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TO: Board Members

FROM: Gary Fish, Manager of Pesticide Programs

Subject: Definition of "Food Production"

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Board members may recall the discussion we had during the open forum at the Agricultural Trades Show regarding what constituted "food production," because it is an important term used in the statute that requires an Agricultural Basic Pesticide Applicator license, 22 MRS 1471-D (2-D) (*see excerpt below*). In order for the staff to be able to consistently inform growers about which practices require an Agricultural Basic license, a clear interpretation of the meaning of "food production" is needed from the Board.

- 2-D. (TEXT EFFECTIVE 4/1/15) 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.

Upon searching the Code of Federal Regulations (CFR) and the Maine Revised Statutes (MRS), I could not find a single definition of "Food Production." All I could find were definitions for "Agricultural Production" and "Commercial Production" (*see below*). Neither of these addresses the issue directly.

- *Agricultural Production* means the cultivation, production, growing, raising, feeding, housing, breeding, hatching, or managing of crops, plants, animals, fish, or birds, either for fiber, food for human consumption, or livestock feed. (7 CFR Subpart A § 4280.3 Definitions.)
- *Commercial production* means growing, maintaining or otherwise producing agricultural plants for sale or trade, for research or experimental purposes, or for use in their entirety in another location. Commercial production includes producing agricultural plants for use by the agricultural employer or agricultural establishment instead of purchasing the agricultural plants. (40 CFR Part 170, EPA WPS)

Some practices growers have asked for clarification as to whether or not they constitute "food production" include:

- growing vegetable seedlings for sale to home gardeners
- sanitizing containers, benches or other surfaces to prepare for growing the crop
- post-harvest treatments applied directly to the food or applied to food boxes, containers or storage bins

I also asked Jim Dill to explain what he thought the ACF Committee had in mind when the statute was developed and he said, "I saw production as basically once the plant had emerged until the crop was harvested and put into the marketplace. I really hadn't thought about post-harvest treatment. I'm thinking not to include it, but could go either way on it."

Your decision will help us move ahead as we plan to reach out to growers as the April 15, 2015 deadline approaches.