



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

JANET T. MILLS
 GOVERNOR

AMANDA E. BEAL
 COMMISSIONER

To: Board Members
 From: Staff
 Re: Review of Rulemaking Concepts
 Date: February 24, 2023

At the February 24, 2023 Board meeting, the Board discussed interest in moving forward with rulemaking concepts. Staff have compiled the Board's responses to rulemaking concepts that had interest in moving forward. The Board identified 4 items of interest, which must be voted on to move forward in initiating rulemaking. The potential rulemaking are categorized by the following criteria:

Required C&T	Required by federal rule change
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.

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 attached reference documents.

The second column details the actionable item.

The third column provides a purpose for the rulemaking.

The fourth column provides notes on the Board's discussions at the February 24, 2023 Board meeting

The fifth column provides a detailed description of the potential rulemaking concept.

A complete list of possible rulemaking chapters to include 10, 20, 28, 31, 32, 41, 50.

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2	Chapter 20, Section 7(A)	<p>The Board expressed interest in incorporating policy into rule.</p> <ul style="list-style-type: none"> • See “Chapter 20: Positive Identification of Proper Treatment Site by Commercial Applicators” Policy. <p>The Board may want to consider also adding additional methods for proper site identification while reviewing this policy.</p>	Incorporating Policy	Yes, may need to discuss additional methods	RT
4	Chapter 31(2)(VII)(c)(1)(2)(3) and Chapter 31(3)(VII)(c)(1)(2)(3)	<p>Staff have identified issues with 7C category licensure. See memo “Revisions of 7C categories to reflect licensure”. The Board may want to consider changing these categories by:</p> <ul style="list-style-type: none"> • Combining all categories to 7C: Biocide, Disinfectant, Pools and Spas, Mold Remediation, and Water Damage Restoration <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Amending category 7C1 to remove disinfectants to “Biocide Treatments” • Amending category 7C3 to include disinfectants to “Mold Remediation, Water Damage Restoration, and Disinfectants” <p style="text-align: center;">OR</p> <ul style="list-style-type: none"> • Adding new category: 7C4 Disinfectants <p>Currently, there is confusion regarding which certification category is needed for commercial application of disinfectants. If these sections are changed, competency standards should also change to reflect categories.</p>	Housekeeping	Yes, combine all categories into 7C	RT
7	Chapter 32, section 2 (A)(1)	<p>This was identified when staff revised the state plan. Excerpt from state plan:</p> <p>To address 40 CFR § 171.201 (see reference document), the State of Maine, Board of Pesticides Control will, at the</p>	Required C&T	Yes	RT

		<p>earliest opportunity, initiate rulemaking to address the minimum age requirements for noncertified applicators who are a minimum of 16 years old and who may apply restricted use pesticides under the direct supervision of a private applicator who is an immediate family member. The State of Maine Board of Pesticides Control will also, at the earliest opportunity, initiate rulemaking to address the minimum age requirements for noncertified applicators who are a minimum of 18 years old and who may apply restricted use pesticides under the direct supervision of a private applicator. Until rulemaking occurs, the Board of Pesticides Control will continue to enforce the above-listed minimum age requirements under their delegated authority to enforce FIFRA.</p> <p>These amendments may require creation of a new section to address noncertified applicators.</p>			
9	Chapter 41, Section 5	<p>A Board member expressed interest in updating and modernizing Chapter 41, Section 5, which addresses plant incorporated protectants. Staff need additional guidance on concepts the Board might want addressed in this section.</p>	Requires Discussion	Staff are looking at Jemison's suggested notes	MS