



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

JANET T. MILLS  
GOVERNOR

AMANDA E. BEAL  
COMMISSIONER

**BOARD OF PESTICIDES CONTROL**

**June 17, 2022**

**9:00 AM Board Meeting**

Video conference hosted in MS Teams, to join the meeting:

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 207-209-4724](tel:+12072094724) United States, Portland

Phone Conference ID: 828 502 102#

**AGENDA**

1. Introductions of Board and Staff
2. Minutes of the May 6, 2022 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or approve

3. Public Hearing on Proposed Rule Amendments to Chapter 41

The Board will hear testimony on the proposed amendments:

**Chapter 41**—Two amendments are proposed:

1. Add a new section pertaining to neonicotinoids (dinotefuran, clothianidin, imidacloprid or thiamethoxam) to restrict registration and prohibit use in outdoor residential landscapes for the purposes of managing pests in turf and ornamental vegetation and emergency permitting process.
2. Add a new section prohibiting the use of chlorpyrifos, except for licensed applicators who obtain a use permit from the Board to apply chlorpyrifos products purchased prior to December 31, 2022.

MEGAN PATTERSON, DIRECTOR  
90 BLOSSOM LANE, DEERING BUILDING



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

4. Report on Annual Funding to Maine CDC for Mosquito Monitoring

The Maine Center for Disease Control and Prevention (Maine CDC) coordinates state activities around preventing vector-borne diseases. As part of its responsibilities, the CDC coordinates mosquito and disease monitoring in Maine. The presence of mosquito-borne diseases and the species of vector mosquitoes present in Maine have been on the rise in recent years. Maine CDC and BPC entered into a Memorandum of Understanding in 2013 to establish cooperation to conduct surveillance for mosquito-borne diseases to protect public health. At the April 16, 2021 meeting Sara Robinson of the Maine CDC provided an overview of the trends and the state's monitoring program. At the April 16, 2021 meeting, the Board voted to approve funding in the amount of \$50,000 for Maine CDC's mosquito monitoring efforts. The Board will now review a report on work accomplished in the previous year and work projected for the current year.

Presentation By: Sara Robinson, Infectious Disease Epidemiology Program Director

Action Needed: Review work accomplished and determine if the Board wishes to fund the proposed work

5. LD 2019—An Act To Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances

On April 28, 2022, LD 2019 became law without the Governor's signature. This law permits the Board, beginning August 8, 2022, to begin regulating adjuvants in the same manner as pesticides. It also prohibits, beginning August 8, 2022, the distribution of pesticides contaminated by PFAS. It further prohibits, beginning January 1, 2030, distribution of pesticides containing intentionally added PFAS in accordance with Title 38, section 1614, subsection 1, paragraph D. Finally, it directs the Board to adopt rules regulating pesticide containers no later than January 1, 2023.

Presentation By: Megan Patterson, Director

Action Needed: Discussion of next steps

6. Consideration of a Consent Agreement with Caribou Country Club, Caribou, Maine

On June 3, 1998 the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved insufficient records and multiple unlicensed and unsupervised pesticide applications made to an area open to use by the public—thus requiring commercial licensure.

Presentation By: Ray Connors, Manager of Compliance

Action Needed: Review and/or approve

7. Other Old and New Business

- a. Chlorpyrifos Use Permit Policy for Applicators Intending to Use Existing Stocks of Chlorpyrifos
- b. Press Inquiry about SLN Decision
- c. Other items?

8. Schedule of Future Meetings

August 5, 2022 and September 9, 2022 are the next tentative Board meeting dates. The Board will decide whether to change and/or add dates.

The Board will also decide if there is a continuing need to meet remotely.

Adjustments and/or Additional Dates?

10. Adjourn

## NOTES

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



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BOARD OF PESTICIDES CONTROL

May 6, 2022

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff

- The Board, Staff, and Assistant Attorney General Mark Randlett introduced themselves
- Board: Adams, Bohlen, Carlton, Ianni, Jemison, Lajoie
- Staff: Boyd, Bryer, Brown, Connors, Couture, Nelson, Pietroski, Tomlinson

2. Minutes of the April 1, 2022 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or approve

- **Jemison/Ianni: Moved and seconded to approve the minutes as amended**
- **In Favor: Unanimous**

3. Consideration of a Request for Variance from Chapter 29 from Davey Tree Expert Company—Railroad Division, to Treat Railroad Rights-of-way in Maine

Davey Tree Expert Company—Railroad Division, is seeking a variance from and Chapter 29, Section 6, Buffer Requirements, in order to treat the Canadian Pacific rail tracks rights-of-way in Maine. Board policy indicates that first-time variance requests must be considered by the Board. Policy further stipulates that railroad variance requests need to be consistent with the Maine Department of Transportation standards.

Presentation By: Megan Patterson, Director and Pam Bryer, Pesticide Toxicologist

Action Needed: Approve/disapprove the variance request

- Patterson stated that this was a new railway right-of-way request from a company that had not previously submitted a variance. She added that Bryer had compiled information regarding the behavior of some of the chemistries and could share that information if it was of interest to the Board.
- Carlton asked how fast the spray rig went when spraying and if there was a truck that preceded it informing them of where to buffer.
- Terry Waggoner, Railroads Operations Analyst from Davey Tree Expert Company, responded that it traveled between ten to fifteen miles per hour. He added that a truck did precede the spray rig, and they communicated over the radio.
- Carlton asked if sprayer output could be adjusted when moving down the track if, for example, there was no vegetation on the tracks but there was on the ballast.
- Waggoner responded that there were six different boom sections, and each section could be controlled independently and spray pressure auto-adjusted based on speed.
- Ianni asked the rationale for not being able to meet the buffer standard and what percentage of the track was in the buffer area.
- Geoff Gordon, Vegetation Manager for Canadian Pacific Railway, responded that the reason was for track safety. He said that weeds and growth on the ballast section caused instability and hampered track inspections. Gordon added that they needed unimpeded drainage on the track and vegetative growth decreased drainage and increased track instability. He stated that he did not know how much track was in the buffer zone but that he could get an answer from the detailed track maps that showed water crossings to one-eighth of an inch.
- Ianni asked if the spray would be turned off in areas that do not need spraying.
- Gordon responded that it would be turned off.
- Jemison asked about the products proposed for use and stated that Roundup was a contact herbicide, so needed the presence of vegetation to be of use. He also asked if the other products were pre-emergent.
- Waggoner responded that Esplanade was preemergent for broadleaf and grasses. He added that they had control to turn off Roundup if there was no growth and it was not needed.
- Bohlen asked if there had been consideration of scouting wet soil conditions around sites.
- Waggoner responded that they take that into consideration, never spray in standing water and monitor the forecast so they do not apply if there is heavy rain forecast.
- Ianni stated that she looked for drinking water standards for these chemicals and asked if Bryer would also be looking at alternative herbicides that could be used that might be less impactful.
- Patterson responded that historically there was a lot of communication between DOT and BPC regarding what chemicals were used in right-of-ways and there was not a large breadth of active ingredients available for use in these areas. She added that staff could compare the relative risks of active ingredients used in right-of-way applications and that Bryer had prepared relevant information.
- LaJoie added that he thought this variance was critical for the rail industry.
- Bryer told Board members to please reach out at any point if they wanted or needed extra data. She shared a spreadsheet went over spreadsheet detailing herbicide half-lives and all available toxicity values for aquatic organisms. Bryer stated that she was most concerned about an acute exposure in this scenario. She also demonstrated a model of the spray pattern from an eight-foot boom and how far droplets would go.
- Ianni thanked Bryer for presenting the data.

- **LaJoie/Carlton: Moved and seconded to approve the variance request**
- **In Favor: Unanimous**

4. Review and Potential Adoption of Proposed Amendments to Chapter 20 and Re-initiating Rulemaking for Chapter 41

*(Note: No additional public comments may be accepted at this time.)*

On December 22, 2021, a Notice of Agency Rulemaking Proposal was published in Maine’s daily newspapers, opening the comment period on the proposed amendments to Chapters 20 and 41. A public hearing was held on January 14, 2022, by remote meeting on the Microsoft Teams platform and the written comment period closed at 8:00 AM on January 24, 2022. The Board reviewed the rulemaking record on February 25, 2022 and again on April 1, 2022, addressed the comments and provided direction to the staff on appropriate revisions to the proposals. The Board will now review the changes to the proposed amendments, the Response to Comments for Chapters 20 and 41. The Board will also review the Basis Statement and Statement of Impact on Small Business for Chapter 20. The Board will then determine whether it is prepared to adopt the proposed amendments to Chapter 20. Given the substantial changes to Chapter 41, the Board will also determine whether it is prepared to reinstate rulemaking for Chapter 41.

Presentation By: Megan Patterson, Director

Action Needed: Provide direction to the staff on the final adoption of Chapter 20 and reinitiating of rulemaking for Chapter 41

- Patterson stated that regarding Chapter 41 it appeared the Board would have to pursue rulemaking again. She added that Chapter 20 may be able to move forward but the Board would need to vote to adopt the rule, along with the basis statement and impact on small businesses. Patterson noted that there was one change from HDPE containers to all fluorinated containers.
- Randlett stated that he did not consider that a substantial change but that it was up to the Board to make that determination.
  - **Bohlen/Jemison: Moved and seconded to finally adopt Chapter 20 of proposed rule, the basis statement, impact on small businesses, and the summary of and response to comments received**
  - **In Favor: Unanimous**
- Patterson told the Board that the current version of Chapter 41 had major changes in reference to the definition of emerging invasive invertebrate pests and the section on permitting. She noted that since the last meeting there was language added pertaining to emergency permit and in Section 6(A)(I)(c) the term ‘species on a Board approved list’ was added.

- Randlett stated that it was the Board’s determination as to whether a rule change was substantial. The Board needed to consider how people might have commented on a portion of rule. The definition of pest significantly narrowed the scope of the pest to which this would apply and that may have been something applicators would have wanted to comment on. Randlett added that the permitting process broadened the scope of when these pesticides could be used and people in opposition may have wanted to be heard.
- Bohlen commented that he felt the changes were in response to public comments and that it was a little frustrating. He inquired about bringing forward the existing public comments that had been received.
- Randlett responded that once a rule proposal died the Board would need to accept new comments, but they could certainly use the previous comments to inform decision making.
- Jemison noted that he would like to see the section on plant-incorporated protectants get brought up to the present-day level of knowledge.
- The Board decided to wait on that section of rule but to eventually go back to rulemaking to correct it.
  - **Bohlen/Jemison: Moved and seconded to authorize Board staff to bring proposed changes to Chapter 41 and initiate rulemaking**
  - **In Favor: Unanimous**

5. Chlorpyrifos Use Permit Policy for Applicators Intending to Use Existing Stocks of Chlorpyrifos, Purchased Before January 1, 2022, On Sites Other Than Crops Intended For Human Consumption

On June 8, 2021 LD 316 was signed into Maine law. This law prohibits, beginning January 1, 2022, the distribution of pesticides containing chlorpyrifos as an active ingredient. The law allows the Board to grant temporary permits from January 1, 2022 to December 31, 2022 authorizing licensed pesticide applicators to use pesticides containing chlorpyrifos, as long as the product was in the State and in the possession of the applicator before January 1, 2022. The law directs the Board to post on its website a list of the temporary permits issued. In 2021, the Board initiated rulemaking related to the use of chlorpyrifos. Proposed rules clarified statutory prohibitions on the distribution of chlorpyrifos and Board issuance of permits for use of existing stocks of chlorpyrifos purchased before January 1, 2022. Due to delays in the rulemaking process, applicators in possession of chlorpyrifos are seeking guidance on how to pursue a Board permit that will allow them to use up existing products during the 2022 growing season. The proposed policy incorporates the related proposed amendment to Chapter 41 and is suggested as a temporary response while rulemaking proceeds.

Presentation By: Megan Patterson, Director

Action Needed: Discussion and approve/disapprove the proposed policy

- Patterson told the Board that the policy, if approved, would allow staff to issue permits for use under the guidelines outlined in Chapter 41.

- **Carlton/LaJoie: Moved and seconded to approve the policy and implement immediately**
- **In Favor: Unanimous**

6. Review of the Board Budget

In early 2017, the Board reviewed the budget with the goal of identifying potential resources that could be allocated to Board priorities. At that time the Board requested ongoing annual updates on the status of the Pesticide Control Fund.

Presentation By: Megan Patterson, Director

Action Needed: Provide guidance to the staff on Board budget priorities

- Patterson said that most revenue is received from November through February and then the program is sustained on that funding for the duration of the year. She also provided projections for 2023 and 2024.
- Bohlen asked about the reasoning for the forecast showing expenditures greater than revenue for the next two years.
- Patterson responded that it was due to salary increases and the increase in support for MePERLS since the BPC would be required to take on the full cost because Maine IT would no longer be subsidizing the work. She explained that there was an effort by Maine IT to decrease costs and they would be going out to bid for hosting and the related support and maintenance contract in upcoming months.
- Bohlen stated that his concern was that this was an unsustainable budget forecast.
- There was discussion about an increase in the pesticide registration fee.
- Patterson stated that Maine's registration fee used to be close to the national average pesticide registration fee but now was on the low end compared to similar states. She added that there had not been a fee increase in many years and that any fee increase would need to be pursued through the legislature.
- Adams asked Patterson to bring back to the Board the process of how they would petition the legislature to ask for an increase in the registration fee.
- Patterson responded that it would possibly entail submitting a bill and that staff could get information on the fees assessed in other states. She added that staff could also bring forward intent on what the funding would support.
- Tomlinson stated that she had kept a record of fees since 2001 and there was a fee increase in 2014 from \$150 to \$160 but the extra ten dollars went to UMaine Cooperative Extension.

7. Consideration of a Consent Agreement with Brownies Landscaping, Whitefield, Maine

On June 3, 1998 the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases



where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved an unlicensed and unauthorized application of pesticides on public property as well as a failure to post the applications and a failure to follow label directions pertaining to application and personal protective equipment.

Presentation By: Ray Connors, Manager of Compliance

Action Needed: Deny or approve

- Connors stated that this violation was reported by staff from the City of Augusta in the recreation department. They stated that the owner of Brownie’s Landscaping approached them about making applications for browntail moth in Williams Park and Buker Community Center. The owner was unlicensed at the time and proposed working under the park supervisor’s license who did not have the 3A category. The park staff stated that they wanted to first check with Board staff about the legality of working under their license and the owner of Brownie’s proceeded to make the applications without authorization. Injection applications of avermectin were made into trees at both William’s Park and Buker Community Center. Injection units that had not drained within a few hours post application were required by the label to be removed, but they remained in the trees nine days after the application. Required posting was not made. A consent agreement was sent to Brownie’s Landscaping in the amount of \$3,000 and was paid.
- Carlton commented that costs incurred by the State in a violation should be tacked onto consent agreements even if the monies did not go to the BPC.
- Ianni asked if there was guidance on how to estimate the penalty fee.
- Connors responded that the rationale used was to consider past penalties, the regulation criteria, the violation history of the company, damage incurred, and actions taken by the company after the violation was known. He added that he could send the Board the criteria looked at when assessing a penalty.
- Ianni asked if time spent investigating cases was tracked so that the penalty amount would be commensurate with the consent agreement amount. She suggested that possibly in the future a portion of time spent by staff could be covered because it was related to the complexity of the violation.
  - **Jemison/Carlton: Moved and seconded to approve the consent agreement**
  - **In Favor: Unanimous**

## 8. Other Old and New Business

### a. LD 2019—An Act To Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances

- Patterson stated that the bill passed without the governor’s signature and it gave the Board authority to regulate adjuvants in the same way they regulated pesticides. Additional staff and funding were not granted and so it likely would not be something to which staff could dedicate significant resources but they appreciated the responsibility and would implement the authorities as they were able. She stated that the term ‘contaminated’ did not have an

existing definition and that the term ‘adulterated’ was currently recognized in state and federal law. If the Board wanted to provide clarification they could do this through the rulemaking process. Patterson stated that there was also direction for the Board to develop rules around containers by January 2023 but that staff needed additional guidance on how the Board would like to address this directive.

b. LD 2021—An Act To Collect Pesticide Sales and Use Records for the Purpose of Providing Information to the Public

- Patterson stated that staff, at the direction and approval of the Board, had built into the MEPELRS database a way to electronically collect annual sales and use reports and would report this information out to the Board. She added that staff were aware of the public’s interest in this information and were trying to collect it as best as possible while relying on existing resources.

c. Variance Permit for CMR 01-026 Chapter 29, Vegetation Control Services, Inc.—Robinson’s Wood, Cape Elizabeth

- Bohlen stated that he was interested to see what products were being used and what was triggering the variance applications.
- Ianni stated that she would like to see the applications for variances included in the packet.

d. Variance Permit for CMR 01-026 Chapter 29, New England Spray Technologies—Marginal Way, Ogunquit

e. Update on risk assessment of herbicide use on school grounds and human health impacts as proposed by the Medical Advisory Committee

- Patterson explained that the MAC requested a risk assessment be completed studying herbicides used on school grounds. Staff received a quote of \$100,000 from the first contractor. It is the literature review that is much more costly. Staff have rewritten a scope of work without the literature review included.

9. Schedule of Future Meetings

June 17, 2022, August 5, 2022, and September 9, 2022 are the next tentative Board meeting dates. The Board will decide whether to change and/or add dates.

- A public hearing on Chapter 41 will be held at the June 17, 2022 meeting. The comment period would end June 27, 2022.

10. Adjourn

- **LaJoie/Carlton: Moved and seconded to adjourn at 11:35 AM**
- **In Favor: Unanimous**

**01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY****026 BOARD OF PESTICIDES CONTROL****Chapter 41: SPECIAL RESTRICTIONS ON PESTICIDE USE**

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**SUMMARY:** This chapter describes special limitations placed upon the use of (1) aldicarb (Temik 15G) in proximity to potable water bodies; (2) trichlorfon (Dylox, Proxol); (3) hexazinone (Velpar, Pronone), (4) aquatic herbicides in the State of Maine; ~~and~~(5) plant-incorporated protectants; (6) neonicotinoids (dinotefuran, clothianidin, imidacloprid, thiamethoxam); and (7) chlorpyrifos (Dursban, Lorsban).

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**Section 1. ALDICARB (TEMIK®)**

The registration of aldicarb (Temik 15G) is subject to the following buffer zone requirements:

- A. Aldicarb (Temik 15G) shall not be applied within 50 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in the range of one to ten parts per billion (ppb). The 50 foot buffer would be mandatory for one year with a required retesting of the water at the end of the period.
- B. Aldicarb (Temik 15G) shall not be applied within 100 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in excess of 10 ppb. The 100 foot buffer would be mandatory for one year with a required retesting of the water at the end of this period.

**Section 2. TRICHLORFON (DYLOX, PROXOL)**

The registration of trichlorfon (Dylox, Proxol) is subject to the following requirements:

- A. Trichlorfon shall only be used for control of subsurface insects on turf.
- B. Prior to application the target pest must be identified and the severity of the infestation must be determined, including the extent of the damage.
- C. Only infested areas shall be treated with trichlorfon. Broadcast treatments of the entire turf area are prohibited.
- D. Following application, the trichlorfon must be watered into the soil with at least ½ inch of water and according to the label directions. The applicator must assure that the appropriate watering will take place prior to re-entry by any unprotected person.

**Section 3.      HEXAZINONE (VELPAR, PRONONE)**

The registration of hexazinone is subject to the following limitations and conditions.

**A.      Licenses Required**

No person shall use or supervise the use of any pesticide containing the active ingredient hexazinone unless they have obtained an applicators license in accordance with 22 M.R.S. §1471-D.

**Section 4.      AQUATIC HERBICIDES**

The registration of pesticides for which there is an aquatic herbicide use on the product label shall be subject to the following limitations and conditions.

**A.      Board Publication of List**

The Board of Pesticides Control will publish by May 23, 2003 and by March 15th of each year thereafter a list of herbicide products registered in Maine for which the manufacturer has verified that there is an aquatic use on the pesticide label. Based on available information, the Board may exempt from this list pesticides that it determines are not for use in the control of aquatic vegetation. Pesticides labeled solely for use in aquariums and antifouling paints, are specifically exempt from this list.

**B.      Licenses Required**

- I.      Unless exempted under Chapter 41, Section 4 (B) (III), no person shall purchase, use or supervise the use of any aquatic herbicides identified on the Board's annual listing unless they have obtained a private or commercial pesticide applicator's license from the Board.
- II.     No person shall:
  - a.      Distribute any aquatic herbicides identified on the Board's annual listing without a restricted use pesticide dealer's license from the Board; or
  - b.      Unless exempted under Chapter 41, Section 4 (B) (III), distribute any aquatic herbicides identified on the Board's annual listing to any person who is not licensed as a private or commercial applicator by the Board.
- III.    Registered herbicides containing only the active ingredients erioglaucine (Acid Blue 9 or FD&C Number 1, CAS Registry No. 1934-21-0) and/or tartrazine (Acid Yellow 23 or FD&C Yellow Number 5, CAS Registry No. 2650-18-2 (trisodium salt) or 3844-45-9 (triammonium salt)) are exempt from the applicator licensing requirements described in Chapter 41, Section 4 (B) (I) and Chapter 41, Section 4 (B) (II) (b).

**C. Disclosure**

The Board will make a disclosure form available to dealers distributing any aquatic herbicides identified on the Board's annual listing. The Board requests that dealers present to customers the disclosure form that advises purchasers that, (1) an aquatic discharge license must be obtained from the Maine Department of Environmental Protection before any application may be made to any surface waters of the State as defined in 38 M.R.S.A. Section 361-A(7) including any private ponds that may flow into such a body of water at any time of year, (2) that Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection on the use of aquatic herbicides are available.

**D. Records and Reporting**

Dealers distributing any aquatic herbicides identified on the Board's annual listing shall keep records of such sales and provide reports to the Board as described for restricted use pesticides in Chapter 50, "Record Keeping and Reporting Requirements."

**E. Use of Best Management Practices**

Aquatic herbicides applied to private ponds and not subject to an aquatic discharge permit may only be applied consistent with Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection.

**Section 5. PLANT-INCORPORATED PROTECTANTS**

The registration, distribution and use of plant-incorporated protectants are subject to the following limitations and conditions:

**A. Definitions**

"Plant-incorporated protectant" means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance.

**B. License Required**

No person shall distribute any plant-incorporated protectant without either a general use pesticide dealer license or a (restricted or limited use) pesticide dealer license from the Board.

**C. Dealer Requirements**

Dealers distributing plant-incorporated protectants are subject to the following requirements:

- I. General use and (restricted or limited use) pesticide dealers shall notify the Board of their intent to distribute plant-incorporated protectants on all initial license and license renewal application forms provided by the Board.
- II. General use and (restricted or limited use) pesticide dealers shall maintain sales records showing the list of the names and addresses of all purchasers of plants, plant parts or seeds containing plant-incorporated protectants. These records must be made available to representatives of the Board for inspection at reasonable times, upon request, and must be maintained for two calendar years from the date of sale.
- III. Any general use and (restricted or limited use) pesticide dealer who discontinues the sale of plant-incorporated protectants shall notify the Board in writing and shall provide the Board, upon request, with all records required by Section 5(C)II of this chapter.

**D. Grower Requirements**

- I. All users of plant-incorporated protectants shall maintain the records listed below for a period of two years from the date of planting. Such records shall be kept current by recording all the required information on the same day the crop is planted. These records shall be maintained at the primary place of business and shall be available for inspection by representatives of the Board at reasonable times, upon request.
  - a. Site and planting information, including town and field location, a map showing crop location and refuge configuration in relation to adjacent crops within 500 feet that may be susceptible to cross-pollination;
  - b. Total acres planted with the plant-incorporated protectant and seeding rate;
  - c. Total acres planted as refuge and seeding rate;
  - d. Detailed application information on any pesticide applied to the refuge as described in Section 1(A) of Chapter 50, "Record Keeping and Reporting Requirements"; and
  - e. Planting information for each distinct site including:
    - i. date and time of planting; and
    - ii. brand name of the plant-incorporated protectant used.
- II. There are no annual reporting requirements for growers.

**E. Product-Specific Requirements**

- I. Requirements for plant-incorporated protectant corn containing *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production.
  - a. Prior to planting plant-incorporated protectant corn containing any *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for

its production, the grower must have completed a Board-approved training course and possess a valid product-specific training certificate.

- b. Product-specific training certificates shall be issued following each Board-approved session. The certificates will remain valid until December 31 of the third year after issuance.
  - c. Non-Bt-corn growers whose crops are or will be located within 500 feet of a prospective Bt-corn planting site can request that the Bt-corn grower protect the non-Bt-corn crop from pollen drift.
    - i. the request must be made prior to planting of the Bt-corn crop;
    - ii. the request must identify the non-Bt-corn crop to be protected; and
    - iii. the growers may agree on any method for protection but, if an agreement cannot be reached,
      - 1. the Bt-corn grower must plant any refuge required by the Bt-corn grower agreement, grower guide or product label in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt-corn crop; or
      - 2. if no refuge is required, the Bt-corn grower shall maintain at least a 300-foot Bt-corn-free buffer to non-Bt-corn crops.
  - d. Bt-corn growers are encouraged to follow all best management practices developed by the Board or the Department of Agriculture, Conservation and Forestry.
- II. Dealers distributing Bt-sweet corn shall only sell the seed in quantities large enough to plant one acre or more.

**F. Confidentiality**

Any person providing information to the Board in connection with the record-keeping and reporting requirements of Section 5 of this chapter may designate that information as confidential in accordance with 7 M.R.S.A. §20.

**Section 6. NEONICOTINOIDS (DINOTEFURAN, CLOTHIANIDIN, IMIDACLOPRID, OR THIAMETHOXAM)**

The registration of pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam for which there is an outdoor ornamental plant or turf use on the product label shall be subject to the following limitations and conditions.

A. **Definitions**

- I. “Emerging Invasive Invertebrate Pests” means any invertebrate, including its eggs or other biological material capable of propagating that species that occurs outside of its eco-region and its introduction causes or is likely to cause economic or environmental harm, or harm to human, animal, or plant health, to include:
  - a. Species both known now and unknown now but showing up at a later date;
  - b. Species that occur outside of their eco-region (level III) as defined by EPA; and
  - c. Species on a Board approved list.
- II. “Ornamental Plants” means shrubs, trees and related vegetation excluding turf and lawn, in and around residences.

B. **Board Publication of Product List**

The Board of Pesticides Control will publish within 30 days of adoption and by March 15th of each year thereafter a list of insecticide products containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam registered in Maine for which the manufacturer has verified that there is an outdoor ornamental plant or turf use on the pesticide label. Based on available information, the Board may exempt from this list pesticides that it determines are not for use in the control of outdoor ornamental plants or turf. Pesticides labeled solely for use in preserving wood, managing indoor pests, managing structural pests within five (5) feet of a human dwelling, and treating pets are specifically exempt from this list.

C. **Licenses Required**

- I. No person shall purchase, use, or supervise the use of any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam identified on the Board's annual listing unless they have obtained a private or commercial pesticide applicator's license from the Board.
- II. Unless exempted under Chapter 41, Section 6 (C) (IV) no person shall purchase, use or supervise the use of any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam in outdoor residential landscapes to include ornamental plants and turf.
- III. No person shall distribute any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam identified on the Board's annual listing without a restricted use pesticide dealer's license from the Board.
- IV. Registered pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam and identified on the Board's annual listing are exempt from the prohibition of use described in Chapter 41, Section 6 (C) (II) where by:



- a. The applicator obtains an emergency permit from the Board; or
- b. The use of these products is for management of emerging invasive invertebrate pests on ornamental plants in outdoor residential landscapes.

V. No person shall use any pesticides containing dinotefuran, clothianidin, imidacloprid, or thiamethoxam identified on the Board's annual listing for the purposes of managing turf and lawn in outdoor residential landscapes.

**D. Records and Reporting**

Dealers distributing any pesticides containing dinotefuran, clothianidin, imidacloprid or thiamethoxam identified on the Board's annual listing shall keep records of such sales and provide reports to the Board as described for restricted use pesticides in Chapter 50, "Record Keeping and Reporting Requirements."

**E. Emergencies**

The Board's staff may grant an emergency permit authorizing neonicotinoid use in compliance with Sections 6(C) of this chapter if the restrictions in this chapter prevent efficacious application of pesticide(s) and the staff determines that an emergency situation exists as outlined in Chapter 51(VII)(B)(1).

- I. No variance may be granted if the emergency is the result of an unjustifiable delay created by the person seeking the variance or the person requesting the pesticide application.
- II. If the staff does not grant the variance, the applicator or the person requesting the pesticide application may petition the Board for exemption following the requirements set forth in 22 M.R.S.A. §1471-T, "Exemption".

**F. Emergency Use Permits**

Emergency use permit applications shall be made on such forms as the Board provides and shall include at least the following information:

- I. The name, address and telephone number of the applicant;
- II. The area(s) where pesticides will be applied;
- IV. The purpose for which the pesticide application(s) will be made;
- V. The approximate application date(s);
- VI. The type(s) of application equipment to be employed;
- VII. The approved pest species for which the application is being made as defined in policy or by the board; and

VIII. The particular reasons why the applicant seeks a variance from the requirements of this section, including a detailed description of the techniques to be employed to assure that a reasonably equivalent degree of protection of surrounding nontarget vegetation will be obtained.

Within 30 days after a complete application is submitted, the Board or its staff shall issue a permit if it finds that the application meets requirements of Section 6 (E). The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as required by the permit, the applicant shall undertake the application in accordance with all of the conditions described in their request and all other applicable legal standards. Permits issued by the Board under this section shall not be transferable or assignable except with further written approval of the Board and shall be valid only for the period specified in the permit.

**Section 7. CHLORPYRIFOS (DURSBAN, LORSBAN)**

The registration of chlorpyrifos (Dursban, Lorsban) is subject to the following limitations and conditions.

- A. No person shall use or supervise the use of any pesticide containing the active ingredient chlorpyrifos unless they have obtained a private or commercial applicator's license from the Board, possess the pesticide in the State before January 1, 2022, and obtain a temporary use authorization permit from the Board.
- B. Permit applications shall be made on such forms as the Board provides and shall include at least the following information:
- I. The name, address and telephone number of the applicant;
  - II. The brand name of the pesticides to be applied;
  - III. The date on which the pesticides were purchased;
  - IV. The approximate quantity of the pesticides possessed;
  - V. The purpose for which the pesticide application(s) will be made; and
  - VI. The duration for which the applications will take place or until the product is gone.
- C. Within 30 days after a complete application is submitted, the Board or its staff shall issue a permit if:
- I. The permit application is received prior to December 31, 2022;
  - II. The applicant possesses a valid pesticide applicator license issued by the State;
  - III. The pesticides proposed for use were purchased prior to January 1, 2022;

The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as required by the permit, the applicant shall undertake the application in accordance with all of the conditions described in their request and all other applicable legal standards. Permits issued by the Board under this section shall not be transferable or assignable except with further written approval of the Board and shall be valid only for the period specified in the permit.

STATUTORY AUTHORITY: 5 M.R.S.A. §§ 8051 *et seq.*  
7 M.R.S.A. §§ 601-610  
22 M.R.S.A. §§ 1471-A, 1471-B, 1471-C, 1471-D, 1471-M

EFFECTIVE DATE:  
March 8, 1981 (Captan)

AMENDED:  
May 7, 1981 (Trichlorfon)  
January 2, 1984 (Aldicarb)  
May 8, 1988 (Trichlorfon)  
August 5, 1990 (Captan)  
August 17, 1996 (Hexazinone)  
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):  
March 1, 1997

AMENDED:  
May 7, 1997 - Section 3(B)(II)

CONVERTED TO MS WORD:  
March 11, 2003

AMENDED:  
May 12, 2003 - Section 4 added

NON-SUBSTANTIVE CORRECTIONS:  
June 24, 2003 - summary only

AMENDED:  
February 2, 2004 - Section 4, 1st paragraph and sub-section A, filing 2004-31  
April 30, 2007 – filing 2007-154  
February 3, 2008 – filing 2008-36  
July 16, 2009 – filing 2009-253 (final adoption, major substantive)  
May 3, 2012 – filing 2012-99 (final adoption, major substantive)

CORRECTIONS:  
February, 2014 – agency names, formatting

AMENDED:  
December 9, 2014 – Section 3, filing 2014-283



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

**JANET T. MILLS**  
**GOVERNOR**

**AMANDA E. BEAL**  
**COMMISSIONER**

To: Board Members  
 From: Staff  
 Re: LD 2019—Legislative Directive  
 Date: June 7, 2022

One new law relevant to pesticides became law without the Governor’s signature and should now be considered for response. The Board’s response may include policy development, rulemaking, or study. Possible actionable items proposed by this law are outlined below and require Board discussion. While rulemaking has been proposed, staff are seeking clear guidance on the types of information required by the Board to proceed with informed rulemaking efforts and conceptual discussions. Both Maine state and federal law indirectly and directly address the concepts outlined below. All items are organized as follows:

The second column offers possible Board actions.

The third column details the actionable item.

The fourth column identifies the deadline detailed in law for a specific action item.

The fifth column designates the type of possible rulemaking (see Title 7 Section 610(6)):

RT Routine Technical

Complete list of possible rulemaking chapters: 10, 20

LD 2019— An Act To Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances				
1	Possible rulemaking (Chapter 10)	New section—Define “contaminated” as it relates to perfluoroalkyl and polyfluoroalkyl substances in pesticides.	No deadline	RT
2	Possible rulemaking (Chapter 20)	New section—Develop rules regulating the use of pesticide containers.	January 1, 2023	RT

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## STATE OF MAINE

—  
IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-TWO

—  
H.P. 1501 - L.D. 2019

**An Act To Require the Registration of Adjuvants in the State and To  
Regulate the Distribution of Pesticides with Perfluoroalkyl and  
Polyfluoroalkyl Substances**

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

**Sec. 1. 7 MRSA §604, sub-§22-A** is enacted to read:

**22-A. Perfluoroalkyl and polyfluoroalkyl substances or PFAS.** "Perfluoroalkyl and polyfluoroalkyl substances" or "PFAS" has the same meaning as in Title 32, section 1732, subsection 5-A.

**Sec. 2. 7 MRSA §604, sub-§25**, as amended by PL 2005, c. 620, §3, is repealed and the following enacted in its place:

**25. Pesticide.** "Pesticide" means:

A. Any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pests;

B. Any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant; and

C. Any substance or mixture of substances intended to be used as a spray adjuvant.

"Pesticide" includes a highly toxic pesticide.

**Sec. 3. 7 MRSA §604, sub-§31-A** is enacted to read:

**31-A. Spray adjuvant.** "Spray adjuvant" means any wetting agent, spreading agent, sticker, deposit builder, adhesive, emulsifying agent, deflocculating agent, water modifier or similar agent that is intended to be used with any other pesticide as an aid to the application or the effect of it and that is in a package or container separate from that of the other pesticide.

**Sec. 4. 7 MRSA §606, sub-§1**, as amended by PL 2021, c. 105, §§1 to 3, is further amended to read:

**1. Unlawful distribution.** A person may not distribute in the State any of the following:

- A. A pesticide that has not been registered pursuant to the provisions of this subchapter;
- B. A pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; a change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product if the registration is amended to reflect that change and if that change will not violate any provision of FIFRA or this subchapter;
- C. A pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is one, through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this subchapter and rules adopted under this subchapter;
- D. A pesticide that has not been colored or discolored pursuant to section 610, subsection 1, paragraph D;
- E. A pesticide that is adulterated or misbranded or any device that is misbranded;
- F. A pesticide in containers that are unsafe due to damage; or
- G. Beginning January 1, 2022, a pesticide containing chlorpyrifos as an active ingredient;
- H. A pesticide that has been contaminated by perfluoroalkyl and polyfluoroalkyl substances; or
- I. Beginning January 1, 2030, a pesticide that contains intentionally added PFAS that may not be sold or distributed pursuant to Title 38, section 1614, subsection 5, paragraph D.

**Sec. 5. 7 MRSA §606, sub-§2**, as amended by PL 2005, c. 620, §5, is further amended to read:

**2. Unlawful alteration, misuse, divulging of formulas, transportation, disposal and noncompliance.** A person may not:

- A. Detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this subchapter or rules adopted under this subchapter;
- A-1. Add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this subchapter or rules adopted under this subchapter;
- B. Use or cause to be used any pesticide in a manner inconsistent with its labeling or with rules of the board, if those rules further restrict the uses provided on the labeling;
- C. Use for that person's own advantage or reveal, other than to the board or proper officials or employees of the state or federal executive agencies, to the courts of this State or of the United States in response to a subpoena, to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 607 or any information judged by the board to contain or relate to trade secrets or commercial

or financial information obtained by authority of this subchapter and marked as privileged or confidential by the registrant;

D. Handle, transport, store, display or distribute pesticides in such a manner as to endanger human beings or their environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides;

E. Dispose of, discard or store any pesticides or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any water supply or waterway;

F. Refuse or otherwise fail to comply with the provisions of this subchapter, the rules adopted under this subchapter, or any lawful order of the board; ~~or~~

G. Apply pesticides in a manner inconsistent with rules for pesticide application adopted by the board; or

H. Use or cause to be used any pesticide container inconsistent with rules for pesticide containers adopted by the board.

**Sec. 6. Board of Pesticides Control; rules.** The Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall adopt rules regulating pesticide containers as authorized in the Maine Revised Statutes, Title 7, section 606, subsection 2, paragraph H no later than January 1, 2023. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

**Sec. 7. Appropriations and allocations.** The following appropriations and allocations are made.

**AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF  
Office of the Commissioner 0401**

Initiative: Provides allocations for position technology and STA-CAP costs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
All Other	\$0	\$11,502
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$11,502</b>

**Pesticides Control - Board of 0287**

Initiative: Provides allocations for one Environmental Specialist III position, one part-time Environmental Specialist II position, one part-time Office Associate II position and associated All Other costs.

<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>2021-22</b>	<b>2022-23</b>
POSITIONS - LEGISLATIVE COUNT	0.000	1.000
POSITIONS - FTE COUNT	0.000	1.000
Personal Services	\$0	\$168,311
All Other	\$0	\$10,500
<b>OTHER SPECIAL REVENUE FUNDS TOTAL</b>	<b>\$0</b>	<b>\$178,811</b>



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

	<b>2021-22</b>	<b>2022-23</b>
<b>OTHER SPECIAL REVENUE FUNDS</b>	<b>\$0</b>	<b>\$190,313</b>
<b>DEPARTMENT TOTAL - ALL FUNDS</b>	<b>\$0</b>	<b>\$190,313</b>

# Proposed Administrative Consent Agreement Background Summary

6

**Subject:** Caribou Country Club  
723 Sweden Street  
Caribou, ME 04736

**Date of Incident(s):** various dates 2014-2019, unlicensed commercial pesticide applications and incomplete commercial pesticide application records.

**Background Narrative:** This golf course is open to use by the public. Pesticide applications to the course need to be made by a licensed commercial pesticide applicator or under the direct supervision of a licensed commercial applicator. The grounds supervisor for the course made twenty-two unlicensed and unsupervised pesticide applications at the golf course during the years 2014 through 2019. A Board inspector emailed the course president about these matters and summarized inspection attempts and investigations during late 2019 and spring of 2020 indicating personnel at the course may have been making unlicensed pesticide applications at the course.

## Summary of Violation(s):

CMR 01-026 Chapter 31, Section 1(A) and of 22 M.R.S. § 1471-D(1)(A)

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.

CMR 01-026 Chapter 31, Section 1(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.

CMR 01-026 Chapter 50, Section 1(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

Rationale for Settlement: This grounds supervisor made unlicensed and unsupervised pesticide applications over an extended period of time. These applications were commercial pesticide applications. The applicator's commercial pesticide application records were incomplete.

Attachments: Proposed Consent Agreement

**STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY  
BOARD OF PESTICIDES CONTROL**

Caribou Country Club	)	ADMINISTRATIVE CONSENT AGREEMENT
723 Sweden Street	)	AND
Caribou, ME 04736	)	FINDINGS OF FACT

This Agreement, by and between Caribou Country Club (hereinafter called the "Company") and the State of Maine Board of Pesticides Control (hereinafter called the "Board"), is entered into pursuant to 22 M.R.S. § 1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on June 3, 1998.

The parties to this Agreement agree as follows:

1. That the Company operates a golf course in Caribou Maine.
2. That the golf course is open to use by the public in accordance with 22 M.R.S. § 1471-C(5-A).
3. That the use of any pesticide in an area open to use by the public constitutes a commercial pesticide application in accordance with 22 M.R.S. § 1471-C(5).
4. That commercial pesticide applications can only be made by licensed commercial applicators, or under the direct supervision of a licensed commercial applicator, pursuant to CMR 01-026 Chapter 31, Section 1(A) and (D) and 22 M.R.S. § 1471-D(1)(A).
5. That each company that employs commercial applicators must employ at least one commercial master applicator as required by CMR 01-026 Chapter 31, Section 1(D).
6. That on October 8, 2019 a Board inspector met with Michael Gagnon, Grounds Supervisor for the Caribou Country Club, with the intent to perform a routine records and operations check. Mr. Gagnon stated that the club does not apply pesticides, only fertilizers to greens, and that the club has a contract with Precision Lawn Services of Caribou to apply pesticides.
7. That on October 8, 2019 a Board inspector met with Benjamin Willey, owner of Precision Lawn Services. Willey said he never applied pesticides at the Caribou Country Club when his company was Precision Lawn Services, or under his new company name, RLW Property Management LLC.
8. That on April 8, 2020 a Board inspector sent an email to Jon Langley, President of the Caribou Country Club. The email summarized inspection attempts and investigations during late 2019 and spring 2020 that indicated the club may have been applying pesticides at the golf course without a licensed applicator.
9. That on July 6, 2020 a Board inspector conducted a records and operations check inspection with Michael Gagnon, the grounds supervisor at Caribou Country Club.
10. That during the inspection described in paragraph nine, the inspector documented that Gagnon made four unlicensed and unsupervised pesticide applications in 2019. Anderson's Fungicide X, Anderson's Prophecy Fungicide, and Amvac III Fungicide were applied to greens and Nutrite Professional Turf Fertilizer with Trimec Herbicide was applied to greens and fairways.
11. That during the inspection described in paragraphs nine and ten, the Board inspector also documented the following individual pesticides were applied on separate days during the years 2014-2018 by unlicensed and unsupervised Company applicators: 2014- Fungicide X (2 days), Trimec Broadleaf Herbicide, Anderson Clearys 3336 Fungicide, Andersons Fungicide VII, 2015-Fungicide X, Trimec Broadleaf Herbicide, Anderson Fungicide 3336, Golden Eagle Fungicide, 2016-FungicideX, Clearys 3336 Fungicide, Trimec Broadleaf Herbicide, 2017-Fungicide X, Trimec 24-0-5,

Anderson 3336 Fungicide, and 2018-Anderson Fungicide X, Trimec Broadleaf Herbicide, Anderson Golden Eagle Fungicide.

- 12. That the circumstances described in paragraphs one through eleven constitute twenty-two unlicensed and unsupervised commercial pesticide application violations of CMR 01-026 Chapter 31, Section 1(A) and (D) and of 22 M.R.S. § 1471-D(1)(A). These violations extend from 2014 through 2019.
- 13. That, as a commercial applicator, pesticide application records must be kept as required by CMR 01-026 Chapter 50, Section I(A).
- 14. That an inspection of the company's application records conducted during the inspections described in paragraphs ten, eleven, and twelve showed that the records were incomplete. One or more of the following record keeping requirements were not recorded for twenty-two applications: method of application, licensed applicator name, licensed applicator certification number, name of noncertified applicator that made the application, spray contracting firm, wind direction, pesticide EPA registration number, pesticide active ingredient, pesticide restricted entry interval, and pesticide application rate.
- 15. That the circumstances described in paragraphs one through fourteen, constitute twenty-two violations of CMR 01-026 Chapter 50, Section I(A).
- 16. That the Board has regulatory authority over the activities described herein.
- 17. That the Company expressly waives:
  - a. Notice of or opportunity for hearing;
  - b. Any and all further procedural steps before the Board; and
  - c. The making of any further findings of fact before the Board;
- 18. That this Agreement shall not become effective unless and until the Board accepts it.
- 19. That, in consideration for the release by the Board of the causes of action which the Board has or may have against the Company resulting from the violations referenced in paragraphs twelve and fifteen, the Company agrees to pay to the State of Maine the sum of \$800.

(Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

CARIBOU COUNTRY CLUB

By: \_\_\_\_\_ Date: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_

Megan Patterson, Director

APPROVED

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mark Randlett, Assistant Attorney General



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

JANET T. MILLS  
 GOVERNOR

AMANDA E. BEAL  
 COMMISSIONER

**MAINE BOARD OF PESTICIDES CONTROL INTERIM POLICY RELATING TO  
 CHLORPYRIFOS TEMPORARY PERMITS FOR USE BY APPLICATORS  
 INTENDING TO USE EXISTING STOCKS OF CHLORPYRIFOS, PURCHASED  
 BEFORE JANUARY 1, 2022**

**BACKGROUND**

On June 8, 2021 LD 316 was signed into Maine law. This law prohibits, beginning January 1, 2022, the distribution of pesticides containing chlorpyrifos as an active ingredient. The law allows the Board to grant temporary permits from January 1, 2022 to December 31, 2022 authorizing licensed pesticide applicators to use pesticides containing chlorpyrifos, as long as the product was in the State and in the possession of the applicator before January 1, 2022. The law directs the Board to post on its website a list of the temporary permits issued.

In 2021, the Board initiated rulemaking related to the use of chlorpyrifos. Proposed rules clarified statutory prohibitions on the distribution of chlorpyrifos and Board issuance of permits for use of existing stocks of chlorpyrifos purchased before January 1, 2022. Due to delays in the rulemaking process, applicators in possession of chlorpyrifos are seeking guidance on how to pursue a Board permit that will allow them to use up existing products.

Staff recommends the following interim policy which incorporates the related proposed amendment to Chapter 41:

**POLICY**

The Board delegates the authority to BPC staff to approve requests for temporary permits for use as established in Title 7 Section 4, authorizing a pesticides applicator licensed by the State to use or apply a pesticide containing chlorpyrifos as an active ingredient, as long as that licensed applicator possessed the pesticide in the State before January 1, 2022.

The permit application must be submitted on forms provided by the Board and must include:

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PHONE: (207) 287-2731  
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- The name, address and telephone number of the applicant;
- The brand name of the pesticides to be applied;
- The date on which the pesticides were purchased;
- The approximate quantity of the pesticides possessed;
- The purpose for which the pesticide application(s) will be made; and
- The duration for which the applications will take place or until the product is gone.

Within 30 days after a complete application is submitted, the Board or its staff shall issue a permit if:

- The permit application is received prior to December 31, 2022;
- The applicant possesses a valid pesticide applicator license issued by the State;
- The pesticides proposed for use were purchased prior to January 1, 2022;

The Board may place conditions on any such permit, and the applicant shall comply with such conditions. Except as required by the permit, the applicant shall undertake the application in accordance with all of the conditions described in their request and all other applicable legal standards. Permits issued by the Board shall not be transferable or assignable except with further written approval of the Board and shall be valid only for the period specified in the permit.