

BASIS STATEMENT FOR AMENDMENTS TO CHAPTER 27—STANDARDS FOR PESTICIDE APPLICATION AND PUBLIC NOTIFICATION IN SCHOOLS

Basis Statement

Resolve 2011, Chapter 59, To Enhance the Use of Integrated Pest Management on School Grounds directed the Board, as part of a Report to the Joint Standing Committee on Agriculture, Conservation and Forestry, to make recommendations for amending Chapter 27 “for minimizing the use of pesticides in schools and on school grounds.” The Committee supported the recommendations contained in the report and encouraged the Board to amend Chapter 27 accordingly. The report highlighted observations that IPM coordinators have — in practice — failed to take a central role in pest management decisions on school grounds, and are often not even aware of outdoor pesticide use. This observation became the primary focus of the recommendations since the effectiveness of the rule is dependent upon the role of the IPM coordinator.

In its rulemaking proposal, the Board incorporated most of the recommendations to amend Chapter 27 contained in the Legislative Report, and also chose to include a more stringent annual notification requirement, as well as a statement discouraging pesticide use strictly for aesthetic purposes. Overall, the recommendations were developed with a goal of not increasing the regulatory burden while improving the effectiveness of school IPM programs. The proposed amendments included additional elements designed to:

- Strengthen the role of the IPM Coordinator
- Reduce and consolidate the school pesticide record-keeping requirements
- Require parents to sign and return the beginning of year notification form
- Address communication weaknesses between contractors and IPM coordinators
- Provide for a way to maintain accurate contact information for school IPM coordinators

Based on a review of the hearing record, the Board altered its proposed amendments by eliminating the annual beginning of the year notice to parents altogether. The Board reasoned that available evidence indicated that few schools ever make pesticide applications requiring notification, and therefore it was not logical to impose a significant burden on schools for such a rare event as opposed to simply notifying all parents if such an event does occur. In addition the Board struck the clause that sought to discourage pesticide use for aesthetic purposes. The Board decided it was not practical to determine what constitutes “aesthetic” use of pesticides and there was not consensus about whether it was the Board’s role to determine whether municipalities and private schools should be allowed to use pesticides for that purpose.

In adopting the revised amendments, the Board found it had struck a rational balance by ensuring that pesticides are used judiciously on school grounds in a manner designed to minimize risks while still allowing school districts sufficient flexibility to craft their own philosophy about the use of pesticides on school grounds for the sake of appearances.

Impact on Small Business

In accordance with 5 MRSA §8052, sub-§5-A, a statement of the impact on small business has been prepared. Information is available upon request from the Maine Board of Pesticides Control office, State House Station #28, Augusta, Maine 04333-0028, telephone 207-287-2731.

Provisional Adoption

At its December 7, 2012 meeting, the Board provisionally adopted the major substantive amendments to Chapter 27.

Legislative Approval

On February 7, 2013 The Joint Standing Committee on Agriculture, Conservation and Forestry (ACF) held a public hearing on LD 33, the resolve authorizing final adoption of the amendments, and work sessions were held on April 9, 2013 and May 22, 2013. Subsequently the ACF reported the resolve out as ought-to-pass as amended. The Legislature enacted the resolve and it became law without the Governor's signature on June 22, 2013 (Resolve 2013, Chapter 63).