

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

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

**United States Environmental Protection Agency
Federal Regulations (CFR) 171.301**

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APPENDIX

- Appendix A Examination standards at §171.103(a)(2)
- Appendix B Recertification standards at §171.107
- Appendix C Standards for the Direct Supervision of Noncertified Applicators
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- Appendix D State Procedures for Reciprocity at §171.303(a)(9)

DRAFT

INTRODUCTION

This State Plan is in direct response to the Environmental Protection Agency (EPA) federal revision to the Code of Federal Regulations (CFR), Certification of Pesticide Applicators 40 CFR 171 as outlined in the Federal Register, Vol. 82, No. 2, dated January 4, 2017 (82FR 952). The final rule became effective March 6, 2017. This State Plan compares Maine's regulations and policies to the comparable CFR to identify actions that the State of Maine must take to comply with federal standards. These actions include revisions in regulations. The State Plan is due on March 4, 2020.

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

Restricted Use Pesticides (RUP's) require a license to purchase and apply. RUP's are defined by federal regulation as a "*...pesticide that is classified for restricted use under the provisions of section 3(d) of FIFRA and 40 CFR part 152, subpart I.*" The State of Maine adopts all federally restricted use pesticides as state restricted. Maine can establish greater restrictions on pesticides than set by federal requirements.

This State Plan was drafted by the Maine Department of Agriculture, Conservation and Forestry, Board of Pesticides Control. The State Plan was reviewed by the Maine Board of Pesticides Control Public, member board. The Board of Pesticides Control has pesticide rule making authority, compares Division of Plant and Animal Health federal regulations to state regulations, and identifies proposed modifications to meet federal regulations.

SECTION 1. CERTIFICATION PLAN ADMINISTRATION

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

CFR 40 §171.303(b)(6)(i)

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

State

Response: The Board of Pesticides Control (BPC) is the lead agency for regulation of pesticides in Maine. The BPC is attached to the Maine Department of Agriculture, Conservation and Forestry for administrative and staffing purposes. A written statement from the Governor of the State of Maine designating the BPC as the lead agency for administering the state plan is located in Attachment 1A; State Lead Agency Designation (Letter from the Governor of Maine).

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

(b) OTHER AGENCIES AND CONTACTS

Cooperating agency name:	University of Maine Cooperative Extension
Cooperating agency role:	Pesticide Safety, Education, Manual Review and writing
Name of Primary Contact:	Hannah Carter
Title of Primary Contact:	Dean
Email address for primary contact:	hcarter@maine.edu
Phone number for primary contact:	(207) 581-3238
Mailing address for primary contact:	University of Maine Maine Cooperative Extension 5741 Libby Hall Room 102 Orono, Maine 04469-5741

Explanation of agency coordination process: The state lead agency, Board of Pesticides Control (BPC) and the cooperating agency, University of Maine Cooperative Extension (UMCE), work closely together in regard to manuals, developing programs for pesticide license recertification credits, and pesticide licensing exam training for writing, editing, and selecting pesticide applicator licensing exam study manuals.

(c) QUALIFIED PERSONNEL

40 CFR §171.303(b)(6)(iii)

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

State Response: The State of Maine Board of Pesticides Control has the following positions. A complete list of staff who currently hold these positions is found in Attachment 1C; 2019 Board of Pesticides Control Staff.

Table 1. Staffing Summary, Board of Pesticides Control SLA Personnel		
Position Title	Function	Full Time Employees
Director	Rulemaking, Special Projects, Legislation, General Information, Board Meetings, Variances	1
Manager of Compliance	Complaints/Incidents, Enforcement, Pesticide Disposal	1
Manager of Pesticide Programs	Licensing, Recertification Programs, Exams, Federal Grants, Pesticide Use	1
Toxicologist	Food Safety, Health Issues, Pesticide Labels, Pesticide Risks and Human Health	1
Registrar	Pesticide Registrations, Pesticide Labeling, Emergency Registration, Special Local Needs Registration, Experimental Use Permits, Limited Use Permits	0.5
Water Quality Specialist	Water Quality, Endangered Species.	0.5
Policy & Regulations Specialist	Rulemaking, BPC Portal, BPC Website, Got Pest Website, Yardscaping, School IPM	1
Certification & Licensing Specialist	Licensing, Recertification Programs, Exams, Manuals Worker Protection Standards, Pesticide Use	1

Table 1. Staffing Summary, Board of Pesticides Control - Continued SLA Personnel		
Office Manager	General Information, Licensing Information, Exam Scheduling, Accounts, Applicator Licenses	1
Licensing Clerk	Applicator/Dealer Licenses, Recertification Credits, Pesticide Sales and Use Data, Exam Scheduling	1
Inspector	District 2	1
Inspector	District 1	0.75
Inspector	District 3	0.75
Inspector	District 4	0.75
Inspector	District 5	0.75

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

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

(d) SUFFICIENT RESOURCES

40 CFR §171.303(b)(6)(iv)

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

State Response: The State of Maine has procedures in place to collect funds from pesticide registrations, licensing, consent agreements and exams.

1. **State Affirmation Statement** - The State of Maine is committed to ensuring sufficient resources are available to carry out the applicator certification program as detailed in this State certification plan. The state statute and state regulations attached to this document describe the state's regulatory commitment; particularly the establishment of regulations to manage restricted use pesticides including regulations establishing the Board of Pesticides Control, rulemaking authority and enforcement authority.

SECTION 2. LEGAL AUTHORITIES.

(a) WRITTEN OPINION - Attorney General

40 CFR §171.303(b)(6)(iv)

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

State Response: A written statement from the State of Maine's Attorney General designating the BPC as the lead agency for administering legal authority necessary to carry out the state certification plan. The statement is located in Attachment 2A; Written Opinion, State of Maine Attorney General.

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

40 CFR §171.303(b)(7)

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

State Response: A copy of all the state laws and regulations relevant to the certification plan are as follows, Attachment 2B1; Title 7 M.R.S., Chapter 103, subchapter 2-A Attachment 2B2; Title 22 M.R.S., Chapter 258-A. and Attachment 2B3; 22 M.R.S. §1471-C, Definitions.

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

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

Link to Regulations:

https://www.maine.gov/dacf/php/pesticides/documents2/rules/BPC_Rules_11-13-15.pdf

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

40 CFR § 171.303(b)(7)(i)

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

State Response: A copy of the citation is located in Attachment 2C; 22 M.R.S. §1471-D.

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

7. Suspension

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

40 CFR § 171.303(b)(7)(ii)

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

State Response: A copy of the citation is located in Attachment 2D; 22 M.R.S. §1471-D.

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

7. Suspension

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

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

C. If the licensee or certificate holder fails to request a hearing within 20 days of the date of suspension, such right shall be deemed waived. If the licensee or certificate holder requests such a hearing, notice shall be given at least 20 days prior to the hearing to the licensee or certificate holder and to appropriate federal and state agencies. In addition,

public notice shall be given by publication in a newspaper of general circulation in the State and such other publications as the board deems appropriate. [1983, c. 819, Pt. A, §48 (AMD).]

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

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

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

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

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

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

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

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

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

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

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

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

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

(e) PROVISIONS FOR ASSESSING CIVIL AND CRIMINAL PENALTIES

40 CFR § 171.303(b)(7)(iii)

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

State Response: A copy of the citation is located in Attachment 2E; 22 M.R.S. §1471-J.

22 M.R.S. §1471-J. PENALTIES

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

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

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(f) PROVISIONS FOR RIGHT OF ENTRY FOR INSPECTIONS

40 CFR § 171.303(b)(7)(iv)

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

State Response: A copy of the citation is located in Attachment 2F; 22 M.R.S. §1471-H.

22 M.R.S. §1471-H. INSPECTION

Upon presentation of appropriate credentials, the chair or any member of the board or any authorized employee or consultant of the board may enter upon any public or private premises at reasonable times for the purpose of inspecting any equipment, device or apparatus used in applying pesticides; inspecting storage and disposal areas; inspecting or investigating complaints of injury to persons or land from pesticides; observing the use and application of pesticides; sampling pesticides in use or storage; and sampling pesticide residues on crops, foliage, soil, water or elsewhere in the environment. Upon denial of access to the board or its agents, the board or its agents may seek an appropriate search warrant in a court of competent jurisdiction. Notwithstanding other provisions of this section, a board member or any authorized employee or consultant of the board may enter public or private premises without notification if an emergency exists. The need to take a residue sample in a timely manner constitutes an emergency under this section. [1989, c. 841, §7 (AMD).]

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

40 CFR § 171.303(b)(7)(v)

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

State Response: A copy of the citation is located in Attachment 2G; 22 M.R.S. §1471-H.

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

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

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

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

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

(h) PROVISIONS FOR COMMERCIAL APPLICATOR RECORDING

40 CFR § 171.303(b)(7)(vi)

The state plan must include the citation to the specific state laws and regulations that demonstrate specific legal authority for provisions for requiring commercial applicators to record and keep routine operational records for at least two years and that such records will be available to appropriate State officials. At a minimum, records must contain for each restricted use pesticide application:

- *Name and address of person for whom it was applied.*
- *Application – location, size of area treated; crop, commodity, stored product or site; time and date of application.*
- *RUP - brand or product name, EPA registration number, total amount applied per location per application;*
- *Certified applicator – name and certification number, if a supervised application the name of the noncertified applicator.*
- *Requirement of commercial applicators to create or verify existence of record*

State Response: A copy of the citation is located in Attachment 2H; 22 M.R.S. §1471-G.

22 M.R.S. §1471-G. REPORTS

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

Chapter 50: RECORD KEEPING & REPORTING REQUIREMENTS

Section 1. Records

A. Pesticide Application Records

- I. Commercial agricultural producers and commercial applicators shall maintain pesticide application records consistent with paragraph II. below for a period of two years from the date of application. Such records shall be kept current by recording all the required information on the same day the application is performed. These records shall be maintained at the primary place of business and available for inspection by representatives of the Board at reasonable times, upon request.
- II. Pesticide application records shall include, at a minimum:
 - a. Site information including town and location, crop or site treated, target organism, customer and customer address_(where applicable); and
 - i. for broadcast applications, size of treated area (when completed);
 - ii. for volumetric applications as described on the label, the volume treated;
 - iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).
 - b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).
 - c. **Rate information.** For each distinct site, application rate information must be maintained as follows:
 - i. **Restricted Use Pesticides.** For restricted use pesticides, applicators shall record the total amount of pesticide applied (undiluted).
 - ii. **General Use Pesticides.** For general use pesticides, applicators shall record:
 - (1) rate information as described in (i.) above; or
 - (2) the mix ratio and the total mix applied; or
 - (3) the mix ratio and the mix per unit area applied.
 - d. For outdoor applications, except those listed below, weather conditions including wind speed and direction, air temperature and sky conditions recorded such as sunny, partly cloudy, overcast, foggy or rainy. No weather condition records need be kept for outdoor applications involving:
 - i. pesticides placed in bait stations;
 - ii. pesticide-impregnated devices placed on animals, such as ear tags;
or

- iii. pesticides injected into trees or utility poles.
- e. For TBT applications to marine vessels, applicators must also record the vessel identification and size, and the disposition of TBT wastes including chips/dust removed prior to application and empty containers.

(i) PROVISIONS FOR RUP DEALER RECORDKEEPING

40 CFR § 171.303(b)(7)(vii)

The state plan must include the citation to the specific state laws and regulations that demonstrate specific legal authority for provisions requiring RUP retail dealers to record and maintain at each individual dealership for at least two years, records of each transaction where an RUP is distributed or sold to any person, excluding transactions solely between persons who are pesticide producers, registrants, wholesalers, or retail sellers, acting only in those capacities. Records must include:

- *For each RUP distributed or sold, the name and address of residence or principal place of business of each certified applicator, or if applicable of the noncertified applicator for application by a certified applicator.*
- *From the certification document presented to the seller on the valid certification issued by the State, Tribe or Federal agency authorizing the certified applicator to purchase the RUP – the certification number, expiration date and certification categories of the certified applicator that are relevant to the pesticide sold.*
- *The product name and EPA registration number of the RUP distributed or sold in the transaction, including any applicable emergency exemption of State special local need registration number.*
- *The quantity of the RUP distributed or sold in the transaction.*

State Response: A copy of the citation is located in Attachment 2I; 22 M.R.S. §1471-G.

22 M.R.S. §1471-G. REPORTS

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

SECTION 3. COMMERCIAL APPLICATOR CERTIFICATION CATEGORIES [§ 171.101]

(a) OPTION 1: STATE ADOPTS EPA’S FEDERAL CATEGORIES AND STANDARDS

49 CFR § 171.101

States must provide a list of their commercial applicator certification category and subcategory names and descriptions. If the state had adopted the Federal commercial applicator categories and standards outright with no changes, the state must include a statement that the state has adopted the EPA standards for commercial applicator certification at § §171.101 and 171.103 as is and provide the appropriate citations for the state laws and/or regulations demonstrating such action.

State Response: The citation and copy of the specific provisions that accomplish the adoption of the Federal categories and standards is included with the plan as Attachment 3; STATUTORY AUTHORITY: 22 M.R.S.A., Section 1471-D.

State Affirmation Statement: All commercial applicators using or supervising the use of pesticides and operating in Maine are required to be certified in one or more of the Federal commercial applicator categories that are applicable to their business operations. The state has adopted the EPA standards for commercial applicator certification at §§ 171.101 and 171.103. Successful completion of certification requirements will qualify an applicator to use or supervise use of any pesticides, including those classified by EPA as "restricted use".

(b) List and Detailed Description of Categories and Subcategories

Federal Commercial Applicator Categories

Table 4. Federal Commercial Applicator Categories Adopted by the State of Maine.

1. Agricultural pest control:
 - Plant: production of agricultural Crops
 - Animal: covers the use of pesticides on animals such as beef cattle, dairy cattle, swine, sheep, horses, goats and poultry.
2. Forest pest control.
3. Ornamental and turf pest control.
4. Seed treatment.
5. Aquatic pest control: includes pesticides applied purposefully to standing or running water.
6. Right-of-way pest control: maintenance of public roads, electric power lines, pipelines and railways.
7. Industrial, institutional, structural and health-related pest control: covers use of pesticides in and around:
 - food handling establishments,
 - human dwellings,
 - schools,
 - hospitals and
 - industrial establishments including warehouses and grain elevators.
8. Public health pest control: use of pesticides to control pests having medical and public health importance.
9. Regulatory pest control: includes state, federal and other governmental employees who use or supervise the use of pesticides in the control of regulated pests, such as the Mediterranean fruit fly.
10. Demonstration and research pest control.

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

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

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. Doctor 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 Fumigation - This option includes commercial applicators using or supervising the use of 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 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, 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**

1. **Disinfectant and Biocide Treatments** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems.
 2. **Swimming Pool & Spa** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in swimming pools and spas.
 3. **Mold Remediation** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems.
- 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

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

(a) OPTION 1: STATE ADOPTS EPA’S FEDERAL CATEGORIES AND STANDARDS

40 CFR § 171.105

States must provide a list of their private applicator certification category and subcategory names and descriptions. If the state had adopted the Federal private applicator categories and standards outright with no changes, the state must include a statement that the state has adopted the EPA standards for private applicator certification at § §171.105 as is and provide the appropriate citations for the state laws and/or regulations demonstrating such action.

State Response: The citation and copy of the specific provisions that accomplish the adoption of the Federal categories and standards are included with the plan as Attachment 4; **STATUTORY AUTHORITY:** 22 M.R.S. §1471-D

State Affirmation Statement: All private applicators using or supervising the use of pesticides and operating in Maine are required to follow the EPA Standards for private applicator certification at 40 CFR § 171 .105.

Federal Private Applicator Categories

Table 5. Federal Private Applicator Categories Adopted by the State of Maine.

Federal Categories Adopted	Adopted Federal Standards (Y/N)	State Law/Reg Citation
Soil Fumigation	Y	22 M.R.S.A., Section 1471-D
Non-Soil Fumigation	Y	22 M.R.S.A., Section 1471-D
Aerial Pest Control	Y	22 M.R.S.A., Section 1471-D

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

(b) Categories for Supplemental Certification of Private Applicators.

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

SECTION 5. LIMITED USE CERTIFICATION CATEGORIES [IF APPLICABLE]. [§ 171. 303(a)(4), § 171. 303(b)(2) and § 171. 303(b)(2)(ii)(A)]

NOT APPLICABLE

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

(a) OPTION 1: STATE ADOPTS EPA'S FEDERAL CATEGORIES AND STANDARDS

40 CFR § 171.101

States must provide documentation of their commercial applicator certification standards meeting or exceeding the Federal commercial applicator certification standards prescribed by EPA under §§171.101 and 171.103. If the state had adopted all the Federal commercial applicator certification standards outright with no changes, the state must include a statement that the state has adopted the EPA standards for commercial applicator certification at § §171.101 and 171.103 as is and provide the appropriate citations for the state laws and/or regulations demonstrating such action.

State Response: The citation and copy of the specific provisions that accomplish the adoption of the Federal categories and standards are included with the plan as Attachment 6; 22 M.R.S.A., Section 1471-D.

State Affirmation Statement: The state has adopted the EPA standards for commercial applicator certification at § 171 .101 and § 171 .103.

22 M.R.S.A., Section 1471-D.

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

(b) Competency Standards for Certification of Commercial Applicators in Maine

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

II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

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

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

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

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

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

VI. **Vegetation Management**

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

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

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

knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees and customers.

c. **Disinfectant and Biocide Treatments.**

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

d. **Wood Preserving.** Applicants seeking certification in the Wood Preserving Subcategory described in Section 2(A)(VII)(d) must demonstrate practical knowledge in wood destroying organisms and their life cycles, nonchemical control methods, pesticides appropriate for wood preservation, hazards associated with their use, proper handling of the finished product, proper disposal of waste preservatives, and proper application techniques to assure adequate control while minimizing exposure to humans, livestock and the environment.

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

the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

- f. **Termite Pests.** Applicants seeking certification in this subcategory must demonstrate a practical knowledge of Termite pests and methods for their control. Such knowledge shall include identification of termites and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans, domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

VIII. Public Health Pest Control

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

IX. Regulatory Pest Control

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

X. Demonstration and Research Pest Control

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

XI. Aerial Pest Control

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

SECTION 7. STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS. [§ 171.105]

(a) OPTION 1: STATE ADOPTS EPA'S FEDERAL STANDARDS FOR CERTIFICATION OF PRIVATE APPLICATORS

40 CFR § 171.101

States must provide documentation of their private applicator certification standards meeting or exceeding the Federal private applicator certification standards prescribed by EPA under §171.105. If the state had adopted all the Federal private applicator certification standards outright with no changes, the state must include a statement that the state has adopted the EPA standards for private applicator certification at §171.105 as is, and the state must also provide the appropriate citations for the state laws and/or regulations demonstrating such action.

State Response: The citation and copy of the specific provisions that accomplish the adoption of the Federal categories and standards are included with the plan as Attachment 7; 22 M.R.S.A., Section 1471-D.

State Affirmation Statement: The state has adopted the EPA standards for private applicator certification at § 171 .105.

22 M.R.S.A., Section 1471-D.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

1. Supplemental Certification.

Private applicators who are certified as described in Section 2(A), and intend to conduct soil fumigation, non-soil fumigation or aerial applications must be certified in the appropriate supplemental category. Certification is obtained by passing a written exam with a minimum score of 80.

1. Supplemental category exams shall be closed book.
2. Supplemental category exams will be available year-round on an appointment basis at the Board's office in Augusta.
3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.

2. Categories for Supplemental Certification of Private Applicators

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

- c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft.

3. Competency Standards for Certification - Private Applicator in Maine

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

4. Competency Standards for Supplemental Certification of Private Applicators

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

- a. **Soil Fumigation.** Applicants seeking supplemental certification in the category of Soil Fumigation as described in Section 2(B)(4)(a) must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (d) (2017).
- b. **Non-soil Fumigation.** Applicants seeking supplemental certification in the category of Structural Fumigation as described in Section 2(B)(4)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant

formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (e) (2017).

- c. **Aerial Pest Control.** Applicants seeking supplemental certification in the category of Aerial Pest Control as described in Section 2(B)(4)(c) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical

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

(a) STATE OF MAINE STANDARDS FOR RECERTIFICATION FOR APPLICATORS OF RESTRICTED USE PESTICIDIES MEETS OR EXCEEDS STANDARDS SET FORTH BY THE EPA

40 CFR § 171.107

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

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

State Response: The specific provisions that accomplish the adoption of the Federal standards are included with the plan as Attachment 8; 22 M.R.S.A., Section 1471-D.

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

22 M.R.S.A., Section 1471-D.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

1. Recertification of Commercial 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 sign-up 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.

22 M.R.S.A., Section 1471-D.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

2. Recertification for Private Applicators.

1. Any person with current valid certification may renew that certification by accumulating recertification credits during the certification period described in Chapter 32; Section 2(A)6.

2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.
 - c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.
 - a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.
 - b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.
6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

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

(a) OPTION 2: STATE ADOPTS EPA’ S FEDERAL STANDARDS FOR DIRECT SUPERVISION

40 CFR § 171.201

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

State Response: The citation and copy of the specific provisions demonstrating that the state has adopted Federal standards for direct supervisions is included with the plan as Attachment 9. 22 M.R.S.A., Section 1471-D.

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

22 M.R.S.A., Section 1471-D.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

1. Individual Certification and Company/Agency Licensing Requirements

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

22 M.R.S.A., Section 1471-D.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

1. Competency Standards for Certification - Private Applicator

- A. No person shall be certified as a private applicator unless he has fulfilled requirements demonstrating his knowledge of basic subjects including pesticide label comprehension, ability to read and understand pesticide labeling, safety, environmental concerns,

stewardship, pest organisms, pesticides, equipment, application techniques, responsibilities for supervisors of non-certified applicators, and applicable laws and regulations. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans (core exam).

SECTION 10. CREDENTIALS. [§ 171. 303]

40 CFR§ 171.303

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

State Response: Sample copies of the state certification credentials are located in Attachment 5; Sample of Commercial License and 6; Sample of Private License. A description of the credentials that the BPC will issue to each certified applicator verifying certification is located in Attachments 10-A and 10-B; 22 M.R.S.A., Section 1471-D.

22 M.R.S.A., Section 1471-D.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/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.

- 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.

22 M.R.S.A., Section 1471-D.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

2. Competency Standards for Certification - Private Applicator

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

22 M.R.S.A., Section 1471-D.

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

Credentials Contact. Commercial 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.

22 M.R.S.A., Section 1471-D.

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

Credentials Contact. Private licenses issued under this rule will include the following information:

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

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

In Section M.R.S.A. Title 22 Chapter 258A §1471-O, the Board is given authority to Maine state certification requirements for applicators certified by other states with substantially the same standards, and to establish regulations and procedures for formalizing such arrangements on a reciprocal basis. Since state standards for certification must conform and be at least equal to those established by EPA, reciprocity agreements may be possible to develop unless more restrictive or special standards are included in the plans of some states. Reciprocal agreements will be reported to EPA by the Commissioner as they become available. Documentation for reciprocity is found in Attachment 11 A; Title 22 1471-O and Attachment 11 B;1992_No_reciprocal_Licensing.

SECTION 12. REPORTS TO EPA. [40 CFR § 171. 303(c)]

State Affirmation Statement: The State of Maine will submit the required annual reports to the EPA that the Agency requires.

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

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

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

Statement Response: The State of Maine has provided a schedule which outlines the State's proposed approach and timeframe for complete implementation of the States certification plan. The States implementation schedule can be found in Attachment 13; Schedule for State Plan Completion.

(a) TIMELINE

1. Private Applicator — Soil Fumigation
 - a. Commodity Start Date – 01/01/2020
 - b. Exam To Be Completed by 12/01/2019
 - c. Manual – Ready

2. Private Applicator – Non-Soil Fumigation
 - a. Commodity Start Date – 01/01/2020
 - b. Exam To Be Completed by 12/01/2019
 - c. Manual – Ready

3. Private Applicator – Aerial Pest Control
 - a. Commodity Start Date – 01/01/2020
 - b. Exam To Be Completed by 12/01/2019
 - c. Manual – Ready

Attachments

DRAFT

Attachment 1A; State Lead Agency Designation (Letter from the Governor of Maine)

A written statement from the Governor of the State of Maine designating the BPC as the lead agency for administering the state plan.

DRAFT

Attachment 1B; Board of Pesticides Control – Board of Directors

- **Curtis C. Bohlen**, Director, Casco Bay Estuary Partnership, University of Southern Maine, Muskie School of Public Service, Portland (*public member*)
- **Bruce V. Flewelling**, potato grower, Easton (*agricultural expertise*)
- **Clark A. Granger**, consulting forester, Woolwich (*forestry expertise*)
- **John M. Jemison, Jr.**, water quality and soil specialist, University of Maine Cooperative Extension, Orono (*water quality and soil specialist*)
- **Deven Morrill**, licensed arborist, Lucas Tree Experts, Portland (*public member*)
- **Dave Adams**, commercial applicator, Dasco Inc, Presque Isle (*commercial applicator expertise*)
- **Jack Waterman**, Physician, Waldoboro (*medical expertise*)

DRAFT

Attachment 1C; 2019 Board of Pesticides Control Staff

Attachment 1C; 2019 Board of Pesticides Control Staff SLA Personnel		
Position Title	Function	Full Time Employees
Director <i>Megan Patterson</i>	Rulemaking, Special Projects, Legislation, General Information, Board Meetings, Variances	1
Manager of Compliance <i>Ray Connors</i>	Complaints/Incidents, Enforcement, Pesticide Disposal	1
Manager of Pesticide Programs <i>John Pietroski</i>	Licensing, Recertification Programs, Exams, Federal Grants, Pesticide Use	1
Toxicologist <i>Pam Bryer</i>	Food Safety, Health Issues, Pesticide Labels, Pesticide Risks and Human Health	1
Registrar <i>Mary Tomlinson</i>	Pesticide Registrations, Pesticide Labeling, Emergency Registration, Special Local Needs Registration, Experimental Use Permits, Limited Use Permits	0.5
Water Quality Specialist <i>Mary Tomlinson</i>	Water Quality, Endangered Species.	0.5
Policy & Regulations Specialist <i>Open</i>	Rulemaking, BPC Portal, BPC Website, Got Pest Website, Yardscaping, School IPM	1
Certification & Licensing Specialist <i>Amanda Couture</i>	Licensing, Recertification Programs, Exams, Manuals Worker Protection Standards, Pesticide Use	1
Office Manager <i>Peggy Lamb</i>	General Information, Licensing Information, Exam Scheduling, Accounts, Applicator Licenses	1
Licensing Clerk <i>Jan Betts</i>	Applicator/Dealer Licenses, Recertification Credits, Pesticide Sales and Use Data, Exam Scheduling	1
Inspector Lucien Saucier	District 2	1
Inspector Alex Peacock	District 1	0.75
Inspector Heidi Nelson	District 3	0.75
Inspector Nathan Thompson	District 4	0.75
Inspector Keith Brown	District 5	0.75

October ___, 2019

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

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

Dear Director Patterson:

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

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

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

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

Sincerely,

Mark A. Randlett
Assistant Attorney General

§604. Definitions

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

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

[2005, c. 620, §3 (AMD) .]

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

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

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

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

5. Commissioner.

[2005, c. 620, §3 (RP) .]

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

[1975, c. 382, §3 (NEW) .]

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

[1975, c. 382, §3 (NEW) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[1975, c. 382, §3 (NEW) .]

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

[1975, c. 382, §3 (NEW) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

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

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[1975, c. 382, §3 (NEW) .]

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

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

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

[2005, c. 620, §3 (AMD) .]

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

[1975, c. 382, §3 (NEW) .]

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

[2005, c. 620, §3 (AMD) .]

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

[1975, c. 382, §3 (NEW) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2007, c. 484, §1 (NEW) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[1975, c. 382, §3 (NEW) .]

29. Registration. "Registration" includes reregistration.

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[2005, c. 620, §3 (AMD) .]

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

[1975, c. 382, §3 (NEW) .]

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

Attachment 2B2; Title 22 M.R.A., Chapter 258-A.

Title 22, Chapter 258-A: BOARD OF PESTICIDES CONTROL

22 §1471-A. Purpose and policy

22 §1471-B. Board of Pesticides Control

22 §1471-C. Definitions

22 §1471-D. Certification and licenses

22 §1471-E. Aquatic application, permit required

22 §1471-F. Critical areas

22 §1471-G. Reports

22 §1471-H. Inspection

22 §1471-I. Enforcement (REPEALED)

22 §1471-J. Penalties

22 §1471-K. Appeal

22 §1471-L. Subpoenas

22 §1471-M. Powers of board

22 §1471-N. Chemical control of vertebrate animals (REPEALED)

22 §1471-O. Exercise of powers by Board of Pesticides Control

22 §1471-P. Storage of illegal and obsolete pesticides

22 §1471-Q. Return and disposal of limited and restricted use pesticide containers (REPEALED)

22 §1471-R. Notification and monitoring (REPEALED)

22 §1471-S. Requirement for spotters and monitors (REPEALED)

22 §1471-T. Exemption (REPEALED)

22 §1471-U. Municipal ordinances

22 §1471-V. Local participation

22 §1471-W. General use pesticide dealers

22 §1471-X. State policy; public and private initiatives to minimize reliance on pesticides

22 §1471-Y. Notification of outdoor pesticides application using aircraft or air-carrier equipment (REPEALED)

22 §1471-Z. Registry of property requiring notification for pesticides applications (REPEALED)

22 §1471-AA. Awareness of outdoor pesticides applications; role of the board (REPEALED)

22 §1471-BB. Refund of deposits (REPEALED)

The link to Title 22: <http://www.mainelegislature.org/legis/statutes/22/title22ch258-Asec0.html>

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 10: DEFINITIONS AND TERMS

SUMMARY: These definitions and terms are defined as they specifically relate to the use of pesticides, the certification and licensing of pesticide applicators and dealers, and other areas as regulated by the Board in succeeding chapters.

Section 1. Consistent with Statute

All terms used in these Chapters shall be defined as indicated in Title 22 M.R.S.A., Chapter 258-A unless specifically provided herein.

Section 2. Definitions

- A. "Aerial applicator" means all persons who dispense pesticides by means of any machine or device used or designed for navigation of or flight in the air.
- B. "Agricultural pesticide application" means any application of a pesticide upon an agricultural commodity which is performed by or for a commercial agricultural producer.
- C. "Air-carrier application equipment" means any application equipment that utilizes a mechanically generated airstream to propel the spray droplets.
- D. "Applicant" means a person or persons who apply for a certification, license or permit authorized in 22 M.R.S.A. §1471-D or §1471-N.
- E. "Branch office" means:
 - 1. any home, store or other business location where an employee of a spray contracting firm directly accepts requests for pest control services from clients through mail, telephone or walk-in inquiries, and
 - 2. any government or university office where employees receive regular direction to apply pesticides in connection with their duties.
 - 3. It does not include the home of an employee who receives work assignments and directions from a branch office with a master applicator.
- F. "Calibration of equipment" means measurement of dispersal or output of application equipment and adjustment of such equipment to control the rate of dispersal, and droplet or particle size of a pesticide dispersed by the equipment.
- G. "Certification" means the recognition by the Board that an applicant has successfully fulfilled all the appropriate competency criteria as set forth in these Chapters.

- H. "Commercial agricultural producer" means, for the purposes of Chapter 50, any person who produces an agricultural commodity for commercial purposes.
- I. "Commercial applicator" means any person, unless exempted in I(4) hereunder, whether or not the person is a private applicator with respect to some uses, who:
1. Uses or supervises the use of any limited or restricted use pesticide other than as a private applicator; or
 2. Makes or supervises a custom application of a general use pesticide; or
 3. Applies a pesticide in connection with their duties as an official or an employee of federal, state, county, university or local government.
 4. The following classes of applicators are exempt from commercial certification/licensing requirements. Applications not listed below must be performed under the direct on-site supervision of a licensed commercial applicator Master and/or Operator.
 - a. Persons applying ready-to-use general use pesticides by hand or with non-powered equipment:
 - i. to control stinging insects when there is an urgent need to mitigate or eliminate a pest that is a threat to health or safety; or
 - ii. to repel biting insects on patients and other persons under their care or supervision who are unable to apply the material to themselves; or
 - iii. to repel biting insects on minors, such as students and campers, provided that a parent or legal guardian has authorized the application of insect repellents.
 - b. Persons applying general use antimicrobial products by hand or with non-powered equipment to interior or exterior surfaces and furnishings of buildings during the course of routine cleaning procedures.
 - c. Persons applying general use paints, stains or wood preservatives, except for the treatment of standing utility poles.
 - d. Persons installing hardware such as doorknobs and pushplates.
- J. "Commercial applicator/Master" means a commercial applicator who, unless exempted in Chapter 31, Section 1(Company/Agency Licensing Requirements), is responsible for the major pest control decisions including, but not limited to, identifying unusual pests and choosing the appropriate pest control strategies and techniques. This person is also responsible for establishing policies relating to the operating practices of others applying pesticides within the company or agency. Such practices may include equipment maintenance and calibration, employee training, safety and hygiene, pesticide and container disposal, accident mitigation and ensuring that applications are conducted in compliance with all state and federal laws and regulations.
- K. "Commercial applicator/Operator" means a commercial applicator who:
1. applies or directs the application of a pesticide according to the instructions of the master when a master is required according to Chapter 31, Section 1 (Company /Agency Licensing Requirements); or

2. applies or directs the application of a pesticide and performs the function of the master applicator when a separate master is not required according to Chapter 31, Section 1(Company/Agency Licensing Requirements).
- L. "Compact urban line" means that delineation made by the Maine Department of Transportation which denotes a section of the highway where structures are nearer than 200 feet apart for a distance of one-quarter of a mile.
- M. "Compatibility" means that property of a pesticide that permits its use with other chemicals without undesirable results being caused by the combination.
- N. "Competent" means properly qualified to perform functions associated with pesticide application, the degree of capability required being directly related to the nature of the activity and the associated responsibility.
- O. "Common exposure route" means a likely way (oral, dermal, respiratory) by which a pesticide may reach and/or enter an organism.
- P. "Custom application" means an application of a pesticide:
1. Under contract or for which compensation is received;
 - a. For the purposes of this definition, "under contract" includes: verbal or written agreements to provide services which include the use of any pesticide; i.e., private or commercial rental agreements, pest control service agreements, landscape maintenance agreements, etc.
 - b. For purposes of this definition, compensation is deemed to have been received for a pesticide application where any form of remuneration has been or will be exchanged, including payment of cash, rent, or other financial consideration, or by the exchange of goods and/or services. This also includes any agreements where crops grown on rented land will be sold to the landowner or are otherwise grown for the benefit of the land owner.
 2. To a property open to use by the public;
 - a. For purposes of this definition, property is deemed to be open to use by the public where its owner, lessee or other lawful occupant operates, maintains or holds the property open or allows access for routine use by members of the public. Persons are considered to be members of the public even though they may pay a fee or other compensation in order to make use of the property or may visit the property for a commercial purpose.
 - b. Property open to use by the public includes but is not limited to: shopping centers, office and store space routinely open to the public (i.e. rest rooms, self-service areas and display aisles), common areas of apartment buildings, occupied apartments, public pools and water parks, schools and other institutional buildings, public roads, organized recreational facilities, golf courses, campgrounds, parks, parking lots, ornamental and turf areas around condominiums, apartment buildings, stores malls and retail areas of greenhouses and nurseries if the public is allowed access before the pesticide restricted-entry or re-entry interval elapses.
 - c. Examples of property not open to use by the public include without limitation: farms, forest lands, and private residential or commercial property which is not routinely operated or maintained for use by the public or otherwise held open to public use.

- d. Notwithstanding this definition, property shall not be deemed to be open for use by the public in the following cases:
 - i. where the property is devoted primarily to agricultural, forest, ornamental tree or plant production, but this exception shall not apply to campgrounds, leased inholdings or roads within such property which are open for use by the public;
 - ii. where the public has not been permitted upon the property at any time within seven days of when the property received a pesticide application;
 - iii. forestry rights of way where the property has been closed during the time of spraying or during the label restricted entry interval or re-entry period, whichever is greater.
 - iv. where the public has not been permitted on the treated portion of privately held recreational land within seven days of a pesticide application for vegetation management.
- 3. In a food establishment licensed under M.R.S. 22, Chapter 551, or an eating establishment licensed under M.R.S. 22, Chapter 562, except that "custom application" does not include a pesticide application at a licensed food or eating establishment when:
 - a. The establishment is ancillary to the production of an agricultural commodity;
 - b. The owner or an employee of that establishment is certified as a private applicator under section 1471-C, subsection 2; and
 - c. The property is not open to the public.
- 4. A pesticide application shall not be deemed a custom application where it is undertaken by a licensed private applicator on property owned or rented by him or his employer or in trade for personal agricultural services between producers of agricultural commodities.
- Q. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this state. This also means giving free samples of unregistered products to any person. Sales of hardware, such as doorknobs and pushplates, shall not be considered distribution for the purposes of this definition.
- R. "Environment" means water, air, land, and all plants and man and other animals living therein, and the interrelationships that exist among them.
- S. "Forest" means a concentration of trees and related vegetation managed primarily for the production of forest agricultural commodities such as timber, fiber or other wood products, including other similar areas managed for recreation or resource conservation.
- T. For the purposes of 22 M.R.S. §1471-D (9), "Government Employee" means a person who is employed full- or part-time as a regular employee of any governmental or quasi-governmental organization including federal, state, county and municipal governments and public universities.
- U. "Hazard" means a probability that a given pesticide will have an adverse effect on man or the environment in a given situation, the relative likelihood of danger or ill effect being dependent on a number of interrelated factors present at any given time.
- V. "Host" means any plant or animal on or in which another lives for nourishment, development, or protection.

- W. "Integrated Pest Management" (IPM) means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including: (1) understanding the system in which the pest exists, (2) establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control, (3) monitoring pests and natural enemies, (4) when needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression, and (5) systematically evaluating the pest management approaches utilized.
- X. "Integrated Pest Management Coordinator" means the lead person in a school system or school who is knowledgeable about integrated pest management and is designated by each school to implement the school pest management policy.
- Y. "License" means a commercial applicator license, a private applicator certification, a dealer license, a permit to chemically control vertebrate animals, or a permit to apply limited use pesticides.
- Z. "Licensing" means the issuance by the Board of a document signifying that the applicant has been certified and has met all applicable employee, fee, insurance and reporting requirements.
- AA. "Major application project" means any pesticide application contract that requires the applicator to apply pesticides to more than 1000 acres in the aggregate within a given year. This does not include repeat applications to the same site.
- BB. "Major pesticide storage facility" means any fixed-site, totally enclosed building or portion of such building owned and/or operated by a pesticide distributor where pesticides are held in storage and which meets one of the following criteria:
1. contains at any one time an amount greater than or equal to 6,000 pounds of dry pesticide product, other than dry formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 2. contains at any one time an amount greater than or equal to 600 gallons of liquid pesticide product, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 3. contains liquid pesticides in containers that are thirty (30) gallons or greater in size, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products."
- CC. "Minor pesticide storage facility" means any fixed-site, totally enclosed building or portion of such building owned and/or operated by a pesticide distributor where pesticides are held in storage and which meets one of the following criteria:
1. contains at any one time an amount greater than 100 pounds but less than 6,000 pounds of dry pesticide product, other than dry formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 2. contains at any one time an amount greater than 50 gallons but less than 600 gallons of liquid pesticide, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products," or
 3. contains liquid pesticides in containers greater than three (3) gallons but less than thirty (30) gallons in size, other than liquid formulations of products listed in Chapter 24, Section 2, "Exempted Products."
- DD. "Non-agricultural pesticide application" means any application of a pesticide that is not an agricultural pesticide application.

- EE. "Non-powered equipment" means pesticide spray equipment which pumps and disperses pesticides without utilization of an electric, gasoline, wind-driven or other motorized power source. By way of example, non-powered equipment includes manual pump spray equipment and self-contained aerosol spray cans or bottles but does not include equipment which employs a motor, except one powered only by hand.
- FF. "Non-target organism" means a plant or animal other than the one against which the pesticide is applied.
- GG. "Off-target direct discharge of pesticides" means the direct application of pesticides onto property beyond the boundaries of the target area intended to be treated. Presence of off-target direct discharge of pesticides may be determined by any evidence, through observation, residue samples or other techniques, that an off-target area has received substantially the same dose of pesticide as a target area.
- HH. "Off-target drift of pesticides" means the drifting of pesticides by air currents or diffusion with resulting deposition of pesticides onto property beyond the boundaries of the target area intended to be treated. The detection of pesticides beyond the boundaries of the target area intended to be treated shall be presumed to be as a result of off-target drift unless there is evidence of off-target direct discharge of pesticides.
- II. "Ornamental plant" means shrubs, trees and related vegetation in and around habitation generally, but not necessarily, located in urban and suburban areas, including residences, parks, streets, retail outlets, and industrial and institutional buildings.
- JJ. "Other forest pests" means forest pests, other than insects and include, but are not limited to, weeds, mites, nematodes, fungi, bacteria, and viruses.
- KK. "Owner" means sole proprietor, partner or stockholder.
- LL. "Person" means any individual, partnership, fiduciary, corporation, governmental entity, association or public or private organization of any character, other than the Board.
- MM. "Pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and any nitrogen stabilizer. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the U.S. Environmental Protection Agency.
- NN. "Pesticide dealer" means any person who distributes limited or restricted-use pesticides, including but not limited to sales personnel in an outlet, field salesmen, and manufacturers' representatives selling pesticides directly to the consumer or who accept orders for pesticides.
- OO. "Pesticide distributor" means any person required to be licensed to distribute general, restricted or limited use pesticides.
- PP. "Pesticide storage facility" means any fixed-site, totally enclosed building or portion of such building where pesticides are held for storage.
- QQ. "Practical knowledge" means the possession of pertinent facts and comprehension together with the ability to use them in dealing with specific problems and situations.
- RR. "Principal place of business" means the principal location, either residence or office, in the State in which an individual, partnership, or corporation applies pesticides.
- SS. "Private Applicator" means any person who uses or supervises the use of any pesticide which is classified for restricted or limited use for purposes of producing any agricultural commodity on

property owned or rented by him or his employer or, if applied without compensation other than the trading of personal services between producers of agricultural commodities, on the property of another person. In situations where the applicator is applying pesticides to crops on rented land, there must be a written contract showing that the grower/applicator retains control over the property as well as the disposition or sale of the harvested crop.

- TT. "Private domestic well" means any well used for drinking water other than one which serves a public water system.
- UU. "Project" means, for the purposes of Chapter 51, the aerial application of pesticides to control an individual forest insect pest complex provided by:
1. Any number of applicator businesses for a single person, or
 2. One applicator business on contiguous parcels of land.
- VV. "Public precautions" means those statements which appear on the pesticide label directed towards the non-applicator public. Public precautions may include, but are not limited to, re-entry intervals.
- WW. "Public water system" means any water supply system that provides water to at least 15 service connections or serves water to at least 25 individuals daily for at least 30 days a year.
- XX. "Regulated pest" means a specific organism considered by a State or Federal agency to be a pest requiring regulatory restrictions, regulations, or control procedures in order to protect the host, man and/or his environment.
- YY. "School" means any public or private elementary or secondary school, kindergarten or nursery school that is part of an elementary or secondary school or a tribally funded school.
- ZZ. "School Building" means any structure used or occupied by students or staff of any school.
- AAA. "School Grounds" means:
1. land associated with a school building including playgrounds, athletic fields and agricultural fields used by students or staff of a school, and
 2. any other outdoor area used by students or staff that is under the control of a school.
- BBB. "Self-service sales area" means any area within or immediately outside a retail or wholesale business in which members of the public have direct access to pesticide products. For the purposes of this chapter, self-service sales areas shall be limited to those pesticide products which require a pesticide dealer to be licensed under 22 M.R.S.A. §1471-W, "General Use Pesticide Dealers."
- CCC. "Sensitive area" means any of the following, except where the area involved is the intended target of the pesticide application:
1. Apiaries, the location of which is registered with the Department of Agriculture, Conservation and Forestry pursuant to 7 M.R.S.A. §2701;
 2. Critical areas designated by the Board pursuant to 22 M.R.S.A. §1471-M(2);
 3. Public wells, drinking water springs used by the public, and public water supply intake points, provided the location of the same is known or should reasonably be known to the pesticide applicator;

4. Private sources of drinking water, where the owner or legal user thereof has given prior notice of the location of such source to the landowner or lessee of the area which will be subject to a pesticide application;
5. Water bodies, including streams, brooks, rivers, ponds, lakes, estuaries and marine waters, provided that any such water body contains water at the time of the pesticide application and is known to the spray applicator or is reasonably detectable from visual observation, reasonably available maps or reasonable inquiry. This term shall not include: (a) in the case of forest aerial spray programs, streams and brooks that are neither shown on reasonably available maps nor visible from an aircraft operating at 1000 feet in elevation above ground level; and (b) waters that are confined and retained completely upon the property of the person conducting or contracting for spray services, and that do not drain into or connect with any other water body;
6. Wetlands of Special Significance.
7. Cleared areas where livestock are contained or pastured, cultivated land, cropland or gardens.
8. A "Sensitive Area Likely to Be Occupied" is an area where humans are likely to be present including the following:
 - a. Residential buildings, together with any associated maintained areas likely to be occupied by humans, such as lawns, gardens, recreational areas and livestock management and housing areas;
 - b. School buildings, together with any associated maintained areas that are areas likely to be occupied by humans, such as playgrounds, athletic fields or courts;
 - c. Commercial, institutional, or other structures likely to be occupied by humans, together with any associated maintained areas such as lawns, gardens, parking and recreational areas;
 - d. Maintained recreational areas likely to be occupied by humans including campgrounds, picnic areas, marked roadside rest areas, marked hiking trails, park and recreation facilities, athletic fields, and other areas for organized sports or recreation. This definition does not include trails located on privately owned lands which are used by permission of the landowner.

DDD. "Spray application" means, for the purposes of Chapter 51, the dispensing of pesticides in any manner from an aircraft.

EEE. "Spray contracting firm" means any person, including a corporation, employed or contracted to conduct a public or private custom application of one or more pesticides. This term does not include:

1. the owner or lessee of land to be sprayed and employees of that landowner or lessee,
2. the Division of Forestry and the employees of the Division of Forestry,
3. individuals who are certified as commercial applicators providing that individual does not have in his/her employment one or more others to undertake pesticide applications; or
4. persons who perform custom applications of pesticides solely on or within a premises which they own or lease.

5. persons and corporations that subcontract for pesticide applications, but do not maintain any control over the pesticide application including which pesticides are applied, when they are applied or how they are applied.
- FFF. "Spray period report" means a written description of the spray activity certifying the date and time, the area usually sprayed, the pesticide used, and including a description of the weather conditions during spray activity. The report must also include a map showing where spray booms were turned on and off, with notation of any non-target areas that were sprayed.
- GGG. "Standard" means the measure of knowledge and ability that must be demonstrated as a requirement for certification.
- HHH. "Storage" means holding pesticides for distribution in locations other than self-service sales areas.
- III. "Susceptibility" means the degree to which an organism is affected by a pesticide at a particular level of exposure.
- JJJ. "Toxicity" means the property of a pesticide to cause any adverse physiological effects.
- KKK. "Uncertified person" means any person who is not holding a currently valid certification document indicating that he is certified under section 4 of FIFRA in the category of the restricted use pesticide made available for use.
- LLL. "Wetlands of Special Significance" means all coastal wetlands and great ponds. In addition, certain freshwater wetlands are considered wetlands of special significance if they have one or more of the following characteristics.
1. **Critically imperiled or imperiled community.** The freshwater wetland contains a natural community that is critically imperiled (S1) or imperiled (S2) as defined by the Natural Areas Program.
 2. **Significant wildlife habitat.** The freshwater wetland contains significant wildlife habitat as defined by 38 M.R.S.A. §480-B(10).
 3. **Location near coastal wetland.** The freshwater wetland area is located within 250 feet of a coastal wetland.
 4. **Location near GPA great pond.** The freshwater wetland area is located within 250 feet of the normal high water line, and within the same watershed, of any lake or pond classified as GPA under 38 M.R.S.A. §465-A.
 5. **Aquatic vegetation, emergent marsh vegetation or open water.** The freshwater wetland contains under normal circumstances at least 20,000 square feet of aquatic vegetation, emergent marsh vegetation or open water, unless the 20,000 or more square foot area is the result of an artificial ponds or impoundment.
 6. **Wetlands subject to flooding.** The freshwater wetland area is inundated with floodwater during a 100-year flood event based on flood insurance maps produced by the Federal Emergency Management Agency or other site-specific information.
 7. **Peatlands.** The freshwater wetland is or contains peatlands, except that the Department of Environmental Protection may determine that a previously mined peatland, or portion thereof, is not a wetland of special significance.
7. **River, stream or brook.** The freshwater wetland area is located within 25 feet of a river, stream or brook.

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NON-SUBSTANTIVE CORRECTION:

February 17, 2004 - cross reference in Section 2.H

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January 4, 2005 – filing 2004-602
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January 29, 2013 – filing 2013-014

CORRECTIONS:

February 2014 – agency names, formatting

AMENDED:

July 23, 2019 – Section 2(A), (P)(2)(d), filing 2019-130

§1471-D. Certification and licenses

[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. [1975, c. 397, §2 (NEW).]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[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.

[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.

[1999, c. 84, §4 (AMD) .]

SECTION HISTORY

1975, c. 397, §2 (NEW). 1977, c. 20, §3 (AMD). 1977, c. 694, §§338-342 (AMD). 1981, c. 374, §§3-7 (AMD). 1981, c. 470, §A67 (AMD). 1983, c. 819, §§A42-A49 (AMD). 1985, c. 122, §2 (AMD). 1997, c. 454, §8 (AMD). 1999, c. 84, §4 (AMD). 1999, c. 547, §§B39,78 (AMD). 1999, c. 547, §B80 (AFF). 2007, c. 245, §3 (AMD). 2011, c. 169, §2 (AMD). 2011, c. 169, §6 (AFF). 2015, c. 58, §§5-8 (AMD).

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§1471-D. Certification and licenses

[2015, c. 58, §8 (AMD) .]

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

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

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

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

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

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

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

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

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

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

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

§1471-J. Penalties

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

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§1471-H. Inspection

Upon presentation of appropriate credentials, the chair or any member of the board or any authorized employee or consultant of the board may enter upon any public or private premises at reasonable times for the purpose of inspecting any equipment, device or apparatus used in applying pesticides; inspecting storage and disposal areas; inspecting or investigating complaints of injury to persons or land from pesticides; observing the use and application of pesticides; sampling pesticides in use or storage; and sampling pesticide residues on crops, foliage, soil, water or elsewhere in the environment. Upon denial of access to the board or its agents, the board or its agents may seek an appropriate search warrant in a court of competent jurisdiction. Notwithstanding other provisions of this section, a board member or any authorized employee or consultant of the board may enter public or private premises without notification if an emergency exists. The need to take a residue sample in a timely manner constitutes an emergency under this section. [1989, c. 841, §7 (AMD).]

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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 [1983, c. 819, Pt. A, §42 (NEW).]

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

[1985, c. 122, §2 (AMD) .]

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

[1975, c. 397, §2 (NEW) .]

2-A. Certification required; government pesticide supervisor.

[2015, c. 58, §5 (RP) .]

2-B. Certification required; spotters and monitors.

[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.

[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.

[2011, c. 169, §2 (NEW); 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 [1975, c. 397, §2 (NEW).]

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

[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.

[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.

[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.

[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. [1975, c. 397, §2 (NEW).]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[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.

[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.

§1471-G. Reports

1. Pesticide dealers to maintain certain records. All pesticide dealers shall maintain records of pesticide distribution for a period of at least 2 years and shall provide such reports and information as the board may, by regulation, require.

[1975, c. 397, §2 (NEW) .]

2. Applicators and firms to maintain certain records. All commercial applicators and spray contracting firms shall maintain, for a period of at least 2 years, records indicating the type and amount of pesticide used, the area of use and such other information as the board may require. Said applicators and firms shall provide such information, notification and reports as the board, by regulation, may require.

[1983, c. 819, Pt. A, §50 (AMD) .]

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§1471-G. Reports

1. Pesticide dealers to maintain certain records. All pesticide dealers shall maintain records of pesticide distribution for a period of at least 2 years and shall provide such reports and information as the board may, by regulation, require.

[1975, c. 397, §2 (NEW) .]

2. Applicators and firms to maintain certain records. All commercial applicators and spray contracting firms shall maintain, for a period of at least 2 years, records indicating the type and amount of pesticide used, the area of use and such other information as the board may require. Said applicators and firms shall provide such information, notification and reports as the board, by regulation, may require.

[1983, c. 819, Pt. A, §50 (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
 - IV. 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.
- 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 nonagricultural 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 Fumigation - This option includes commercial applicators using or supervising the use of 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 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, 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**
 - 1. **Disinfectant and Biocide Treatments** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems.
 - 2. **Swimming Pool & Spa** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in swimming pools and spas.
 - 3. **Mold Remediation** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems.
- 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.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

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

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques,

dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

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

VI. **Vegetation Management**

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

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

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

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

VIII. **Public Health Pest Control**

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

IX. **Regulatory Pest Control**

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

X. **Demonstration and Research Pest Control**

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

XI. **Aerial Pest Control**

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

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 is available through the University of Maine Cooperative Extension Pest Management Office for a fee.
 - d. A non-refundable fee of \$10.00 for the regulation's exam and \$40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulation's 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.
 - c. 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 sign-up 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.
- VII. 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

DRAFT

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

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

1. Competency Standards for Certification - Private Applicator

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

2. Certification Procedures for Private Applicators

A. Initial Certification

- 1. Any person attempting to certify as a private applicator must be at least 18 years of age.
- 2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.
- 3. Exams may be taken at cooperating County University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.
- 4. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.
 - a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.
 - b. Applicants should be present and ready to take the exams at the appointed time.
 - c. Applicants shall not talk during the examination period.
 - d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided, and all papers shall be collected at the end of the period.

- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.
5. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.
 - a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - b. An applicant who fails the exam in the area of his primary commodity may not retake the that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.
 - d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.
 6. Certification under this section will expire on October 31st of the third year after the date of successful completion of the exams and on October 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.
- B. **Supplemental Certification.** Private applicators who are certified as described in Section 2(A), and intend to conduct soil fumigation, non-soil fumigation or aerial applications must be certified in the appropriate supplemental category. Certification is obtained by passing a written exam with a minimum score of 80.
1. Supplemental category exams shall be closed book.
 2. Supplemental category exams will be available year-round on an appointment basis at the Board's office in Augusta.
 3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.
 4. **Categories for Supplemental Certification of Private Applicators**
 - a. **Soil Fumigation.** This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.
 - b. **Non-soil Fumigation.** This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device.
 - c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft.
 5. **Competency Standards for Supplemental Certification of Private Applicators**

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

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

B. **Recertification**

1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Section 2(A)6.
2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.

- c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.
- a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.
 - b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.
6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

3. Licensing

- A. **Application.** Application for a private applicator license, shall be on forms provided by the Board. Information shall include name; Social Security number; mailing address; farm name, location and telephone number; and major crop(s).
- B. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
- 1. For a private applicator license - \$15.00 per person.
 - 2. For replacement or alteration - \$5.00.
- C. **Expiration.** Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited, and that person must retake and pass both the core and commodity exams to again be eligible for licensing.
- C. **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.*

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

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

STATUTORY AUTHORITY: 22 M.R.S. §1471-D

EFFECTIVE DATE:

January 1, 1983

AMENDMENT EFFECTIVE:

December 6, 1987

August 17, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

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AMENDED:

August 25, 1997 – fees

January 4, 2005 – filing 2004-605, Section 3.C.

CORRECTIONS:

February 2014 – agency names, formatting

AMENDED:

December 9, 2014 – Section 2(A)(4)(a, b), filing 2014-281

July 23, 2019 – filing 2019-132

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
 - V. 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.
- 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 nonagricultural 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 Fumigation - This option includes commercial applicators using or supervising the use of 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 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, 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**
 - 1. **Disinfectant and Biocide Treatments** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems.
 - 2. **Swimming Pool & Spa** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in swimming pools and spas.
 - 3. **Mold Remediation** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems.
- 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.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

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

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques,

dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

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

VI. **Vegetation Management**

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

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

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

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

VIII. **Public Health Pest Control**

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

IX. **Regulatory Pest Control**

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

X. **Demonstration and Research Pest Control**

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

XI. **Aerial Pest Control**

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

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 is available through the University of Maine Cooperative Extension Pest Management Office for a fee.
 - d. A non-refundable fee of \$10.00 for the regulation's exam and \$40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulation's 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.
 - d. 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 sign-up 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.
- VIII. 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
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 - 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

DRAFT

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

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

1. Competency Standards for Certification - Private Applicator

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

2. Certification Procedures for Private Applicators

A. Initial Certification

- 1. Any person attempting to certify as a private applicator must be at least 18 years of age.
- 2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.
- 3. Exams may be taken at cooperating County University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.
- 4. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.
 - a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.
 - b. Applicants should be present and ready to take the exams at the appointed time.
 - c. Applicants shall not talk during the examination period.
 - d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided, and all papers shall be collected at the end of the period.

- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.
5. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.
- a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - b. An applicant who fails the exam in the area of his primary commodity may not retake the that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.
 - d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.
6. Certification under this section will expire on October 31st of the third year after the date of successful completion of the exams and on October 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.
- B. **Supplemental Certification.** Private applicators who are certified as described in Section 2(A), and intend to conduct soil fumigation, non-soil fumigation or aerial applications must be certified in the appropriate supplemental category. Certification is obtained by passing a written exam with a minimum score of 80.
1. Supplemental category exams shall be closed book.
 2. Supplemental category exams will be available year-round on an appointment basis at the Board's office in Augusta.
 3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.
 4. **Categories for Supplemental Certification of Private Applicators**
 - a. **Soil Fumigation.** This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.
 - b. **Non-soil Fumigation.** This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device.
 - c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft.
 5. **Competency Standards for Supplemental Certification of Private Applicators**

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

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

B. **Recertification**

1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Section 2(A)6.
2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.

- c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.
- a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.
 - b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.
6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

3. Licensing

- A. **Application.** Application for a private applicator license, shall be on forms provided by the Board. Information shall include name; Social Security number; mailing address; farm name, location and telephone number; and major crop(s).
- B. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
 - 1. For a private applicator license - \$15.00 per person.
 - 2. For replacement or alteration - \$5.00.
- C. **Expiration.** Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited, and that person must retake and pass both the core and commodity exams to again be eligible for licensing.
- D. **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.*

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

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

STATUTORY AUTHORITY: 22 M.R.S. §1471-D

EFFECTIVE DATE:

January 1, 1983

AMENDMENT EFFECTIVE:

December 6, 1987

August 17, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

August 25, 1997 – fees

January 4, 2005 – filing 2004-605, Section 3.C.

CORRECTIONS:

February 2014 – agency names, formatting

AMENDED:

December 9, 2014 – Section 2(A)(4)(a, b), filing 2014-281

July 23, 2019 – filing 2019-132

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
 - VI. 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.
- 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 nonagricultural 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 Fumigation - This option includes commercial applicators using or supervising the use of 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 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, 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**
 - 1. **Disinfectant and Biocide Treatments** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems.
 - 2. **Swimming Pool & Spa** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in swimming pools and spas.
 - 3. **Mold Remediation** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems.
- 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.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

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

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques,

dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

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

VI. **Vegetation Management**

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

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

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

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

VIII. **Public Health Pest Control**

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

IX. **Regulatory Pest Control**

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

X. **Demonstration and Research Pest Control**

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

XI. **Aerial Pest Control**

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

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 is available through the University of Maine Cooperative Extension Pest Management Office for a fee.
 - d. A non-refundable fee of \$10.00 for the regulation's exam and \$40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulation's 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.
 - e. 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 sign-up 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.
- IX. 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

DRAFT

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

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

1. Competency Standards for Certification - Private Applicator

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

2. Certification Procedures for Private Applicators

A. Initial Certification

- 1. Any person attempting to certify as a private applicator must be at least 18 years of age.
- 2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.
- 3. Exams may be taken at cooperating County University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.
- 4. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.
 - a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.
 - b. Applicants should be present and ready to take the exams at the appointed time.
 - c. Applicants shall not talk during the examination period.
 - d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided, and all papers shall be collected at the end of the period.

- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.
5. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.
- a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - b. An applicant who fails the exam in the area of his primary commodity may not retake the that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.
 - d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.
6. Certification under this section will expire on October 31st of the third year after the date of successful completion of the exams and on October 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.
- B. **Supplemental Certification.** Private applicators who are certified as described in Section 2(A), and intend to conduct soil fumigation, non-soil fumigation or aerial applications must be certified in the appropriate supplemental category. Certification is obtained by passing a written exam with a minimum score of 80.
1. Supplemental category exams shall be closed book.
 2. Supplemental category exams will be available year-round on an appointment basis at the Board's office in Augusta.
 3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.
 4. **Categories for Supplemental Certification of Private Applicators**
 - a. **Soil Fumigation.** This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.
 - b. **Non-soil Fumigation.** This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device.
 - c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft.
 5. **Competency Standards for Supplemental Certification of Private Applicators**

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

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

B. **Recertification**

1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Section 2(A)6.
2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.

- c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.
- a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.
 - b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.
6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

3. Licensing

- A. **Application.** Application for a private applicator license, shall be on forms provided by the Board. Information shall include name; Social Security number; mailing address; farm name, location and telephone number; and major crop(s).
- B. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
 - 1. For a private applicator license - \$15.00 per person.
 - 2. For replacement or alteration - \$5.00.
- C. **Expiration.** Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited, and that person must retake and pass both the core and commodity exams to again be eligible for licensing.
- E. **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.*

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

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

STATUTORY AUTHORITY: 22 M.R.S. §1471-D

EFFECTIVE DATE:

January 1, 1983

AMENDMENT EFFECTIVE:

December 6, 1987

August 17, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

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AMENDED:

August 25, 1997 – fees

January 4, 2005 – filing 2004-605, Section 3.C.

CORRECTIONS:

February 2014 – agency names, formatting

AMENDED:

December 9, 2014 – Section 2(A)(4)(a, b), filing 2014-281

July 23, 2019 – filing 2019-132

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
 - VII. 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.
- 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 nonagricultural 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 Fumigation - This option includes commercial applicators using or supervising the use of 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 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, 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**
 - 1. **Disinfectant and Biocide Treatments** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, and air conditioning systems.
 - 2. **Swimming Pool & Spa** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat water in swimming pools and spas.
 - 3. **Mold Remediation** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems.
- 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.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I - IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

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

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques,

dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

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

VI. **Vegetation Management**

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

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

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

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

VIII. Public Health Pest Control

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

IX. Regulatory Pest Control

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

X. Demonstration and Research Pest Control

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

XI. **Aerial Pest Control**

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

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 is available through the University of Maine Cooperative Extension Pest Management Office for a fee.
 - d. A non-refundable fee of \$10.00 for the regulation's exam and \$40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulation's 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.
 - f. 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 sign-up 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.
- X. 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
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 - 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

DRAFT

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 32: CERTIFICATION AND LICENSING PROVISIONS FOR PRIVATE APPLICATORS

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

1. Competency Standards for Certification - Private Applicator

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

2. Certification Procedures for Private Applicators

A. Initial Certification

- 1. Any person attempting to certify as a private applicator must be at least 18 years of age.
- 2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.
- 3. Exams may be taken at cooperating County University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.
- 4. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.
 - a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.
 - b. Applicants should be present and ready to take the exams at the appointed time.
 - c. Applicants shall not talk during the examination period.
 - d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided, and all papers shall be collected at the end of the period.

- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.
5. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.
- a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - b. An applicant who fails the exam in the area of his primary commodity may not retake the that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.
 - d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.
6. Certification under this section will expire on October 31st of the third year after the date of successful completion of the exams and on October 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.
- B. **Supplemental Certification.** Private applicators who are certified as described in Section 2(A), and intend to conduct soil fumigation, non-soil fumigation or aerial applications must be certified in the appropriate supplemental category. Certification is obtained by passing a written exam with a minimum score of 80.
1. Supplemental category exams shall be closed book.
 2. Supplemental category exams will be available year-round on an appointment basis at the Board's office in Augusta.
 3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.
 4. **Categories for Supplemental Certification of Private Applicators**
 - a. **Soil Fumigation.** This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.
 - b. **Non-soil Fumigation.** This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device.
 - c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft.
 5. **Competency Standards for Supplemental Certification of Private Applicators**

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

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

B. **Recertification**

1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Section 2(A)6.
2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.

- c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.
4. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting and submit details of the pesticide topics, including titles and length of time devoted to them. Board staff will review program agendas and assign credit values. Board staff will monitor programs as time permits.
- a. A minimum credit of one hour shall be assigned for each one hour of presentation on appropriate topics.
 - b. An individual conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
5. For in state programs, each participant will complete a form to verify attendance at each program for which credit is allowed at the site. For out of state programs, applicators must notify the Board about attendance and send a registration receipt or other proof of attendance and a copy of the agenda or other description of the presentations attended. The agenda must show the length of each presentation and describe what was covered.
6. A person who fails to accumulate the necessary credits will have to re-apply to take the exams required for initial certification.

3. Licensing

- A. **Application.** Application for a private applicator license, shall be on forms provided by the Board. Information shall include name; Social Security number; mailing address; farm name, location and telephone number; and major crop(s).
- B. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
 - 1. For a private applicator license - \$15.00 per person.
 - 2. For replacement or alteration - \$5.00.
- C. **Expiration.** Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited, and that person must retake and pass both the core and commodity exams to again be eligible for licensing.
- F. **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.*

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

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

STATUTORY AUTHORITY: 22 M.R.S. §1471-D

EFFECTIVE DATE:

January 1, 1983

AMENDMENT EFFECTIVE:

December 6, 1987

August 17, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

August 25, 1997 – fees

January 4, 2005 – filing 2004-605, Section 3.C.

CORRECTIONS:

February 2014 – agency names, formatting

AMENDED:

December 9, 2014 – Section 2(A)(4)(a, b), filing 2014-281

July 23, 2019 – filing 2019-132

TIMELINE

Private Applicator - Soil Fumigation

- d. Commodity Start Date – 01/01/2020
- e. Exam To Be Completed by 12/01/2019
- f. Manual – Ready


Private Applicator – Non-Soil Fumigation

- g. Commodity Start Date – 01/01/2020
- h. Exam To Be Completed by 12/01/2019
- i. Manual – Ready

Private Applicator – Aerial Pest Control

- j. Commodity Start Date – 01/01/2020
- k. Exam To Be Completed by 12/01/2019
- l. Manual – Ready

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State of Maine
 Maine Department of Agriculture, Conservation and Forestry
BOARD OF PESTICIDES CONTROL

License Number: COA-7928
JOHN T PIETROSKI
 DEPT OF ACF-BOARD OF PESTICIDES CONTROL
 Has qualified as required by 22 MRSA Chapter 258-A as:
Commercial Operator
 Categories: 2

ISSUE DATE: 1/3/2019 EXPIRATION DATE: 12/31/2021

State of Maine Maine Department of Agriculture, Conservation and Forestry BOARD OF PESTICIDES CONTROL License Number: COA-7928 JOHN T PIETROSKI DEPT OF ACF-BOARD OF PESTICIDES CONTROL Commercial Operator Categories: 2 EXPIRATION DATE: 12/31/2021	BOARD OF PESTICIDES CONTROL 28 State House Station Augusta, Maine 04333-0028 www.thinkfirstspraylast.org 207-287-2731 EMERGENCY PHONE NUMBERS: Poison Center 1-800-222-1222 National Pesticides Info Center 1-800-858-7378 Board of Pesticides Control 1-207-287-2731 DEP Spill Response Number 1-800-482-0777
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State of Maine
Maine Department of Agriculture, Conservation and Forestry
BOARD OF PESTICIDES CONTROL

License Number: PPA-222062
JOHN TEDDYBEAR PIETROSKI

Has qualified as required by 22 MRSA Chapter 258-A as:
Private Applicator

ISSUE DATE: 10/11/2018 EXPIRATION DATE: 10/30/2021

State of Maine Maine Department of Agriculture, Conservation and Forestry BOARD OF PESTICIDES CONTROL	BOARD OF PESTICIDES CONTROL 28 State House Station Augusta, Maine 04333-0028 www.thinkfirstspraylast.org 207-287-2731
License Number: PPA-222062 JOHN TEDDYBEAR PIETROSKI	EMERGENCY PHONE NUMBERS:
Private Applicator EXPIRATION DATE: 10/30/2021	Poison Center 1-800-222-1222 National Pesticides Info Center 1-800-858-7378 Board of Pesticides Control 1-207-287-2731 DEP Spill Response Number 1-800-482-0777

Maine Department of Agriculture



Bernard W. Shaw, Commission
June 26, 1992

Board Of Pesticides Control
State House Station No. 28
Augusta, Maine 04333
Telephone (207) 289-2731
Facsimile (207) 289-7548

TO: Commercial Applicators Licensed in Maine Based on Another States' Certification Exams

FROM: Gary Fish, Recertification and Licensing Specialist

SUBJECT: BPC Decision to No Longer Recognize Another States' Certification Exams

On June 12, 1992, members of the Maine Board of Pesticides Control (BPC) voted (effective immediately) to no longer recognize other states' certification standards for issuing Maine pesticide applicator licenses. This change in policy reflects the Board's view that Maine's environment and pesticide laws are unique. Therefore, all pesticide users, who must be licensed, shall be required to meet Maine's pesticide applicator certification standards by passing all the necessary exams in Maine.

The Board decided to honor licenses issued previous to June 12, until the end of the calendar year. Those wishing to renew their licenses in 1993 will have to successfully complete all the necessary exams prior to renewal.

To be certified and eligible for licensing in Maine in 1993, you must pass the core exam and all the category exams covering the types of applications you plan to do. If master level candidates have not already taken the master regulation exam and oral exam they must also complete both. Study materials are available for the specific Maine core and category exams from the University of Maine Cooperative Extension Pest Management, Office at 491 College Ave., Orono, ME 04473, (tel. 207-581-3880) for a small fee. The master regulation exam study guide is mailed from the BPC office after receiving an application for exams. There are no study materials for the master oral exam.

Commercial applicator exams may only be scheduled through the BPC by submitting an application for exams (one enclosed, please copy as needed). Because there are many out-of-state licensees who will need to take exams, I urge you to not delay in obtaining the study materials or sending in your application for exams.

If you have any questions, please call me at 207-287-2731.

Encl.

§1471-O. Exercise of powers by Board of Pesticides Control

The powers established under the Maine Pesticide Control Act of 1975, Title 7, chapter 103, subchapter II-A, shall be exercised by the Board of Pesticides Control established by section 1471-B. [1981, c. 112, §2 (NEW).]

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TIMELINE

Private Applicator - Soil Fumigation

- m. Commodity Start Date – 01/01/2020
- n. Exam To Be Completed by 12/01/2019
- o. Manual – Ready

Private Applicator – Non-Soil Fumigation

- p. Commodity Start Date – 01/01/2020
- q. Exam To Be Completed by 12/01/2019
- r. Manual – Ready

Private Applicator – Aerial Pest Control

- s. Commodity Start Date – 01/01/2020
- t. Exam To Be Completed by 12/01/2019
- u. Manual – Ready

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Appendix

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APPENDIX A

Examination standards at §171.103(a)(2)

Requirements of the certifying authority:

- All examinations will be presented and answered in writing.
- All persons serving as proctors will be prohibited from taking an examination for which they are proctoring if they are also seeking pesticide applicator certification.
- All persons seeking certification will be required to present at the time of examination a valid, government-issued photo identification.
- All proctors and certification authority personnel will be required to keep exams secure before, during and after the exam period so candidates have access to the exam only in the presence of a proctor.
- Prohibit the use of reference materials not approved by this certifying authority.
- Notify all candidates of his or her examination results.

Requirements for proctors:

- Give instructions on examination procedures to candidates before beginning examinations.
- Monitor examination candidates throughout examination periods.
- Prohibit any verbal or nonverbal communication between candidates and anyone other than the proctor during the examination period.
- Prohibit examination or reference materials from being copied or retained by any person not authorized by this certifying authority.
- Provide and collect certifying authority-approved reference materials for use during the examination.
- Examine reference materials after the examination is complete for portions that may have been removed, altered or destroyed.
- Report to the certifying authority any inconsistencies or irregularities such as cheating, use of unauthorized materials, and attempts to copy or retain materials.
- Conduct examination sessions in accordance with the following exam administration requirements required by this certifying authority: (Maine Board of Pesticides Control).

APPENDIX B
Recertification standards at §171.107

(a) Maintenance of continued competency.

- Each commercial and private applicator must recertify every five years or less from the date of certification.
- The recertification period for commercial applicators is:
- The recertification period for private applicators is:

(b) Process for recertification.

(1) By written examination.

- A certified applicator is found eligible for recertification upon passing a written examination designed to evaluate the level of competency that conforms to the examination standards in §171.103(a)(2).
- Examinations for commercial applicators demonstrate the level of competency required by §171.103.
- Examinations for private applicators demonstrate the level of competency required by §171.105.

(2) By continuing education programs.

- A certified applicator may be found eligible for recertification upon successfully completing a continuing education program pursuant to the certifying authority's EPA-approved certification plan.
 - The quantity, content, and quality of a continuing education program to maintain applicator certification must be sufficient to ensure the applicator continues to demonstrate the level of competency required by § 171.103 for commercial applicators or § 171.105 for private applicators.
 - (ii) Any continuing education course or event relied upon for applicator recertification must be approved by the certifying authority as being suitable for its purpose in the certifying authority's recertification process.
 - (iii) A certifying authority must ensure that any continuing education course or event, including an online or other distance education course or event, relied upon for applicator recertification includes a process to verify the applicator's successful completion of the course or event.

APPENDIX C
Standards for the Direct Supervision of Noncertified
Applicators at §171.201

(b) General requirements.

(1) Requirements for the certified applicator.

- (i) The certified applicator must have a practical knowledge of applicable Federal, State and Tribal supervisory requirements, including any requirements on the product label and labeling, regarding the use of restricted use pesticides by noncertified applicators.
- (ii) The certified applicator must be certified in each category applicable to the supervised pesticide use.

(2) Requirements for the noncertified applicator. The certified applicator must ensure that each noncertified applicator using a restricted use pesticide under his or her direct supervision meets all of the following requirements before using a restricted use pesticide:

- (i) The noncertified applicator has satisfied the qualification requirements under paragraph (c) of this section.
- (ii) The noncertified applicator has been instructed within the last 12 months in the safe operation of any equipment he or she will use for mixing, loading, transferring, or applying pesticides.
- (iii) The noncertified applicator has met the minimum age required to use restricted use pesticides under the supervision of a certified applicator.
 - o A noncertified applicator must be at least 18 years old, except that a noncertified applicator must be at least 16 years old if all of the following requirements are met:
 - (A) The noncertified applicator is using the restricted use pesticide under the direct supervision of a private applicator who is an immediate family member.
 - (B) The restricted use pesticide is not a fumigant, sodium cyanide, or sodium fluoroacetate.
 - (C) The noncertified applicator is not applying the restricted use pesticide aerially.

(3) Use-specific conditions that must be met in order for a noncertified applicator to use a restricted use pesticide. The certified applicator must ensure that all of the following requirements are met before allowing a noncertified applicator to use a restricted use pesticide under his or her direct supervision:

- (i) The certified applicator must ensure that the noncertified applicator has access to the applicable product labeling at all times during its use.
- (ii) Where the labeling of a pesticide product requires that personal protective equipment be worn for mixing, loading, application, or any other use activities, the certified applicator must ensure that any noncertified applicator has clean, labeling-required personal protective equipment in proper operating condition and that the personal protective equipment is worn and used correctly for its intended purpose.
- (iii) The certified applicator must provide to each noncertified applicator before use of a restricted use pesticide instructions specific to the site and pesticide used. These instructions must include labeling directions, precautions, and requirements applicable to the specific use and site, and how the characteristics of the use site (e.g., surface and ground water, endangered species, local population) and the conditions of application (e.g., equipment, method of

application, formulation) might increase or decrease the risk of adverse effects. The certified applicator must provide this information in a manner that the noncertified applicator can understand.

(iv) The certified applicator must ensure that before each day of use equipment used for mixing, loading, transferring, or applying pesticides is in proper operating condition as intended by the manufacturer, and can be used without risk of reasonably foreseeable adverse effects to the noncertified applicator, other persons, or the environment.

(v) The certified applicator must ensure that a means to immediately communicate with the certified applicator is available to each noncertified applicator using restricted use pesticides under his or her direct supervision.

(vi) The certified applicator must be physically present at the site of the use being supervised when required by the product labeling.

(vii) If the certified applicator is a commercial applicator, the certified applicator must create or verify the existence of the records required by paragraph (e) of this section.

(c) Noncertified applicator qualifications. Before any noncertified applicator uses a restricted use pesticide under the direct supervision of the certified applicator, the supervising certified applicator must ensure that the noncertified applicator has met at least one of the following qualifications:

(1) The noncertified applicator has been trained in accordance with paragraph (d) [the “noncertified applicator training program” explained below] of this section within the last 12 months.

(2) The noncertified applicator has met the training requirements for an agricultural handler under (Worker Protection Standard -WPS regulations) 40 CFR 170.501 of this title within the last 12 months.

(3) The noncertified applicator has met the requirements established by a certifying authority that meet or exceed the standards in §171.201(c)(1) [The “noncertified applicator training program” explained below in (d)].

(4) The noncertified applicator is currently a certified applicator but is not certified to perform the type of application being conducted or is not certified in the jurisdiction where the use will take place.

(d) Noncertified applicator training program.

(1) General noncertified applicator training must be presented to noncertified applicators either orally from written materials or audio visually. The information must be presented in a manner that the noncertified applicators can understand, such as through a translator. The person conducting the training must be present during the entire training program and must respond to the noncertified applicators’ questions.

(2) The person who conducts the training must meet one of the following criteria:

(i) Be currently certified as an applicator of restricted use pesticides under this part.

(ii) Be currently designated as a trainer of certified applicators or pesticide handlers by EPA, the certifying authority, or a State, Tribal, or Federal agency having jurisdiction.

(iii) Have completed an EPA-approved pesticide safety train-the-trainer program for trainers of handlers under (WPS) 40 CFR part 170.

(3) Content of noncertified applicator training

materials. (e) Recordkeeping.

(1) Commercial applicators must create or verify the existence of records documenting that each noncertified

applicator has the qualifications required in paragraph (c) Training for noncertified applicators or WPS handler training within last 12 months, requirements of certifying authority, or certified applicator of this section. For each noncertified applicator, the records must contain the information

appropriate to the method of qualification as provided in paragraphs (e)(1)(i) through (e)(1)(iv).

(i) If the noncertified applicator was trained in accordance with paragraph (c)(1) of this section, the record must contain the following information:

- (A) The noncertified applicator's printed name and signature.
- (B) Date training requirement was met.
- (C) The name of the trainer.
- (D) The title or a description of the training provided.

(ii) If the noncertified applicator was trained as an agricultural handler under 40 CFR 170.501 in accordance with paragraph (c)(2) of this section, the record must contain all of the information required at 40 CFR 170.501(d)(1).

(iii) If the noncertified applicator qualified by satisfying the requirements established by the certifying authority, the record must contain the information required by the certifying authority.

(iv) If the noncertified applicator is a certified applicator who is not certified to perform the type of application being conducted or not certified in the jurisdiction where the use will take place, as described in paragraph (c)(4) of this section, the record must include all of the following information:

- (A) The noncertified applicator's name.
- (B) The noncertified applicator's certification number.
- (C) The expiration date of the noncertified applicator's certification.
- (D) The certifying authority that issued the certification.

(2) The commercial applicator supervisor must create or verify the existence of the record containing the information in paragraph (e)(1) [method of qualification, etc.] of this section before allowing the noncertified applicator to use restricted use pesticides under his or her direct supervision.

(3) The commercial applicator supervisor must have access to records documenting the information required in paragraph (e)(1) of this section at the commercial applicator's principal place of business for two years from the date the noncertified applicator used the restricted use pesticide.

(f) Exceptions. The requirements in §171.201 do not apply to the following persons:

- (1) Persons conducting laboratory research involving restricted use pesticides.
- (2) Doctor of Medicine and Doctor of Veterinary Medicine applying restricted use pesticides to patients during the course of ordinary practice of those professions.

APPENDIX D
STATE PROCEDURES FOR RECIPROCITY at
§171.303(a)(9)

The certifying authority will:

(i) rely only on valid current certifications that are issued under other approved State, Tribal or Federal agency certification plan.

(ii) will examine the standards of competency used by the State, Tribe, or Federal agency that originally certified the applicator and will determine that, for each category of certification that will be accepted, they are comparable to its own standards.

(iii) have a mechanism to terminate an applicator's certification upon notification that the applicator's original certification terminates because of a conviction under section 14(b) of FIFRA or was subject to a final order imposing a civil penalty under section 14(a) of FIFRA.

(iv) issue an appropriate State credential or document to the applicator.

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