. If, within 180 days from the date the completed application for registration is submitted, the board fails to act upon an application for registration of a pesticide that has been certified by EPA, the pesticide is deemed registered under this chapter unless the board issues a written statement containing the reasons for the failure to act upon the application. The statement of the board is deemed a refusal to register pursuant to section 609. [PL 2005, c. 620, §6 (NEW).]

C. Paragraphs A and B do not apply if the registrant fails to provide any information required to be submitted under this subchapter or does not provide other information requested by the board in order to determine whether the pesticide should be registered.

Nothing in this paragraph affects the rights of the board to make further inquiry regarding the registration of a pesticide or to refuse reregistration, to suspend or revoke registration or to otherwise restrict or condition the use of pesticides in order to protect public health and the environment. [PL 2005, c. 620, §6 (NEW).]

D. Prior to registering a pesticide for a special local need, the board shall classify the uses of the pesticide for general or restricted use in conformity with FIFRA, Section 3(d). The board may not make any lack of essentiality a criterion for denying registration of any pesticide. When 2 pesticides meet the requirements of this paragraph, the board may not register one in preference to the other. [PL 2005, c. 620, §6 (NEW).]

E. The board may establish such other requirements by rule in accordance with section 610 as are necessary to carry out the provisions of this subsection. [PL 2005, c. 620, §6 (NEW).]

[PL 2005, c. 620, §6 (NEW).]

9. Adverse environmental effects. If, at any time after the registration of a pesticide, the registrant has additional factual information regarding unreasonable adverse effects of a pesticide on the environment, the registrant shall submit that information to the board.

[PL 2005, c. 620, §6 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§52-55 (AMD). PL 1979, c. 644, §1 (AMD). PL 1981, c. 9 (AMD). PL 1983, c. 568, §1 (AMD). PL 1985, c. 592 (AMD). PL 1985, c. 627, §1 (AMD). PL 1987, c. 310, §1 (AMD). PL 1987, c. 723, §1 (AMD). PL 1989, c. 878, §E5 (AMD). PL 1993, c. 410, §S1 (AMD). PL 2001, c. 498, §1 (AMD). PL 2003, c. 282, §1 (AMD). PL 2005, c. 585, §1 (AMD). PL 2005, c. 620, §6 (AMD). PL 2007, c. 466, Pt. A, §25 (AMD). PL 2007, c. 597, §8 (AMD). PL 2013, c. 290, §1 (AMD). PL 2013, c. 290, §4 (AFF). PL 2019, c. 243, §1 (AMD).

§607-A. Review or reregistration

1. Review required. The board shall review chemical pesticides used in this State in accordance with the requirements of this section. The board shall select 2 pesticides for review each year with priority given to pesticides that have patterns of use in this State that differ from prevalent use patterns nationally or regionally. The board may select additional pesticides for review as the board determines need and as resources allow.

[PL 2005, c. 620, §7 (AMD).]

2. Review process. In cooperation with technical personnel of the Department of Environmental Protection; the Department of Inland Fisheries and Wildlife; the Department of Health and Human Services; the Department of Marine Resources; and the Department of Agriculture, Conservation and Forestry, specifically the Maine Forest Service, the board shall conduct a review consisting of the following or portions of the following as the board determines relevant:

A. An environmental risk assessment to determine the effects of pesticides on the ecosystem. This assessment is to be based on available literature. The board shall request data that it determines necessary to carry out the purpose of this chapter; or [PL 2005, c. 620, §7 (AMD).]

B. A health risk assessment, based on a literature search of laboratory, clinical and epidemiological data available within and without the State. The board shall request data it determines necessary to carry out the purpose of this chapter. [PL 2005, c. 620, §7 (AMD).]

C. [PL 2005, c. 620, §7 (RP).]

[PL 2005, c. 620, §7 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

2-A. Water residue surveys. The board shall conduct a water residue survey at least once every 6 years to establish a representative sample of a number of wells or bodies of water, selected at random, in areas of possible contamination or at other locations to be described by the board, for the purpose of testing these waters and preparing a profile of the kinds and amounts of pesticides present.

[PL 2005, c. 620, §7 (NEW).]

3. Effect of review on reregistration. If the reviews in this section demonstrate that the impact of the pesticide on the ecosystem warrants additional health or environmental safeguards, the board shall require implementation of those safeguards prior to reregistration. The board may not refuse to renew a pesticides registration based solely on its inability to conduct a review in accordance with this section.

[PL 2005, c. 620, §7 (AMD).]

SECTION HISTORY

PL 1983, c. 558, §3 (NEW). PL 1989, c. 878, §E6 (AMD). RR 1997, c. 2, §26 (COR). PL 2003, c. 689, §B6 (REV). PL 2005, c. 620, §7 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

§608. Experimental use permits

(REPEALED)

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§56-58 (AMD). PL 1989, c. 878, §E7 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2005, c. 620, §8 (RP).

§609. Refusal to register; cancellation; suspension; legal recourse

1. Procedure. The following provisions govern the board when refusing to register a pesticide, refusing to renew a pesticide registration, canceling a pesticide registration or suspending a pesticide registration.

A. If it does not appear to the board that a pesticide warrants the proposed claims for it or if the pesticide and its labeling and other material required to be submitted do not comply with the provisions of this subchapter or rules adopted under this subchapter, the board shall notify the applicant of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of this subchapter so as to afford the applicant an opportunity to make the necessary corrections. [RR 2005, c. 2, §7 (COR).]

B. When the board determines that a pesticide or its labeling does not comply with the provisions of this subchapter or rules adopted under this subchapter, the board may cancel or refuse to renew the registration of a pesticide or change its classification, after notice and opportunity for hearing has been provided in a manner consistent with the Maine Administrative Procedure Act. [PL 2005, c. 620, §9 (AMD).]

C. When the board determines that there is an imminent hazard, it may, on its own motion, suspend the registration of a pesticide in accordance with Title 5, section 10004. [PL 2005, c. 620, §9 (AMD).]

D. When the board becomes cognizant of any possible hazard or violation involving a registered product, it shall cause notice of the possible hazard or violation to be delivered by registered mail, return receipt requested, to the registrant and may cancel or refuse to renew the registration of the pesticide or change its classification after notice and opportunity for hearing has been provided in a manner consistent with the Maine Administrative Procedure Act. [PL 2005, c. 620, §9 (AMD).]

E. [PL 2005, c. 620, §9 (RP).]

[RR 2005, c. 2, §7 (COR).]

2. Federally registered pesticides. If the board determines that any federally registered pesticide, with respect to the use of such pesticide within this State, does not warrant the claims for it, or might cause unreasonable adverse effects on the environment, the board may refuse to register the pesticide as required in section 607 or, if the pesticide is registered under section 607, may cancel or suspend the registration in accordance with subsection 1. If the board believes the pesticide does not comply with the provisions of FIFRA or the regulations adopted by EPA pursuant to FIFRA, it shall advise EPA of the manner in which the pesticide, labeling or other material required to be submitted fails to comply with the provisions of FIFRA and suggest necessary corrections.

[PL 2005, c. 620, §9 (AMD).]

3. Person adversely affected by board action. Any person adversely affected by a final action of the board under this section may obtain judicial review thereof by filing in the District Court, within 60 days after the entry of that final action, a petition praying that the action be set aside in whole or in part. A copy of the petition must be forthwith transmitted by the clerk of the court to the board and upon receipt the board shall file in the court the record of the proceedings on which it based its final action. The court has

jurisdiction to affirm or set aside the final action complained of in whole or in part. The findings of the board with respect to questions of fact must be sustained if supported by substantial evidence when considered on the record as a whole. Upon application, the court may remand the matter to the board to take further testimony if there are reasonable grounds for the failure to adduce the evidence in the prior hearing. The board may modify its findings and final action by reason of the additional evidence and shall file the additional record and any modification of the findings or final action with the clerk of the court.

[PL 2005, c. 620, §9 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§59-61 (AMD). PL 1989, c. 878, §E8 (AMD). RR 2005, c. 2, §7 (COR). PL 2005, c. 620, §9 (AMD).

§610. Determinations; rules; restricted use pesticides; uniformity

1. Determinations. The board may by rule:

A. Declare as a pest any form of plant or animal life, except viruses, bacteria or other microorganisms on or in living human beings or other living animals, that is injurious to health or the environment; [RR 2005, c. 2, §8 (COR).]

B. Determine whether pesticides registered under the authority of FIFRA, Section 24(c) are highly toxic to human beings. [PL 2005, c. 620, §10 (AMD).]

C. Determine whether pesticides or quantities of substances contained in pesticides are injurious to the environment. The board must be guided by EPA regulations in this determination; and [PL 2005, c. 620, §10 (AMD).]

D. Require any pesticide to be colored or discolored if it determines that such a requirement is feasible and is necessary for the protection of health and the environment. [PL 2005, c. 620, §10 (AMD).]

[RR 2005, c. 2, §8 (COR).]

2. Rule-making powers. The board may adopt other rules that it determines necessary to carry out the provisions of this subchapter. The board's rule-making authority includes, but is not limited to, rules:

A. Providing for the collection, examination and reporting of samples of pesticides or devices; [PL 2005, c. 620, §10 (AMD).]

B. Providing for the safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers; [PL 2005, c. 620, §10 (AMD).]

C. Establishing requirements of all pesticides required to be registered under provisions of this subchapter, provided that such rules do not impose any requirements for federally registered labels in addition to or different from those required pursuant to FIFRA; [PL 2005, c. 620, §10 (AMD).]

D. Specifying classes of devices that are subject to the provisions of section 605, subsection 1; [PL 2005, c. 620, §10 (AMD).]

E. Governing pesticide application, including, but not limited to, rules:

(1) Designed to minimize pesticide drift to the maximum extent practicable under currently available technology;

(2) Prescribing procedures to be used for the application of pesticides, including the time, place, manner and method of that application;

(3) Restricting or prohibiting the use of pesticides in designated areas or during specified periods of time; and

(4) Prescribing tolerance levels for pesticide residues in off-target areas; [PL 2005, c. 620, §10 (NEW).]

F. Prescribing the submission of information necessary for the board to undertake its responsibilities under this subchapter; [PL 2005, c. 620, §10 (NEW).]

G. Prescribing requirements as necessary to carry out the provisions of section 607; [PL 2005, c. 620, §10 (NEW).]

H. Governing the registration and the cancellation and suspension of registration of pesticides pursuant to section 609; and [PL 2005, c. 620, §10 (NEW).]

I. For the purpose of achieving uniformity of requirements between the states and the Federal Government, provided the rules are in conformity with the primary pesticide standards, particularly as to labeling, registration requirements and criteria for classifying pesticides for restricted use, as established by EPA or other federal or state agencies. [PL 2005, c. 620, §10 (NEW).]

[PL 2005, c. 620, §10 (AMD).]

3. Uniformity of requirements; restricted uses.

[PL 2005, c. 620, §10 (RP).]

4. Designation of rules. Rules adopted under this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless otherwise specified or designated in accordance with subsection 5.

[PL 2005, c. 620, §10 (NEW).]

5. Review of regulatory agenda; designation as major substantive rules. Notwithstanding Title 5, section 8060, subsection 2, the due date for the submission of a regulatory agenda by the board under section 8060 is January 15th. The board shall annually submit a regulatory agenda complying with Title 5, section 8060, subsection 1 to the joint standing committee of the Legislature having jurisdiction over pesticides regulation. The legislative committee of jurisdiction shall complete its review of the board's regulatory agenda no later than February 15th of each year. The committee may report out legislation no later than February 20th to designate any rule on the board's regulatory agenda as a major substantive rule subject to legislative review under Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 620, §10 (NEW).]

6. Major substantive rules. Rules proposed for adoption by the board after July 1, 2007 that pertain to topics specified in paragraphs A to E are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on July 1, 2007 that pertain to topics specified in paragraphs A to E continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Rules proposed for adoption by the board after March 1, 2008 that pertain to topics specified in paragraphs F and G are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on March 1, 2008 that pertain to topics specified in paragraph G continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Topics governed by this subsection are:

A. Drift from outside spraying; [PL 2007, c. 145, §1 (NEW).]

B. Notification requirements for outside spraying; [PL 2007, c. 145, §1 (NEW).]

C. Pesticides applications in occupied buildings; [PL 2007, c. 145, §1 (NEW).]

D. A notification registry for indoor applications of pesticides; [PL 2007, c. 484, §2 (AMD).]

E. Buffers from shorelines for broadcast applications of pesticides; [PL 2007, c. 484, §2 (AMD).]

F. Use of organophosphate pesticides adjacent to occupied areas; and [PL 2007, c. 484, §2 (NEW).]

G. Distribution and use of plant-incorporated protectants. [PL 2007, c. 484, §2 (NEW).]

[PL 2007, c. 484, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§62,63 (AMD). PL 1989, c. 878, §E9 (AMD). RR 2005, c. 2, §8 (COR). PL 2005, c. 620, §10 (AMD). PL 2007, c. 145, §1 (AMD). PL 2007, c. 484, §2 (AMD).

§611. Enforcement

1. Board powers. Notwithstanding any other provision of law, the sampling and examination of pesticides or devices for the purpose of determining whether they comply with the requirements of this subchapter must be done under the direction of the board. The board may, upon presentation of proper identification, enter any distributor's premises, including any vehicle of transport, at all reasonable times in order to have access to labeled pesticides or devices packaged for distribution, may open any case, package or other container and may, upon tendering the market price, take samples for analysis. If it appears from such an examination that a pesticide or device fails to comply with the provisions of this subchapter or rules adopted under this subchapter, and the board contemplates instituting criminal proceedings against any person, the board shall cause appropriate notice to be given to that person in a manner consistent with the Maine Administrative Procedure Act. The board shall provide any person so notified an opportunity for a hearing in a manner consistent with the Maine Administrative Procedure Act's provisions governing adjudicatory proceedings. If in the opinion of the board it appears that the provisions of this subchapter or rules adopted under this subchapter have been violated by that person, the board shall refer a copy of the results of the analysis or the examination of such pesticide or device to the attorney for the district in which the violation occurred.

[RR 2005, c. 2, §9 (COR).]

2. Minor violations. Nothing in this subchapter may be construed as requiring the board to report minor violations of this subchapter for prosecution or for the institution of condemnation proceedings when the board believes that the public interest will be served best by a suitable notice of warning in writing.

[PL 2005, c. 620, §11 (AMD).]

3. Repeated violations. The board shall record all violations of this subchapter and Title 22, chapter 258-A, including the name of the owner of the land on which the pesticides were intended to be applied, the name of the licensed pesticides applicator and the name of the person who contracted the pesticide application services. The board shall identify persons who repeatedly violate provisions relating to pesticide use and recommend to the Attorney General methods to prevent further violations by those persons.

[PL 2005, c. 620, §11 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §64 (AMD). PL 1983, c. 558, §4 (AMD). PL 1989, c. 878, §E10 (AMD). RR 2005, c. 2, §9 (COR). PL 2005, c. 620, §11 (AMD).

§612. "Stop sale, use or removal" order

When the board has reasonable cause to believe a pesticide or device is being distributed, stored, transported or used in violation of any of the provisions of this subchapter or of any of the rules adopted pursuant to this subchapter, it may issue and serve a written "stop sale, use or removal" order upon the owner or custodian of that pesticide or device. If the owner or custodian is not available for service of the order, the board may attach the order to the pesticide or device and notify the owner or custodian and the registrant. The pesticide or device may not be sold, used or removed until the provisions of this subchapter have been complied with and the pesticide or device has been released in writing under conditions specified by the board or the violation has been otherwise disposed of as provided in this subchapter by a court of competent jurisdiction. The issuance of such an order is not a licensing or an

adjudicatory proceeding as defined by the Maine Administrative Procedure Act. [PL 2005, c. 620, §12 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §65 (AMD). PL 1989, c. 878, §E11 (AMD). PL 2005, c. 620, §12 (AMD).

§613. Judicial action after "stop sale, use or removal" order

The following provisions govern judicial actions concerning a "stop sale, use or removal" order by the board. [PL 2005, c. 620, §13 (NEW).]

1. Filing action; adjudication. After service of a "stop sale, use or removal" order is made upon any person, either that person, the registrant or the board may file an action in a court of competent jurisdiction in the district in which the violation is alleged to have occurred for an adjudication of the alleged violation. The court may issue temporary or permanent injunctions, mandatory or restraining, and any intermediate orders it determines necessary or advisable. The court may order condemnation of any pesticide or device that does not meet the requirements of this subchapter or rules adopted under this subchapter.

[PL 2005, c. 620, §13 (AMD).]

2. Disposition of condemned pesticide; costs and fees. If the court orders that a pesticide or device is condemned, the court shall direct that the pesticide or device be disposed of by destruction or sale. If the pesticide or device is directed to be sold, the proceeds less costs, including legal costs, must be paid to the Treasurer of State as provided in section 621. A pesticide or device may not be sold contrary to the provisions of this subchapter or rules adopted under this subchapter. When a decree of condemnation is entered against a pesticide or device, the court shall charge court costs, fees, storage and other proper expenses against the person, if any, appearing as claimant of the pesticide. The court may direct that the pesticide or device be delivered to the owner, upon payment of costs and execution and delivery of a good and sufficient bond conditioned on the pesticide or device not being disposed of unlawfully, for relabeling, reprocessing or otherwise bringing the product into compliance.

[PL 2005, c. 620, §13 (AMD).]

3. Award of court costs and fees.

[PL 2005, c. 620, §13 (RP).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E12 (AMD). PL 2005, c. 620, §13 (AMD).

§614. Denial, suspension, revocation of license

(REPEALED)

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §66 (AMD). PL 1989, c. 878, §E13 (AMD). PL 1999, c. 547, §B78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2005, c. 620, §14 (RP).

§615. Subpoenas

The board may issue subpoenas to compel the attendance of witnesses and the production of books, documents and records in the State in any hearing affecting the authority or privilege granted by a license, registration or permit issued under the provisions of this subchapter. [PL 1989, c. 878, Pt. E, §14 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E14 (AMD).

§616. Penalties

(REPEALED)

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 696, §65 (AMD). PL 1989, c. 841, §2 (RP). PL 1989, c. 878, §E15 (AMD). PL 2005, c. 620, §15 (RP).

§616-A. Penalties

1. Informal hearing. When the staff of the board proposes that the board take action on a possible violation, the board shall notify the alleged violator before discussing the alleged violation. The alleged violator may choose to address the board and may also choose to be represented by legal counsel. This requirement does not constitute and is not subject to the same procedures as an adjudicatory hearing under the Maine Administrative Procedure Act.

[PL 2005, c. 620, §16 (AMD).]

2. Civil violations. The following violations are civil violations.

A. A person may not violate this subchapter or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A or a rule adopted pursuant to Title 22, chapter 258-A. Except as provided in paragraph B, the following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than \$1,500 may be adjudged.

(2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than \$4,000 may be adjudged. [PL 2003, c. 452, Pt. B, §6 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A private applicator, as defined in Title 22, section 1471-C, may not violate a rule regarding records maintained pursuant to section 606, subsection 2, paragraph G. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than \$500 may be adjudged.

(2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than \$1,000 may be adjudged. [PL 2011, c. 510, §1 (AMD).]

[PL 2011, c. 510, §1 (AMD).]

2-A. Criminal violation. A person may not intentionally or knowingly violate this subchapter or Title 22, chapter 258-A, a rule adopted under this subchapter or Title 22, chapter 258-A or a restriction of a registration issued pursuant to this subchapter. A person who violates this subsection commits a Class E crime. Notwithstanding Title 17-A, section 1604, subsection 1 and sections 1704 and 1705, the court may impose a sentencing alternative of a fine of not more than \$7,500 or a term of imprisonment of not more than 30 days, or both, for each violation. Prosecution under this subsection is by summons and not by warrant. A prosecution under this subsection is separate from an action brought pursuant to subsection 2.

[PL 2019, c. 113, Pt. C, §1 (AMD).]

3. Continuation. Each day that the violation continues is considered a separate offense.

[PL 1989, c. 841, §3 (NEW).]

4. Exceptions.

[PL 2003, c. 452, Pt. B, §8 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

5. Criminal violations.

[PL 2003, c. 452, Pt. B, §8 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

6. Other relief. Notwithstanding Title 22, section 1471-D, subsections 6 to 8 and in addition to other sanctions provided under this section, the court may order that a violator obtain recertification credits through board-approved meetings or courses as a condition of retaining, maintaining or renewing a certification or license required under Title 22, chapter 258-A.

[PL 1989, c. 841, §3 (NEW).]

7. Considerations. In setting a penalty under this section, the court shall consider, without limitation:

A. Prior violations by the same party; [PL 1989, c. 841, §3 (NEW).]

B. The degree of harm to the public and the environment; [PL 1989, c. 841, §3 (NEW).]

C. The degree of environmental damage that has not been abated or corrected; [PL 1989, c. 841, §3 (NEW).]

D. The extent to which the violation continued following the board's notice to the violator; [PL 1989, c. 841, §3 (NEW).]

E. The importance of deterring the same person or others from future violations; and [PL 1989, c. 841, §3 (NEW).]

F. The cause and circumstances of the violation, including:

(1) The foreseeability of the violation;

(2) The standard of care exercised by the violator; and

(3) Whether or not the violator reported the incident to the board. [PL 1989, c. 841, §3 (NEW).]

[PL 1989, c. 841, §3 (NEW).]

8. Injunction. The board may bring an action to enjoin the violation or threatened violation of any provision of this subchapter or any rule made pursuant to this subchapter in a court of competent jurisdiction of the district in which the violation occurs or is about to occur.

[PL 1989, c. 841, §3 (NEW).]

9. No damages from administrative action if probable cause exists. A court may not allow the recovery of damages from administrative action taken, or for a stop sale, use or removal order, if the court finds that there was probable cause for the administrative action.

[PL 1989, c. 841, §3 (NEW).]

10. Sunset.

[PL 1991, c. 829, §1 (RP).]

SECTION HISTORY

PL 1989, c. 841, §3 (NEW). PL 1991, c. 829, §1 (AMD). PL 2003, c. 452, §§B6-8 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 620, §16 (AMD). PL 2011, c. 510, §1 (AMD). PL 2019, c. 113, Pt. C, §1 (AMD).

§617. Exemptions

1. Exemptions from penalties. The penalties provided for violations of section 606, subsection 1, paragraphs A, B, C, D and E do not apply to:

A. Any carrier while lawfully engaged in transporting a pesticide within this State if the carrier, upon request, permits the board to copy all records showing the transactions in and movement of the pesticides or devices; [PL 2005, c. 620, §17 (AMD).]

B. Public officials of this State and the Federal Government while engaged in the performance of their official duties in administering state or federal pesticide laws or regulations; [PL 1975, c. 382, §3 (NEW).]

C. The manufacturer, shipper or other distributor of a pesticide for experimental use only, provided that person holds or is covered by a valid experimental use permit issued by EPA, and provided further that the permit covers the conduct in question; or [PL 2005, c. 620, §17 (AMD).]

D. Any person who ships a substance or mixture of substances being put through tests the purpose of which is only to determine the value of the substance or mixture for pesticide purposes or to determine its toxicity or other properties and from the use of which the user does not expect to receive any benefit in pest control. [PL 2005, c. 620, §17 (AMD).]

[PL 2005, c. 620, §17 (AMD).]

2. Exemption from this subchapter; pesticides for export. A pesticide or device may not be found to be in violation of this subchapter if the pesticide or device is intended solely for export to a foreign country and is prepared or packed according to the specifications or directions of the purchaser. If the pesticide or device is not so exported, all the provisions of this subchapter apply.

[PL 2005, c. 620, §17 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E16 (AMD). PL 2005, c. 620, §17 (AMD).

§618. Publication of information

The board may publish, at least annually and in such form as it determines proper, results of analyses based on official samples as compared with the guaranteed analyses and information concerning the distribution of pesticides. The board may not publish individual distribution information, and that information is not a public record under Title 1, section 402. [PL 2005, c. 620, §18 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E17 (AMD). PL 2005, c. 620, §18 (AMD).

§619. Delegation of duties

All authority vested in the board under this subchapter may, with like force and effort, be executed by employees of the board to whom the board from time to time delegates such authority. [PL 2005, c. 620, §19 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E18 (AMD). PL 2005, c. 620, §19 (AMD).

§620. Cooperation

The board may cooperate with, receive grants-in-aid from and enter into cooperative agreements with any agency of the Federal Government or of this State or its subdivisions, or with any agency of another state, in order to implement this subchapter, including but not limited to taking such actions to: [PL 2005, c. 620, §20 (AMD).]

1. Uniformity. Secure uniformity of regulations;

[PL 1975, c. 382, §3 (NEW).]

2. Cooperative agreements with EPA. Prepare and submit state plans and enter into cooperative agreements with EPA to register pesticides under the authority of this subchapter and FIFRA;

[PL 1975, c. 382, §3 (NEW).]

3. Use of state and federal facilities. Cooperate in the enforcement of the federal pesticide control laws through the use of state or federal personnel, or both, and facilities and to implement cooperative enforcement programs including, but not limited to, the registration and inspection of establishments;

[PL 1975, c. 382, §3 (NEW).]

4. Contracts for monitoring pesticides. Enter into contracts for monitoring pesticides for the national plan; and

[PL 1975, c. 382, §3 (NEW).]

5. Preparation of state plans. Prepare and submit state plans to meet federal certification standards for issuing experimental use permits.

[PL 1975, c. 382, §3 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1989, c. 878, §E19 (AMD). PL 2005, c. 620, §20 (AMD).

§621. Disposition of funds

All money received by the board under this subchapter must be deposited in the State Treasury to the credit of a special fund to be used for carrying out the provisions of this subchapter and Title 22, chapter 258-A, Board of Pesticides Control, and for such other expenses related to insect and pest management as provided by law. Positions that are allocated to the fund but that do not perform functions specifically assigned to the board in this subchapter and Title 22, chapter 258-A remain under supervision and management of the Department of Agriculture, Conservation and Forestry. [PL 2005, c. 620, §21 (AMD); PL 2011, c. 657, Pt. W, §5 (REV).]

The State Controller is authorized to advance up to \$500,000 from the Board of Pesticides Control account to the Animal Welfare Fund during any state fiscal year if requested in writing by the commissioner. The funds must be used to meet expenditures of the animal welfare program within the department. The funds must be returned to the account before the close of the state fiscal year in which the advance was made. [PL 2007, c. 702, §1 (NEW).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1979, c. 644, §§2,8 (AMD). PL 1989, c. 878, §E20 (AMD). PL 1993, c. 410, §S2 (AMD). PL 2005, c. 620, §21 (AMD). PL 2007, c. 702, §1 (AMD). PL 2011, c. 657, Pt. W, §5 (REV).

§622. Separability

(REPEALED)

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 2005, c. 620, §22 (RP).

§623. Prior liability

The enactment of this subchapter does not have the effect of terminating or in any way modifying any liability, civil or criminal, in existence on October 1, 1975. [PL 2005, c. 620, §23 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 78, §25 (AMD). PL 2005, c. 620, §23 (AMD).

§624. Repealers

Jurisdiction in all matters pertaining to the registration, distribution and disposal of pesticides and devices is by this subchapter vested exclusively in the board. [PL 1989, c. 878, Pt. E, §21 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1975, c. 623, §§5-A (AMD). PL 1989, c. 878, §E21 (AMD).

§625. Right-of-way spraying; no-spray agreements

Any public utility, or the Department of Transportation, that maintains a right-of-way through a municipality shall offer a no-spray agreement, with reasonable provisions, for the municipality to consider

if it desires. Any agreement negotiated may include, but is not limited to, the responsibilities of the parties, the allocation of costs and the rights and remedies of the parties in the event of default and may apply to all or any part of the right-of-way within the municipality. Any agreement reached under this section must be negotiated in good faith, written and signed by all parties. As part of the no-spray agreement, the municipality may either perform the vegetation control work to standards as provided in the agreement or contract with the public utility or the Department of Transportation to conduct the work. [PL 2005, c. 620, §24 (AMD).]

If a reasonable no-spray agreement is offered to a municipality and an agreement is not reached within 90 days after the date of the offer, the public utility or the Department of Transportation at its own option may apply pesticides in its right-of-way or use other methods to control the vegetation. If the municipality agrees to perform vegetation control work but does not perform it by the agreed-upon date, the public utility or the Department of Transportation, after 90 days' written notice to the municipality, at its own option may apply pesticides in its right-of-way or use other methods to control the vegetation. [PL 2005, c. 620, §24 (AMD).]

It is the intent of the Legislature that this section make available to municipalities an alternative to right-of-way maintenance procedures that use pesticides. This section does not affect municipal authority to enact ordinances nor the authority of public utilities or the Department of Transportation to maintain its right-of-way clear of unwanted vegetation in the absence of an agreement. [PL 2005, c. 620, §24 (AMD).]

SECTION HISTORY

PL 1987, c. 702, §1 (NEW). PL 2005, c. 620, §24 (AMD).

CHAPTER 258-A

BOARD OF PESTICIDES CONTROL

§1471-A. Purpose and policy

For the purpose of assuring to the public the benefits to be derived from the safe, scientific and proper use of chemical pesticides while safeguarding the public health, safety and welfare, and for the further purpose of protecting natural resources of the State, it is declared to be the policy of the State of Maine to regulate the sale and application of chemical insecticides, fungicides, herbicides and other chemical pesticides. [PL 2011, c. 510, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1983, c. 542, §§1,3 (AMD). PL 2011, c. 510, §2 (AMD).

§1471-B. Board of Pesticides Control

1. Board established. The Board of Pesticides Control is established by Title 5, section 12004-D, subsection 3, within the Department of Agriculture, Conservation and Forestry. Except as provided in this chapter, the board must be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Senate. To provide the knowledge and experience necessary for carrying out the duties of the board, the board must consist of the following members: one person with practical experience and knowledge regarding the agricultural use of chemicals; one person who has practical experience and knowledge regarding the use of chemicals in forest management; one person from the medical community; a scientist from the University of Maine System specializing in agronomy, entomology or plant pathology having practical experience and expertise in integrated pest management; one commercial applicator; and 2 persons appointed to represent the public. The 2 members appointed to represent the public must have a demonstrated interest in environmental protection. A member appointed to represent the public may not have a financial interest in activities regulated by the board and may not be an individual who has been or is licensed, certified or given a permit in this State or any other state for activities regulated by the board. The term must be for 4 years, except that of the initial appointees, 2 serve 4-year terms, 2 serve 3-year terms, 2 serve 2-year terms and one serves a one-year term. Any vacancy must be filled by an appointment for the remainder of the unexpired term. [PL 2021, c. 179, §1 (AMD).]

2. Organization of the board. The board shall elect a chair and any other officers it determines necessary from among the membership. The board shall meet at the call of the chair or at the request of any 3 members. Four members constitute a quorum and, except as otherwise provided in this subsection, any action requires the affirmative vote of the greater of either a majority of those present and voting or at least 2 members. Any action by the board requesting that the Attorney General pursue a court action against an alleged violator of any law or rule requires an affirmative vote by 3 members or a majority of those present and voting, whichever is greater. The chair and any other officers shall serve in those capacities for a period of one year following their elections.

[PL 1989, c. 841, §4 (AMD).]

3. Compensation of the board. Each public member shall be compensated according to the provisions of Title 5, chapter 379.

[PL 1983, c. 812, §120 (RPR).]

4. Director. The commissioner shall appoint a director, with the approval of the board. The director shall be the principal administrative, operational and executive employee of the board. The director shall attend and participate in all meetings of the board, but may not vote. The director, with the approval of the commissioner and the board, may hire whatever competent professional personnel and other staff he deems necessary. All employees of the board shall be subject to Title 5, Part 2. The director may obtain office space, goods and services as required.

[PL 1979, c. 644, §3 (NEW).]

5. Staff. The board must establish standards for the delegation of its authority to the director and staff. Any person aggrieved by a decision of the director and staff has a right to a review of the decision by the board. The Commissioner of Agriculture, Conservation and Forestry shall provide the board with administrative services of the department, including assistance in the preparation of the board's budget. The commissioner may require the board to reimburse the department for these services.

[PL 1989, c. 841, §5 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

6. Registration of pesticides.

[PL 1981, c. 112, §1 (RP).]

7. State contracts. Notwithstanding any other provisions of law, members of the board are eligible to contract with the State when the contracts are awarded in accordance with normal bidding procedures of the Department of Administrative and Financial Services. Members also are eligible to receive grants when grants are awarded in accordance with normal state procedures. A member may not vote on the award of a contract or grant for which that member has submitted a bid or proposal.

[PL 2007, c. 466, Pt. A, §40 (RPR).]

8. Meetings. The board shall periodically meet in various geographic regions of the State. When considering an enforcement action, the board shall attempt to meet in the geographic region where the alleged violation occurred.

[PL 1989, c. 841, §6 (NEW).]

SECTION HISTORY

PL 1975, c. 293, §4 (AMD). PL 1975, c. 397, §2 (NEW). PL 1977, c. 696, §181 (AMD). PL 1979, c. 644, §3 (RPR). PL 1979, c. 731, §19 (AMD). PL 1981, c. 112, §1 (AMD). PL 1981, c. 470, §A66 (AMD). PL 1981, c. 632, §§1,2 (AMD). PL 1983, c. 309 (AMD). PL 1983, c. 812, §§119,120 (AMD). PL 1985, c. 779, §60 (AMD). PL 1985, c. 785, §A95 (AMD). PL 1987, c. 702, §2 (AMD). PL 1989, c. 503, §B83 (AMD). PL 1989, c. 841, §§4-6 (AMD). PL 1991, c. 376, §45 (AMD). PL 2007, c. 466, Pt. A, §40 (AMD). PL 2007, c. 466, Pt. B, §17 (AMD). PL 2011, c. 119, §1 (AMD). PL 2011, c. 119, §2 (AFF). PL 2011, c. 657, Pt. W, §§5, 6 (REV). PL 2019, c. 192, §1 (AMD). PL 2021, c. 179, §1 (AMD).

§1471-C. Definitions

As used in this chapter, the following words have the following meanings. [PL 1983, c. 819, Pt. A, §40 (NEW).]

1. Agricultural commodity. "Agricultural commodity" means any plant, or part thereof, or animal or animal product produced by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons, primarily for sale, consumption, propagation or other use by humans or animals.

[PL 1975, c. 397, §2 (NEW).]

2. Aircraft. "Aircraft" means any machine or device used or designed for navigation of, or flight in, the air.

[PL 1975, c. 397, §2 (NEW).]

3. Board. "Board" means the Board of Pesticides Control as established in section 1471-B.

[RR 2019, c. 1, Pt. A, §20 (COR).]

4. Certified applicator. "Certified applicator" means any person who is certified pursuant to section 1471-D and authorized to use or supervise the use of any pesticides.

[PL 1975, c. 644, §1 (AMD).]

5. Commercial applicator. "Commercial applicator" means any person, whether or not the person is a private applicator with respect to some uses, who uses or supervises the use of any limited or restricted-use pesticides on any property other than as provided by subsection 22, or who uses general-use pesticides in custom application on such property. "Commercial applicator" also includes individuals who apply any pesticides in connection with their duties as officials or employees of federal, state or local governments.

[PL 2015, c. 58, §2 (AMD).]

5-A. Custom application. "Custom application" means an application of a pesticide:

A. Under contract or for which compensation is received; [PL 2007, c. 245, §2 (NEW).]

B. To a property open to use by the public; or [PL 2007, c. 245, §2 (NEW).]

C. In a food establishment licensed under chapter 551 or an eating establishment licensed under chapter 562, except that "custom application" does not include a pesticides application at a licensed food or eating establishment when:

(1) The establishment is ancillary to the production of an agricultural commodity;

(2) The owner or an employee of that establishment is certified as a private applicator under section 1471-D, subsection 2; and

(3) The property is not open to the public. [PL 2007, c. 245, §2 (NEW).]

[PL 2007, c. 245, §2 (AMD).]

6. Defoliant. The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

[PL 1975, c. 397, §2 (NEW).]

7. Desiccant. The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

[PL 1975, c. 397, §2 (NEW).]

8. Distribute. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this State.

[PL 1975, c. 397, §2 (NEW).]

9. FIFRA. "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq., PL 92-516.

[PL 1975, c. 397, §2 (NEW).]

10. Fungi. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants, of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews and molds, except those on or in living man or other animals or those on or in processed food, beverages or pharmaceuticals.

[PL 1975, c. 397, §2 (NEW).]

11. Fungicide. "Fungicide" means any substance or mixture of substances intended for destroying or repelling any fungi or mitigating or preventing damage by any fungi.

[PL 1975, c. 397, §2 (NEW).]

11-A. Government pesticide supervisor.

[PL 2015, c. 58, §3 (RP).]

11-B. General use pesticide. "General use pesticide" means any pesticide that is required to be registered by the board pursuant to Title 7, chapter 103, subchapter 2-A and that is not a restricted use or limited use pesticide, as defined in this section. Pesticides restricted or limited by the board are listed by the board.

[PL 2017, c. 59, §1 (AMD).]

11-C. General use pesticide dealer. "General use pesticide dealer" means any person who distributes general use pesticides.

[PL 1987, c. 723, §2 (NEW).]

12. Ground equipment. "Ground equipment" means any machine or device, other than aircraft, for use on land or water, designed for, or adaptable to, use in applying pesticides as sprays, dusts, aerosols, fogs, or in other forms.

[PL 1975, c. 397, §2 (NEW).]

13. Herbicides. "Herbicides" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

[PL 1975, c. 397, §2 (NEW).]

13-A. Household use pesticide product. "Household use pesticide product" means any general use pesticide product that contains no more than 3% active ingredients and that is applied undiluted by homeowners to control pests in and around the family dwelling and associated structures. For the purposes of this definition and section 1471-W, subsection 5, petroleum solvents are not considered active ingredients.

[PL 2017, c. 475, Pt. A, §28 (AMD).]

14. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees, flies and other allied classes of arthropods whose members are wingless and usually have more than 6 legs, including but not limited to mites, ticks, centipedes and wood lice.

[PL 1975, c. 397, §2 (NEW).]

15. Insecticide. "Insecticide" means any substance or mixture of substances intended for destroying or repelling any insect, or mitigating or preventing damage by any insects.

[PL 1975, c. 397, §2 (NEW).]

16. Limited use pesticide. "Limited use pesticide" means any pesticide or pesticide use classified for limited use by the board.

[PL 1975, c. 397, §2 (NEW).]

16-A. Major forest insect aerial spray application. "Major forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing at least 1,000 acres in the aggregate.

[PL 1983, c. 819, Pt. A, §41 (NEW).]

16-B. Minor forest insect aerial spray application. "Minor forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing less than 1,000 acres in the aggregate.

[PL 1983, c. 819, Pt. A, §41 (NEW).]

16-C. Monitor.

[PL 2015, c. 58, §4 (RP).]

17. Person. "Person" means any individual, partnership, association, fiduciary, corporation, governmental entity or any organized group of persons whether incorporated or not.

[PL 1975, c. 397, §2 (NEW).]

18. Pest. The term "pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism, except viruses, bacteria or other micro-organisms on or in living man or other living animals, which the commissioner declares to be a pest.

[PL 1975, c. 397, §2 (NEW).]

19. Pesticide. The term "pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

[PL 1975, c. 397, §2 (NEW).]

20. Pesticide dealer. "Pesticide dealer" means any person who distributes limited or restricted use pesticides.

[PL 1975, c. 397, §2 (NEW).]

21. Plant regulator. The term "plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and as are not for pest destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

[PL 1975, c. 397, §2 (NEW).]

22. Private applicator. "Private applicator" means any person who uses or supervises the use of any pesticide which is classified for restricted or limited use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

[PL 1975, c. 644, §3 (AMD).]

22-A. Private applicator of general use pesticides. "Private applicator of general use pesticides" means a person who uses or supervises the use of general use pesticides for purposes of producing agricultural commodities on property owned or rented by that person or that person's employer when:

A. The agricultural commodities produced are plants or plant products intended for human consumption as food; and [PL 2011, c. 169, §1 (NEW).]

B. The person applying the pesticides or the employer of the person applying the pesticides derives \$1,000 or more in annual income from the sale of those commodities. [PL 2011, c. 169, §1 (NEW).]

[PL 2011, c. 169, §1 (NEW).]

23. Restricted use pesticide. "Restricted use pesticide" means any pesticide or pesticide use classified for use only by or under the direct supervision of a certified applicator by the Administrator of the United States Environmental Protection Agency or by the Commissioner of Agriculture, Conservation and Forestry.

[PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

23-A. Spotter.

[PL 2015, c. 58, §4 (RP).]

23-B. Spray contracting firm. "Spray contracting firm" means a person, as defined in this section, employed or contracted to conduct a public or private pesticide application. This term does not include the owner or lessee of land to be sprayed, employees of that landowner or lessee, the Bureau of Forestry, the employees of the Bureau of Forestry or individuals who are certified as commercial applicators.

[PL 1985, c. 122, §1 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

23-C. Spray period.

[PL 2015, c. 58, §4 (RP).]

24. Under the direct supervision of a certified applicator. "Under the direct supervision of a certified applicator," unless otherwise prescribed by its labeling, means the act or process by which a pesticide is applied by a competent person acting under the instructions and control of a certified applicator who is available, if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied. In the case of an application made by a commercial applicator, the certified applicator must be physically present at the time and on the site of the application.

[PL 1987, c. 243, §3 (AMD).]

25. Weed. "Weed" means any plant which grows where not wanted.

[PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1975, c. 644, §§1-3 (AMD). PL 1977, c. 20, §§1, 2 (AMD). PL 1979, c. 731, §19 (AMD). PL 1981, c. 374, §§1, 2 (AMD). PL 1983, c. 819, Pt. A, §§40, 41 (AMD). PL 1985, c. 122, §1 (AMD). PL 1987, c. 243, §§1-3 (AMD). PL 1987, c. 723, §§2, 3 (AMD). PL 2007, c. 245, §§1, 2 (AMD). PL 2011, c. 169, §1 (AMD). PL 2011, c. 657, Pt. W, §§6, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2015, c. 58, §§2-4 (AMD). PL 2017, c. 59, §1 (AMD). PL 2017, c. 475, Pt. A, §28 (AMD). RR 2019, c. 1, Pt. A, §20 (COR).

§1471-D. Certification and licenses

1. Certification required; commercial applicators and spray contracting firms. Certification is required for commercial applicators and spray contracting firms as follows.

A. No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator; and [PL 1983, c. 819, Pt. A, §42 (NEW).]

B. No spray contracting firm may use or supervise the use of any pesticide within the State without prior certification from the board. [PL 1985, c. 122, §2 (AMD).]

[PL 1985, c. 122, §2 (AMD).]

2. Certification required, private applicators. No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the board, provided, that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

[PL 1975, c. 397, §2 (NEW).]

2-A. Certification required; government pesticide supervisor.

[PL 2015, c. 58, §5 (RP).]

2-B. Certification required; spotters and monitors.

[PL 2015, c. 58, §6 (RP).]

2-C. Exemptions or reduced licensing requirements for certain commercial or custom applications. The board may by rule provide for exemptions from licensing requirements and for reduced licensing requirements for classes of commercial applicators of general-use pesticides applied by hand or nonpowered equipment if the board finds that applications by those classes do not pose a significant risk to health or the environment and the requirement of licensing does not serve a meaningful public purpose.

Notwithstanding Title 7, section 610, subsection 6, rules adopted pursuant to this section to provide exemptions from licensing or reduced licensing requirements are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 245, §3 (NEW).]

2-D. Certification required; private applicator of general use pesticides for food production. A private applicator of general use pesticides may not use or supervise the use of general use pesticides for food production without prior certification from the board, except that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator. Additional certification under this section is not required for a person certified as a commercial applicator or a private applicator under subsection 1 or 2, respectively.

[PL 2011, c. 169, §2 (NEW); PL 2011, c. 169, §6 (AFF).]

3. License required, pesticide dealers. No pesticide dealer shall:

A. Distribute any limited or restricted use pesticide without a distributor's license from the board; or [PL 1975, c. 397, §2 (NEW).]

B. Distribute limited or restricted use pesticides to any person who is not licensed or certified by the board. [PL 1975, c. 397, §2 (NEW).]

[PL 1975, c. 397, §2 (NEW).]

4. Application. Application for licenses or certification shall be accompanied by such a reasonable fee as the board may establish by regulation. The applicant shall provide such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by the board. Commercial applicators and spray contracting firms shall be required by the board to provide proof of financial responsibility in custom application as to such amounts as the board may, by regulation, designate; private applicators may also be required to provide such proof. All applicants to the board for certification or licensing shall be required to comply with such standards of competency as are established by the board concerning adequate knowledge of pesticide distribution or use and the related dangers and necessary precautions; provided that, in the case of applicants for commercial certification and pesticide dealers' licenses, such compliance shall be demonstrated by written examination in addition to such other criteria, including performance testing, as the board may establish.

[PL 1983, c. 819, Pt. A, §44 (AMD).]

5. Issuance. A license or certification may not be issued by the board unless the board determines that the standards for licensing and certification have been met as to those categories for which the applicant has applied and qualified. If a license or certification is not issued as applied for, the board shall provide written notice to the applicant of the reasons therefor. The license or certificate may be issued upon such terms and conditions as the board considers necessary for the protection of the public health, safety and welfare, and for enforcement and administration of this chapter and the rules adopted pursuant to this chapter.

[PL 2015, c. 58, §7 (AMD).]

6. Renewal. Licenses for commercial applicators, spray contracting firms, pesticide dealers and private applicators are valid for such period as prescribed by the board by rule. Application for renewal must be accompanied by such reasonable fee as the board may by rule require. The board

may, by rule, require that such renewal application include reexamination or other procedures designed to assure a continuing level of competence to distribute, use or supervise the use of pesticides safely and properly.

If the board fails to renew a license upon application of the licensee or certificate holder, it shall afford the licensee or certificate holder an opportunity for a hearing in conformity with Title 5, chapter 375, subchapter 4.

[PL 2015, c. 58, §8 (AMD).]

7. Suspension.

A. If the board determines that there may be grounds for revocation of a license or certificate, it may temporarily suspend said license or certificate pending inquiry and opportunity for hearing, provided that such suspension shall not extend for a period longer than 45 days. [PL 1975, c. 397, §2 (NEW).]

B. The board shall notify the licensee or certificate holder of the temporary suspension, indicating the basis therefor and informing the licensee or certificate holder of the right to request a public hearing. [PL 1983, c. 819, Pt. A, §47 (AMD).]

C. If the licensee or certificate holder fails to request a hearing within 20 days of the date of suspension, such right shall be deemed waived. If the licensee or certificate holder requests such a hearing, notice shall be given at least 20 days prior to the hearing to the licensee or certificate holder and to appropriate federal and state agencies. In addition, public notice shall be given by publication in a newspaper of general circulation in the State and such other publications as the board deems appropriate. [PL 1983, c. 819, Pt. A, §48 (AMD).]

D. This subsection is not governed by the provisions of Title 4, chapter 5 or Title 5, chapter 375. [PL 1999, c. 547, Pt. B, §39 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

[PL 1999, c. 547, Pt. B, §39 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

8. Revocation. The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

A. Is no longer qualified; [PL 1975, c. 397, §2 (NEW).]

B. Has engaged in fraudulent business practices in the application or distribution of pesticides; [PL 1975, c. 397, §2 (NEW).]

C. Used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [PL 1975, c. 397, §2 (NEW).]

D. Has stored, transported or otherwise distributed pesticides in a careless, faulty or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety or welfare; [PL 1975, c. 397, §2 (NEW).]

E. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [PL 1975, c. 397, §2 (NEW).]

F. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [PL 1975, c. 397, §2 (NEW).]

G. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [PL 1981, c. 470, Pt. A, §67 (AMD).]

H. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [PL 1981, c. 470, Pt. A, §67 (AMD).]

I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [PL 1977, c. 694, §341 (NEW).]

[PL 1983, c. 819, Pt. A, §49 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

9. State, federal and local government employees. Individuals who apply pesticides in connection with their duties as officials or employees of federal, state or local governments are subject to the provisions of this chapter concerning licenses and certification, but are exempt from the payment of any fee.

[PL 1975, c. 397, §2 (NEW).]

10. Nonresident licenses. The board may issue a license or certificate without examination to nonresidents who are licensed or certified by another state or the Federal Government substantially in accordance with the provisions of this chapter. Licenses or certificates issued pursuant to this subsection may be suspended or revoked in the same manner and on the same grounds as other licenses or certificates issued pursuant to this chapter. Licenses and certificates issued pursuant to this subsection may be suspended or revoked pursuant to subsection 8, paragraph I.

[PL 1977, c. 694, §342 (AMD).]

11. Arborists. In the case of persons licensed under Title 7, chapter 404, subchapter II, the board may waive the application fee and may consider the arborist license as prima facie evidence of qualification to use pesticides in the categories of use provided by Title 7, chapter 404.

[PL 1999, c. 84, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1977, c. 20, §3 (AMD). PL 1977, c. 694, §§338-342 (AMD). PL 1981, c. 374, §§3-7 (AMD). PL 1981, c. 470, §A67 (AMD). PL 1983, c. 819, §§A42-A49 (AMD). PL 1985, c. 122, §2 (AMD). PL 1997, c. 454, §8 (AMD). PL 1999, c. 84, §4 (AMD). PL 1999, c. 547, §§B39,78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 245, §3 (AMD). PL 2011, c. 169, §2 (AMD). PL 2011, c. 169, §6 (AFF). PL 2015, c. 58, §§5-8 (AMD).

§1471-E. Aquatic application, permit required

No person shall apply or cause to be applied a pesticide to the waters of the State without obtaining a waste discharge license from the Department of Environmental Protection pursuant to Title 38, chapter 3, subchapter I, Article 2. [PL 1979, c. 281, §1 (RPR).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1977, c. 20, §4 (AMD). PL 1979, c. 281, §1 (RPR).

§1471-F. Critical areas

No person shall apply pesticides to any area of the State which the board has determined to be a critical area, except to the extent such application is within the limits prescribed by the board in establishing the area. [PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW).

§1471-G. Reports

1. Pesticide dealers to maintain certain records. All pesticide dealers shall maintain records of pesticide distribution for a period of at least 2 years and shall provide such reports and information as the board may, by regulation, require.

[PL 1975, c. 397, §2 (NEW).]

2. Applicators and firms to maintain certain records. All commercial applicators and spray contracting firms shall maintain, for a period of at least 2 years, records indicating the type and amount of pesticide used, the area of use and such other information as the board may require. Said applicators and firms shall provide such information, notification and reports as the board, by regulation, may require.

[PL 1983, c. 819, Pt. A, §50 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1983, c. 819, §A50 (AMD).

§1471-H. Inspection

Upon presentation of appropriate credentials, the chair or any member of the board or any authorized employee or consultant of the board may enter upon any public or private premises at reasonable times for the purpose of inspecting any equipment, device or apparatus used in applying pesticides; inspecting storage and disposal areas; inspecting or investigating complaints of injury to persons or land from pesticides; observing the use and application of pesticides; sampling pesticides in use or storage; and sampling pesticide residues on crops, foliage, soil, water or elsewhere in the environment. Upon denial of access to the board or its agents, the board or its agents may seek an appropriate search warrant in a court of competent jurisdiction. Notwithstanding other provisions of this section, a board member or any authorized employee or consultant of the board may enter public or private premises without notification if an emergency exists. The need to take a residue sample in a timely manner constitutes an emergency under this section. [PL 1989, c. 841, §7 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1989, c. 841, §7 (AMD).

§1471-I. Enforcement (REPEALED)

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1979, c. 644, §4 (RP).

§1471-J. Penalties

A person who violates any provision of this chapter or any order, rule, decision, certificate or license issued by the board or commits any act constituting a ground for revocation, except acts punishable under section 1471-D, subsection 8, paragraphs A and H, commits a civil violation subject to the penalties established in Title 7, section 616-A. [PL 1989, c. 841, §8 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1975, c. 623, §26A (AMD). PL 1975, c. 770, §§91,92 (RPR). PL 1989, c. 841, §8 (AMD).

§1471-K. Appeal

Any person aggrieved by any action of the board may obtain a review thereof by filing in the Superior Court, within 30 days of notice of the action, a written petition praying that the action of the board be set aside. A copy of such petition shall forthwith be delivered to the board, and within 30 days thereafter the board shall certify and file in the court a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the action of the board, except that the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive. [PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW).

§1471-L. Subpoenas

The board may issue subpoenas to compel the attendance of witnesses and production of such books, documents and records anywhere in the State in any hearing affecting the authority or privilege granted by a license or permit issued under this chapter, as may be relevant to proceedings of the board. If any person refuses to obey a subpoena issued by the board under this section, the board may apply to any Justice of the Superior Court for an order compelling such person to comply with the requirements of the subpoena. Such justice may issue such order and may punish failure to obey the same as a contempt thereof. [PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW).

§1471-M. Powers of board

1. Establishment of categories and standards. The board shall, by regulation promulgated in conformity with Title 5, chapter 375, subchapter II:

A. Establish categories, and where applicable subcategories, of commercial pesticide applicators depending upon the nature and extent of the pesticide use, the type of pesticide equipment, the degree of knowledge or skill required in their application and such other factors as the board considers relevant, as long as such categories are consistent with, but not limited to, the categories established by the United States Environmental Protection Agency; [PL 2015, c. 58, §9 (AMD).]

B. Establish competency standards for the established categories for the certification and renewal of certification of commercial applicators. Such standards shall require, as a minimum, that the applicant demonstrate, by written examination and, as appropriate, performance testing, knowledge of pests, formulation and labelling of pesticides, equipment and application techniques, safety precautions, potential harmful effects on the environment, and applicable federal and state laws and regulations. [PL 1975, c. 397, §2 (NEW).]

C. Establish standards for the certification and renewal of certification of private applicators. Such standards shall require that the private applicator indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label, to apply pesticides in accordance with label instructions and warnings, to recognize local environmental situations that must be considered to avoid contamination, to recognize poisoning symptoms and corrective procedures, and to understand applicable federal and state laws and regulations. [PL 1975, c. 397, §2 (NEW).]

C-1. Establish standards for the certification and renewal of certification of private applicators of general use pesticides. Such standards must require that the private applicator of general use pesticides indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label and to apply pesticides in accordance with label instructions and warnings. [PL 2011, c. 169, §3 (NEW).]

D. Establish the standards for issuance and renewal of licenses of pesticide dealers. These standards shall include, but not be limited to, requirements concerning transportation of pesticides, the applicant's knowledge of applicable federal and state statutes and regulations, and the applicant's understanding of the dangers involved and the precautions necessary for the safe storage and distribution of pesticides; [PL 1983, c. 819, Pt. A, §51 (AMD).]

E. Establish guidelines and requirements for reporting of information by commercial applicators, pesticide dealers and spray contracting firms to the board; and [PL 2015, c. 58, §10 (AMD).]

F. [PL 2015, c. 58, §11 (RP).]

G. [PL 2015, c. 58, §12 (RP).]

H. Establish standards for the certification and renewal of certification of spray contracting firms. [PL 1983, c. 819, Pt. A, §53 (NEW).]

[PL 2015, c. 58, §§9-12 (AMD).]

2. Designation of critical areas; cooperation; promulgation of rules and regulations. The board may:

A. [PL 1987, c. 702, §3 (RP).]

B. Cooperate with any other agency of this State or its subdivisions, or with any agency of any other state or the Federal Government for the purpose of administering this chapter and of securing uniformity of regulations; [PL 1975, c. 397, §2 (NEW).]

C. On its own or in cooperation with other agencies or persons, publish such information as it deems appropriate, including information concerning injury which might result from improper application or handling of pesticides, and methods and precautions designed to prevent the injury; and [PL 1987, c. 702, §4 (AMD).]

D. Promulgate such other rules and regulations and take such other actions as it deems appropriate to control the use and distribution of pesticides within the State and to otherwise provide that the purposes and policies of this chapter are insured. [PL 1975, c. 397, §2 (NEW).]

[PL 1987, c. 702, §§3, 4 (AMD).]

3. Hazard communication and community right to know. The board shall assist the Director of the Bureau of Labor Standards in providing education and training to aid agricultural employers in complying with the federal Occupational Safety and Health Administration requirements for hazard communication and shall assist the responsible state agencies in providing education and training to aid agricultural employers in complying with the federal requirements for emergency and hazardous chemical inventory forms and community right-to-know reporting.

[PL 1999, c. 57, Pt. B, §2 (RPR).]

4. Designation of critical areas. The board may designate critical areas which shall include, but not be limited to, areas where pesticide use would jeopardize endangered species or critical wildlife habitat, present an unreasonable threat to quality of the water supply, be contrary to a master plan for the area where such area is held or managed by an agency of the State or Federal Government, or would otherwise result in unreasonable adverse effects on the public health, welfare or the environment of the area. The designation of a critical area may prohibit pesticide use or may include such limitations on such use as the board deems appropriate. The proceedings to designate a critical area under this section shall conform to Title 5, chapter 375, subchapter II.

The board, by rule, shall establish criteria for designation of critical areas by March 1, 1989.

In addition to the provisions of the Maine Administrative Procedure Act, Title 5, section 8001, any municipality and, for the purpose of representing unorganized territory, any county may petition the board for establishment of a critical area within their boundaries. If the board designates a critical area, the board shall develop a pesticide management plan for that area after receiving comments from the municipality or, for unorganized territory, the county; the volunteer medical advisory panel as established through the board; local applicators; owners of land within the critical area; and other interested parties and agencies.

[PL 1989, c. 502, Pt. A, §67 (AMD).]

5. Disclosure of rights. When issuing a license, the board shall provide to each licensee a written statement outlining the enforcement process and the process of negotiating agreements in lieu of court action that may occur in the event enforcement action is pursued. The Department of the Attorney General and the Department of Agriculture, Conservation and Forestry shall assist the board in developing an appropriate written statement. The board shall make this information available to all existing licensees within 30 days of the effective date of this section.

[PL 1989, c. 841, §9 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

6. Notification. Whenever the board or its staff investigates a complaint alleging a violation of rules adopted pursuant to Title 7, section 606, subsection 2, paragraph G, the staff shall make all reasonable efforts to notify the alleged violator, if identity is known, prior to collecting samples.

[PL 1989, c. 841, §9 (NEW).]

7. Data collection; report. The board shall implement a system of record keeping, reporting, data collection and analysis that provides information on the quantity of product and brand names of pesticides sold. The board, in cooperation with the University of Maine Cooperative Extension Service, shall study ways to improve pesticide information data bases and to optimize the useful analysis of reported information.

Before April 1, 2002, the board shall submit a report on pesticide activities during the previous calendar year to the joint standing committee of the Legislature having jurisdiction over pesticide control matters. The report must contain sales information on quantities of pesticides sold listed by the common name of the active ingredient.

The board shall also include in the report aggregate data on pesticide use based on reports submitted to the board by commercial applicators and other persons required to submit reports under this chapter and rules adopted pursuant to this chapter. The board shall provide the data by sector of use whenever possible. The board shall provide the data by category of pesticide, including data for herbicides, insecticides, fungicides and other major categories. In addition, the board shall include in the report a summary of survey results or other information published by the University of Maine Cooperative Extension Service or the United States Department of Agriculture relating to pesticides use in the State.

The board shall develop a measure to estimate sales and types of pesticides commonly used by homeowners and track trends in the quantities and types of pesticides used by homeowners.

The board shall provide historical information on pesticide use and sales in the report when the information available is appropriate for comparison.

[PL 2001, c. 355, §1 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1977, c. 694, §§343,344 (AMD). PL 1981, c. 374, §§8,9 (AMD). PL 1981, c. 470, §§A68,A69 (AMD). PL 1983, c. 568, §2 (AMD). PL 1983, c. 819, §§A51-A53 (AMD). PL 1987, c. 660, §1 (AMD). PL 1987, c. 702, §§3-5 (AMD). PL 1989, c. 502, §A67 (AMD). PL 1989, c. 841, §9 (AMD). PL 1997, c. 389, §1 (AMD). PL 1999, c. 57, §B2 (AMD). PL 1999, c. 724, §1 (AMD). PL 2001, c. 355, §1 (AMD). PL 2011, c. 169, §3 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2015, c. 58, §§9-12 (AMD).

§1471-N. Chemical control of vertebrate animals
(REPEALED)

SECTION HISTORY

PL 1977, c. 65 (NEW). PL 1979, c. 187 (AMD). PL 2009, c. 393, §8 (RP).

§1471-O. Exercise of powers by Board of Pesticides Control

The powers established under the Maine Pesticide Control Act of 1975, Title 7, chapter 103, subchapter II-A, shall be exercised by the Board of Pesticides Control established by section 1471-B. [PL 1981, c. 112, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 112, §2 (NEW).

§1471-P. Storage of illegal and obsolete pesticides

1. Board to accept illegal and obsolete pesticides. Within the limits of resources made available to it for the storage or disposal of illegal and obsolete pesticides purchased for use in Maine, the board shall accept, store and dispose of pesticides from persons who purchased them with the intent of applying them.

[PL 1981, c. 705, Pt. S, §1 (NEW).]

2. Board may adopt rules and fees. The board may adopt any rules necessary to implement this section, including rules limiting the quantity and nature of pesticides it accepts for storage or disposal. The board may adopt and charge fees for storage or disposal of pesticides presented to it where the amount of pesticides, or special treatments necessary for safe storage or disposal, will require a substantial cost to the board; provided, that the fees charged are close to the actual cost incurred by the board.

[PL 1981, c. 705, Pt. S, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 705, §S1 (NEW).

§1471-Q. Return and disposal of limited and restricted use pesticide containers
(REPEALED)

SECTION HISTORY

PL 1983, c. 542, §§2,3 (NEW). PL 1985, c. 54, §1 (AMD). PL 2011, c. 510, §3 (RP).

§1471-R. Notification and monitoring
(REPEALED)

SECTION HISTORY

PL 1983, c. 819, Pt. A, §54 (NEW). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2015, c. 58, §13 (RP).

§1471-S. Requirement for spotters and monitors
(REPEALED)

SECTION HISTORY

PL 1983, c. 819, §A54 (NEW). PL 2015, c. 58, §14 (RP).

§1471-T. Exemption
(REPEALED)

SECTION HISTORY

PL 1983, c. 819, §A54 (NEW). PL 2015, c. 58, §14 (RP).

§1471-U. Municipal ordinances

1. Centralized listing. The Board of Pesticides Control shall maintain for informational purposes, for the entire State, a centralized listing of municipal ordinances that specifically apply to pesticide storage, distribution or use.

[PL 1989, c. 93, §1 (RPR).]

2. Existing ordinances. The clerk of any municipality which, on the effective date of this section, has an ordinance to be listed under subsection 1 shall file a copy of that ordinance with the board by December 31, 1988.

[PL 1989, c. 93, §1 (RPR).]

3. New ordinances. The clerk of the municipality shall provide the board with notice and a copy of any ordinance to be listed under subsection 1 at least 7 days prior to the meeting of the legislative body or the public hearing at which adoption of the ordinance will be considered. The clerk shall notify the board within 30 days after adoption of the ordinance.

[PL 1989, c. 93, §1 (RPR).]

4. Intent. It is the intent of this section to provide information on municipal ordinances. This section shall not affect municipal authority to enact ordinances.

[PL 1989, c. 93, §1 (RPR).]

5. Failure to file. For any ordinance which is not filed with the board, with notice given to the board in accordance with this section, which is otherwise valid under the laws of this State, any provision that specifically applies to storage, distribution or use of pesticides shall be considered void and of no effect after the deadline for filing and until the board is given proper notice and the ordinance is filed with the board.

[PL 1989, c. 93, §1 (RPR).]

SECTION HISTORY

PL 1987, c. 702, §6 (NEW). PL 1987, c. 723, §§4,6 (NEW). PL 1989, c. 93, §1 (RPR).

§1471-V. Local participation

1. Representation. When the board, under section 1471-M, considers the designation of a critical area or the establishment of a pesticide management plan for a critical area, the municipal officers of any affected municipality, or county commissioners in the case of unorganized territories, shall be given the opportunity to select a local representative to serve as an additional board member. For a given action, there shall be only one local representative who shall represent the affected municipality or unorganized territory.

[PL 1987, c. 702, §6 (NEW).]

2. Participation and voting procedure. A local representative appointed under this section may participate officially and vote in deliberations on the designation of a critical area or on the establishment of a pesticide management plan only for a critical area which is in the municipality or unorganized territory represented. A local representative may participate on the board until final designation of the critical area or final establishment of the pesticide management plan, including any administrative or judicial appeals. When the board considers a proposed critical area or pesticide management plan that affects more than one municipality, the board shall take separate action on the portion in each municipality.

[PL 1987, c. 702, §6 (NEW).]

3. Compensation. Local representatives shall be reimbursed only for expenses as regular board members during the period of their service, to be paid by the board.

[PL 1987, c. 702, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 702, §6 (NEW).

§1471-W. General use pesticide dealers

1. License required. Unless exempted under subsection 5, no person may distribute general use pesticides without a license.

[PL 1989, c. 93, §2 (NEW).]

2. Issuance of license. The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of \$20 for a calendar year or any part of a calendar year. The Board of Pesticide Control may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. Any person licensed to distribute restricted use pesticides is considered licensed to distribute general use pesticides without any additional fee. All fees collected under this section are deposited in the Board of Pesticides Control Special Fund.

[PL 1997, c. 454, §9 (AMD).]

3. Records; reporting. Any person who distributes general use pesticides to licensed general use pesticide dealers in the State shall keep and maintain records of these sales for annual reporting purposes. These annual reports must include the names of all licensed general use pesticide dealers to whom general use pesticides were distributed, the names of the pesticides, the United States Environmental Protection Agency registration number and the quantity sold. These records must be kept for 2 years after the end of the calendar year. For the purposes of this subsection, "distributes" means sells, ships or delivers general use pesticides to a licensed general use pesticide dealer engaged in retail sales. The board may adopt rules to further clarify who is responsible for reporting under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 139, §1 (RPR).]

4. Violations; penalty.

[PL 1989, c. 93, §2 (NEW); PL 1989, c. 841, §10 (RP).]

5. Exemptions. The following situations are exempt from the provisions of this section.

A. Any person may distribute the following products without a general use pesticide dealer license:

- (1) Household use pesticide products with no more than 3% active ingredients;
- (2) The following products, which have limited percentages of active ingredients:
 - (a) Dichlorovos (DDVP) impregnated strips with concentrations not more than 25% in resin strips and pet collars;
- (3) The following products with unlimited percentages of active ingredients:
 - (a) Pet supplies such as shampoos, tick and flea collars and dusts;
 - (b) Disinfectants, germicides, bactericides and virucides;
 - (c) Insect repellents;
 - (d) Indoor and outdoor animal repellents;
 - (e) Moth flakes, crystals, cakes and nuggets;
 - (f) Indoor aquarium supplies;
 - (g) Swimming pool supplies;
 - (h) Pediculocides and mange cure on man;
 - (i) Aerosol products; and
 - (j) General use paints, stains, and wood preservatives and sealants. [PL 1989, c. 93, §2 (NEW).]

B. The board may promulgate rules to exempt the sale of additional general use pesticide products from the dealer licensing provisions of this section. [PL 1989, c. 93, §2 (NEW).]

[PL 1989, c. 93, §2 (NEW).]

SECTION HISTORY

PL 1989, c. 93, §2 (NEW). PL 1989, c. 841, §10 (AMD). PL 1997, c. 139, §1 (AMD). PL 1997, c. 454, §9 (AMD).

§1471-X. State policy; public and private initiatives to minimize reliance on pesticides

It is the policy of the State to work to find ways to use the minimum amount of pesticides needed to effectively control targeted pests in all areas of application. The agencies of the State involved in the regulation or use of pesticides shall promote the principles and the implementation of integrated pest management and other science-based technology to minimize reliance on pesticides while recognizing that outbreaks of disease, insects and other pests will necessitate

fluctuations in pesticide use. These agencies, in cooperation with private interest groups, shall work to educate pesticide users and the general public in the proper use of pesticides and to determine other actions needed to accomplish the state policy. [PL 1997, c. 389, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 389, §2 (NEW).

§1471-Y. Notification of outdoor pesticides application using aircraft or air-carrier equipment (REPEALED)

SECTION HISTORY

PL 2009, c. 378, §1 (NEW). PL 2009, c. 584, §1 (RP).

§1471-Z. Registry of property requiring notification for pesticides applications (REPEALED)

SECTION HISTORY

PL 2009, c. 378, §2 (NEW). PL 2009, c. 584, §2 (AMD). PL 2011, c. 332, §1 (RP).

§1471-AA. Awareness of outdoor pesticides applications; role of the board (REPEALED)

SECTION HISTORY

PL 2009, c. 584, §3 (NEW). PL 2011, c. 332, §2 (RP).

§1471-BB. Refund of deposits (REPEALED)

SECTION HISTORY

PL 2011, c. 510, §4 (NEW). MRSA T. 22 §1471-BB (RP).

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01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 10: DEFINITIONS AND TERMS

SUMMARY: These definitions and terms are defined as they specifically relate to the use of pesticides, the certification and licensing of pesticide applicators and dealers, and other areas as regulated by the Board in succeeding chapters.

Section 1. Consistent with Statute

All terms used in these Chapters shall be defined as indicated in Title 22 M.R.S.A., Chapter 258-A unless specifically provided herein.

Section 2. Definitions

- A. "Aerial applicator" means all persons who dispense pesticides by means of any machine or device used or designed for navigation of or flight in the air.
- B. "Agricultural pesticide application" means any application of a pesticide upon an agricultural commodity which is performed by or for a commercial agricultural producer.
- C. "Air-carrier application equipment" means any application equipment that utilizes a mechanically generated airstream to propel the spray droplets.
- D. "Applicant" means a person or persons who apply for a certification, license, or permit authorized in 22 M.R.S.A. §1471-D or §1471-N.
- E. "Branch office" means:
 - 1. any home, store, or other business location where an employee of a spray contracting firm directly accepts requests for pest control services from clients through mail, telephone, or walk-in inquiries, and
 - 2. any government or university office where employees receive regular direction to apply pesticides in connection with their duties.
 - 3. It does not include the home of an employee who receives work assignments and directions from a branch office with a master applicator.
- F. "Calibration of equipment" means measurement of dispersal or output of application equipment and adjustment of such equipment to control the rate of dispersal, and droplet or particle size of a pesticide dispersed by the equipment.
- G. "Certification" means the recognition by the Board that an applicant has successfully fulfilled all the appropriate competency criteria as set forth in these Chapters.
- H. "Commercial agricultural producer" means, for the purposes of Chapter 50, any person who produces an agricultural commodity for commercial purposes.

- I. "Commercial applicator" means any person, unless exempted in I(4) hereunder, whether or not the person is a private applicator with respect to some uses, who:
1. Uses or supervises the use of any limited or restricted use pesticide other than as a private applicator; or
 2. Makes or supervises a custom application of a general use pesticide; or
 3. Applies a pesticide in connection with their duties as an official or an employee of federal, state, county, university or local government.
 4. The following classes of applicators are exempt from commercial certification/licensing requirements. Applications not listed below must be performed under the direct on-site supervision of a licensed commercial applicator Master and/or Operator.
 - a. Persons applying ready-to-use general use pesticides by hand or with non-powered equipment:
 - i. to control stinging insects when there is an urgent need to mitigate or eliminate a pest that is a threat to health or safety; or
 - ii. to repel biting insects on patients and other persons under their care or supervision who are unable to apply the material to themselves; or
 - iii. to repel biting insects on minors, such as students and campers, provided that a parent or legal guardian has authorized the application of insect repellents.
 - b. Persons applying general use antimicrobial products by hand or with non-powered equipment to interior or exterior surfaces and furnishings of buildings during the course of routine cleaning procedures.
 - c. Persons applying general use paints, stains or wood preservatives, except for the treatment of standing utility poles.
 - d. Persons installing hardware such as doorknobs and pushplates.
- J. "Commercial applicator/Master" means a commercial applicator who, unless exempted in Chapter 31, Section 1(Company/Agency Licensing Requirements), is responsible for the major pest control decisions including, but not limited to, identifying unusual pests and choosing the appropriate pest control strategies and techniques. This person is also responsible for establishing policies relating to the operating practices of others applying pesticides within the company or agency. Such practices may include equipment maintenance and calibration, employee training, safety and hygiene, pesticide and container disposal, accident mitigation and ensuring that applications are conducted in compliance with all state and federal laws and regulations.
- K. "Commercial applicator/Operator" means a commercial applicator who:
1. applies or directs the application of a pesticide according to the instructions of the master when a master is required according to Chapter 31, Section 1 (Company /Agency Licensing Requirements); or
 2. applies or directs the application of a pesticide and performs the function of the master applicator when a separate master is not required according to Chapter 31, Section 1(Company/Agency Licensing Requirements).

- L. "Compact urban line" means that delineation made by the Maine Department of Transportation which denotes a section of the highway where structures are nearer than 200 feet apart for a distance of one-quarter of a mile.
- M. Compatibility" means that property of a pesticide that permits its use with other chemicals without undesirable results being caused by the combination.
- N. "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.
- O. "Common exposure route" means a likely way (oral, dermal, respiratory) by which a pesticide may reach and/or enter an organism.
- P. "Custom application" means an application of a pesticide:
 - 1. Under contract or for which compensation is received;
 - a. For the purposes of this definition, "under contract" includes verbal or written agreements to provide services which include the use of any pesticide; i.e., private or commercial rental agreements, pest control service agreements, landscape maintenance agreements, etc.
 - b. For purposes of this definition, compensation is deemed to have been received for a pesticide application where any form of remuneration has been or will be exchanged, including payment of cash, rent, or other financial consideration, or by the exchange of goods and/or services. This also includes any agreements where crops grown on rented land will be sold to the landowner or are otherwise grown for the benefit of the land owner.
 - 2. To a property open to use by the public;
 - a. For purposes of this definition, property is deemed to be open to use by the public where its owner, lessee or other lawful occupant operates, maintains or holds the property open or allows access for routine use by members of the public. Persons are considered to be members of the public even though they may pay a fee or other compensation in order to make use of the property or may visit the property for a commercial purpose.
 - b. Property open to use by the public includes but is not limited to: shopping centers, office and store space routinely open to the public (i.e. rest rooms, self-service areas and display aisles), common areas of apartment buildings, occupied apartments, public pools and water parks, schools and other institutional buildings, public roads, organized recreational facilities, golf courses, campgrounds, parks, parking lots, ornamental and turf areas around condominiums, apartment buildings, stores malls and retail areas of greenhouses and nurseries if the public is allowed access before the pesticide restricted-entry or re-entry interval elapses.
 - c. Examples of property not open to use by the public include without limitation: farms, forest lands, and private residential or commercial property which is not routinely operated or maintained for use by the public or otherwise held open to public use.
 - d. Notwithstanding this definition, property shall not be deemed to be open for use by the public in the following cases:

- i. where the property is devoted primarily to agricultural, forest, ornamental tree or plant production, but this exception shall not apply to campgrounds, leased inholdings or roads within such property which are open for use by the public;
 - ii. where the public has not been permitted upon the property at any time within seven days of when the property received a pesticide application;
 - iii. forestry rights of way where the property has been closed during the time of spraying or during the label restricted entry interval or re-entry period, whichever is greater.
 - iv. where the public has not been permitted on the treated portion of privately held recreational land within seven days of a pesticide application for vegetation management.
- 3. In a food establishment licensed under M.R.S. 22, Chapter 551, or an eating establishment licensed under M.R.S. 22, Chapter 562, except that “custom application” does not include a pesticide application at a licensed food or eating establishment when:
 - a. The establishment is ancillary to the production of an agricultural commodity;
 - b. The owner or an employee of that establishment is certified as a private applicator under section 1471-C, subsection 2; and
 - c. The property is not open to the public.
- 4. A pesticide application shall not be deemed a custom application where it is undertaken by a licensed private applicator on property owned or rented by him or his employer or in trade for personal agricultural services between producers of agricultural commodities.
- Q. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this state. This also means giving free samples of unregistered products to any person. Sales of hardware, such as doorknobs and pushplates, shall not be considered distribution for the purposes of this definition.
- R. “Environment” means water, air, land, and all plants and man and other animals living therein, and the interrelationships that exist among them.
- S. "Forest" means a concentration of trees and related vegetation managed primarily for the production of forest agricultural commodities such as timber, fiber or other wood products, including other similar areas managed for recreation or resource conservation.
- T. For the purposes of 22 M.R.S. §1471-D (9), “Government Employee” means a person who is employed full- or part-time as a regular employee of any governmental or quasi-governmental organization including federal, state, county and municipal governments and public universities.
- U. “Hazard” means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.
- V. “Host” means any plant or animal on or in which another lives for nourishment, development, or protection.

- W. "Integrated Pest Management" (IPM) means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including: (1) understanding the system in which the pest exists, (2) establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control, (3) monitoring pests and natural enemies, (4) when needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression, and (5) systematically evaluating the pest management approaches utilized.
- X. "Integrated Pest Management Coordinator" means the lead person in a school system or school who is knowledgeable about integrated pest management and is designated by each school to implement the school pest management policy.
- Y. "License" means a commercial applicator license, a private applicator certification, a dealer license, a permit to chemically control vertebrate animals, or a permit to apply limited use pesticides.
- Z. "Licensing" means the issuance by the Board of a document signifying that the applicant has been certified and has met all applicable employee, fee, insurance and reporting requirements.
- AA. "Major application project" means any pesticide application contract that requires the applicator to apply pesticides to more than 1000 acres in the aggregate within a given year. This does not include repeat applications to the same site.
- BB. "Major pesticide storage facility" means any fixed-site, totally enclosed building or portion of such building owned and/or operated by a pesticide distributor where pesticides are held in storage and which meets one of the following criteria:
1. contains at any one time an amount greater than or equal to 6,000 pounds of dry pesticide product, other than dry formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 2. contains at any one time an amount greater than or equal to 600 gallons of liquid pesticide product, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 3. contains liquid pesticides in containers that are thirty (30) gallons or greater in size, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products."
- CC. "Minor pesticide storage facility" means any fixed-site, totally enclosed building or portion of such building owned and/or operated by a pesticide distributor where pesticides are held in storage and which meets one of the following criteria:
1. contains at any one time an amount greater than 100 pounds but less than 6,000 pounds of dry pesticide product, other than dry formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 2. contains at any one time an amount greater than 50 gallons but less than 600 gallons of liquid pesticide, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 3. contains liquid pesticides in containers greater than three (3) gallons but less than thirty (30) gallons in size, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products."
- DD. "Non-agricultural pesticide application" means any application of a pesticide that is not an agricultural pesticide application.

- EE. "Non-powered equipment" means pesticide spray equipment which pumps and disperses pesticides without utilization of an electric, gasoline, wind-driven or other motorized power source. By way of example, non-powered equipment includes manual pump spray equipment and self-contained aerosol spray cans or bottles but does not include equipment which employs a motor, except one powered only by hand.
- FF. "Non-target organism" means a plant or animal other than the one against which the pesticide is applied.
- GG. "Off-target direct discharge of pesticides" means the direct application of pesticides onto property beyond the boundaries of the target area intended to be treated. Presence of off-target direct discharge of pesticides may be determined by any evidence, through observation, residue samples or other techniques, that an off-target area has received substantially the same dose of pesticide as a target area.
- HH. "Off-target drift of pesticides" means the drifting of pesticides by air currents or diffusion with resulting deposition of pesticides onto property beyond the boundaries of the target area intended to be treated. The detection of pesticides beyond the boundaries of the target area intended to be treated shall be presumed to be as a result of off-target drift unless there is evidence of off-target direct discharge of pesticides.
- II. "Ornamental plant" means shrubs, trees and related vegetation in and around habitation generally, but not necessarily, located in urban and suburban areas, including residences, parks, streets, retail outlets, and industrial and institutional buildings.
- JJ. "Other forest pests" means forest pests, other than insects and include, but are not limited to, weeds, mites, nematodes, fungi, bacteria, and viruses.
- KK. "Owner" means sole proprietor, partner or stockholder.
- LL. "Person" means any individual, partnership, fiduciary, corporation, governmental entity, association or public or private organization of any character, other than the Board.
- MM. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency.
- NN. "Pesticide dealer" means any person who distributes limited or restricted-use pesticides, including but not limited to sales personnel in an outlet, field salesmen, and manufacturers' representatives selling pesticides directly to the consumer or who accept orders for pesticides.
- OO. "Pesticide distributor" means any person required to be licensed to distribute general, restricted or limited use pesticides.
- PP. "Pesticide storage facility" means any fixed-site, totally enclosed building or portion of such building where pesticides are held for storage.
- QQ. "Practical knowledge" means the possession of pertinent facts and comprehension together with the ability to use them in dealing with specific problems and situations.
- RR. "Principal place of business" means the principal location, either residence or office, in the State in which an individual, partnership, or corporation applies pesticides.

- SS. "Private Applicator" means any person who uses or supervises the use of any pesticide which is classified for restricted or limited use for purposes of producing any agricultural commodity on property owned or rented by him or his employer or, if applied without compensation other than the trading of personal services between producers of agricultural commodities, on the property of another person. In situations where the applicator is applying pesticides to crops on rented land, there must be a written contract showing that the grower/applicator retains control over the property as well as the disposition or sale of the harvested crop.
- TT. "Private domestic well" means any well used for drinking water other than one which serves a public water system.
- UU. "Project" means, for the purposes of Chapter 51, the aerial application of pesticides to control an individual forest insect pest complex provided by:
1. Any number of applicator businesses for a single person, or
 2. One applicator business on contiguous parcels of land.
- VV. "Public precautions" means those statements which appear on the pesticide label directed towards the non-applicator public. Public precautions may include, but are not limited to, re-entry intervals.
- WW. "Public water system" means any water supply system that provides water to at least 15 service connections or serves water to at least 25 individuals daily for at least 30 days a year.
- XX. "Regulated pest" means a specific organism considered by a State or Federal agency to be a pest requiring regulatory restrictions, regulations, or control procedures in order to protect the host, man and/or his environment.
- YY. "School" means any public or private elementary or secondary school, kindergarten or nursery school that is part of an elementary or secondary school or a tribally funded school.
- ZZ. "School Building" means any structure used or occupied by students or staff of any school.
- AAA. "School Grounds" means:
1. land associated with a school building including playgrounds, athletic fields and agricultural fields used by students or staff of a school, and
 2. any other outdoor area used by students or staff that is under the control of a school.
- BBB. "Self-service sales area" means any area within or immediately outside a retail or wholesale business in which members of the public have direct access to pesticide products. For the purposes of this chapter, self-service sales areas shall be limited to those pesticide products which require a pesticide dealer to be licensed under 22 M.R.S.A. §1471-W, "General Use Pesticide Dealers."
- CCC. "Sensitive area" means any of the following, except where the area involved is the intended target of the pesticide application:
1. Apiaries, the location of which is registered with the Department of Agriculture, Conservation and Forestry pursuant to 7 M.R.S.A. §2701;
 2. Critical areas designated by the Board pursuant to 22 M.R.S.A. §1471-M(2);
 3. Public wells, drinking water springs used by the public, and public water supply intake points, provided the location of the same is known or should reasonably be known to the pesticide applicator;

4. Private sources of drinking water, where the owner or legal user thereof has given prior notice of the location of such source to the landowner or lessee of the area which will be subject to a pesticide application;
5. Water bodies, including streams, brooks, rivers, ponds, lakes, estuaries and marine waters, provided that any such water body contains water at the time of the pesticide application and is known to the spray applicator or is reasonably detectable from visual observation, reasonably available maps or reasonable inquiry. This term shall not include: (a) in the case of forest aerial spray programs, streams and brooks that are neither shown on reasonably available maps nor visible from an aircraft operating at 1000 feet in elevation above ground level; and (b) waters that are confined and retained completely upon the property of the person conducting or contracting for spray services, and that do not drain into or connect with any other water body;
6. Wetlands of Special Significance.
7. Cleared areas where livestock are contained or pastured, cultivated land, cropland or gardens.
8. A "Sensitive Area Likely to Be Occupied" is an area where humans are likely to be present including the following:
 - a. Residential buildings, together with any associated maintained areas likely to be occupied by humans, such as lawns, gardens, recreational areas and livestock management and housing areas;
 - b. School buildings, together with any associated maintained areas that are areas likely to be occupied by humans, such as playgrounds, athletic fields or courts;
 - c. Commercial, institutional, or other structures likely to be occupied by humans, together with any associated maintained areas such as lawns, gardens, parking and recreational areas;
 - d. Maintained recreational areas likely to be occupied by humans including campgrounds, picnic areas, marked roadside rest areas, marked hiking trails, park and recreation facilities, athletic fields, and other areas for organized sports or recreation. This definition does not include trails located on privately owned lands which are used by permission of the landowner.

DDD. "Spray application" means, for the purposes of Chapter 51, the dispensing of pesticides in any manner from an aircraft.

EEE. "Spray contracting firm" means any person, including a corporation, employed or contracted to conduct a public or private custom application of one or more pesticides. This term does not include:

1. the owner or lessee of land to be sprayed and employees of that landowner or lessee,
2. the Division of Forestry and the employees of the Division of Forestry,
3. individuals who are certified as commercial applicators providing that individual does not have in his/her employment one or more others to undertake pesticide applications; or
4. persons who perform custom applications of pesticides solely on or within a premises which they own or lease.

5. persons and corporations that subcontract for pesticide applications, but do not maintain any control over the pesticide application including which pesticides are applied, when they are applied or how they are applied.
- FFF. "Spray period report" means a written description of the spray activity certifying the date and time, the area usually sprayed, the pesticide used, and including a description of the weather conditions during spray activity. The report must also include a map showing where spray booms were turned on and off, with notation of any non-target areas that were sprayed.
- GGG. "Standard" means the measure of knowledge and ability that must be demonstrated as a requirement for certification.
- HHH. "Storage" means holding pesticides for distribution in locations other than self-service sales areas.
- III. "Susceptibility" means the degree to which an organism is affected by a pesticide at a particular level of exposure.
- JJJ. "Toxicity" means the property of a pesticide to cause any adverse physiological effects.
- KKK. "Uncertified person" means any person who is not holding a currently valid certification document indicating that he is certified under section 4 of FIFRA in the category of the restricted use pesticide made available for use.
- LLL. "Wetlands of Special Significance" means all coastal wetlands and great ponds. In addition, certain freshwater wetlands are considered wetlands of special significance if they have one or more of the following characteristics.
1. **Critically imperiled or imperiled community.** The freshwater wetland contains a natural community that is critically imperiled (S1) or imperiled (S2) as defined by the Natural Areas Program.
 2. **Significant wildlife habitat.** The freshwater wetland contains significant wildlife habitat as defined by 38 M.R.S.A. §480-B(10).
 3. **Location near coastal wetland.** The freshwater wetland area is located within 250 feet of a coastal wetland.
 4. **Location near GPA great pond.** The freshwater wetland area is located within 250 feet of the normal high water line, and within the same watershed, of any lake or pond classified as GPA under 38 M.R.S.A. §465-A.
 5. **Aquatic vegetation, emergent marsh vegetation or open water.** The freshwater wetland contains under normal circumstances at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, unless the 20,000 or more square foot area is the result of an artificial ponds or impoundment.
 6. **Wetlands subject to flooding.** The freshwater wetland area is inundated with floodwater during a 100-year flood event based on flood insurance maps produced by the Federal Emergency Management Agency or other site-specific information.
 7. **Peatlands.** The freshwater wetland is or contains peatlands, except that the Department of Environmental Protection may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance.

7. **River, stream or brook.** The freshwater wetland area is located within 25 feet of a river, stream or brook.

STATUTORY AUTHORITY: 22 M.R.S.A., Chapter 258-A

EFFECTIVE DATE:
July 6, 1979

AMENDED:
April 27, 1988
May 21, 1996
August 17, 1996
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
March 1, 1997

AMENDED:
April 14, 1998 - inserted definitions for “Agricultural pesticide application” and “Non-agricultural pesticide application”; renumbered; converted to MS Word.
March 5, 2003

NON-SUBSTANTIVE CORRECTION:
February 17, 2004 - cross reference in Section 2.H

AMENDED:
January 4, 2005 – filing 2004-602
March 4, 2007 – Section 2(I)(4)(c), filing 2007-64
July 16, 2009 – filing 2009-251 (major substantive final adoption)
January 29, 2013 – filing 2013-014

CORRECTIONS:
February 2014 – agency names, formatting

AMENDED:
July 23, 2019 – Section 2(A), (P)(2)(d), filing 2019-130

1. Informal hearing. When the staff of the board proposes that the board take action on a possible violation, the board shall notify the alleged violator before discussing the alleged violation. The alleged violator may choose to address the board and may also choose to be represented by legal counsel. This requirement does not constitute and is not subject to the same procedures as an adjudicatory hearing under the Maine Administrative Procedure Act.

[PL 2005, c. 620, §16 (AMD).]

2. Civil violations. The following violations are civil violations.

A. A person may not violate this subchapter, or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A or a rule adopted pursuant to Title 22, chapter 258-A. Except as provided in paragraph B, the following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than \$1,500 may be adjudged.

(2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than \$4,000 may be adjudged. [PL 2003, c. 452, Pt. B, §6 (RPR); PL 2003, c. 452, Pt. X, §2 (AFF).]

B. A private applicator, as defined in Title 22, section 1471-C, may not violate a rule regarding records maintained pursuant to section 606, subsection 2, paragraph G. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than \$500 may be adjudged.

(2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than \$1,000 may be adjudged. [PL 2011, c. 510, §1 (AMD).]

[PL 2011, c. 510, §1 (AMD).]

2-A. Criminal violation. A person may not intentionally or knowingly violate this subchapter or Title 22, chapter 258-A, a rule adopted under this subchapter or Title 22, chapter 258-A or a restriction of a registration issued pursuant to this subchapter. A person who violates this subsection commits a Class E crime. Notwithstanding Title 17-A, section 1604, subsection 1 and sections 1704 and 1705, the court may impose a sentencing alternative of a fine of not more than \$7,500 or a term of imprisonment of not more than 30 days, or both, for each violation. Prosecution under this subsection is by summons and not by warrant. A prosecution under this subsection is separate from an action brought pursuant to subsection 2.

[PL 2019, c. 113, Pt. C, §1 (AMD).]

3. Continuation. Each day that the violation continues is considered a separate offense.

[PL 1989, c. 841, §3 (NEW).]

4. Exceptions.

[PL 2003, c. 452, Pt. B, §8 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

5. Criminal violations.

[PL 2003, c. 452, Pt. B, §8 (RP); PL 2003, c. 452, Pt. X, §2 (AFF).]

6. Other relief. Notwithstanding Title 22, section 1471-D, subsections 6 to 8 and in addition to other sanctions provided under this section, the court may order that a violator obtain recertification credits through board-approved meetings or courses as a condition of retaining, maintaining or renewing a certification or license required under Title 22, chapter 258-A.

[PL 1989, c. 841, §3 (NEW).]

7. Considerations. In setting a penalty under this section, the court shall consider, without limitation:

A. Prior violations by the same party; [PL 1989, c. 841, §3 (NEW).]

B. The degree of harm to the public and the environment; [PL 1989, c. 841, §3 (NEW).]

C. The degree of environmental damage that has not been abated or corrected; [PL 1989, c. 841, §3 (NEW).]

D. The extent to which the violation continued following the board's notice to the violator; [PL 1989, c. 841, §3 (NEW).]

E. The importance of deterring the same person or others from future violations; and [PL 1989, c. 841, §3 (NEW).]

F. The cause and circumstances of the violation, including:

(1) The foreseeability of the violation;

(2) The standard of care exercised by the violator; and

(3) Whether or not the violator reported the incident to the board. [PL 1989, c. 841, §3 (NEW).]

[PL 1989, c. 841, §3 (NEW).]

8. Injunction. The board may bring an action to enjoin the violation or threatened violation of any provision of this subchapter or any rule made pursuant to this subchapter in a court of competent jurisdiction of the district in which the violation occurs or is about to occur.

[PL 1989, c. 841, §3 (NEW).]

9. No damages from administrative action if probable cause exists. A court may not allow the recovery of damages from administrative action taken, or for a stop sale, use or removal order, if the court finds that there was probable cause for the administrative action.

[PL 1989, c. 841, §3 (NEW).]

10. Sunset.

[PL 1991, c. 829, §1 (RP).]

SECTION HISTORY

PL 1989, c. 841, §3 (NEW). PL 1991, c. 829, §1 (AMD). PL 2003, c. 452, §§B6-8 (AMD). PL 2003, c. 452, §X2 (AFF). PL 2005, c. 620, §16 (AMD). PL 2011, c. 510, §1 (AMD). PL 2019, c. 113, Pt. C, §1 (AMD).



State of Maine
Maine Department of Agriculture, Conservation and Forestry
BOARD OF PESTICIDES CONTROL

License Number: COA-7928

JOHN T PIETROSKI

DEPT OF ACF-BOARD OF PESTICIDES CONTROL

Has qualified as required by 22 MRSA Chapter 258-A as:

Commercial Operator

Categories: 2, 7E

ISSUE DATE: 6/3/2022

EXPIRATION DATE: 12/31/2024

State of Maine
Maine Department of Agriculture, Conservation and Forestry
BOARD OF PESTICIDES CONTROL

License Number: COA-7928 - (BPC#56056)

JOHN T PIETROSKI

10 Stagecoach Rd

Liberty, ME 04949

DEPT OF ACF-BOARD OF PESTICIDES CONTROL

Commercial Operator

Categories: 2, 7E

EXPIRATION DATE: 12/31/2024

BOARD OF PESTICIDES CONTROL

28 State House Station
Augusta, Maine 04333-0028
www.thinkfirstspraylast.org
207-287-2731

EMERGENCY PHONE NUMBERS:

Poison Center	1-800-222-1222
National Pesticides Info Center	1-800-858-7378
Board of Pesticides Control	1-207-287-2731
DEP Spill Response Number	1-800-482-0777

	State of Maine Maine Department of Agriculture, Conservation and Forestry BOARD OF PESTICIDES CONTROL License Number: PPA-334 JOHN T PIETROSKI Has qualified as required by 22 MRSA Chapter 258-A as: Private Applicator ISSUE DATE: 3/19/2023 EXPIRATION DATE: 10/31/2025
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State of Maine Maine Department of Agriculture, Conservation and Forestry BOARD OF PESTICIDES CONTROL License Number: PPA-334 JOHN T PIETROSKI 10 STAGECOACH RD. LIBERTY, ME 04949 BPC# 56056 Private Applicator EXPIRATION DATE: 10/31/2025	BOARD OF PESTICIDES CONTROL 28 State House Station Augusta, Maine 04333-0028 www.thinkfirstspraylast.org 207-287-2731 EMERGENCY PHONE NUMBERS: <table><tr><td>Poison Center</td><td>1-800-222-1222</td></tr><tr><td>National Pesticides Info Center</td><td>1-800-858-7378</td></tr><tr><td>Board of Pesticides Control</td><td>1-207-287-2731</td></tr><tr><td>DEP Spill Response Number</td><td>1-800-482-0777</td></tr></table>	Poison Center	1-800-222-1222	National Pesticides Info Center	1-800-858-7378	Board of Pesticides Control	1-207-287-2731	DEP Spill Response Number	1-800-482-0777
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Board of Pesticides Control	1-207-287-2731								
DEP Spill Response Number	1-800-482-0777								

Appendix

APPENDIX A

Examination standards at §171.103(a)(2)

Requirements of the certifying authority:

- All examinations will be presented and answered in writing.
- All persons serving as proctors will be prohibited from taking an examination for which they are proctoring if they are also seeking pesticide applicator certification.
- All persons seeking certification will be required to present at the time of examination a valid, government-issued photo identification.
- All proctors and certification authority personnel will be required to keep exams secure before, during and after the exam period so candidates have access to the exam only in the presence of a proctor.
- Prohibit the use of reference materials not approved by this certifying authority.
- Notify all candidates of his or her examination results.

Requirements for proctors:

- Give instructions on examination procedures to candidates before beginning examinations.
- Monitor examination candidates throughout examination periods.
- Prohibit any verbal or nonverbal communication between candidates and anyone other than the proctor during the examination period.
- Prohibit examination or reference materials from being copied or retained by any person not authorized by this certifying authority.
- Provide and collect certifying authority-approved reference materials for use during the examination.
- Examine reference materials after the examination is complete for portions that may have been removed, altered or destroyed.
- Report to the certifying authority any inconsistencies or irregularities such as cheating, use of unauthorized materials, and attempts to copy or retain materials.
- Conduct examination sessions in accordance with the following exam administration requirements required by this certifying authority: (Maine Board of Pesticides Control).

APPENDIX B
Recertification standards at §171.107

(a) Maintenance of continued competency.

- Each commercial and private applicator must recertify every five years or less from the date of certification.
- The recertification period for commercial applicators is:
- The recertification period for private applicators is:

(b) Process for recertification.

(1) By written examination.

- A certified applicator is found eligible for recertification upon passing a written examination designed to evaluate the level of competency that conforms to the examination standards in §171.103(a)(2).
- Examinations for commercial applicators demonstrate the level of competency required by §171.103.
- Examinations for private applicators demonstrate the level of competency required by §171.105.

(2) By continuing education programs.

- A certified applicator may be found eligible for recertification upon successfully completing a continuing education program pursuant to the certifying authority's EPA-approved certification plan.
 - The quantity, content, and quality of a continuing education program to maintain applicator certification must be sufficient to ensure the applicator continues to demonstrate the level of competency required by § 171.103 for commercial applicators or § 171.105 for private applicators.
 - (ii) Any continuing education course or event relied upon for applicator recertification must be approved by the certifying authority as being suitable for its purpose in the certifying authority's recertification process.
 - (iii) A certifying authority must ensure that any continuing education course or event, including an online or other distance education course or event, relied upon for applicator recertification includes a process to verify the applicator's successful completion of the course or event.

APPENDIX C
Standards for the Direct Supervision of Noncertified
Applicators at §171.201

(b) General requirements.

(1) Requirements for the certified applicator.

- (i) The certified applicator must have a practical knowledge of applicable Federal, State and Tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of restricted use pesticides by noncertified applicators.
- (ii) The certified applicator must be certified in each category applicable to the supervised pesticide use.

(2) Requirements for the noncertified applicator. The certified applicator must ensure that each noncertified applicator using a restricted use pesticide under his or her direct supervision meets all of the following requirements before using a restricted use pesticide:

- (i) The noncertified applicator has satisfied the qualification requirements under paragraph (c) of this section.
- (ii) The noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides.
- (iii) The noncertified applicator has met the minimum age required to use restricted use pesticides under the supervision of a certified applicator.
 - o A noncertified applicator must be at least 18 years old, except that a noncertified applicator must be at least 16 years old if all of the following requirements are met:
 - (A) The noncertified applicator is using the restricted use pesticide under the direct supervision of a private applicator who is an immediate family member.
 - (B) The restricted use pesticide is not a fumigant, sodium cyanide, or sodium fluoroacetate.
 - (C) The noncertified applicator is not applying the restricted use pesticide aerially.

(3) Use-specific conditions that must be met in order for a noncertified applicator to use a restricted use pesticide. The certified applicator must ensure that all of the following requirements are met before allowing a noncertified applicator to use a restricted use pesticide under his or her direct supervision:

- (i) The certified applicator must ensure that the noncertified applicator has access to the applicable product labeling at all times during its use.
- (ii) Where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the certified applicator must ensure that any noncertified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.
- (iii) The certified applicator must provide to each noncertified applicator before use of a restricted use pesticide instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population) and the conditions of application (e.g., equipment, method of application, formulation) might increase or decrease the risk of adverse effects. The certified applicator must provide this information in a manner that the noncertified applicator can understand.
- (iv) The certified applicator must ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment.

- (v) The certified applicator must ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under his or her direct supervision.
- (vi) The certified applicator must be physically present at the site of the use being supervised when required by the product labeling.
- (vii) If the certified applicator is a commercial applicator, the certified applicator must create or verify the existence of the records required by paragraph (e) of this section.

(c) Noncertified applicator qualifications. Before any noncertified applicator uses a restricted use pesticide under the direct supervision of the certified applicator, the supervising certified applicator must ensure that the noncertified applicator has met at least one of the following qualifications:

- (1) The noncertified applicator has been trained in accordance with paragraph (d) [the “noncertified applicator training program” explained below] of this section within the last 12 months.
- (2) The noncertified applicator has met the training requirements for an agricultural handler under (Worker Protection Standard -WPS regulations) 40 CFR 170.501 of this title within the last 12 months.
- (3) The noncertified applicator has met the requirements established by a certifying authority that meet or exceed the standards in §171.201(c)(1) [The “noncertified applicator training program” explained below in (d)].
- (4) The noncertified applicator is currently a certified applicator but is not certified to perform the type of application being conducted or is not certified in the jurisdiction where the use will take place.

(d) Noncertified applicator training program.

- (1) General noncertified applicator training must be presented to noncertified applicators either orally from written materials or audio visually. The information must be presented in a manner that the noncertified applicators can understand, such as through a translator. The person conducting the training must be present during the entire training program and must respond to the noncertified applicators’ questions.

(2) The person who conducts the training must meet one of the following criteria:

- (i) Be currently certified as an applicator of restricted use pesticides under this part.
- (ii) Be currently designated as a trainer of certified applicators or pesticide handlers by EPA, the certifying authority, or a State, Tribal, or Federal agency having jurisdiction.
- (iii) Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of handlers under (WPS) 40 CFR part 170.

(3) Content of noncertified applicator training

materials. (e) Recordkeeping.

(1) Commercial applicators must create or verify the existence of records documenting that each noncertified

applicator has the qualifications required in paragraph (c) Training for noncertified applicators or WPS handler training within last 12 months, requirements of certifying authority, or certified applicator of this section. For each noncertified applicator, the records must contain the information appropriate to the method of qualification as provided in paragraphs (e)(1)(i) through (e)(1)(iv).

(i) If the noncertified applicator was trained in accordance with paragraph (c)(1) of this section, the record must contain the following information:

- (A) The noncertified applicator’s printed name and signature.
- (B) Date training requirement was met.
- (C) The name of the trainer.
- (D) The title or a description of the training provided.

(ii) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in

accordance with paragraph (c)(2) of this section, the record must contain all of the information required at 40 CFR 170.501(d)(1).

- (iii) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, the record must contain the information required by the certifying authority.
- (iv) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted or not certified in the jurisdiction where the use will take place, as described in paragraph (c)(4) of this section, the record must include all of the following information:
 - (A) The noncertified applicator's name.
 - (B) The noncertified applicator's certification number.
 - (C) The expiration date of the noncertified applicator's certification.
 - (D) The certifying authority that issued the certification.

- (2) The commercial applicator supervisor must create or verify the existence of the record containing the information in paragraph (e)(1) [method of qualification, etc.] of this section before allowing the noncertified applicator to use restricted use pesticides under his or her direct supervision.
- (3) The commercial applicator supervisor must have access to records documenting the information required in paragraph (e)(1) of this section at the commercial applicator's principal place of business for two years from the date the noncertified applicator used the restricted use pesticide.

(f) Exceptions. The requirements in §171.201 do not apply to the following persons:

- (1) Persons conducting laboratory research involving restricted use pesticides.
- (2) Doctor of Medicine and Doctor of Veterinary Medicine applying restricted use pesticides to patients during the course of ordinary practice of those professions.

APPENDIX D
STATE PROCEDURES FOR RECIPROCITY at
§171.303(a)(9)

The certifying authority will:

- (i) rely only on valid current certifications that are issued under other approved State, Tribal or Federal agency certification plan.
- (ii) will examine the standards of competency used by the State, Tribe, or Federal agency that originally certified the applicator and will determine that, for each category of certification that will be accepted, they are comparable to its own standards.
- (iii) have a mechanism to terminate an applicator's certification upon notification that the applicator's original certification terminates because of a conviction under section 14(b) of FIFRA or was subject to a final order imposing a civil penalty under section 14(a) of FIFRA.
- (iv) issue an appropriate State credential or document to the applicator.