To: Board Members  
From: Staff  
Re: Rulemaking Timeline and Topics  
Date: February 6, 2017

At the December 16, 2017 meeting the Board discussed the possibility of initiating rulemaking to Chapter 29 around browntail moth control and asked staff to determine possible hearing dates. Major-substantive rulemaking needs to be submitted to the Legislature by the second Friday of January, 2018 for consideration in that legislative session.

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Since rulemaking is expensive and time-consuming the Board generally tries to consolidate rulemaking initiatives. Below is a list of potential amendments that have been identified by the Board or staff.

| Chapter | | | | | |
|---------|-----------------|---------------------------------|------------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|-----------------|
| 10      | Section 2(P)(2)b | Incorporate policy regarding application of pesticides to unoccupied hotel rooms and apartments. Currently the rule specifies “occupied apartments” but is silent on “unoccupied apartments.” May want to consider the 7 day exception (section 2(P)(2)(d)ii) because indoors 7 days may not be enough. |
| 10      | Section 2(P)(2)(d)ii | Incorporate Policy Concerning Denying Access to the Public for Seven Days to Areas “Open to Use by the Public” |

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26 Section 1(E) | Incorporate Interim Interpretative Policy on the Applicability of CMR 01-026 Chapter 26 (Clarify the definition of “occupied buildings” to mean fully enclosed indoor spaces inside building and that open air structures are not buildings for the purpose of the rule)

27 Section 2(B)(4)ii | Change wording “a list of pesticide applications conducted on school grounds” to include “to school buildings” to clarify that all pesticide applications must be included in log

27 Section 2(B)(5) | Change wording from “made in school buildings and on school grounds” to “made to school buildings and on school grounds” to clarify that it includes the exterior of buildings

27 Section 3(A) | Add insect repellents to the list of exemptions

27 Section 3(C) | Change wording “When the Maine Center for Disease Control has identified arbovirus positive animals (including mosquitoes and ticks) in the area, powered applications for mosquito control are exempt…” to clarify that all applications are exempt not just mosquito control applications.

28 Section 3(B)(2)(d)v | Clarify that the telephone number on the sign must be a working number

29 Section 5 | Restrictions on Pesticide Applications to Control Browntail Moths Near Marine Waters

29 Section 6 | Incorporate Interim Policy to Delegate Authority to the Staff to Approve Requests for Variance from CMR 01-026 Chapter 29 for Control of Plants that Pose a Dermal Toxicity Hazard

29 Section 6 | Incorporate Interim Policy to Delegate Authority to the Staff to Approve Requests for Variance from CMR 01-026 Chapter 29 for Control of Invasive Plants

31 Section 1 | Do unlicensed applicators have to be employees of the same company as the Master or Operator? Question has arisen around employees of temp agencies and volunteers. Clarify

31 Section 2(A)(II) Section 3(B)(VII)c | Change Forest Pest Control to Forest Pest Management

31 Section 2(A)(II) Section 3(B)(VII)c | Change Disinfectant and Biocide Treatments to

36 | Certification and Licensing Provisions/Monitors and Spotters for Forest Insect Aerial Spray Program. Requirements were repealed in statute. Repeal entire chapter

41 | Refuge in a bag.

50 Section 1(C) | Definition of “spray period” was repealed in Title 22 so Spray Period Records should not be required. Also if Chapter 36 is repealed there will be no monitors

50 | During discussion of removing the requirements for monitors and spotters, the Legislature suggested that the spray application maps should be provided to the BPC after application.