



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**

**Emergency Meeting**

**August 16, 2021  
9:00 AM**

Deering Building, Room 101  
90 Blossom Lane, Augusta, Maine

**AGENDA**

1. Introductions of Board and Staff
2. Proposed Remote Meeting Participation Policy

At the July 16, 2021 meeting, the Board discussed the schedule end of the Governor's State of Civil Emergency on July 30, 2021. Also expiring on July 30, 2021 was the allowance to hold public meetings remotely. During the First Session of the 130<sup>th</sup> Maine Legislature, LD 32, An Act Regarding Remote Participation in Public Proceedings was signed into law as an emergency measure. To continue to hold meetings remotely, LD 32 requires the Board to adopt a policy stating when remote meetings may be held and how the public may attend and participate.

Presentation By: Megan Patterson, Director

Action Needed: Discussion and vote on adoption of the proposed policy

3. 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).

MEGAN PATTERSON, DIRECTOR  
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731  
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.

STATE OF MAINE

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

—  
S.P. 40 - L.D. 32

**An Act Regarding Remote Participation in Public Proceedings**

**Emergency preamble.** Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

**Whereas,** the state of emergency declared by the Governor pursuant to the Maine Revised Statutes, Title 37-B, section 742 in response to the public health emergency caused by the spread of the novel coronavirus disease referred to as COVID-19 may terminate sooner than 90 days after the adjournment of the First Special Session of the 130th Legislature; and

**Whereas,** the Maine Revised Statutes, Title 1, section 403-A governs remote participation in public proceedings of certain public bodies but is automatically repealed 30 days after the termination of the state of emergency declared by the Governor; and

**Whereas,** there is a need to have in place a law that governs remote participation in public proceedings of certain public bodies after the termination of the state of emergency declared by the Governor; and

**Whereas,** in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

**Sec. 1. 1 MRSA §403-B** is enacted to read:

**§403-B. Remote participation in public proceedings**

**1. Remote participation.** This section governs remote methods of participation in public proceedings of certain public bodies. For the purposes of this section, "remote methods" means telephonic or video technology allowing simultaneous reception of information and may include other means when such means are necessary to provide reasonable accommodation to a person with a disability. Public proceedings may not be conducted by text-only means such as e-mail, text messages or chat functions.

**2. Requirements.** A public body subject to this subchapter may allow members of the body to participate in a public proceeding using remote methods only under the following conditions:

A. After notice and hearing the body has adopted a written policy governing the conditions upon which members of the body and the public may participate in a public proceeding of that body by remote methods;

B. The policy adopted pursuant to paragraph A must provide that members of the body are expected to be physically present for public proceedings except when being physically present is not practicable. Circumstances in which physical presence for one or more members is not practicable may include:

(1) The existence of an emergency or urgent issue that requires the public body to meet by remote methods;

(2) Illness, other physical condition or temporary absence from the jurisdiction of the body that causes a member of the body to face significant difficulties traveling to and attending in person at the location in the notice under section 406;

(3) With respect to a public body with statewide membership, significant distance a member must travel to be physically present at the location in the notice under section 406; and

(4) The area of the public body's jurisdiction includes geographic characteristics that impede or slow travel, including but not limited to islands not connected by bridges;

C. The policy adopted pursuant to paragraph A must provide members of the public a meaningful opportunity to attend by remote methods when members of the body participate by remote methods, and reasonable accommodations may be provided when necessary to provide access to individuals with disabilities;

D. If the body allows or is required to provide an opportunity for public input during the proceeding, an effective means of communication between the members of the body and the public must be provided;

E. Notice of the proceeding must be provided in accordance with section 406. When the public may attend by remote methods pursuant to paragraphs C and D, the notice must include the means by which members of the public may access the proceeding using remote methods. The notice must also identify a location for members of the public to attend in person. The body may not determine that public attendance at a proceeding will be limited solely to remote methods except under the conditions in paragraph B, subparagraph (1);

F. A member of the body who participates in a public proceeding by remote methods is present for purposes of a quorum and voting;

G. All votes taken during a public proceeding using remote methods must be taken by roll call vote that can be seen and heard if using video technology, and heard if using only audio technology, by the other members of the public body and the public; and

H. The public body must make all documents and other materials considered by the public body available, electronically or otherwise, to the public who attend by remote methods to the same extent customarily available to members of the public who attend

the proceedings of the public body in person, as long as additional costs are not incurred by the public body.

**3. Remote participation not permitted.** This section does not authorize town meetings held pursuant to Title 30-A, section 2524 or regional school unit budget meetings held pursuant to Title 20-A, section 1482-A to be conducted using remote methods.

**4. Application.** This section does not apply to:

A. The Legislature; or

B. A public body to which specific statutory provisions for remote participation apply.

**Emergency clause.** In view of the emergency cited in the preamble, this legislation takes effect when approved.

# Board Member Remote Participation Policy

POLICY: In accordance with 1 M.R.S. § 403-B, it is the policy of the Board of Pesticides Control (“Board”) to allow Board members to participate remotely using synchronous telephonic or video technology allowing simultaneous reception and exchange of information pursuant to this policy.

1. It is an expectation that all members of the Board will be physically present for public proceedings conducted by the Board except when being physically present is not practicable.
2. Circumstances in which the physical presence of one or more of the members of the Board is not practicable include:
  - A. The existence of an emergency or urgent issue that requires the Board to meet by remote methods. The existence of an emergency or urgent issue under this subsection shall be determined by the Board Chair, or if the Chair is unavailable, by the Director. An “emergency” or “urgent issue” includes but is not limited to:
    1. A declaration of emergency issued by the Governor of the State of Maine or the President of the United States; and
    2. Conduct or condition of a licensee of the Board that places the health or physical safety of any person in immediate jeopardy.
  - B. Illness or other physical condition as determined by the individual Board member that causes the member to face significant difficulties to travel to or attend the public Board proceeding.
  - C. Temporary absence from the State that would cause the Board member to face significant difficulties traveling to and attending the public Board proceeding in person as determined by the individual Board member.
  - D. Whenever a member of the Board has to travel a significant distance to be physically present at the public Board proceeding. “Significant distance” means any distance that is more than 50 miles from the Board’s offices in Augusta, Maine.
  - E. Whenever there are geographic characteristics or meteorological conditions that impede safety or slow travel, including but not limited to islands not connected by bridges or significant weather events such as hurricanes, snowstorms, ice storms or nor’easters. The existence of geographic characteristics or meteorological conditions that impede safety or slow travel under this subsection shall be determined by the Board Chair, or if the Chair is unavailable, by the Director.
3. The Board shall provide members of the public a meaningful opportunity to attend a public proceeding of the Board by remote means whenever members of the Board participate by remote methods or when necessary to provide reasonable accommodation and access to individuals with

disabilities. Any member of the public needing and requesting accommodation to access a public Board proceeding should contact Board staff via the main phone line at (207)287-2731 or [pesticides@maine.gov](mailto:pesticides@maine.gov).

4. Whenever the Board is scheduled to allow or required to provide an opportunity for public input during a public Board proceeding, the Board shall provide an effective means of communication between the members of the Board and the public.

5. Whenever a member of the Board will be participating remotely, the Board's notice of the public Board proceeding will include the means by which members of the public may access the proceeding remotely and identify a physical location for members of the public to attend in person. The Board may not limit the public's ability to attend a public proceeding in person except during the existence of an emergency or urgent issue or there are geographic characteristics or meteorological conditions that impede safety or slow travel that requires the Board to meet by remote methods.

6. A member of the Board who participates remotely in a public Board proceeding is present for purposes of a quorum and voting.

7. All votes taken by the Board during a public Board proceeding using remote methods for participation by any Board member must be taken by roll call vote that can be seen and heard if using video technology, and heard if using audio only technology, by the other members of the Board and the public.

8. The Board shall make all non-confidential documents and other materials, electronic or otherwise, considered by it during a public proceeding available to the public who attend by remote means to the same extent customarily available to members of the public who attend Board public proceedings in person so long as no additional costs are incurred by the Board.

9. For purposes of adjudicatory hearings held under 5 M.R.S. §§ 9051-9064, only Board members who participate via video methods that allows the parties to the proceeding the ability to view the remotely participating member will be allowed to participate in the proceeding.

10. Nothing in this policy is intended to be a rule subject to the provisions of 5 M.R.S. §§ 8051-8074, and this policy may be subsequently amended by simple majority vote of those present and voting once quorum is achieved.

EFFECTIVE DATE: