



JANET T. MILLS
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

July 18, 2025

9:00 AM Board Meeting

Join the meeting in person in Room 101, Deering Building, 90 Blossom Lane, Augusta
Or

[Join the meeting now](#)

Meeting ID: 279 233 101 582 3

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Phone conference ID: 338 771 344#

AGENDA

1. Introductions of Board and Staff

2. Minutes of June 6, 2025, Board Meeting

Presentation By: Alex Peacock, Director

Action Needed: Amend and/or Adopt

3. Licensure requirements for State of Maine Employees making pesticide applications in Laboratory settings

Government employees who apply pesticides as part of their duties require commercial applicator licensing. Staff are seeking clarity on the exemption within commercial category 10: Demonstration and Research Pest Control for individuals who conduct only laboratory-type research.

Presentation By: Alex Peacock, Director

Action Needed: Discussion/Action

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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4. LD 356: An Act to Require Notification of Certain Outdoor Pesticide Applications

Resolve, Directing the Board of Pesticides Control to Prohibit the Use of Rodenticides in Outdoor Residential Settings

Presentations By: Alex Peacock, Director
Action Needed: None, Discussion

5. LD 1323: An Act to Prohibit the Use of Neonicotinoid Pesticides and the Use and Sale of Neonicotinoid-treated Seeds

Resolve, Directing the Board of Pesticides Control to Evaluate the Impact of Neonicotinoids on Pollinators, Humans, and the Environment.

Presentation By: Alex Peacock, Director & Doug Van Hoewyk, Ph.D., Pesticide Toxicologist
Action Needed: None; Discussion

6. LD 1697: An Act to Increase Penalties to Deter Violations of the Laws Regarding Improper Pesticide Use

Overview of bill and proposed rule adoptions.

Presentation By: Alex Peacock, Director
Action Needed: None; Informational purposes

7. Rulemaking Update & Overview

The first session of the 132nd Maine State Legislature has resulted in three pesticide-related bills being passed. These bills are LD 356: An Act to Require Notification of Certain Outdoor Pesticide Applications, LD 1323: An Act to Prohibit the Use of Neonicotinoid Pesticides and the Use and Sale of Neonicotinoid-treated Seeds, and LD 1697: An Act to Increase Penalties to Deter Violations of the Laws Regarding Improper Pesticide Use. Staff will provide an overview of the rulemaking process.

Presentation By: Karla Boyd, Policy & Regulations Specialist
Action Needed: None; Informational purposes

8. Other Old and New Business

- a. EPA Announces Proposed Registration of New Active Ingredient Trifludimoxazin
- b. EPA Updates Maps to Protect Endangered Species and Provide Flexibility to Farmers
- c. City of Hallowell Landcare Management Ordinance

- d. City of Camden Revised Ordinance
- e. Amended FY22-25 Cooperative Agreement Guidance Memo

9. Schedule of Future Meetings

The next scheduled Board meeting date is August 29, 2025, at the Deering Building, Room 101, Augusta

Future Meetings: October 10, 2025, November 21, 2025

Adjustments and/or Additional Dates?

10. Adjourn

NOTES

- The Board Meeting Agenda and most supporting documents are posted one week before the meeting on the Board website at www.thinkfirstspraylast.org.
- Any person wishing to receive notices and agendas for meetings of the Board, Medical Advisory Committee, or Environmental Risk Advisory Committee must submit a request in writing to the Board's office. Any person with technical expertise who would like to volunteer for service on either committee is invited to submit their resume for future consideration.
- On November 16, 2007, the Board adopted the following policy for submission and distribution of comments and information when conducting routine business (product registration, variances, enforcement actions, etc.):
 - *For regular, non-rulemaking business*, the Board will accept pesticide-related letters, reports, and articles. Reports and articles must be from peer-reviewed journals. E-mail, hard copy, or fax should be sent to the Board's office or pesticides@maine.gov. In order for the Board to receive this information in time for distribution and consideration at its next meeting, all communications must be received by 8:00 AM, three days prior to the Board meeting date (e.g., if the meeting is on a Friday, the deadline would be Tuesday at 8:00 AM). Any information received after the deadline will be held over for the next meeting.
- During rulemaking, when proposing new or amending old regulations, the Board is subject to the requirements of the APA (Administrative Procedures Act), and comments must be taken according to the rules established by the Legislature.



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AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

June 6, 2025

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff
 - a. Board: Adams, Bohlen, Carlton, Fanning, Neavyn
 - b. Assistant Attorney General: Carey Gustanski
 - c. Staff: Boyd, Brown, Couture, Leibowitz, Peacock, Poisson, Richard, Saucier, Vacchiano

2. Minutes of the April 25, 2025 Board Meeting

Presentation By: Alex Peacock, Director
Action Needed: Amend and/or Adopt

- **Carlton/Fenning: Moved and seconded to adopt April 25, 2025 minutes as revised**
- **In favor: Unanimous**

3. Legislative Update

Currently, the Maine State Legislature is in the 132nd First Special Session, where 7 pesticide-related bills have been published. These bills are LD 356: An Act to Require Notification of Certain Outdoor Pesticide Applications, LD 1132: An Act to Further Protect Low-impact Landscaping, LD 1201: An Act to Protect Maine Agriculture and Farms by Exempting Certain Pesticides from Regulation, LD 1323: An Act to Prohibit the Use of Neonicotinoid Pesticides and the Use and Sale of Neonicotinoid-treated Seeds, LD 1557: An Act to Ensure Uniformity in the Regulation of Perfluoroalkyl and Polyfluoroalkyl Substances in Pesticides, and LD 1697: An Act to Increase Penalties to Deter Violations of the Laws Regarding Improper Pesticide Use. LD 1982: An Act to Ensure Uniformity in the Regulation of PFAS. Staff will give an update on the status of these bills.

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Presentation By: Alex Peacock, Director
Action Needed: None; Informational purposes

Peacock brought the board up to date on the following pesticide-related bills that had been published

- LD 356: An Act to Require Notification of Certain Outdoor Pesticide Applications
 - Peacock mentioned the amendment to remove the emergency, as well as to direct the BPC to prohibit the use of rodenticides in outdoor settings. Certified applicators would be exempt from this prohibition. The board will be required to submit a report on the prohibition to the Joint Standing Committee by January 15, 2026.
 - Carlton commented on how the original language in the bill created alarm in the public hearing.
 - Peacock explained that the original bill required written notification to everyone in a 500-foot radius, 7 days prior to any application and has since shifted focus to rodenticide due to concern over secondary exposure. Peacock mentioned that the next Board meeting would include a rulemaking update.
 - Bohlen clarified the legislature will require the Board to report, not to have the rulemaking completed and Peacock confirmed.
- LD 1323: An Act to Prohibit the Use of Neonicotinoid Pesticides and the Use and Sale of Neonicotinoid-treated Seeds
 - Peacock addressed the amendment created to add an emergency preamble and clause. This amendment also requires the Board to conduct a study on the impact of neonicotinoids on pollinators, humans, and the environment. The Board would also be required to solicit feedback from the public, stakeholders, and interested parties. Findings, appropriations, and allocations to be initially reported in January 2026, with a final report in January 2027. Bohlen asked if this would require reestablishing the environmental risk advisory committee and Peacock confirmed that it would require the initiation of ERAC
- LD 1697: An Act to Increase Penalties to Deter Violations of the Laws Regarding Improper Pesticide Use
 - Peacock mentioned that an amendment was already made to reduce the maximum fine from \$25,000 to \$10,000. A penalty matrix will need to be developed.
 - Carlton asked what the public hearing was like. Peacock said people were mostly neutral or in favor, though it was not heavily attended. Concerns were raised about the impact on small businesses.
- Adams – Section 1a is commercial and unlicensed while section 2 is for private applicators. LD 1557 An Act to Ensure Uniformity in the Regulation of Perfluoroalkyl and Polyfluoroalkyl Substances in Pesticides
 - Peacock informed the Board this bill died on the floor.
- LD 1982 An Act to Ensure Uniformity in the Regulation of PFAs
 - Peacock informed the Board this bill was published May 20th. It had a public hearing and a work session on the same day. The bill died on the floor on June 4th.

4. Proposed 2025 Water Quality Assessment

Every year, BPC receives funds from EPA to complete water quality testing in Maine. In previous years, BPC has focused on water quality related to aerial forestry practices, near agriculture and population centers, and drift related to brown tail moth applications, among other topics. The board showed interest in pursuing a water quality project in 2025 related to invasive species management programs that have applied for Chapter 29 variance from buffer requirements. Staff have prepared a proposal for this project.

Presentations By: Julia Vacchiano, Registrar and Water Quality Specialist
Action Needed: Discuss, Amend and/or Approve/Disapprove

- Vacchiano detailed that we got EPA funding, so she wanted to begin testing. The tests will include sediment and water samples from areas where variances have been approved.
 - Bohlen mentioned that the last water quality test found a fair number of pesticides in areas with no recorded pesticide use. He asked if Vacchiano had thought about field control tests in places without variances. Bohlen also mentioned that some of the active ingredients in the variances from 4-5 years ago had half lives of 30 days, so he was interested to see if any are found.
 - Carlton expressed interest in seeing the glyphosate data. He also asked how many sites she planned on testing.
 - Vacchiano had planned for 94 samples from 38 distinct sites.
 - Carlton mentioned that the invasives are very prevalent. The Japanese knotweed has taken over the Sandy River, so he was very interested in this study.
 - Adams asked if adjusting for the recommendations given would affect the cost. Vacchiano said that the only thing that would change the cost would be taking more samples. She asked if she should do less sampling. Bohlen mentioned that he didn't think duplicate samples would make that much of a difference. He thought the sediment samples would be more useful.
 - Adams said that he would rather do it right and increase the budget rather than have to cut things to fit inside the \$40k. He asked how it would look if we added 25 more samples to the study.
 - Peacock confirmed that this fiscal year's federal grant allocated \$41k for studies.
 - Van Hoewyk clarified if duplicate samples would still be used with the extra samples. Bohlen said that there is nothing wrong with having duplicate samples. Some studies do 20 or 10% of samples.
 - Adams motioned to accept the proposal as amended with an increase of budget to \$50k.
- **Adams/Carlton: Moved and Seconded proposal as amended with an increase of budget to \$50k**
 - **In favor: Unanimous**

5. Spruce Budworm Program Update

As the spruce budworm early intervention strategy has commenced. Staff will provide an update on the proposed treatment area and other information provided by the Maine Budworm Response Coalition (MRBC).

Presentation By: Alex Peacock, Director
Action Needed: None; Informational purposes

- Peacock informed the Board as of the day of the meeting, the project was 85% complete. The applicators responsible for this project have been on top of training, including workers who will be entering the application site within 30 days after the application as required under WPS. Peacock also thanked Jacob and Keith who did a pre-inspection of the aerial applicators and were on site conducting use inspections on what had already been applied. Follow up inspections will continue.

6. Tebufenozide and *Bacillus thuringiensis sub. Kurstaki* (Btk): Toxicity & Risk Assessment

BPC toxicologist provides an overview of the two active ingredients being used in the spruce budworm early intervention strategy.

Presentation By: Doug Van Hoewyk, PhD., Pesticide Toxicologist
Action Needed: None; Informational purposes

- Carlton commented on how we have a greater amount of quality information than what we had in the past. This application is necessary due to potential loss, but we are doing much better than 40 years ago. Peacock mentioned how many people still have memories of Sevin being used in the 70s/80s and that these new chemistries have lower risks.
- Van Hoewyk brought up several studies in Canada and Europe about how birds who prey upon caterpillars – how they fair when these pesticides are used. The vast majority shows no significant effect on clutch size. Carlton asked if Canada is using a similar strategy to us.
- Peacock clarified that we are modeling New Brunswick's Early Intervention Strategy.

7. Other Old and New Business

- a. Variance Permit for CMR01-026, Chapter 29, Parterre Ecological, Sea Spray, Biddeford
- b. Variance Permit for CMR01-026, Chapter 29, Parterre Ecological, Peaks Island
- c. Variance Permit for CMR01-026, Chapter 29, Wilkinson Ecological, Orcutt, Biddeford
- d. Variance Permit for CMR01-026, Chapter 29, Wilkinson Ecological, E. Point, Biddeford
- e. Variance Permit for CMR01-026, Chapter 29, Wilkinson Ecological, Abenakee Golf Club
- f. EPA Announces Proposed Registration of New Active Ingredient Isocycloseram
- g. EPA Releases Strategy to Better Protect Endangered Species from Insecticides Using Commonsense Practices, Provides Flexibilities to States and Growers

- Van Hoewyk commented that he believed it was considered PFAs according to Maine
- Vacchiano said that there were no current registrations for the ingredient, submitted or accepted.
 - Peacock said there was an EPA lawsuit for failure to properly analyze active ingredients, and a new review strategy was implemented because of it. Conservation programs may qualify for 9 points now. It also decreases buffers in language about drift. Refining pesticide use limitations to include endangered species habitats and not just based on the range. May create new hurdles where the internet needs to be an extension of the label. Mitigations often occur when application is being conducted so it will be hard to inspect.

8. Schedule of Future Meetings

The next scheduled Board meeting date is July 18, 2025, at the Deering Building, Room 101, Augusta

- Dr. Neavyn needs to leave the July 18, 2025, Board meeting by 10:30
- Adams asked to update the item description to include hybrid meeting

Future Meetings: August 29, 2025, and October 10, 2025

9. Adjourn

- **Carlton/Bohlen: Moved and seconded to adjourn at 10:30 AM**
- **In favor: Unanimous**



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JANET T. MILLS
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AMANDA E. BEAL
COMMISSIONER

Memorandum

To: Board of Pesticides Control
From: Alexander Peacock, Director
Subject: Licensure requirements for State of Maine employees making pesticide applications in laboratory settings

July 18, 2025

Background:

The Maine Seed Potato Certification Program's Potato Testing Lab is using ProGibb LV PLUS Plant Growth Regulator Solution, EPA Reg. No. 73049-498, as a sprouting agent to examine new shoots for viruses in a laboratory environment. The active ingredient is gibberellic acid. The applicator making and supervising these non-motorized, tuber dip applications has a private applicator license with the potato commodity category. These tubers are not sent to market and are solely used for virus assessment.

Government employees who make pesticide applications require commercial applicator licensing.

Although not included in Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS, Section F: Exemptions, commercial category 10: Demonstration and Research Pest control carries an exemption for individuals who conduct only laboratory-type research.

Why do Government Employees Need Commercial Applicator Licensing?

MRS Title 22§1471-D. Certification and licenses

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).]

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MRS Title 22§1471-C. Definitions

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).]

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

[RR 2021, c. 2, Pt. B, §91 (COR).]

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

F. Exemptions

- I. Persons applying pesticides to household pets and other non agricultural domestic animals are exempt from commercial applicator licensing.
- II. Swimming pool and spa operators that are certified by the National Swimming Pool Foundation, National Spa and Pool Institute or other organization approved by the Board are exempt from commercial applicator licensing. However, these persons must still comply with all provisions of C.M.R. 10-144, Chapter 202 – *Rules Relating to Public Swimming Pools and Spas*, administered by the Maine Department of Health and Human Services, Division of Environmental Health..
- III. Certified or licensed Wastewater or Drinking Water Operators applying registered disinfectants to waste or drinking water as part of their employment.
- VI. Adults applying repellents to children with the consent of parents/guardians.
- VII. Persons installing antimicrobial metal hardware

2. Categories of Commercial Applicators

X. Demonstration and Research Pest Control

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; e.g., Categories I - IX.

Action Item

Does The Board interpret the language in Ch. 32, Sec. 2 (X) to exempt the employees at the Maine Potato Lab and in the Seed Certification Program from commercial licensing?

The Board may also allow for reduced licensing requirements through rulemaking pursuant to:

MRS Title 22§1471-D. Certification and licenses

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](#).

MRS Title 22§1471-C. Definitions

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).]

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[RR 2021, c. 2, Pt. B, §91 (COR).]

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Action Item

Does The Board interpret the language in Ch. 32, Sec. 2 (X) to exempt the employees at the Maine Potato Lab from commercial licensing?

The Board may also allow for reduced licensing requirements through rulemaking pursuant to:

MRS Title 22§1471-D. Certification and licenses

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](#).

§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 humans or other animals or those on or in processed food, beverages or pharmaceuticals.

[RR 2021, c. 2, Pt. B, §89 (COR).]

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 humans or other living animals, that the commissioner declares to be a pest.
[RR 2021, c. 2, Pt. B, §90 (COR).]

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 that is classified for restricted or limited use for purposes of producing any agricultural commodity on property owned or rented by the person or the person's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.
[RR 2021, c. 2, Pt. B, §91 (COR).]

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 1975, c. 397, §2 (NEW); 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). RR 2021, c. 2, Pt. B, §§89-91 (COR).

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§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).

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01 **DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**

026 **BOARD OF PESTICIDES CONTROL**

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

SUMMARY: These regulations describe the requirements for certification and licensing of commercial applicators.

1. Individual Certification and Company/Agency Licensing Requirements

- A. Any commercial applicator must be either:
 - I. licensed as a commercial applicator/master; or
 - II. licensed as a commercial applicator/operator; or
 - III. supervised on-site by either a licensed commercial applicator/master or a commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator. This supervision must include visual and voice contact. Visual contact must be continuous except when topography obstructs visual observation for less than five minutes. Video contact does not constitute visual observation. The voice contact requirement may be satisfied by real time radio or telephone contact. In lawn care and other situations where both the licensed and unlicensed applicator are operating off the same application equipment, the licensed applicator may move to an adjoining property on the same side of the street and start another application so long as he or she is able to maintain continuous visual and voice contact with the unlicensed applicator. Applicators must also follow the standards outlined in 40 CFR 171.201 (2023).
- 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).
- C. All commercial applicator licenses shall be affiliated with a company/agency and shall terminate when the employee leaves the employment of that company or agency.
- D. Individuals certified as commercial applicators are eligible to license with one or more companies/agencies upon submission of the application and fee as described in Section 6 of this regulation. The individual's certification remains in force for the duration of the certification period as described in Section 5 of this regulation.
- E. Each branch office of any company, agency, organization or self-employed individual ("employing entity") required to have personnel licensed commercially under state

pesticide law shall have in its employment at least one master applicator. This Master must be licensed in all categories which the branch office of the company or agency performs applications and any Operators must also be licensed in the categories in which they perform or supervise pesticide applications. This master applicator must actively supervise persons applying pesticides within such employing entity and have the ability to be on site to assist such persons within six (6) hours driving time. Whenever an out-of-state employing entity is conducting a major application project they must have a master applicator within the state.

F. Exemptions

- I. Persons applying pesticides to household pets and other non agricultural domestic animals are exempt from commercial applicator licensing.
- II. Swimming pool and spa operators that are certified by the National Swimming Pool Foundation, National Spa and Pool Institute or other organization approved by the Board are exempt from commercial applicator licensing. However, these persons must still comply with all provisions of C.M.R. 10-144, Chapter 202 – *Rules Relating to Public Swimming Pools and Spas*, administered by the Maine Department of Health and Human Services, Division of Environmental Health..
- III. Certified or licensed Wastewater or Drinking Water Operators applying registered disinfectants to waste or drinking water as part of their employment.
- VI. Adults applying repellents to children with the consent of parents/guardians.
- VII. Persons installing antimicrobial metal hardware.

2. Categories of Commercial Applicators

- A. All commercial applicators shall be categorized according to the type of work performed as outlined below:
 - I. **Agricultural Animal and Plant Pest Control**
 - a. **Agricultural Animal** - 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.
 - b. **Agricultural Plant** - 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.

Option I - Limited Commercial Blueberry - This option includes commercial applicators using or supervising the use of pesticides in the production of blueberries only.

Option II - Chemigation - This option includes commercial applicators using or supervising the use of pesticides applied through irrigation equipment in the production of crops.

Option III - Agricultural Soil Fumigation - This option includes commercial applicators using or supervising the use of soil fumigant pesticides in the production of crops.

Option IV - Post Harvest Treatment - This option includes commercial applicators using or supervising the use of pesticides in the post harvest treatment of food crops.

II. **Forest Pest Management**

This category includes commercial applicators using or supervising the use of pesticides in forests, forest nurseries, Christmas trees, and forest seed producing areas.

III. **Ornamental and Turf Pest Control**

- a. **Outdoor Ornamentals** - 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.
- b. **Turf** - 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.
- c. **Indoor Ornamentals** - 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.

IV. **Seed Treatment**

This category includes commercial applicators using or supervising the use of pesticides on seeds.

V. **Aquatic Pest Control**

- a. **General Aquatic** - 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.

Excluding applicators engaged in public health related activities included in categories VII(e) and VIII below.

- b. **Sewer Root Control** - This subcategory includes commercial applicators using or supervising the use of pesticides applied to sewers to control root growth in sewer pipes.

VI. **Vegetation Management**

- a. **Rights-of-Way Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation on utility, roadside, maintenance of public roads, and railroad rights-of-way.
- b. **General Vegetation Management** - 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, maintenance of public roads, industrial or commercial plants and buildings, lumber yards, airports, tank farms, storage areas, parking lots, sidewalks, and trails.

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

- a. **General** - 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.
- b. **Fumigation** - This subcategory includes commercial applicators using or supervising the use of fumigants or fumigation techniques in any type of structure or transportation device.
- c. **Disinfectant and Biocide** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems, to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, air conditioning systems, and in swimming pools and spas.
- d. **Wood Preserving** - 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.

- e. **Biting Fly & other Arthropod Vectors** - 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.
- f. **Termite Pests** - This subcategory includes commercial applicators using or supervising the use of pesticides to control termites.

VIII. **Public Health Pest Control**

- a. **Biting Fly Pests** - 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.
- b. **Other Pests** - 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.

IX. **Regulatory Pest Control**

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.

X. **Demonstration and Research Pest Control**

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; e.g., Categories I - IX.

XI. **Aerial Pest Control**

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; e.g., Categories I - IX.

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:

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**
 - 1. Option I - Limited Commercial Blueberry - Applicants seeking certification in Limited Commercial Blueberry must demonstrate practical knowledge of blueberries. This option includes commercial applicators using or supervising the use of pesticides in producing blueberries only. Areas of such practical knowledge shall include IPM, 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 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.
 - 2. Option II - Chemigation - This option includes commercial applicators using or supervising the use of pesticides applied through irrigation equipment in the production of crops. Areas of such practical knowledge shall include IPM, 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. The proper meteorological conditions for applying pesticides and the potential adverse effect of pesticides on plants, animals, or humans.

3. Option III - Agricultural Soil Fumigation - This option includes commercial applicators using or supervising the use of fumigant pesticides in the production of crops. Applicants seeking certification 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 IPM, 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. Applicants must demonstrate practical knowledge of agricultural soil fumigation as outlined in 40 CFR 171.103(d)(13) and 40 CFR 171.103(c)(1)-(10) (2023).
4. Option IV - Post-Harvest Treatment - This option includes commercial applicators using or supervising the use of pesticides in the post-harvest treatment of food crops. Applicants must demonstrate practical knowledge of the crops being treated, the specific pests of those crops on which they may be using pesticides, and the potential adverse effect of pesticides on animals or humans.

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**

- a. **Rights-of-Way Vegetation Management** - 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. Applicants seeking certification must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include maintenance of public roads to Maine vegetation management rights of ways vegetation management. The 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, the importance of the assessment of the 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 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. **General Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in managing vegetation (including invasive plants). Applicants seeking certification must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include the 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, and effects of spraying on fish and wildlife species and their habitat. 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.

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 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. Applicants must also demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(14) and 40 CFR 171.103(c)(1)-(10) (2023).
- c. **Disinfectant and Biocide.** Applicants seeking certification in the subcategory of Disinfectant and Biocide as described in Section 2(A)(VII)(c) must demonstrate practical knowledge of water organisms and their life cycles, pool and spa design systems, drinking water treatment plant designs, cooling water system designs, mold and problematic microbial organisms, labels, 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. Applicants must also demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(15) and 40 CFR 171.103(c)(1)-(10) (2023).

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.
- B. **Master Exam.** An applicant seeking certification as a commercial applicator/master must also demonstrate practical knowledge in ecological and environmental concerns, pesticide container and rinsate disposal, spill and accident mitigation, pesticide storage and on site security, employee safety and training, potential chronic effects of exposure to pesticides, pesticide registration and special review, the potential for groundwater contamination, principles of pesticide drift and measures to reduce drift, protection of public health, minimizing public exposure and use of non pesticide control methods. In addition, applicant must demonstrate the ability to interact with a concerned public.

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 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.

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 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; they may also be asked to provide documentation such as an agenda or descriptions of the presentations attended.
- 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.

6. Licensing

- A. All Commercial Applicators required to be certified under this chapter and state pesticide law shall be licensed before using or supervising the use of pesticides as described in Section 1(A).
- B. **Nonresident licenses.** When the staff determines that a pest management emergency exists which necessitates the use of aerial application and for which there are not sufficient qualified Maine licensees, it may issue a license 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. Nonresident licenses issued pursuant to this section are effective until December 31 of the year in which they are issued.
- C. **Application.** Application for a commercial applicator license shall be on forms provided by the Board.
- I. The completed application must include the name of the company or agency employing the applicant.
- II. Unless the applicant is the owner of a company, the completed application must be signed by both the applicant and that person's supervisor to verify the applicant is an employee of the company/agency.
- D. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
- I. For a commercial applicator license - \$105.00 per person.
- E. Commercial applicators who apply pesticides for hire (custom applicators) and operate a company that is incorporated or which employs more than one applicator (licensed or unlicensed) must comply with Chapter 35, *Certification & Licensing Provisions/Spray Contracting Firms* which requires an additional Spray Contracting Firm License.
- F. **Insurance.** Commercial applicators who spray for hire (custom applicators) shall be required to have liability insurance in force at any time they make a pesticide application.

- I. Applicators shall submit a completed and signed form provided by the Board at the time they apply for their license which attests that they will have the required amounts of insurance coverage in effect when they make pesticide treatments. The information submitted on the form must be true and correct.
- II. Insurance coverage must meet or exceed the following minimum levels of liability:
 - a. **Ground applicators**

Public liability	\$100,000 each person \$300,000 each occurrence
Property damage	\$100,000 each occurrence
 - b. **Aircraft applicators**

Public liability	\$100,000 each person \$300,000 each occurrence
Property damage	\$100,000 each occurrence
- 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).
- H. **Expiration**
 - I. All licenses will expire at the end of the certification period as determined in Section 5(A)VI or when an individual licensee terminates employment with the company/agency with which the individual's license is affiliated.
 - II. The licensee or a company/agency representative shall notify the Board in writing within 10 days after a licensee is terminated from employment.
 - III. Also, all licenses within a company/agency are suspended if the licensed Master is terminated from employment or dies.
- I. **Decision.** Within 60 days of receipt of application by the Board, unless the applicant agrees to a longer period of time, the Director shall issue, renew or deny the license. The Director's decision shall be considered final agency action for purposes of 5 M.R.S.A. §11001 *et seq.*
- 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.

STATUTORY AUTHORITY: 22 M.R.S.A., Section 1471-D

EFFECTIVE DATE:

January 1, 1983 (filed with Secretary of State August 13, 1982)

AMENDED:

December 29, 1982

January 1, 1984

January 1, 1984 - Section 7

May 20, 1984 - Section 6

May 13, 1985 - Section 5

Emergency amendment effective April 18, 1986 - Section 6

August 3, 1986 - Section 6

November 30, 1986 - Section 3

May 23, 1987 - Section 1

April 27, 1988

April 29, 1990

January 1, 1996 (adopted by Board October 7, 1994 - see Section 8 for transition dates)

October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

December 28, 1999 -- also converted to MS Word

March 5, 2003

July 3, 2005 – filing 2005-267

March 4, 2007 – filing 2007-69

July 2, 2009 – filing 2009-318 (EMERGENCY, later reverted to pre-emergency status)

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

December 9, 2014 – filing 2014-280

September 23, 2015 – filing 2015-168

July 23, 2019 – filing 2019-131

October 21, 2024 – filing 2024-237

[Text in brackets [] indicates optional language or language intended for explanatory purposes to facilitate label review. Thus, this language will often not appear on final printed labeling. Also, this page is present (page 1) to delineate sublabels and will not appear on the final printed labeling.]

MASTER LABEL

Primary Product name: ProGibb LV PLUS Plant Growth Regulator Solution
Alternate Brand name: ProGibb LV PLUS T&O Plant Growth Regulator Solution

Sublabel I: PROGIBB LV PLUS Plant Growth Regulator Solution; For use on artichoke, avocado, banana, bell pepper, blueberry, carrot, celery, cherries, citrus, coffee, collard greens, cotton, cranberry, cucumber, dry bean, grapes, hops, Italian prune, leaf lettuce, lettuce for seed, melon, mustard greens, peanut, pecan, pepper, pineapple, plantain, potato seed, rhubarb, rice, soybean, spinach, stone fruit, strawberry, turnip greens, and watercress.

Sublabel II: PROGIBB LV PLUS Plant Growth Regulator Solution; For use on Turf and Ornamental Plants

For Organic Production.

Active Ingredient:
Gibberellic Acid.....5.7 % w/w
Other Ingredients.....94.3 % w/w
Total.....100.0% w/w

PROGIBB LV PLUS contains approximately 2.0 grams active ingredient per fluid ounce of formulated product.

KEEP OUT OF REACH OF CHILDREN CAUTION - PRECAUCIÓN

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle. (If you do not understand the label, find someone to explain it to you in detail).

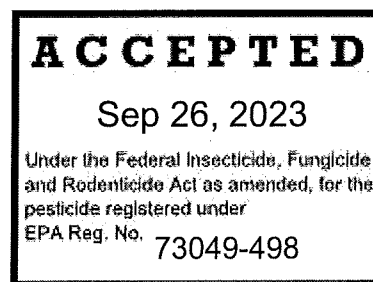
For MEDICAL and TRANSPORT Emergencies ONLY Call 24 Hours A Day 1-800-892-0099.
For All Other Information Call 1-800-6-VALENT

EPA Registration No. 73049-498
EPA Establishment No.

Lot No. _____

Valent BioSciences LLC
1910 Innovation Way, Suite 100
Libertyville, IL 60048

Net Contents: _____



SUB LABEL I

PROGIBB LV PLUS Plant Growth Regulator Solution

Sublabel I: PROGIBB LV PLUS Plant Growth Regulator Solution; For use on artichoke, avocado, banana, bell pepper, blueberry, carrot, celery, cherries, citrus, coffee, collard greens, cotton, cranberry, cucumber, dry bean, grapes, hops, Italian prune, leaf lettuce, lettuce for seed, melon, mustard greens, peanut, pecan, pepper, pineapple, plantain, potato seed, rhubarb, rice, soybean, spinach, stone fruit, strawberry, turnip greens, and watercress.

PROGIBB LV PLUS
Plant Growth Regulator
Solution
For Agricultural Use.

For Organic Production.

Active Ingredient:
Gibberellic Acid.....5.7 % w/w
Other Ingredients.....94.3 % w/w
Total.....100.0% w/w

PROGIBB LV PLUS liquid contains approximately 2.0 grams active ingredient per fluid ounce of formulated product.

KEEP OUT OF REACH OF CHILDREN
CAUTION - PRECAUCIÓN

Si usted no entiende la etiqueta, busque a alguien para que se la explique a usted en detalle. (If you do not understand the label, find someone to explain it to you in detail).

For MEDICAL and TRANSPORT Emergencies ONLY Call 24 Hours A Day 1-800-892-0099.
For All Other Information Call 1-800-6-VALENT

EPA Registration No. 73049-498
EPA Establishment No.
Lot No. _____

Valent BioSciences LLC
1910 Innovation Way, Suite 100
Libertyville, IL 60048

Net Contents: _____

FIRST AID	
If in eyes	<ul style="list-style-type: none"> • Hold eye open and rinse slowly and gently with water for 15-20 minutes. • Remove contact lenses, if present, after the first 5 minutes, then continue rinsing eye. • Call a poison control center or doctor for treatment advice.
If swallowed	<ul style="list-style-type: none"> • Call a poison control center or doctor immediately for treatment advice. • Have person sip a glass of water if able to swallow. • Do not induce vomiting unless told to do so by the poison control center or doctor. • Do not give anything by mouth to an unconscious person.
If inhaled	<ul style="list-style-type: none"> • Move person to fresh air. • If person is not breathing, call 911 or an ambulance, then give artificial respiration, preferably by mouth-to-mouth, if possible. • Call a poison control center or doctor for further treatment advice
If on skin or clothing	<ul style="list-style-type: none"> • Take off contaminated clothing. • Rinse skin immediately with plenty of water for 15-20 minutes. • Call a poison control center or doctor for treatment advice.
HOT LINE NUMBER	
Have the product container or label with you when calling a poison control center or doctor, or going for treatment. You may also call toll-free 1-800-892-0099 (24 hours) for emergency medical treatment and/or transport emergency information. For all other information, call 1-800-6-Valent.	

HOT LINE NUMBER

Have the product container or label with you when calling a poison control center or doctor, or going for treatment. For medical emergencies, you may also call toll-free 1-800-892- 0099 for treatment information.

PRECAUTIONARY STATEMENTS HAZARDS TO HUMANS AND DOMESTIC ANIMALS

CAUTION

Harmful if absorbed through the skin. Avoid contact with skin, eyes, or clothing. Wash thoroughly with soap and water after handling. Remove and wash contaminated clothing before reuse.

PERSONAL PROTECTIVE EQUIPMENT (PPE)

Some materials that are chemical-resistant to this product are listed below. If you want more options, follow the instructions for Category C on an EPA chemical resistance category selection chart.

Applicators and other handlers must wear:

- Long sleeved shirt
- Long pants
- Chemical resistant gloves, such as barrier laminate, butyl rubber, nitrile rubber, neoprene rubber, polyvinyl chloride, and viton
- Shoes plus socks
- Protective eyewear

Discard clothing and other absorbent materials that have been drenched or heavily contaminated with this product's concentrate. Do not reuse them.

Follow manufacturer's instructions for cleaning/maintaining PPE. If no such instructions for washables, use detergent and hot water. Keep and wash PPE separately from other laundry.

USER SAFETY RECOMMENDATIONS

Users should:

- Wash hands before eating, drinking, chewing gum, using tobacco or using the toilet.
- User should remove clothing/PPE immediately if pesticide gets inside. Then wash thoroughly and put on clean clothing.
- Remove PPE immediately after handling this product. Wash the outside of gloves before removing. As soon as possible, wash thoroughly and change into clean clothing.

ENVIRONMENTAL HAZARDS

For terrestrial uses: Do not apply directly to water, or to areas where surface water is present or to intertidal areas below the mean high water mark. Do not contaminate water when disposing of equipment washwaters or rinsate.

Do not use treated seed for food, feed, or oil purposes. Exposed treated seed may be hazardous to birds and other wildlife. Treat only those seeds needed for immediate use and planting. Do not store excess treated seed beyond planting time. Dispose of all excess treated seed and seed packaging by burial away from bodies of water.

DIRECTIONS FOR USE

It is a violation of Federal law to use this product in a manner inconsistent with its labeling. Do not apply this product in a way that will contact workers or other persons, either directly or through drift. Only protected handlers may be in the area during application. For any requirements specific to your State or Tribe, consult the State or Tribal agency responsible for pesticide regulation.

AGRICULTURAL USE REQUIREMENTS

Use this product only in accordance with its labeling and with the Worker Protection Standard, 40 CFR Part 170. This Standard contains requirements for the protection of agricultural workers on farms, forests, nurseries, and greenhouses, and handlers of agricultural pesticides. It contains requirements for training, decontamination, notification, and emergency assistance. It also contains specific instructions and exceptions pertaining to the statements on this label about personal protective equipment (PPE), and restricted entry interval. The requirements in this box only apply to uses of this product that are covered by the Worker Protection Standard.

Do not enter or allow worker entry into treated areas during the restricted entry interval (REI) of 4 hours unless wearing appropriate PPE

PPE required for early entry to treated areas that is permitted under the Worker Protection Standard and that involves contact with anything that has been treated, such as plants, soil, or water is:

- Coveralls
- Chemical resistant gloves such as barrier laminate, butyl rubber, nitrile rubber, neoprene rubber, polyvinyl chloride, and viton
- Shoes plus socks
- Protective eyewear

GENERAL USE INSTRUCTIONS

Use only as directed. Read the label thoroughly and understand it before making applications. Keep out of reach of children.

Do not apply this product through any type of irrigation system, unless otherwise permitted on the label.

Application Instructions:

- PROGIBB LV PLUS Plant Growth Regulator Solution (hereafter referred to as PROGIBB LV PLUS) contains gibberellic acid, which is an extremely potent plant growth regulator; when applying plant growth regulators, deviations from the label directions in the rates, timings, water volumes, or the adoption of untested spray mixes, results in undesirable effects. Always consult the Valent agricultural specialist in your area for the spray regimen best suited to your conditions.
- Do not apply to plants under pest, nutritional, or water stress.
- Void drift or accidental application to other crops.
- When a range of rates is indicated, use the concentration and spray volume directed locally by the Valent agricultural specialist.
- For optimum effectiveness, thorough spray coverage must be achieved; all parts of the plant or crop must receive the spray or desired results will not occur. Prepare solution concentrations by mixing the required amount of product with water in a clean, empty spray tank. Dispose of any unused spray material at the end of each day following local, state or federal law.
- For most efficacious results, use water with a pH of 4.0 to 8.5. Use a buffer for water with pH above or below this range.
- PROGIBB LV PLUS applications made under slow drying conditions (cool to warm temperatures, medium to high relative humidity, and no wind) will increase absorption by the plant, thus optimizing effectiveness. Night time applications are encouraged when day time conditions are not conducive to slow drying conditions.
- Rain fastness: Re-apply PROGIBB LV PLUS if significant rain occurs within 2 hours of application.
- Do not apply using ULV application methods. For aerial applications spray volumes must be greater than 2 gallons per acre (10 gallons per acre for tree crops).
- No pre-harvest interval is required for this product.
- Compatibility: When considering tank mixing with other products, use the following compatibility jar test before mixing a whole tank.

COMPATIBILITY WITH OTHER AGRICULTURAL PRODUCTS

Compatibility and performance data for PROGIBB LV PLUS with other agricultural products are not necessarily available.

VEGETABLE CROPS (con't)			
CROP/VARIETY	OBJECTIVE/BENEFIT	RATE/ACRE	APPLICATION TIMING
Potato seed	To stimulate uniform sprouting to aid in maximum production, more uniform development, fewer late maturing plants, and to break dormancy of newly harvested potatoes that have not had a full rest period.	0.2- 0.4 grams a.i. (0.1-0.2oz; 3-6 ml)	Dip whole or cut seed pieces in a solution containing 0.2- to-0.4 grams a.i. in 100 gallons of water prior to planting.
<p>NOTE: Under high soil temperatures use the minimum concentration for dormant seed. Do not treat rested seed pieces.</p>			
Rhubarb	To break dormancy on plants receiving insufficient chilling and to increase marketable yield of forced rhubarb	10 – 20 grams a.i. (5-10 oz)	<p>1) When the rest period is not completely broken, make a single application of 2 fluid ounces (60 ml) of a solution containing 20 grams a.i. in 10 gallons of water to each cleaned crown.</p> <p>2) When the rest period is broken by cold weather, apply 2 fluid ounces (60 ml) of a solution containing 10 grams a.i. in 10 gallons of water to each cleaned crown.</p>
<p>NOTE: Keep forcing house temperatures at 40 – 50°F for 24 hours after application. If house is warmer than 50°F, cover crowns with plastic. Temperatures above 50°F lower yields and cause poor stalk color.</p>			

DRY BEAN [Not for Use in California]

OBJECTIVE/BENEFIT	USE RATE/ACRE	APPLICATION TIMING
Promotes early season growth, increased seedling vigor, and increased plant height allowing for improved harvesting efficiency.	1 – 6 grams a.i. 0.5 – 3 ounces product	Apply 1 – 2 applications as a foliar broadcast spray during the 3 to 7 leaf/node stage. If applying as a banded spray, reduce rates accordingly. Complete coverage of leaf tissue is essential. Use higher rates when temperatures will likely average 75°F or less during the 14 days following application(s).

NOTE:

- Do not apply plants that are under drought stress. If plants are under continuous stress, delay the application until the stress is alleviated and the plants are beginning to recover.
- Applying more often than necessary to achieve the desired height results in excessive vegetative growth.
- Highly variable responses based on genetic background or variety are known to occur. Caution should be used when applying to varieties where there is no prior knowledge of the response.

TROPICAL CROPS – FIELD USES

CROP/ VARIETY	OBJECTIVE/ BENEFIT	RATE / ACRE	APPLICATION TIMING
Sugarcane [Not for use in California]	To stimulate growth and biomass.	1.0 - 2.0 grams ai per acre 0.5 - 1.0 ounces product	Make 1 to 2 applications of 0.5 - 1.0 ounces of product per acre per application. Do not exceed a total of 1 ounce of product per acre.

STORAGE AND DISPOSAL

Do not contaminate water, food or feed by storage or disposal.

Pesticide Storage: Store in a cool, dry place. Keep containers tightly closed when not in use. Keep away from heat and open flame.

Pesticide Disposal: To avoid wastes, use all material in this container by application according to label directions. If wastes cannot be avoided, offer remaining product to a waste disposal facility or pesticide disposal program (often such programs are run by state or local governments or by industry).

Container Disposal: Non-refillable container. Do not reuse or refill this container. Triple rinse container (or equivalent) promptly after emptying. Triple rinse as follows: Empty the remaining contents into application equipment or a mix tank and drain for 10 seconds after the flow begins to drip. Fill the container ¼ full with water and recap. Shake for 10 seconds. Pour rinsate into application equipment or a mix tank or store rinsate for later use or disposal. Drain for 10 seconds after the flow begins to drip. Repeat this procedure two more times. Then offer for recycling if available or puncture and dispose of in a sanitary landfill, or by incineration. Do not burn, unless allowed by state and local ordinances.

NOTICE TO USER:

To the extent permitted by applicable law, seller makes no warranty, express or implied, of merchantability, fitness or otherwise concerning use of this product other than as indicated on the label. User assumes all risks of use, storage or handling not in strict accordance with accompanying directions.

ProGibb® 40% Plant Growth Regulator is a registered trademark of Valent BioSciences LLC.
SelectMax® registered trademark of Valent USA LLC.
Valor®, Valor® XLT, Gangster®, and Fierce® are registered trademarks of Valent USA LLC
Products That Work, From People Who Care is a trademark of Valent U.S.A. LLC.

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04-XXXX/RX

73049-00498.20200805.ProGibbLVPLUS.Amendment

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

S.P. 142 - L.D. 356

**Resolve, Directing the Board of Pesticides Control to Prohibit the Use of
Rodenticides in Outdoor Residential Settings**

Sec. 1. Board of Pesticides Control to prohibit use of rodenticides.
Resolved: That the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall prohibit the use of rodenticides, including rodenticidal baits, in outdoor residential settings. A certified applicator as defined under the Maine Revised Statutes, Title 22, section 1471-C, subsection 4 is exempt from the prohibition under this section. The board shall submit a report with an update on the prohibition under this section to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 15, 2026. The joint standing committee may submit a bill to the Second Regular Session of the 132nd Legislature relating to the subject matter of the report.

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 858 - L.D. 1323

**Resolve, Directing the Board of Pesticides Control to Evaluate the Impact of
Neonicotinoids on Pollinators, Humans and the Environment**

Sec. 1. Board of Pesticides Control to study neonicotinoids. Resolved: That the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control, referred to in this resolve as "the board," shall study:

1. The impacts of neonicotinoids, including neonicotinoid-treated seeds, on pollinators;
2. The costs and benefits of neonicotinoid-treated seeds compared to untreated seeds, including the market availability of neonicotinoid-treated seeds compared to untreated seeds;
3. The impact of neonicotinoids on the environment, including, but not limited to, soil, water and plant tissues;
4. The toxicity of neonicotinoids to humans;
5. Alternatives to neonicotinoid seed treatments for the protection of crops from damaging pests and disease;
6. The toxicity of effective alternatives to neonicotinoids and neonicotinoid-treated seeds that may be used for the protection of crops from damaging pests and disease; and
7. Methods of application of alternatives to neonicotinoids and neonicotinoid-treated seeds and the required number of applications for effectiveness.

In conducting the study under this section, the board shall give special consideration to effects on potato crops and corn crops.

Sec. 2. Request for information. Resolved: That the board shall solicit feedback regarding ideas and insights on the topic of the study, pursuant to section 1, from the public, stakeholders and interested parties through either a public hearing or a request for information document.

Sec. 3. Reports. Resolved: That the board shall submit a preliminary report to the Joint Standing Committee on Agriculture, Conservation and Forestry no later than January 15, 2026 and shall submit a final report with findings and recommendations relating to the

subject matter of the study under section 1 to the joint standing committee of the Legislature having jurisdiction over agricultural matters no later than January 15, 2027. The joint standing committee may submit a bill to the 133rd Legislature in 2027 relating to the subject matter of the final report.

Sec. 4. Appropriations and allocations. Resolved: That the following appropriations and allocations are made.

AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF

Pesticides Control - Board of 0287

Initiative: Provides funding for contractual services to research the effects of neonicotinoids.

OTHER SPECIAL REVENUE FUNDS	2025-26	2026-27
All Other	\$156,500	\$0
OTHER SPECIAL REVENUE FUNDS TOTAL	\$156,500	\$0

STATE OF MAINE

IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FIVE

H.P. 1132 - L.D. 1697

**An Act to Increase Penalties to Deter Violations of the Laws Regarding
Improper Pesticide Use**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §616-A, sub-§2, ¶A, as repealed and replaced by PL 2003, c. 452, Pt. B, §6 and affected by Pt. X, §2, is amended to read:

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. This paragraph does not apply to a private applicator as defined in Title 22, section 1471-C, subsection 22 or a private applicator of general use pesticides as defined in Title 22, section 1471-C, subsection 22-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 as follows.

(a) A fine of not more than \$10,000 may be adjudged except as provided in division (b).

(b) A fine of not more than \$50,000 may be adjudged for an unauthorized pesticide application in a case in which the preponderance of the evidence demonstrates that the person who violated this paragraph benefited substantially from the violation as determined by the board by routine technical rule as described in Title 5, chapter 375, subchapter 2-A. Clear and convincing evidence that only one person benefited substantially from an unauthorized pesticide application constitutes prima facie evidence that the person is responsible for the unauthorized pesticide application.

(2) A person who violates this paragraph and is subject to a fine under subparagraph (1), division (a) after having previously violated this paragraph and having been subject to a fine under subparagraph (1), division (a) within the previous 4-year period commits a civil violation for which a fine of not more than ~~\$4,000~~ \$75,000 may be adjudged. A person who violates this paragraph and is subject to a fine under subparagraph (1), division (b) after having previously

violated this paragraph and having been subject to a fine under subparagraph (1), division (b) within the previous 4-year period commits a civil violation for which a fine of not more than \$150,000 may be adjudged.

Sec. 2. 7 MRSA §616-A, sub-§2, ¶B, as amended by PL 2011, c. 510, §1, is further amended to read:

B. A private applicator, as defined in Title 22, section 1471-C, subsection 22, and a private applicator of general use pesticides, as defined in Title 22, section 1471-C, subsection 22-A, 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 or 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~~ \$1,000 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~~ \$2,000 may be adjudged.

Sec. 3. Board of Pesticides Control to adopt rules. The Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall adopt routine technical rules as described in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to:

1. Establish a penalty schedule for violations of the laws and rules governing pesticides to create transparency for future penalties assessed;
2. Provide the means by which separate civil suits may be brought against the same violator of the laws and rules governing pesticides if pesticide migration through soil or bedrock occurs affecting more than one property;
3. Provide for the restoration of affected property and replacement of vegetation as penalties for violations of the laws and rules governing pesticides in addition to monetary penalties; and
4. Designate pesticides with the active ingredient tebuthiuron as state restricted use pesticides.

**Department of Agricultural Resources**

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State of Massachusetts, Pesticide Division **Enforcement Matrix**

Introduction

The Massachusetts Department of Agricultural Resources, Pesticide Division (Department) has been designated as the authority with exclusive jurisdiction with regards to pesticides through the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Massachusetts Pesticide Control Act (M.G.L. 132B), and its regulations promulgated at 333 CMR. Through its governing statutes, the Department has the authority to issue enforcement actions when the statute/regulations have been violated. Enforcement Actions may include but not be limited to: Letters of Warning, Administrative Orders, Notice of Assessment (Fine), Licenses Suspension, License Revocation, License Modification.

There are many issues to consider when issuing an enforcement action including but not limited to the following:

- Size of the company
- Severity of the violation
- How the violation was found
- Human/ public health impact
- Environmental impact
- History of violations

Due to the fact that each inspection/investigation is different and there are a multitude of factors that contribute to finding violations, this Enforcement Matrix ("Matrix") is not to be considered a definitive rule of enforcement but rather a guideline to ensure consistency and fairness when issuing enforcement actions. (See Appendix A)

Authority

The authority to regulate pesticides within the Commonwealth is given in the following statute/regulations (See Appendix B):

- M.G.L. c. 132B, Section 10: Certifications and Licenses to Use Pesticides
- M.G.L. c. 132B, Section 12: Orders Requiring Production of Samples and Records; Orders Imposing Restraints
- M.G.L. c. 132B, Section 14: Fines and Penalties; Jurisdiction of Superior Court to Secure Compliance with Chapter
- M.G.L. c. 132B, Section 14A: Pesticide Violations; Enforcement and Penalties

Intent

It is important when considering an enforcement action to determine what the intent, to the extent possible. For the purposes of this Matrix, intent can be broken down into the following three categories:

1. **Lack of Knowledge**: When a person or company who has committed a violation was not aware or would not, within reason, be expected to have been aware of statutory requirements. While this is not a defense to any violation, the type of violation coupled with the statute or regulation at issue may show a lack of intent to negligently or willfully committing a violation. An example might be a record keeping violation or an accident not caused by negligence.
2. **Negligence**: When an individual uses a pesticide in a potentially reckless or harmful manner that may pose a threat to human health or the environment and the individual should have known that such manner had the potential to cause such threat. Negligence may also include when an individual does not know a statute or regulation, but based on their credentials or position should have knowledge. An example might be when an individual does not follow label directions.
3. **Willful**: When a person or company has committed a violation in a flagrant manner, knowing the statute, regulation, or label requirements and yet still commits the violation. Examples might be ignoring warnings given by an inspector, knowingly giving false information to the Department or customer, attempting to defraud, or having numerous previous violations of a related fashion thereby having notice of the correct requirements.

Level of Severity

It is important when considering an enforcement action to determine the level of severity of the violation. For the purposes of this Matrix, the level of severity can be broken down into the following three categories:

1. **Minimal (A)**: When there are no injuries or damage, and no large potential for any injuries or damage, and when there has been no inconvenience caused to the client or public, and when all reasonable corrective measures have been taken by the applicator at his own expense.
2. **Moderate (B)**: When there is any potential for or actual minor damage to non-target species, but where there is no actual threat to the client, public, or environment. Minor injuries, may be considered moderate if all reasonable efforts were made to rectify the situation in a manner that significantly reduced the potential for continued damage or problems.
3. **Extreme (C)**: Any application or related activity that results in, or has a reasonable potential for causing the injury or death of any person; any wide-spread or long-term damage to non-target species; contamination by a pesticide with potentially long term consequences or; any application that has or likely to have long term damage to the environment.

Enforcement Actions

Enforcement actions may be issued to the company, individual or both depending on the violation(s). The Department will determine who the enforcement action is issued to on a case by case basis.

Letters of Warning (LOW): Letters of Warning can be given on site and/or written up and issued at a later date.

Standard LOW: LOWs issued on site are usually given during a routine inspection/stop. These LOW's are already on a standard form. These are given for minor infractions which are usually "administrative," such as incomplete records or not providing proper notification. The inspector

should plan on conducting a follow up inspection at a later date to ensure that the infractions are fixed. In some instances, certain materials are required to be submitted to the inspector or Department within a reasonable time frame.

Non-Standard LOW: LOWs that are not issued on site are usually due to a violation that was found during an investigation but either due to the nature of the violation or information available to the inspector the violation does not arise to the level of issuing an administrative order. LOW's may include minor actions that the applicator must perform or materials that must be submitted. LOW's will be issued when the infraction is not considered egregious and where there has not been any history of violation with the Department.

Administrative Orders (AO): AOs may be issued under the following circumstances:

- Repeat violation/History of Violations
- Egregious violations
- Violation may have caused a potential for harm or actual harm

AO may order a company/individual to perform certain actions. These actions are intended to ensure that the violation does not occur again and provide avenues so that human/environment is protected. A violation of an AO may lead to referral to the Attorney General's office for further enforcement action.

Notice of Assessments (NOA): NOA are administrative fines that are expressly authorized by statute. These may only be issued under the following circumstances: Unlicensed pesticide application or violations of M.G.L. c. 132B, Section 10

- Failure to comply with a 90 Day Corrective Action (LOW)
- Violations regarding 333 CMR 14.00
- Illegal applications to a public or private place used for human occupation and habitation, except residential properties with 3 or less dwelling units

NOAs can be up to \$1000 per day per violation. In some instances, the Department may add up a fine based on the number of products used in the violation.

License Suspension/Revocation: License Suspensions/Revocations may be issued for egregious violations such as but not limited to the following:

- Not following label directions
- Making false or fraudulent statements
- Causing an unreasonable adverse effect to the environment or persons

A suspension will be for a period of time, while a revocation is for a period of time with the requirement of re-taking the licensing test. The suspension/revocation cannot be for more than a two year period, as set forth in G.L. c. 132B, Section 10.

License Modification: Modifications may be put on a license when the violation is not egregious enough to suspend /revoke the license but the Department feels the individual needs limitations place on the license or additional education to ensure this violation does not occur again.

GUIDANCE FOR ENFORCEMENT ACTION

LACK OF KNOWLEDGE			
PREVIOUS VIOLATIONS	A	B	C
0	LOW	LOW/AO	LOW/AO
1	LOW/AO	AO/NOA	AO/NOA
2	AO	AO/NOA	AO/NOA/LIC

NEGLIGENT			
PREVIOUS VIOLATIONS	A	B	C
0	LOW/AO	LOW/AO/LIC	LOW/AO/LIC
1	LOW/AO	AO/NOA/LIC	AO/NOA/LIC
2	AO	AO/NOA/LIC	AO/NOA/LIC

WILLFUL			
PREVIOUS VIOLATIONS	A	B	C
0	LOW/AO	LOW/AO/LIC	LOW/AO/LIC
1	LOW/AO	AO/NOA/LIC	AO/NOA/LIC
2	AO	AO/NOA/LIC	AO/NOA/LIC

**LOW= Letter of Warning
 AO = Administrative Order
 NOA= Notice of Assessment
 LIC = License Suspension/Revocation/Modification

If a Notice of Assessment is issued, the following matrix may be used for guidance:

LACK OF KNOWLEDGE			
PREVIOUS VIOLATIONS	A Sm-Med-Lg	B Sm-Med-Lg	C Sm-Med-Lg
0	0-0-0	0-0-0	0-0-0
1	250-250-250	250-250-250	250-250-250
2 or more	500-750-1000	500-750-1000	500-750-1000

NEGLIGENT			
PREVIOUS VIOLATIONS	A Sm-Med-Lg	B Sm-Med-Lg	C Sm-Med-Lg
0	250-250-250	250-250-250	250-250-250
1	500-750-1000	750-900-1000	750-900-1000
2 or more	750-900-1000	750-900-1000	750-900-1000

WILLFUL			
PREVIOUS VIOLATIONS	A Sm-Med-Lg	B Sm-Med-Lg	C Sm-Med-Lg
0	250-250-250	250-250-250	250-250-250
1	1000-1000-1000	1000-1000-1000	1000-1000-1000
2 or more	1000-1000-1000	1000-1000-1000	1000-1000-1000

**Small Business = 1-2 applicators
Medium Business = 3-4 applicators
Large Business = 5+ applicators

Relevant Statute/Regulations

M.G.L.c. 132B Section 10

The department may revoke, suspend, cancel or deny any certification or license, or any class thereof, at any time, if it believes: that the terms or conditions thereof are being violated or are inadequate to avoid unreasonable adverse effects on the environment, or that the holder of or applicant for the certification or license has violated any provision of this chapter or FIFRA or any regulation, standard, order, license, certification or permit issued thereunder or that the holder or applicant for said certification or license is not competent with respect to the use and handling of pesticides, or to the use and handling of the pesticides or class of pesticides covered by said individual's certification or license. Any person whose certification or license is suspended or revoked hereunder shall also be subject to such other punishment, penalties, sanctions or liabilities as may be provided by law. As part of its determination to refuse to grant, to revoke, or to suspend a certification or license the department may specify a period, not to exceed two years, within which the applicant may not reapply for a certification or license. In the event that the department has refused to issue or has revoked or suspended such a certification or license, and has specified a period for non-application, the department may later, at its discretion, shorten or waive such period.

(k) The department may impose an administrative or civil penalty on a person who has not been issued either a temporary or permanent certification, license or permit from the department or who uses a pesticide in a public or private place used for human occupation and habitation, except residential properties with 3 or less dwelling units, of not more than \$500 for a first offense and not more than \$1,000 for a subsequent offense.

M.G.L.c 132B Section 12

Whenever it appears to the department that there is an imminent hazard, or a potential threat of unreasonable adverse effect on the environment, or a violation or a potential violation of any provision of this chapter or of any license, certification, permit, order, registration or regulation issued or adopted thereunder, the department may issue to such persons as it deems necessary an order requiring the production of samples and records, or an order imposing restraints on or requiring such action, as it deems necessary. Issuance of an order under this section shall not preclude and shall not be deemed an election to forego any action to recover for damages to interests of the commonwealth or, under section fourteen of this act, for civil penalties or for criminal fines and penalties

M.G.L.c 132B Section 14

Any person who knowingly violates any provision of section six shall be punished by a fine of not more than twenty-five thousand dollars, or by imprisonment for not more than one year, or both such fine and imprisonment, for each such violation, or shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each such violation, which may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. Each day of violations shall constitute a separate offense.

Any person who violates any provision of section 6A to 6I, inclusive or section 7A or who violates any regulation adopted under the provisions of this chapter, (a) shall be punished by a fine of not more than one thousand dollars, or imprisonment for not more than six months, or both such fine and imprisonment,

for the second and each subsequent offense knowingly committed, or (b) shall be subject to a civil penalty not to exceed ten thousand dollars for any offense, which may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. Each day of violation shall constitute a separate offense.

Any person who violates any order issued under the provisions of this chapter, (a) shall be punished by a fine of not more than twenty-five thousand dollars or imprisonment for not more than two years, or both such fine and imprisonment, for each violations knowingly committed, or (b) shall be subject to a civil penalty not to exceed twenty-five thousand dollars for each violation, which may be assessed in an action brought on behalf of the commonwealth in any court of competent jurisdiction. Each day of violation shall constitute a separate offense.

The superior court shall have jurisdiction to enjoin violations of, or grant such relief as it deems necessary or appropriate to secure compliance with, any provision of this chapter or the terms of an order, license, certification registration, permit or regulation issued or adopted thereunder.

DIVISION OF PESTICIDE CONTROL
New Hampshire Department of Agriculture, Markets & Food

NAME OF FIRM: _____

SUPERVISOR/MGR. _____

CASE NAMES & DATES: _____

SIZE OF FIRM (circle):
(see attached criteria)

Small

Medium

Large

List violations by allegation numbers. Categories are: Lack of Knowledge, Negligent, and Willful (see *Categories*, attached). Under the appropriate category show the number of previous violations and the gravity, expressed as A, B, or C (least to most grave), e.g. gravity B with 1 previous violation would be expressed - 1/B.

VIOLATIONS	LACK OF KNOWLEDGE	NEGLIGENT	WILLFUL	PENALTY, \$
ADJUSTMENTS				(+)
				(-)
TOTAL ADMINISTRATIVE FINE				\$

COMMENTS: _____

SIGNATURE // DATE _____ //

SIZE OF FIRM

To the extent possible, the size of the firm is estimated from the data that is on file in this Division. Other information, as might become available, can be employed to adjust these estimates, as needed. The different categories of business will be assessed as follows:

1. Commercial for Hire: In the absence of any other information, size estimates will be based on the number of licensed applicators (supervisors plus operators) under a particular firm. 1-2 applicators = *Small*; 3-4 applicators = *Medium*; 5+ = *Large*.
2. Commercial Not For Hire: In this case the number of applicators is not necessarily tied to the size of the business. For example, a golf course might have only one or two licensed applicators, yet be considered a *Large* firm. Other than golf courses, which constitute the majority of CNFH certificates that are on record at this division, certificates have been issued to municipalities, lumber companies, campgrounds, and large corporations. In all cases, those concerns that are large enough to employ their own licensed applicator(s) are large companies, so other information to the contrary, all CNFH situations (unless levied against an individual) will be considered *Large*.
3. Private Applicators: Here the connection between number of applicators and size of the firm is even less well correlated. A small farm using general-use pesticides might have more licensed applicators than a large farm with a restricted-use permit, only because of the relative ease of obtaining a general use permit. In this case, therefore, the size of the business should be based upon the number of acres of cropland, as reported to this division with the annual renewals. Again, unless other information becomes available to the Division, less than three (3) acres will be considered a *Small* firm; 3-10 acres a *Medium* firm; and greater than 10 acres a *Large* firm. Nurseries where (only) greenhouses are involved might better be based on the area under glass. Less than 10,000 square feet will be considered a *Small* firm; 10,000-25,000 square feet, a *Medium* firm; and greater than 25,000 feet, a *Large* firm.
4. Dealers and Manufacturers: These are even less tied to the possession or number of licensed individuals and must be based on some knowledge of the operation. Barring other information, all dealers who are parts of major chains (i.e. Agway, Blue Seal, etc.) will be considered *Large* firms. Other dealers or retailers who operate out of their own facility will be considered *Medium* firms. Manufacturers who formulate and process their own products will be considered *Large* firms. Those who simply repackage or dilute pesticides manufactured elsewhere will be considered *Medium* firms if there are 3 or fewer products, and *Large* firms if more than 3.

If financial information becomes available for any situation consider less than \$150,000 in gross, annual sales to be a *Small* firm; \$150,000-\$500,000 a *Medium* firm; and greater than \$500,000 to be a *Large* firm.

Note that the ability to remain in business will be taken into consideration in any penalty assessments.

CATEGORIES

1. LACK OF KNOWLEDGE: When a person or firm who has committed a violation was not aware, or would not, within reason, be expected to have been aware of statutory requirements. An example might be a lawn-cutting operation who applies a general-use, "weed and feed" type of "fertilizer," and who does no other pesticide applications on any routine basis. Accidents that are not caused by negligence would also fall under this category.
2. NEGLIGENCE: Use description under Pes 401.02(3) - "has made [an]...application in a careless or negligent manner so as to harm or pose a threat of harm to human health, domestic animals...." Negligence will also include any unlicensed business or applicator who knowingly deals with pesticides (as evidenced by advertising, invoices, etc.), but who did not know of certification or statutory requirements. Failure on their part to have looked into the regulatory aspects of their business will be considered to be a negligent act, as will accidents that occur because of careless operation or poorly maintained or inappropriate equipment.
3. WILLFUL: When a person or firm has committed a violation in a flagrant manner, such as ignoring warnings given by an inspector, knowingly giving false information, attempting to defraud, or having numerous previous violations of a related fashion. In situations where persons make applications without proper certification or special permits the division shall consider it a willful violation if there is reasonable expectation that such person should have been aware of certification or special permit requirements.

GRAVITY DESIGNATIONS

1. MINIMAL GRAVITY (A): When there are no injuries or damage, and no large potential for any injuries or damage, and when there has been no inconvenience caused to the client or community, and when all reasonable corrective measures have been taken by the applicator at his own expense. Examples of Gravity "A" situations might be minor spills that are cleaned up in a timely fashion; drift that does not pose any threat to non-target species; or use of unregistered pesticides in accordance with label instructions.
2. MODERATE GRAVITY (B): When there is any potential for or actual minor damage to non-target species, such as burned turf or damage to shrubbery, but where there is no actual threat to people. Commercial applications by unlicensed parties, by virtue of potential threat to people, will fall in this category. Minor injuries to pets, or death of small numbers of birds or other common species of wildlife, and justified complaints regarding misapplication would also be considered to be of moderate gravity, if all reasonable efforts were made to rectify a situation in a manner that significantly reduced the potential for continued damage or problems.
3. EXTREME GRAVITY (C): Any application or related activity that results in, or has a reasonable potential for causing the injury or death of any person; any wide-spread or long-term damage to non-target species, or contamination by a pesticide with potentially long-term consequences; any application that has or is likely to contaminate drinking water; or any application that might result in the death of domestic or farm animals; or any other act that would be construed as having severe consequences, would be considered to be of extreme gravity.

PENALTIES

LACK OF KNOWLEDGE			
PREVIOUS VIOLATIONS	A	B	C
	SMALL-MEDIUM-LARGE	SMALL-MEDIUM-LARGE	SMALL-MEDIUM-LARGE
0	0 - 0 - 0	0 - 50 - 100	100 - 175 - 250
1	0 - 50 - 100	100 - 175 - 250	250 - 375 - 500
2 or more	100 - 175 - 250	250 - 375 - 500	500 - 625 - 750

NEGLIGENT			
PREVIOUS VIOLATIONS	A	B	C
	SMALL-MEDIUM-LARGE	SMALL-MEDIUM-LARGE	SMALL-MEDIUM-LARGE
0	0 - 50 - 100	100 - 175 - 250	250 - 375 - 500
1	100 - 175 - 250	250 - 375 - 500	500 - 625 - 750
2 or more	250 - 375 - 500	500 - 625 - 750	750 - 875 - 1000

WILLFUL			
PREVIOUS VIOLATIONS	A	B	C
	SMALL-MEDIUM-LARGE	SMALL-MEDIUM-LARGE	SMALL-MEDIUM-LARGE
0	100 - 175 - 250	250 - 375 - 500	500 - 625 - 750
1	250 - 375 - 500	500 - 625 - 750	750 - 875 - 1000
2 or more	500 - 625 - 750	750 - 875 - 1000	1000

Figures represent dollar amounts of administrative fines for categories of violations (Lack of Knowledge, Negligent, Willful), and for different gravities of violations (**A**, **B**, or **C**), depending on the numbers of previous violations and size of firm (Small to Large). Definitions of categories and gravity designations are attached. Results should be tabulated on attached compilation form. The amount of compensation associated with any alleged unlawful act may be taken into consideration and the proposed penalty may be increased accordingly - not to exceed \$1000.00 per violation - to discourage future violations.

VERMONT AGENCY OF AGRICULTURE, FOOD AND MARKETS (VAAFMD)

PESTICIDE PROGRAMS

ADMINISTRATIVE PENALTY FORM

This form is to be used to determine proposed administrative penalties.

Case Name _____ Complaint No. _____

Violation(s) _____

CLASSIFICATION OF VIOLATION(S)

The class of the violation must be first determined. To do so, the Administrative Penalty Guidance on pages 6 through 9 may be used. The Guidance is a listing of common violations and their typical class type. Each violation must be evaluated as to whether the typical class type found in the Guidance is appropriate given the specific facts of the violation using these criteria:

CLASS I – A Class I violation meets one or more of the following criteria:

- (1) An assurance of discontinuance; or
- (2) An order issued pursuant to 6 V.S.A. Chapter 87; or
- (3) The violation presents a threat of substantial harm to the public health, safety, or welfare or to the environment.

CLASS II – A Class II violation is a minor to moderate violation of a statute listed in 6 V.S.A. Chapter 87, a rule promulgated under 6 V.S.A. Chapter 87, or a related permit.

CLASS III – A Class III violation is a de minimis violation of a statute listed in 6 V.S.A. Chapter 87, a rule promulgated under 6 V.S.A. Chapter 87, or a related permit.

INITIAL PENALTY CALCULATION

Once the class of violation is determined, an initial penalty calculation must be made. Each of the following sections should be completed by circling the appropriate score.

- 1. The degree of actual or potential impact on public health, safety, and welfare:**
 - (a) No actual impact or minor potential impact 0
 - (b) Minor actual impact or moderate potential impact 1
 - (c) Moderate actual impact or major potential impact 2
 - (d) Major actual impact 3
- 2. The degree of actual or potential impact on the environment:**
 - (a) No actual impact or minor potential impact 0
 - (b) Minor actual impact or moderate potential impact 1
 - (c) Moderate actual impact or major potential impact 2
 - (d) Major actual impact 3
- 3. Did the respondent know or have reason to know that the violation existed:**
 - (a) Knowledge of the requirements:**
 - (i) New requirement 0
 - (ii) Had reason to know about violated requirement 1
 - (iii) Had a permit or permit by rule, applicator certificate, company license, or dealer license. 2
 - (iv) Repeated the violation after written notice, sent by certified mail 3
 - (b) Knowledge of the facts of the violation:**
 - (i) Could not have reasonably known that the violation existed 0
 - (ii) Should have reasonably known that the violation existed 1
 - (iii) Some evidence that the respondent knew the violation existed 2
 - (iv) Clear evidence that the respondent knew the violation existed 3

Lower number of 3(a) or 3(b)

4. The respondent's record of compliance with 6 V.S.A. Chapter 87 or related rules, permits, orders, or assurances of discontinuance in the seven years preceding the violation:

- (a) No prior violations 0
- (b) One prior violation 1
- (c) Two prior violations 2
- (d) Three or more prior violations 3

5. The length of time the violation existed:

This is not to be assessed if VAAFM is also seeking continuing violation(s) under Section 8 because otherwise the fact that a violation is continuing would be considered twice in the calculating of the total penalty amount.

- (a) Immediate correction 0
- (b) A violation of very short duration 1
- (c) A violation of moderate duration 2
- (d) A violation of long duration 3

Total of Sections 1, 2, 3, 4, and 5 _____

Comments, if any:

6. PERCENTAGE OF MAXIMUM PENALTY CALCULATION

After Sections 1 through 5 have been scored and added to compute a total score, the initial penalty amount shall be determined by multiplying the applicable percentage based on the total score by the maximum penalty amount for the Class of violation. The following table lists the applicable percentage based on the total score and resulting calculation for each class, with the first number being the penalty amount for private applicators or certified private applicators, and the second number being the penalty amount for certified noncommercial applicators, certified commercial applicators, licensed dealers, licensed companies, or permit holders:

TOTAL SCORE	PERCENTAGE	CLASS I	CLASS II	Class III
1-5	50	\$500.00/\$2,500.00	\$325.00/\$1,625.00	\$175.00/\$850.00
6-10	75	\$750.00/\$3,750.00	\$500.00/\$2,400.00	\$260.00/\$1,300.00
11-15	100	\$1,000.00/\$5,000.00	\$650.00/\$3,250.00	\$350.00/\$1,750.00

INITIAL PENALTY AMOUNT BEFORE ADJUSTMENTS

\$ _____

7. ECONOMIC BENEFIT AND COST OF ENFORCEMENT ADJUSTMENT

The penalty amount calculated in Section 6 may be adjusted when the respondent has realized an economic benefit as a result of the violation(s) and/or the State has incurred costs of enforcement related to the violation(s) by adding an amount equal to such economic benefit and/or enforcement costs to the penalty amount.

(a) Economic benefit \$ _____

Calculation:

(b) Cost of enforcement \$ _____

Calculation:

Total of Sections 7(a) and 7(b) \$ _____

8. CONTINUING VIOLATIONS

Any violation of a statute listed in 6 V.S.A. Chapter 87 or a rule thereunder or a condition of a related permit, order, or assurance of discontinuance that continues longer than one day may be considered a continuing violation subject to additional penalties for each day of continuance.

The continuing violation amount may be determined by multiplying the applicable percentage based on the total score by the per-day maximum continuing violation penalty for the class of violation. The following table lists the applicable percentage based on the total score and resulting calculation for each class:

TOTAL SCORE	PERCENTAGE	CLASS I	CLASS II	Class III
1-5	50	\$200.00/\$1,000.00	\$130.00/\$650.00	\$70.00/\$350.00
6-10	75	\$300.00/\$1,500.00	\$195.00/\$975.00	\$105.00/\$525.00
11-15	100	\$400.00/\$2,000.00	\$260.00/\$1,300.00	\$140.00/\$700.00

(a) Per-day penalty amount for continuing violation _____

(b) Number of days constituting continuance of the violation _____

Total of Sections 8(a) multiplied by 8(b) \$ _____

9. FINAL ADJUSTMENTS

After the initial penalty amount and the amount of economic benefit and/or the costs of enforcement and the penalty for a continuing violation, if applicable, have been determined, the criteria below shall be considered.

(a) Mitigating circumstances \$ _____

If mitigating circumstances exist, the penalty may be reduced. Unreasonable delay by VAAFM in seeking enforcement shall be considered a mitigating circumstance. Mitigating circumstances may include factors outside the control of the respondent.

Explanation:

(b) Deterrent effect \$ _____

The penalty amount may be increased up to the maximum allowed in the class of the violation if it is determined that a larger penalty is reasonably necessary to deter the respondent from committing this violation or similar violations in the future.

Explanation:

Total of Sections 9(a) and 9(b) \$ _____

FINAL PENALTY AMOUNT

The maximum administrative penalty assessed for separate and distinct violations of 6 V.S.A. Chapter 87 shall not exceed \$1,000.00 per violation for private applicators or certified private applicators or \$5,000.00 per violation for certified noncommercial applicators, certified commercial applicators, licensed dealers, licensed companies, or permit holders for each violation pursuant to 6 V.S.A. § 1111.

Initial Penalty	Section 6	\$ _____
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Economic Benefit and Enforcement Cost	Section 7	\$ _____
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Continuing Violation(s)	Section 8	\$ _____
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Final Adjustment	Section 9	\$ _____
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TOTAL PENALTIES:		\$ _____
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Prepared by _____ Date _____

ADMINISTRATIVE PENALTY GUIDANCE

This Guidance is only intended to provide a listing of common violations and their typical class type. It is not intended to substitute for the consideration of each violation under Classification of Violations on page 1.

Class I (*Up to \$1,000.00 per violation for private applicators or certified private applicators or \$5,000.00 per violation for certified noncommercial applicators, certified commercial applicators, licensed dealers, licensed companies, or permit holders*)

- **IV. 1.a.** - Use inconsistent with product label resulting in pesticide release to environment and/or impact to human health.
- **IV. 1.b.** - Pesticide use resulting in drift.
- **IV. 2.l. and m.** - Pesticide use not in accordance with Ground Water Protection Rule and Strategy, 10 V.S.A. Chapter 48.
- **IV. 2.d.** - Failure to operate in a careful manner resulting in pesticide release to environment and/or impact to human health.
- **IV. 2.e.** - False or fraudulent claims.
- **IV. 2.b. and c.** - Failure to use anti-siphoning device when filling pesticide application devices or during chemigation operations.
- **IV. 2.g.** - “Permit Violations” - Application restrictions established in 6 V.S.A. Chapter 87, the Regulations for Control of Pesticides and permits issued thereunder resulting in pesticide release to environment and/or impact to human health.
- **IV. 2.o.** - Application of pesticide within 50-foot application buffer around private wells – with contamination of well resulting.
- **IV. 3.** - Application of a pesticide in a manner not protective of bees.
- **XII. 1.** - Failure to take immediate action following a pesticide accident to protect human health and the environment.
- **XII. 2.** - Failure to report a pesticide accident immediately to the Agency and the Vermont Department of Public Safety.
- **XIII. 2.(4)(a)–(f)** - Failure to construct, install and maintain storage containers and appurtenances so as to prevent the discharge of liquid bulk pesticide.
- **XIII. 2.(5)** – Failure to have a mixing, loading and rinsate collection area(s) consisting of curbed, paved surfaces with catch basins protected from damage by moving vehicles and designed for the recovery of spills.
- **XIII. 2.(5)(c)** – Failure to recover discharges incident to loading and unloading of pesticides and use as originally intended or dispose of in accordance with 10 V.S.A. Chapter 159.
- **XIII. 2.(6)(a)-(f)** – Failure to store pesticide containers in an appropriately designed secondary containment facility which is adequate, in the event of a discharge, to prevent the movement of liquid pesticide to waters of the state including groundwater.
- **XIII. 10.(a)** – Storage of liquid bulk pesticide or pesticide rinsate underground. (This prohibition does not apply to a watertight catch basin used for temporary collection of discharges or runoff.)

Class II (*Up to \$650.00 per violation per violation for private applicators or certified private applicators or \$3,250.00 per violation for certified noncommercial applicators, certified commercial applicators, licensed dealers, licensed companies, or permit holders*)

- **IV. 1.a.** - Use inconsistent with product label NOT resulting in pesticide release to environment and/or impact to human health.
- **IV. 2.a.** - Failure to use only methods and equipment which ensure the safe and efficient application of materials.
- **IV. 2.d.** - Failure to operate in a careful manner NOT resulting in pesticide release to environment and/or impact to human health.
- **IV. 2.g.** - “Permit Violations” - Application restrictions established in 6 V.S.A. Chapter 87, the Regulations for Control of Pesticides and permits issued thereunder NOT resulting in pesticide release to environment and/or impact to human health.
- **IV. 2.h.** - Failure to cooperate with Agency investigations (use).
- **IV. 2.o.** - Application of pesticide within 50-foot application buffer around private wells – without contamination of well resulting.
- **II. 1.a./VI. 1.** - Application of pesticides by Company without required Company License.
- **II. 2.a./VII. 1. (Comm and non-comm)** - Application of pesticides without certification or without the direct supervision by a certified applicator.
- **VII. 3.** - Application by comm / non-comm certified applicator in a category in which the applicator is not certified.
- **II. 2.b./IX. 1. (Private)** - Application of pesticides without certification or without the direct supervision by a certified applicator.
- **II. b.(1)/X. 4.a.(1)/XI. 1.a.(1)** - Sale of Class A pesticides without a Class A Dealer License (FTE).
- **II. b.(2)/X. 4.b.(1)/XI. 1.a.(2)** - Sale of Class B pesticides without a Class A or B Dealer License (FTE).
- **IV. 2.n.** - Application of pesticides to waters of the State without first obtaining a Water Quality Permit from the Vermont Department of Environmental Conservation, Water Quality Division.
- **IV. 4.a.** - Application of herbicides for the purpose of clearing or maintaining a right-of-way (ROW) without first obtaining a ROW permit from the Agency.
- **IV. 5.c.** - Aerial application of pesticides without first obtaining an Aerial Application Permit from the Agency.
- **IV. 6.a.** - Any use of an unregistered pesticide or a registered pesticide for an unregistered use without first obtaining an Experimental Use Permit from the Agency.
- **IV. 7.a.** - Use of a pesticide for the lethal control of pest birds or other animals without first obtaining a bird or other animal control permit from the Agency.
- **IV. 9.a.** - Use of a pesticide on a golf course without first obtaining a permit from the Agency.
- **X. 4.a.(2)** - Sale of Class A pesticides to uncertified applicators / individuals unable to produce authorization from a certified applicator.
- **X. 4.a.(3)** - Display of Class A pesticides for self-service / storage of Class A pesticides in food areas.
- **XI. 3.** - Failure of sales and technical field representatives of commercial companies recommending or demonstrating pesticides to be certified under Category 10.
- **XIII. 1.(a)** - Failure to secure pesticides to prevent spillage during transportation.
- **XIII. 2.(1)** - Failure to prevent unauthorized access by persons, livestock or wildlife to pesticides or pesticide containers.

- **XIII. 3.a.(1)** – Failure to dispose of pesticides in a manner consistent with the product’s label.
- **XIII. 2.(6)(a)/XIII. 3.a.(3)** – Storage of empty pesticide containers within a secondary containment facility.
- **XIII. 3.b.** – Failure to dispose of obsolete, excess, and mixtures of pesticides in accordance with 10 V.S.A. Chapter 159.
- **XIII. 3.c.** – Failure to triple rinse pesticide containers (not made of paper).
- **XIII. 2.(2)(a)** – Failure to maintain legible labels on all bulk storage containers at all times.
- **XIII. 2.(3)(a)** – Failure to properly store dry bulk pesticides.
- **XIII. 2.(6)(g)** – Failure to promptly recover discharges within secondary containment facilities.
- **XIII. (7)(a)-(d)** – Failure to routinely inspect and maintain pesticide storage facilities, storage containers, and appurtenances in accordance with the Regulations in order to minimize the risk of a discharge.
- **XIII. 9.(a)-(c)** – Failure to prepare, and keep current, a written discharge response plan for the pesticide storage facility. / Failure to have accessible all equipment and supplies needed to respond to a discharge. / Failure to train employees in the discharge response procedures.

Class III (*Up to \$350.00 per violation for private applicators or certified private applicators or \$1,750.00 per violation for certified noncommercial applicators, certified commercial applicators, licensed dealers, licensed companies, or permit holders*)

- **II. b. (3)/X. 4.c.(1)/XI. 2.** - Sale of Class C pesticides without a Class A or B Dealer License, or Retail License.
- **IV. 2.f.** - Failure to fill out weekly spray reports.
- **IV. 2.j.** - Failure to provide proper invoicing.
- **IV. 8.** – Failure to provide notification of and/or properly post turfgrass applications.
- **IV. 2.h.** - Failure to cooperate with Agency investigations (non-use - recordkeeping, etc.).
- **IV. 9.i.(1)** – Failure of golf course to keep and maintain required operating records and report of pesticide use.
- **V. 1.** - Failure of Private applicator to accurately record use of restricted use pesticides.
- **V. 1.** - Failure of Private applicator to maintain records of restricted use pesticide use for two years.
- **V. 2.a.** - Failure of comm / non-comm applicator to create accurate routine operational records.
- **V. 2.a.** - Failure of comm / non-comm applicator to maintain routine operational records for two years.
- **V. 2.b.** - Failure of comm / non-comm applicator to submit accurate Annual Pesticide Usage Report.
- **V. 5.a.** - Failure of Class A Dealer to accurately record sales of restricted use pesticides.
- **V. 5.a.** - Failure of Class A Dealer to submit accurate Annual Restricted Use Sales report.
- **X. 4.b.(2)** - Display or storage of Class B pesticides in food areas.
- **X. 4.c.(2)** - Display or storage of Class C pesticides in food areas.
- **XI. 3.** - Failure of applicator licensed under Category 10 (Research and Demonstration) to submit accurate Annual Restricted Use Sales report.
- **XI. 1.c.** - Failure of Class A and B Dealers to notify Agency of a change of employment within 30 days.

- **XIII. 1.(b)** – Failure to ensure that vehicles used for transporting pesticides are properly placarded.
- **XIII. (7)(e)** - Failure to maintain a written record of all inspections and maintenance of pesticide storage facilities, storage containers and appurtenances on the day of the inspection or maintenance.
- **XIII. (8)(a)-(f)** – Failure to maintain records for five years of discharges from the storage facility, pesticide levels in each storage container, monthly inventory reconciliations, storage containers, appurtenances, and secondary containment facilities, and manufacture’s compatibility statements.



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

7

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

To: Board Members
From: Staff
Re: Review of Rulemaking Concepts
Date: July 18, 2025

In 2025, several bills were passed in the 132nd Maine Legislature that will require the Board to complete rulemaking. At the February 24, 2023 Board meeting, board members discussed several rulemaking initiatives but ultimately decided to wait until a later date to complete housekeeping items. Given other urgent rulemaking requests, staff need guidance on when and how the Board would like to address these potential rulemaking changes. The potential rulemaking are categorized by the following criteria:

Housekeeping	Fairly minor and should require very little discussion.
Incorporate Policy	Will require some discussion on whether and how to incorporate the policy in rule but the objective is already written in policy.
Requires Discussion	Questions have been raised and a decision needs to be made on whether the rule needs to be amended. These will probably take the most time.
Legislative	Recently passed legislature has asked the Board to review its rules related to this topic.

The fourth column designates type of rulemaking (see Title 7 Section 610(6)):

RT	Routine Technical
MS	Major Substantive

The first column corresponds to the rulemaking item number.
The second column details the actionable item.
The third column provides a purpose for the rulemaking.
The fourth column provides a detailed description of the potential rulemaking concept.

ALEX PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
WWW.THINKFIRSTSPRAYLAST.ORG

A complete list of possible rulemaking chapters to include 10, 31, 40, 41.

1	Chapter 10	<p>The Board expressed interest in defining “residential landscapes” in previous rulemaking initiatives. This would help clarify rules in Chapter 41, Section 6 related to neonicotinoid use, as well as new rules for rodenticides related to LD 356. See memo: Summary of potential “residential landscapes” rulemaking concepts for CMR 01-26 Chapter 10: Definitions</p> <ul style="list-style-type: none"> • Define “Residential Landscapes” 	Housekeeping	RT
2	Chapter 31 section 2 (XI) and section 3 (XI) Chapter 32 section 2 (B)(5)(c)	Staff have identified questions about UAVs that apply pesticides. The board may want to add rules for drones that apply pesticides and requiring FAA certification for both commercial (chapter 31) and private (chapter 32) applicators.	Requires Discussion	RT
3	Chapter 40, Section 1	<p>LD 1697: An Act to Increase Penalties to Deter Violations of the Laws Regarding Improper Pesticide Use, Section 3, includes a provision for the Board to adopt rules to designate pesticides with the active ingredient tebuthiuron as state restricted use.</p> <p>This is also the section for if the Board determines they would like to restrict all uses of rodenticides and rodenticidal baits (PL 2025 c. 47, 132nd legislature LD 356).</p>	Legislative	RT
4	Chapter 40, Sections 1 & 2	Many of the listed active ingredients in the restricted use and limited use categories have been phased out or prohibited by the EPA. Removing these active ingredients could help clarify that they are not currently available for use.	Housekeeping	RT
5	Chapter 41, Section 8 (new)	LD 356: Resolve, Directing the Board of Pesticides Control to Prohibit the Use of Rodenticides in Outdoor Residential Settings (PL 2025 c. 47) asks the Board to review its rules related to outdoor	Legislative	RT

		residential use of rodenticidal baits and to prohibit use in those settings. This goal may be accomplished by restricting the use and adding additional provisions into Chapter 41: Special Restrictions on Pesticide Use or by making all uses of rodenticides restricted/limited use in Chapter 40: Maine Restricted Use and Limited Use Pesticides.		
6	Chapter 41, Section 9 (new)	<p>A Board member proposed adding requirements when using rodenticidal baits to include traps or ways to reduce non-target poisonings.</p> <ul style="list-style-type: none"> • Possibly adding Section 8, Rodenticidal Baits and including language to require applicators to use ‘repeating’ traps with baits to contain poisoned animals. 	Requires Discussion	RT



Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Announces Proposed Registration of Pesticide Trifludimoxazin

Today, the U.S. Environmental Protection Agency (EPA) released for public comment its proposed registration for one technical and five end-use products containing the new active ingredient trifludimoxazin, a broad-spectrum herbicide used for control of broad leaf and grass weed species. Among five end-use products, three are formulated with trifludimoxazin as the only active ingredient while the other two are co-formulated products with saflufenacil, an already approved active ingredient. This new active ingredient would give farmers an additional tool to help manage crops and increase yields in order to provide a healthy and affordable food supply for our country.

The trifludimoxazin registrations are supported by human health and ecological risk assessments as well as a biological evaluation for the pesticide under the Endangered Species Act (ESA). No human health risks of concern were identified when trifludimoxazin is used according to the label. EPA did not identify any potential risks of concern for freshwater or estuarine/marine invertebrates, fish, aquatic-phase amphibians, mammals, or birds (surrogates for terrestrial-phase amphibians and reptiles) on an acute or chronic exposure basis, or acute direct risks to bees, when trifludimoxazin is used according to the label. EPA did identify potential risks for terrestrial, wetland, and aquatic plants, as well as potential chronic risks to bees and non-*Apis* terrestrial invertebrates that may forage on fields that have been treated with trifludimoxazin products containing the co-formulant saflufenacil.

The following mitigation measures found on the products' labeling address on- and off-field effects to non-target species, including listed species:

- Instructing users to access and follow any applicable endangered species bulletin from "[Bulletins Live! Two](#)" web-based system for all additional directions and restrictions.
- Approving use only in the contiguous United States.
- Not approving use for any non-agricultural use sites.
- Designating 110 ft and 15 ft spray drift buffers to sensitive areas, for aerial and ground applications respectively.

- Instructing users to access the [EPA's Mitigation Menu](#) website and choose among the mitigation and/or mitigation relief measures to meet or exceed 6-point runoff mitigations required for trifludimoxazin before applying the product.

With these mitigations in place, EPA's draft biological evaluation predicts that the use of trifludimoxazin will not result in a likelihood of future jeopardy of any listed species, or a likelihood of adverse modification for any designated critical habitat.

Next Steps

After considering public comments on the proposed registration decision, the draft risk assessments and the draft effects determinations, EPA will decide whether the registration action meets the standard for registration under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA). If EPA determines that the registration action can be granted, EPA will finalize the biological evaluation. If a final biological evaluation finds that trifludimoxazin may affect any listed species or critical habitats, then EPA will initiate ESA consultation and share its findings with the U.S. Fish and Wildlife Service or the National Marine Fisheries Service (collectively referred to as the Services), as appropriate.

During formal consultation, the Services use the information in EPA's final biological evaluation to inform their biological opinions. While EPA has made predictions about the likelihood of jeopardy and adverse modification as part of its biological evaluation, the Services are responsible for making the final jeopardy/adverse modification findings and have the sole authority to do so. If the Services determine in their final biological opinions that additional mitigations are necessary to address any jeopardy or adverse modification determination or to address any incidental take, then EPA will work with the registrant to ensure that any necessary registration or labeling changes are made.

To read more about the proposed registration of trifludimoxazin and to comment, see docket ID EPA-HQ-OPP-2022-0649 at www.regulations.gov. The public comment period will be open for 30 days, closing on July 11, 2025.



Pesticide Update

EPA's Office of Chemical Safety and Pollution Prevention

EPA Updates Maps to Protect Endangered Species and Provide Flexibility to Farmers

Today, the U.S. Environmental Protection Agency (EPA) is publishing refined interim core maps identifying areas important to 12 threatened or endangered (listed) species and their critical habitats as designated by the U.S. Fish and Wildlife Service (FWS). These maps are used for developing pesticide use limitation areas (PULAs) and will allow EPA to protect listed species from the use of pesticides through geographically specific mitigations. The maps identify areas where listed species are likely to be located and areas where they are not, which ensures that measures to protect listed species are only required in these areas where the species are located. By publishing these refined maps, EPA is taking another important step to reduce potential impacts to farmers while continuing to protect endangered species.

As EPA continues to assess potential impacts on listed species, the agency may find that some mitigations are only needed to protect listed species (and not other species) in limited geographic areas. In those cases, EPA would only identify geographically specific areas for the necessary mitigations. This includes areas where pesticide exposures are likely to impact the continued existence of a listed species, which may include a reduction in survival or recovery of the species. The maps are intended to focus mitigations on areas where they are needed to protect populations of specific listed species from the use of pesticides.

When developing a PULA for a specific species, EPA starts by developing a core map, which identifies areas where listed species need additional protection. A core map could consist of the species range, its designated critical habitat, or other locations where the species is known to occur. In cases where existing range maps are broad and include areas where a species is no longer thought to exist, the core maps would only include areas within the species range where the species are likely to occur. After developing a core map for a species, EPA develops a PULA that accounts for pesticide movement from a use site (e.g., spray drift and run-off) by adding adjacent areas to the core map. Developing a core map or a PULA does not alter FWS's range maps.

The interim core maps can be found on EPA's "[Process EPA Uses to Develop Core Maps for Pesticide Use Limitation Areas](#)" web page and can be viewed [here](#). EPA invites groups interested in developing core maps to visit [this page](#) to learn about EPA's process for developing core maps and to request to develop a draft map for available species.

Background

EPA released its mapping process in anticipation of public interest in developing species maps. The maps released today were developed by EPA's Office of Pesticide Programs, the Center for Biological Diversity (CBD), and Compliance Services International (CSI). In cases where EPA does not develop the draft map, EPA reviews the draft map and documentation to ensure that (1) the map and documentation are consistent with EPA's [process](#); (2) areas included or excluded from the map are consistent with the biology, habitat, and/or recovery needs of the species; (3) data sources are documented and appropriate; and (4) the GIS data and mapping process are appropriate and are identifying the types of areas that the map developer is intending to identify.

The maps released today are considered interim maps, which means that they were developed using EPA's process and that EPA has reviewed them and agree that these maps are reasonable and can be used to develop pesticide use limitation areas. These maps are based on information developed by FWS and are being made available to the public. These maps will be considered final after FWS species experts review them. EPA expects that dozens more refined maps will be released within the next several months.

EPA's goal is to develop core maps for all FWS listed species that may require protections with respect to pesticide exposures. Additional information can be found in the [core map development process document](#). Visit EPA's website to learn more about how [EPA's pesticide program](#) is protecting endangered species in way that minimizes impacts to farmers.

In addition to developing refined maps, EPA is also developing digital tools for growers (like a mobile-friendly web interface) to make it easier to capture credits for drift and runoff mitigations that growers are already implementing and identify PULA areas. EPA expects to continue developing tools and processes to help farmers interpret and follow pesticide labeling.

Subscriber Services:

Pesticide Questions? [Contact Us](#) | TSCA Questions? [Contact Us](#)

[Manage Preferences or Unsubscribe](#) | [Help](#)

This email was sent to alexander.r.peacock@maine.gov using GovDelivery Communications Cloud on behalf of:
U.S. EPA Office of Chemical Safety and Pollution Prevention · 707 17th St, Suite 4000 · Denver, CO 80202 · 1-800-439-1420



SUBCHAPTER VII – LANDCARE MANAGEMENT ORDINANCE**DIVISION A – PROVISIONS ABOUT MANAGEMENT OF BOTH PESTICIDES AND FERTILIZERS****SECTION 4-701 OVERALL GOAL, NEED, AND PURPOSES**

The ten-year Hallowell Comprehensive Plan, adopted by the City Council in 2022, includes a climate and pollution focus area, which states that the City will “create a healthy environment by decreasing the prevalence of synthetic pesticides and herbicides and other pollutants.”

The EPA, the Committee on Environmental Health of the American Academy of Pediatrics, the National Academy of Sciences, and the President’s Cancer Panel have concluded that exposure to many synthetic pesticides is linked to reproductive disorders, birth defects, learning disabilities, neurological disease, endocrine disorders, and cancer.

The EPA and Mt. Sinai Children’s Environmental Health Center acknowledge that children, with their still developing bodies and brains, are especially vulnerable to the harmful effects of lawn and garden pesticides and that children’s behavior (e.g., hand to mouth interactions, proximity to the ground, walking or running through lawns) exposes children to far more contact with lawn pesticides than adults.

The Landcare Management Ordinance (LMO) applies to the use of pesticides on both public and private property in the City of Hallowell. By curtailing the use of synthetic pesticides for outdoor pest and plant management, the purposes of Division B are to safeguard the health and welfare of the City’s residents and their pets and to conserve and protect the Vaughan Brook Watershed, waters of the Kennebec River, and the City’s wildlife, plants, and soils.

[Derivation: Ord. No. 23-03, effective 10/06/2023]

SECTION 4-702 ENABLING LEGISLATION

Pursuant to 30-A M.R.S. § 3001, the State of Maine allows municipalities, through their home rule authority, to enact ordinances dealing with municipal affairs.

Pursuant to 22 M.R.S. § 1471-U, Maine municipalities may enact ordinances that apply to Pesticide storage, distribution, or use.

[Derivation: Ord. No. 23-03, effective 10/06/2023]

SECTION 4-703 CONFLICT WITH OTHER PROVISIONS; INVALIDITY

If a conflict or inconsistency is found between the LMO and other provisions of the City of Hallowell’s Code of Ordinances or the City Charter, the terms of the stricter provisions shall prevail. The invalidity of a provision of the LMO shall not invalidate any other provision of the LMO.

[Derivation: Ord. No. 23-03, effective 10/06/2023]

SECTION 4-704 ENFORCEMENT

The Code Enforcement Officer (CEO) shall be responsible for enforcing the provisions of the LMO. Upon determining that a violation of any provision of the LMO has occurred, the CEO shall provide written notice to the violator to identify the violation and designate a third party to provide education and guidance about how to achieve desired results in a manner compatible with organic landcare management practices. The CEO may choose to designate other review functions to the third party. Subsequent violations of the LMO shall be subject to the penalties prescribed in 30-A M.R.S. § 4452.

1. Effective dates:
 - a. January 1, 2024: All Divisions with any violation enforced by written notice only and will include Education and Guidance for future compliance.
 - b. January 1, 2025: Division B – Pesticide Use enforced per Section 4-704.

[Derivation: Ord. No. 23-03, effective 10/06/2023]

SECTION 4-705 DEFINITIONS

The following words and terms are defined and used in the LMO as follows:

1. Application. The spreading of pesticides over an area by any means in liquid or dry form including but not limited to broadcasting, pasting, ground spraying, aerial spraying, soil injection, and surface utilization.
2. C.F.R. The United States Code of Federal Regulations.
3. CEO. The Code Enforcement Officer of the City of Hallowell.
4. Commercial agriculture. The production of crops for sale, including crops intended for distribution to wholesalers or retail outlets and any non-food crops.
5. Foliar application. An application that involves the use of equipment to coat the leaves of large plants with herbicide.
6. EPA. The United States Environmental Protection Agency.
7. Herbicide. See definition for “pesticide” in Section 4-705, Subsection 26.
8. Hydro-seeding. The process of seeding by pumping seed in a mixture of water through a nozzle that sprays the mixture onto a seedbed. The water mixture often contains add-ins such as fertilizer and certain mulches.

9. Invasive species. A plant or insect that is not native to a particular area and whose presence there is likely to cause economic or environmental harm or harm to human health. The Maine Department of Agriculture, Conservation, and Forestry website lists the invasive plants and insects in Maine.
10. LMO. The Landcare Management Ordinance of the City of Hallowell, Maine.
11. MOFGA. The Maine Organic Farmers and Gardeners Association.
12. M.R.S. Maine Revised Statutes.
13. New development. Any alteration of land for the purposes of construction or reconstruction that results in soil disturbance and/or compaction, vegetation removal, and/or regrading.
14. Non-synthetic (organic). A substance that is derived from mineral, plant, or animal matter and does not undergo a “synthetic” process as defined in the Organic Foods Production Act, 7 U.S.C. § 6502(21), as may be amended from time to time.
15. NOP. The National Organic Program, a regulatory program of the USDA.
16. OMRI. The Organic Materials Review Institute, an international nonprofit organization that determines which products are allowed for use in organic production and processing. Listed products are allowed for use in certified organic operations under the USDA NOP.
17. Organic landcare. A management technique integrating cultural, biological, and mechanical practices to build soil health, including practices such as mowing at higher levels, aeration, top dressing with compost, over-seeding, and watering deeply but infrequently. This can reduce, if not eliminate, the need for toxic pesticides and synthetic fertilizers.
18. Organism. Any living thing, whether plant, mammal, bird, insect, amphibian, reptile, fish, crustacean, aquatic or estuarine animal, bacterium, virus, fungus, or microorganism.
19. Person. Any person, partnership, joint venture, society, association, company, club, trustee, trust, or corporation (or any officer, agent, employee, or personal representative of any thereof) in any capacity acting for herself or himself or for any other person under personal appointment or pursuant to law.
20. Pest. Any organism declared to be a pest under circumstances that make it deleterious to living beings or the environment, as defined by 40 C.F.R §152.5.
21. Integrated Pest management. The act of managing or controlling pests through use of chemical, mechanical, cultural, biological, or genetic measures.

Integrated Pest management (IPM) is an environmentally sound approach to managing pests such as insects, weeds, plant pathogens, and wildlife on farms and forests, in our communities and in our homes. IPM relies on proper pest identification, monitoring, and combinations of pest avoidance and management strategies to protect people, crops, and the environment while minimizing pesticide use.

22. Pesticide. Any substance or mixture of substances intended to kill, repel, control, or desiccate species designated as a pest, including plants, insects, or other organisms, including but not limited to herbicides, fungicides, insecticides, rodenticides, disinfectants, and antibiotics, and any fertilizer mixture which contains any of the foregoing.
23. Repellent. A substance that deters insects or other pests from approaching or settling.
24. Synthetic. A substance formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring plant, animal, or mineral sources, except that this term does not apply to substances created by naturally occurring biological processes.
25. USDA. The United States Department of Agriculture.
26. Water Body. Any lake, pond, river, stream and their tributaries, marsh, tidal area, and ocean.
27. Wetlands. Land, or areas that are covered, often intermittently, with shallow water or have soil saturated with moisture.
28. Weed. A plant considered undesirable growing in a particular location.

[Derivation: Ord. No. 23-03, effective 10/06/2023]

DIVISION B – PESTICIDE USE

SECTION 4-711 TITLE

This Division of the LMO shall be known as the City of Hallowell Pesticide Use Ordinance.

[Derivation: Ord. No. 23-03, effective 10/06/2023]

SECTION 4-712 PROVISIONS

This Section shall apply to outdoor pesticide application activities conducted within the City of Hallowell on both public and private land. This Section does not apply to commercial

agriculture.

1. Permitted. The following substances and practices are permitted:
 - A. All pesticide products and soil amendments shall be in keeping with products permitted by MOFGA, OMRI, or NOP. Non-synthetic (organic) substances are allowed, unless specifically listed as prohibited on the USDA National List of Allowed and Prohibited Substances (“NOP List”). 7 C.F.R. § 205.602.
 - B. Pesticides determined to be “minimum risk pesticides” pursuant to the Federal Insecticide, fungicide, and Rodenticide Act and listed in 40 C.F.R. §152.25 (f) (1) or (2), as may be amended from time to time.
 - C. Only those synthetic substances specifically listed as “allowed” in 7 C.F.R. §205.601, or that are OMRI- or MOFGA-approved.
 - D. Any pesticide that is permitted by the LMO must be applied in accordance with the instructions included on the manufacturer’s label.
2. Prohibited. The following substances and practices are prohibited:
 - A. Application of synthetic substances.
 - B. Application of non-synthetic (organic) substances specifically listed as “prohibited” in the USDA NOP list.
 - C. Application of any pesticide (whether organic, synthetic, or otherwise) within seventy-five feet of the Kennebec River, Vaughan Brook Stream and all other tributaries, wetlands, and water bodies.
 - D. Pre-emptive treatment with synthetic substances (i.e., there must be a current active problem.)
3. Exemptions. While less toxic remedies also can be effective, the following applications are exempt when used in the manner specified by the manufacturer on the label:
 - A. Pet supplies for tick and flea treatment.
 - B. Disinfectants, germicides, bactericides, miticides, and virucides.
 - C. Insect repellents for bodily application.
 - D. Indoor pesticide use.
 - E. Rodent control supplies.

- F. Swimming pool and hot tub supplies.
- G. General use paints, stains, wood preservatives, and sealants, structural wood preservation.
- H. Products used to treat drinking water and wastewater.
- I. Poison ivy control in frequently used areas.
- J. Treatments used to eradicate carpenter ants (but not other species of ants) or termites that are causing external damage to a structure. European fire ants can be treated with Spinosad bait.
- K. Treatments used to eradicate wasps (including yellow jackets and hornets.)
- L. Treatments used to reduce infestations of deer-ticks.
- M. Treatments used to reduce mosquito-borne diseases when the Maine CDC reports credible evidence of the spread of a serious mosquito-borne disease.
- N. Brown Tail Moth infestations, which may be treated by injecting trees with a prohibited pesticide. A waiver application is required for the use of any foliar spray treatment.
- O. Right-of-way spraying. Prohibited pesticides may be used by a public utility that maintains a right of way through the city. Residents may request that their property be exempt from spraying by submitting a “No Spray” form to the Maine Department of Transportation or Central Maine Power.
- P. Treatments used to reduce infestations of invasive, woody plants that pose a significant threat to the environment and are listed as “very invasive:” or “severely invasive” by the Maine Natural Areas Program of the Department of Agriculture, Conservation and Forestry may be treated by strategic application of herbicide on cut stems. A waiver application is required for any broadcast spray treatment.
- Q. Treatments used to reduce infestations of invasive insects that pose a significant threat to the environment that are listed with the Maine Forest Service – Invasive Threats to Maine’s Forest and Trees. A waiver application is required for any broadcast spray treatment.
- R. Production of fruits, vegetables, or livestock.

Home grown fruits, vegetables, and livestock for personal use. A waiver application is required for any broadcast spray treatment. This exemption does not override local community garden rules, policies, or guidelines.

4. Waivers. The CEO may waive the provisions of section 4-712(2)(A)-(D) under the following circumstances:
 - A. In situations that threaten the public health and safety or for the control of invasive species that pose a serious threat to the environment, persons may apply to the CEO for a waiver to obtain authorization prior to the use of a prohibited pesticide.
 - B. The waiver application shall be filed on a City “Pesticide-use Waiver Form”.
 - C. In order to approve a waiver application, the CEO must first find that the following criteria are met:
 - (1) A situation exists that threatens the public health and safety and/or where invasive species pose a severe threat to the environment;
 - (2) The applicant has evaluated all alternative methods and materials;
 - (3) The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties; and
 - (4) The grant of the waiver will not be detrimental to the public health, safety, or welfare.
5. Notice and Signage. If prohibited pesticides are to be applied through a waiver or exemption, the following requirements shall be met by the property owner or applicator.
 - A. No fewer than 2 days in advance of applying synthetic pesticides on their property, the owner or applicator shall notify in writing any direct abutters (including owners and tenants) with whom they share a property line or who are within 250 feet of the spray area (including across the street),
 - B. The owner or applicator shall post warning signs with information specified by the City. These signage requirements are in addition to any requirements that may also apply to State of Maine licensed applicators subject to the Maine Board of Pesticides Control rules regarding public notification.
6. Water Quality Testing. The City of Hallowell shall conduct annual water quality testing to determine the prevalence of pesticides and fertilizers in the Vaughan Brook. These reports shall be made public.
7. Reporting by Licensed Applicators. In addition to complying with the Maine Board of Pesticides Control rules regarding recordkeeping and reporting, State of Maine licensed applicators doing business in Hallowell are required to submit an annual summary report to the City Clerk on or before February 1. The report shall contain the

following information for applications of pesticides performed in the City during the prior calendar year: target site, pesticide brand name, EPA registration number, total undiluted formulation (in pounds or gallons), and total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Maine Board of Pesticides Control.

[Derivation: Ord. No. 23-03, effective 10/06/2023]

DIVISION C – (RESERVED)

Office of:

Town Manager
 Tax Assessor
 Tax Collector
 Town Clerk
 Treasurer
 Code Officer
 Finance Director
 Harbor Clerk



Town Office

P.O. Box 1207
 29 Elm Street
 Camden, Maine 04843
 Phone (207)236-3353
 Fax (207)236-7956
<http://www.camdenmaine.gov>

I certify that the following Article of the Town of Camden Town Meeting Warrant held on Tuesday June 10, 2025, was approved by voters with the total number of votes cast being :

1,441 YES

626 NO

ARTICLE 5

Shall the Town amend Chapter 194, Pesticides, by amending the notice requirements and exempting certain applications.

Note: This amendment would exempt the notice, reporting and posting requirements for the application of section 25(b) pesticides which are exempt from USEPA FIFRA regulations for minimal risk pesticides, which pose little to no risk to human health and the environment (such as organic/natural tick treatments.) The amendment also exempts the application of pesticides via any root flare or trunk injection application via macro or micro injection; the application of rodenticides used in bait stations and the emergency application of pesticides needed to address such pests as stinging insects and also exempts the treatment of wood decaying insects. To be consistent with the Maine Right to Farm Law, licensed agricultural applications would also be exempt. Additionally, "pesticide" is amended to exclude Phosphorus (P2O5) free fertilization applications that meet or exceed ANSI which permit organic applications

The notice provisions amend who gets notified and how, depending upon the type of application. The amendments allow for "approximate or anticipated" dates of application to provide flexibility due to the manufacturers' labeling requirements as well as State of Federal requirements for applications under certain weather conditions such as precipitation and wind speeds. Signage / posting requirements would also be amended. The amendments also make the maintenance of signs the responsibility of the property owner after placement by the licensed applicator. A copy of the proposed amendments is available for review in the Town Clerk's Office during regular business hours and on the Town of Camden's website at www.camdenmaine.gov

Katrina Oakes
 Town Clerk, Camden, Maine

06/23/25
 Date

Chapter 194 Pesticides and Herbicides

§ 194-1 Applicability; effective date.

- A. This chapter shall apply to the outdoor application(s) of any pesticide by Maine-licensed applicators on any land in the Town of Camden.
- B. The effective date of this chapter shall be January 1, 2025.

§ 194-2 Definitions.

APPLICATION The spreading of pesticides over or on any outdoor area by any means in liquid or dry form, including but not limited to broadcasting, pasting, ground spraying, aerial spraying, foliar application, soil injection, and surface utilization.

DIRECT ABUTTERS The properties that share a property line with a property where a pesticide is being applied, as well as those properties across the street or across a public or private right of way from the application site.

HERBICIDE See "pesticide."

LICENSED APPLICATOR Any person licensed by the State of Maine and regulated by the rules of the Maine Board of Pesticide Control, as may be amended, to apply pesticides as defined, including but not limited to ~~private, agricultural and~~ commercial (master and/or operator) applicators and/or anyone under the direct supervision of a certified applicator.

PESTICIDE Any substance or mixture of substances intended to kill, prevent, repel, mitigate, control, or desiccate species designated as a pest, including but not limited to plants, weeds, insects, or other organisms, and including but not limited to herbicides, fungicides, insecticides, rodenticides, disinfectants, and antibiotics, and any fertilizer mixture which contains any of the foregoing. The term shall also mean any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. Pesticides shall include but not be limited to registered, limited and general use pesticides as may be defined in state law and as regulated by the Maine Board of Pesticide Control. The term does not include any Phosphorus (P2O5) free fertilization applications that meet or exceed ANSI standards with at least 50% of Nitrogen being water-insoluble or controlled release. This includes organic applications.

§ 194-3 Notice required; notice content.

- A. Prior to the application of any pesticide by a licensed applicator, the applicator shall provide written notice to direct abutters and the town. Written notice may vary depending on the type of services provided by the applicator. For instance, applicators

that provide subscription or ongoing application services, such as monthly contractual services to a specific client, may provide one written notice prior to commencing applications annually. This notification must include the information required in subsection "B." below, in addition to the anticipated application schedule for the subscription services (i.e. monthly application to commence on XXX date) Alternatively, the licensed applicator shall provide written notice at least five (5) days prior to the anticipated application date to the direct abutters and to the Town's Planning and Development Department. ~~at least two days in advance of the application to the Town of Camden's Planning and Development Department, the direct abutters with whom a property line is shared, and those properties within 250 feet of the application area, including those properties across public and private rights-of-way or streets.~~

- B. Notice content. The written notice shall include the ~~proposed~~ approximate or anticipated date or dates and time of the application and shall list the trade names and USEPA registration number of the pesticides that will be applied and shall indicate which pest is being treated. The notice shall also provide a property sketch of the proposed application locations. The notice shall also include the name of the licensed applicator and contact information. The approximate or estimated date(s) of application provided on the notice(s) provides the applicator with the flexibility to apply the pesticides in accordance with the manufacturer's and State or Federal requirements for application under certain weather conditions such as precipitation and wind speeds.

§ 194-4 Signage required.

Prior to application, ~~but at least 30 minutes before,~~ the licensed applicator shall place and/or post warning signage or placards in conspicuous locations near abutting properties and ~~near~~ public and private streets or rights-of-way notifying the public and abutting property owners of imminent application of pesticides. Signage shall include the date and time of the application and the trade name and USEPA registration number of the pesticide applied. The wording shall be legible to the average person.

Such signage shall be placed every ~~50~~ 200 feet along the developed portions of abutting property lines and ~~/or~~ along public or private streets or rights-of-way. Signs shall be ~~a minimum of one square foot in printed area~~ sized appropriately to include the information noted above in this section, and shall ~~be placed a minimum of one foot above the grade, ground or vegetation, and shall~~ remain in place ~~per the State of Maine Board of Pesticide Control's requirements but at~~ a minimum of seven days from the date and time of application. Such signage shall be in addition to any requirements of the Maine Board of Pesticide Control.

Maintenance of signs. The property owner is responsible to maintain the signs once placed by the licensed applicator for the time period detailed above.

§ 194-5 Exempt Applications

This chapter shall not apply to the application of 25(b) pesticides that are exempt from USEPA FIFRA regulations and determined to be minimum risk pesticides, as they pose little to no risk to human health and the environment. Nor shall these requirements apply to the application of pesticides via any root flare or trunk injection application via macro or micro injection. Nor shall these requirements apply to the application of rodenticides used in bait stations and the emergency application of pesticides needed to address such pests as stinging insects. Nor shall they apply to the application on a building's exterior for the treatment of wood decaying insects. This chapter shall not apply to licensed agricultural applications.

§ 194-~~5~~ 6. Annual ~~r~~Reporting.

In addition to complying with the Maine Board of Pesticides Control rules regarding recordkeeping and reporting, State of Maine licensed applicators doing business in Camden are required to submit an annual summary report to the Town's Planning and Development Office on or before February 1 of each year. The report shall contain the following information for applications of pesticides performed in the Town during the prior calendar year: target site, pesticide brand name, EPA registration number, total undiluted formulation (in pounds or gallons), pests being treated, and total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Board of Pesticide Control.

§ 194-~~6~~-7 Enforcement; violations and penalties; appeals.

- A. The Code Enforcement Officer or their designee shall be responsible for enforcing the provisions of this chapter. Upon determining that a violation of any provision of this chapter has occurred, the CEO shall provide written notice to the violator to identify the violation and shall specify a course of remedial action which may include a provision for consent agreements as specified in Chapter 290. Violations shall be subject to the penalties prescribed in 30-A M.R.S.A. § 4452.
- B. Appeals. An appeal from the action of the Code Enforcement Officer, or their designee, under this chapter may be sought through the provisions of Article VII in Chapter 290, Zoning.



WASHINGTON, D.C. 20460

June 25, 2025

MEMORANDUM

SUBJECT: Joint OCSPP/OECA Amended FY2022-2025 FIFRA Cooperative Agreement Guidance

FROM: Lance Wormell, Acting Branch Supervisor
Intergovernmental and Community Relations Branch
Mission Support Division
Office of Chemical Safety and Pollution Prevention

**Wormell,
Lance** Digitally signed by
Wormell, Lance
Date: 2025.06.30
08:40:01 -04'00'

Ricardo Jones, Acting Branch Supervisor
Pesticides, Waste and Toxics Branch
Monitoring, Assistance and Media Programs Division
Office of Enforcement and Compliance Assurance

TO: Regional Pesticide Supervisors

The purpose of this memo is to inform you that we are extending the joint OCSPP/OECA FY2022-2025 FIFRA Cooperative Agreement Guidance. The attached guidance

1. Adds or revises language to make clear that the FY2022-2025 guidance will serve as the guidance for National Pesticide Program Cooperative Agreements in FY2026, and is to remain in effect until EPA publishes updated guidance;
2. Updates EPA's Water Quality Monitoring Data contacts in Appendix 5; and
3. Removes language and references that are in conflict with Administration priorities or Executive Orders.

Attached is an updated version of the joint OCSPP/OECA FY2022-2025 FIFRA Cooperative Agreement Guidance. The updated version becomes and will remain the current version of the FIFRA Cooperative Agreement Guidance until such time that additional guidance is issued. Please share the amended guidance with the states, Tribes, and territories in your region. All applicants should use the amended FY2022-2025 FIFRA Cooperative Agreement Guidance in negotiating cooperative agreements for FY 2026 and note that some references to guidance and standards may be outdated.

This cover letter and the amended FY2022-2025 FIFRA Cooperative Agreement Guidance will be uploaded to the EPA compliance website: <https://www.epa.gov/compliance/state-oversight-resources-and-guidance-documents>.

If you have any questions, please contact either Lance Wormell at wormell.lance@epa.gov for pesticide program questions, or Ricardo Jones at Jones.ricardo@epa.gov for pesticide compliance monitoring and enforcement related questions.

Attachment

Joint OCSPP/OECA Amended FY2022-2025 FIFRA Cooperative Agreement Guidance