

**Chamberlain, Anne**

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**From:** DenS <dens@myfairpoint.net>  
**Sent:** Friday, July 18, 2014 6:24 PM  
**To:** Bills, Anne  
**Subject:** Re: Proposed Amendments to Board of Pesticides Control Regulations

Dear Sir,

Ref: Proposed amendment to Chapter 41 Special Restrictions on pesticide use:

I am strongly opposed to any application of hexazinone by air assisted application equipment, of any kind! I am very surprised your organization is proposing this amendment.

Dennis Shellabarger

**From:** Bills, Anne  
**Sent:** Thursday, July 17, 2014 11:35 AM  
**To:** Fish, Gary  
**Subject:** Proposed Amendments to Board of Pesticides Control Regulations

## **The Maine Board of Pesticides Control is proposing amendments to regulations**

If you have suggestions or comments on any of the proposed amendments, we urge you to attend the Public Hearing or to submit written comments. Either way, your comments are appreciated and will be considered equally.

Thank you for your help.

**PUBLIC HEARING: Friday, August 8, 2014 at 8:30 AM** at 90 Blossom Lane, Deering Building, Room 319, Augusta.

**WRITTEN COMMENTS:** Accepted until **5:00 PM August 22, 2014**. They should be sent to Henry Jennings, 28 State House Station, Augusta, ME 04330 or emailed to [henry.jennings@maine.gov](mailto:henry.jennings@maine.gov)

Download regulations with proposed changes at <http://www.maine.gov/dacf/php/pesticides/rulemaking.html>

## **Description of proposed amendments:**

**Chapter 20 Special Provisions**—Add a requirement for applicators making outdoor treatments to residential properties to implement a system to positively identify application sites in a manner approved by the Board. This requirement is currently in policy.



P.O. Box 958, Portland, Maine 04104 (207) 797-7294

August 7, 2014

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

Dear Pesticide Board Members:

The Lucas Tree Expert Company appreciates the opportunity to comment on the proposed changes to the current regulations. We are in favor of the changes to Chapters 20, 22, 31, 32, 33 and 41 as described but have concerns with the proposed changes to Chapter 28.

The portion of the Chapter 28 changes requiring posting for 7E seem reasonable. However, we oppose the portion of Chapter 28 requiring newspaper notification for 6A and 6B for the following reasons.

- The way the regulation is written currently, as long as all sensitive areas are identified, the application may take place. There are no notification provisions. If notification provisions are not necessary now, we do not feel they are necessary after the changes. Identifying sensitive areas does not equate to notification.
- In the proposed changes, it now appears to be including all 6A and 6B applications in notification, powered and non-powered. The current rule of identifying sensitive areas only includes applications with motorized equipment. This is a drastic change of inclusion, which we feel is unwarranted and inappropriate.
- 6B is listed in both the posting and newspaper notification requirements. Into which is it included? There needs to be greater definition in this area.
- Operationally, the newspaper notification is unrealistic. We offer many services to homeowners, commercial customers and utilities. Many of these services include applications to small industrial or residential sites falling into categories 6A and 6B that would be negatively impacted if the newspaper notification were required. Newspaper notifications for property owners or industrial sites to contract driveway or bare ground week control is completely unrealistic and unnecessary and a hindrance to our business.
- Lastly, we try to attend as many meetings as possible and monitor the minutes to those we can't attend. We do not recall any discussion about the newspaper notification at any of the meetings or in the minutes. Perhaps we missed it. However, it may be appropriate that some of the background for regulation changes be posted on the website to know the reasoning for some of the changes.

Thank you again for the opportunity to comment and offer suggestions on the proposed regulations changes. We hope that we have been able to effectively communicate some of the issues we have found with the proposed changes. If there are any questions regarding the information offered above or you require further information, please don't hesitate to contact us.

Respectfully Submitted,

Chuck Cotton  
Fleet & Logistics Director

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Chemical Brush Control • Right of Way Clearing • Residential Tree & Spray Service  
Christmas Decor • Landscape Installation • Lawn Care • Vegetation Management*

## Chamberlain, Anne

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**From:** Jennings, Henry  
**Sent:** Monday, August 11, 2014 9:22 AM  
**To:** Chamberlain, Anne  
**Subject:** FW: EMERA MAINE COMMENTS ON PROPOSED CHANGES TO CHAPTER 28

**Follow Up Flag:** Follow up  
**Flag Status:** Completed

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**From:** LAMBERTON, MARK [<mailto:mark.lamberton@emeramaine.com>]  
**Sent:** Friday, August 08, 2014 8:51 AM  
**To:** Jennings, Henry  
**Cc:** Fish, Gary  
**Subject:** EMERA MAINE COMMENTS ON PROPOSED CHANGES TO CHAPTER 28

**Chapter 28 Notification Provisions for Outdoor Pesticide Applications**—Add to the list of categories that require posting: 6B (industrial/commercial/municipal vegetation management) except when making applications to sidewalks and trails, and 7E (biting fly & other arthropod vectors [ticks]). **Require advance notice be published in a newspaper for applications conducted under 6A (rights-of-way vegetation management)**, and to sidewalks and trails under 6B (industrial/commercial/municipal vegetation management). This aligns with the proposed amendments to Chapter 22, eliminating the requirement for mapping sensitive areas, in lieu of posting or public notice.

Henry, we at Emera Maine do not have any issues with any proposed changes to the other Chapters. We also do not have an issue with posting our sub-station sites where we perform motorized bare ground treatment under a drift management plan. After some discussion Glen and I agree that this would be a prudent thing to perform for our own employees. We do have concerns with the requirements for “advanced public notice in newspapers conducted under 6A (rights-of-way vegetation management)”.

- 1) Newspaper readership is now down to 22% of the population and of that 22% only a small percentage of that reads the public legal notices and advertisements, hence the notification would ultimately be viewed by very small percentage of the general population.
- 2) Transmission lines are linear in nature, cross through many towns and are often remote. We question how we would describe a line that was scheduled to be treated so that it would have any meaning to the general public, ex. “Emera Maine plans on performing a herbicide application to control woody brush and trees on Transmission Rights-of-way corridor line 73 that runs from the town of East Corinth to the town of Bangor Maine”. Even this description would be meaningless to the majority of the general public.
- 3) We question what the end goal or what is the desired benefit that is going be accomplished after the rule is enacted?
- 4) Even though cost shouldn’t be a factor, it is. Posting advertisements and legal notices in paper publications are expensive and this cost would ultimately be passed on to our rate payers.
- 5) It is unclear to us if this would affect our roadside low volume foliar treatment and/or our stump treating.

We would suggest the following.

- 1) 6A (rights-of-way vegetation management) should not be included in the proposed rule change for Chapter 28.
- 2) All utilities should have a section of their company web page which describes IVM and the general vegetation management philosophy.

**Mark Lamberton**

Supervisor of Vegetation Management

**Emera Maine**

T: 207-973-2582 | C: 207-949-4918 | F: 207-973-2745

E: [mark.lamberton@emeramaine.com](mailto:mark.lamberton@emeramaine.com)

[www.emeramaine.com](http://www.emeramaine.com)



## Chamberlain, Anne

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**From:** Jennings, Henry  
**Sent:** Wednesday, July 23, 2014 4:32 PM  
**To:** NADEAU, GLENN  
**Cc:** Bills, Anne  
**Subject:** RE: Proposed rule changes.

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

The discrepancy you note relates to the fact that we combined categories 6A, 6B, and 6C in Chapter 31 into what's now referred to category 6A, so we might as well clean that up while we have Chapter 28 open. A comment to that affect would facilitate that process. Anne is great at organizing all this.

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**From:** NADEAU, GLENN [<mailto:glenn.nadeau@emeramaine.com>]  
**Sent:** Wednesday, July 23, 2014 4:26 PM  
**To:** Jennings, Henry  
**Subject:** RE: Proposed rule changes.

That is why I am asking these questions so I can get clarification before preparing written comments. Can I ask you for another clarification? In Chp. 28 Section 2. E. Exemptions, 2 c. it states category 6B (roadside vegetation management) but your notice of proposed changes states 6B as (industrial/commercial/municipal vegetation management)? I don't think these are the same are they?

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**From:** Jennings, Henry [<mailto:Henry.Jennings@maine.gov>]  
**Sent:** Wednesday, July 23, 2014 4:20 PM  
**To:** NADEAU, GLENN  
**Cc:** Bills, Anne  
**Subject:** RE: Proposed rule changes.

The way the current proposal is written, I would say that non-powered applications are exempt from any requirement in Chapter 22 but not so with Chapter 28, which applies to all outdoor applications, depending on the section. Therefore, as currently written, you would need to publish a notice for a 6A applications. You may wish to submit a comment suggesting that that non-powered applications be exempted from publishing the notice when the comment period opens.

Henry

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**From:** NADEAU, GLENN [<mailto:glenn.nadeau@emeramaine.com>]  
**Sent:** Wednesday, July 23, 2014 4:12 PM  
**To:** Jennings, Henry  
**Subject:** RE: Proposed rule changes.

So the question on Chp. 28 is, are we exempt from the newspaper notice? The proposal states newspaper notification for Category 6A will be required, yet the rule states 6A is exempt. Also if we are exempt from the amendments to Chp. 22 does this mean we are exempt from Chp. 28 since the two are linked together?

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**From:** Jennings, Henry [<mailto:Henry.Jennings@maine.gov>]  
**Sent:** Wednesday, July 23, 2014 3:53 PM  
**To:** NADEAU, GLENN

**Cc:** Bills, Anne

**Subject:** RE: Proposed rule changes.

Hi Glenn:

See responses below in red. Let me know if you require additional explanation.

Henry

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**From:** NADEAU, GLENN [<mailto:glenn.nadeau@emeramaine.com>]

**Sent:** Wednesday, July 23, 2014 3:38 PM

**To:** Jennings, Henry

**Subject:** Proposed rule changes.

Henry I tried to send these questions to Anne but I got an out-of-office reply. Maybe you can offer some guidance.

Anne, am I right in assuming that the chapters which you provide a link to, have these proposed changes in them? I see some strike out and underscore editing which leads to my questions. Yes – the strike out and underline portions represent the proposed changes.

The next question I have is Chp. 22, Section 1 Exemptions states “The regulations established by this chapter shall not apply to pesticide applications in any of the following categories:

B. Applications of pesticides by non-powered equipment;

So if I am performing applications using non-powered equipment in Category 6A, I am not affected by these proposed rule changes? I will not have to implement a drift management plan? Correct – Chapter 22 does not apply to pesticide application made by non-powered equipment.

The other question I have deals with Chp. 28. In your announcement you state “Require advance notice be published in a newspaper for applications conducted under 6A (rights-of-way vegetation management),” but the Chapter 28 Section 2. E. Exemptions states “The following types of pesticide applications do not require notification under this section:

c. The outdoor commercial application of pesticides to control vegetation in rights-of-way in certification and licensing categories ~~VI(A)~~— 6A (utility rights-of-way), this part should have read “rights-of-way vegetation management” also, so there was a mistake in the draft rule that put up on the web site, but that will be corrected before the public hearing.

but then section 3. B. Public Notice states “Advance notice must be published in a newspaper of general circulation in the affected area at least three but no more than 30 days prior to applications conducted under category 6A (rights-of-way vegetation management)”.

Sorry that I am confused by these proposals. I look forward to your clarification and explanations to my questions. Thank you for your time and effort.

**Glenn P. Nadeau**

Vegetation Management Specialist

**Emera Maine**

T: 207-760-2557 | C: 207-592-8719 | F: 207-760-2311

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RECOMMENDED BY FUTURE GENERATIONS.

August 8, 2014

Mr. Henry Jennings  
Director:  
Maine Board of Pesticide Control

Darin Hammond  
Senior Manager of Farm Operations  
Jasper Wyman and Son

RE: Written Comment for Chapter 22 Proposed amendments 8/8/2014

To Whom It May Concern:

The current proposed rule change to Chapter 22 concerning categories 6A, and 6B includes a new requirement for the applicator to implement a drift management plan. In the past there was a section in Chapter 22 (section 4) which dealt with Drift Management Plans. The entire section concerning drift management plans was repealed effective January 1, 2010.

I cannot see how the Board can require the implementation of a drift management plan without having some guidance in the rule concerning their implementation. In the past I believe drift management plans were reviewed by the BPC Staff.

Chapter 22 already outlines the minimum standards for outdoor Application of Powered Equipment in Order to Minimize Off-Target Deposition and should be adequate to protect the public, and the environment. We feel that the applicators will still identify these sensitive areas, and protect them but the recording of the areas is the burden on the applicator.

It is our feeling that this rule change makes great sense, but making applicators file a drift management plan does not. We urge the board to adopt this rule change with the deletion of the drift management plan requirement.

If you have any questions regarding this request please feel free to call me at any time.

Sincerely,

A handwritten signature in black ink that reads "Darin Hammond".

Darin Hammond  
Senior Manager of Farm Operations  
Jasper Wyman and Son



**Jasper Wyman & Son**

601 Route 193, Deblois, ME 04622 Ph: 207.638.2201 Fax: 207.638.2145

[www.wymans.com](http://www.wymans.com)

## Chamberlain, Anne

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**From:** bullemaniii@aol.com  
**Sent:** Monday, July 21, 2014 6:30 AM  
**To:** Bills, Anne  
**Subject:** Re: Proposed Amendments to Board of Pesticides Control Regulations

Anne,

In regards to Chapter 31? (persons installing microbial hardware) There are major precautions that need to be taken into consideration.

Assuming that the hardware is of mechanical function which serves as permanent fixtures in structures to control microbial issues. All individuals should have full knowledge of the benefits and adverse affects the devices have.

Many people that sell these products " door to door ", have no full knowledge of the product. I compare these individuals as " Hoover " salesman.

Here are some examples

1. make up air systems - One must know how the building structure performs on its own without the installation of this type equipment. If these individuals that are selling the equipment do not know how the given structure operates prior to the install, disaster may and will occur.

2. UV and IR mechanical systems- These devices " do not cure " microbial issues. These systems kill living spores and bacterial pathogens leaving the " dead skeletons " behind. Dead microbial cells floating through an air system are just as bad as active ones, especially in high compounded concentrations.

Prior to the installation of any of these systems, evaluations should take place by certified IAQ engineers such as myself and others.

Christian Bulleman III  
IAQ / structural repairs  
CMI#79505  
CMRC#79522  
CMA#45907/7C3

-----Original Message-----

From: Bills, Anne <Anne.Bills@maine.gov>  
To: Fish, Gary <Gary.Fish@maine.gov>  
Sent: Thu, Jul 17, 2014 10:35 am  
Subject: Proposed Amendments to Board of Pesticides Control Regulations

The Maine Board of Pesticides Control is proposing amendments to regulations. If you have suggestions or comments on any of the proposed amendments, we urge you to attend the Public Hearing or to submit written comments. Either way, your comments are appreciated and will be considered equally. Thank you for your help. PUBLIC HEARING: Friday, August 8, 2014 at 8:30 AM at 90 Blossom Lane, Deering Building, Room 319, Augusta. WRITTEN COMMENTS: Accepted until 5:00 PM August 22, 2014.

They should be sent to Henry Jennings, 28 State House Station, Augusta, ME 04330 or emailed to [henry.jennings@maine.gov](mailto:henry.jennings@maine.gov) Download regulations with proposed changes at <http://www.maine.gov/dacf/php/pesticides/rulemaking.html> Description of proposed amendments: Chapter 20 Special Provisions—Add a requirement for applicators making outdoor treatments to residential properties to implement a system to positively identify application sites in a manner approved by the Board. This requirement is currently in policy. Chapter 22 Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition—Improve the effectiveness of the rule by eliminating the requirement of identifying sensitive areas for commercial applications conducted under categories 6A (rights-of-way vegetation management), 6B (industrial/commercial/municipal vegetation management) and 7E (biting fly & other arthropod vectors [ticks]). Applications conducted under category 6A and to sidewalks and trails under category 6B will require the applicator to implement a drift management plan. Chapter 28 Notification Provisions for Outdoor Pesticide Applications—Add to the list of categories that require posting: 6B (industrial/commercial/municipal vegetation management) except when making applications to sidewalks and trails, and 7E (biting fly & other arthropod vectors [ticks]). Require advance notice be published in a newspaper for applications conducted under 6A (rights-of-way vegetation management), and to sidewalks and trails under 6B (industrial/commercial/municipal vegetation management). This aligns with the proposed amendments to Chapter 22, eliminating the requirement for mapping sensitive areas, in lieu of posting or public notice. Chapter 31 Certification and Licensing Provisions/Commercial Applicators—Three amendments are proposed: Clarify that certain applications are exempt from commercial licensing requirements. These are currently in policy: Adults applying repellents to children with the written consent of parents/guardians; Persons installing antimicrobial metal hardware.

Exempt aerial applicators certified in other states from passing a written regulation exam and allow for issuance of reciprocal licensing when the staff determines that an urgent pest issue exists and when staff verbally reviews pertinent Maine laws with the applicator.

Shorten the time period a person must wait before re-taking an exam they have failed to 6 days.

Chapter 32 Certification and Licensing Provisions/Private Applicator—Shorten the time period a person must wait before re-taking an exam they have failed to 6 days. Chapter 33 Certification & Licensing Provisions/Private Applicators of General Use Pesticides (Agricultural Basic License) —Shorten the time period a person must wait before re-taking an exam they have failed to 6 days. Chapter 41 Special Restrictions on Pesticide Use—Amend Section 3 to eliminate the restrictions on hexazinone relative to pesticide distributors and air-assisted application equipment. Anne Anne Bills Pesticide Safety Educator Maine Board of Pesticides Control [anne.bills@maine.gov](mailto:anne.bills@maine.gov) [thinkfirstspraylast.org](http://thinkfirstspraylast.org)



**CENTRAL MAINE  
POWER**

August 21, 2014

Mr. Henry Jennings, Director  
Maine Board of Pesticides Control  
28 State House Station  
Augusta, ME 04333-0028

RE: Central Maine Power Company Comments on Proposed Amendments to  
Board of Pesticides Control Regulations Chapters 22 & 28

Dear Director Jennings:

Central Maine Power Company (CMP) appreciates the opportunity to review and comment on the Maine Board of Pesticides Control (BPC) proposed amendments to the Board's regulation Chapters 22 and 28. CMP respectfully offers the following comments; these comments supersede and replace CMP's written and verbal testimony provided to the BPC at the August 8<sup>th</sup> public hearing:

**Chapter 22: STANDARDS FOR OUTDOOR APPLICATION OF PESTICIDES BY  
POWERED EQUIPMENT IN ORDER TO MINIMIZE OFF-TARGET  
DEPOSITION**

CMP supports BPC's proposed amendments to this regulation. Specifically, CMP supports exempting commercial application category 6B (industrial/commercial/municipal vegetation management, which includes CMP substation herbicide treatment) from the requirement to identify and record all sensitive areas within 500 feet. While CMP has developed and updated sensitive area records and maps for 200+ substations since 2010, herbicide application utilizing powered equipment is limited only to those areas within substation fences. Also, because maintenance herbicide application is done annually and so is directed downward at any new/short growth, the likelihood of lateral herbicide drift beyond the substation perimeter fence is minimal.

**Chapter 28: NOTIFICATION PROVISIONS FOR OUTDOOR PESTICIDE  
APPLICATIONS**

1. Section 3. of Chapter 28 would require, for the first time, posting prior to pesticide application for Category 6B (industrial/commercial/municipal

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83 Edison Drive, Augusta, ME 04336  
Telephone 207.623.3521



vegetation management, which includes substation herbicide treatment, as previously noted). CMP believes that this posting requirement is unnecessary and excessive for electrical substation herbicide treatments.

CMP electrical substations are secure facilities. Every CMP substation is surrounded by chain-link perimeter fencing and locked chain-link gate(s), all topped with 3-strand barbed wire, and signage along all sides of the fencing reads: "Danger High Voltage." Also, signage along each substation main and secondary gate panel reads: "Caution Energized Lines Overhead." Many substations also have locked gates where the substation access driveway intersects with a public road. As a result of the secure and restricted-access nature of substation facilities, only CMP substation personnel are present within and in the immediate vicinity of substations, in the area where herbicides are applied. Because CMP voluntarily posts signage on substation gates during herbicide application, CMP substation workers are made aware of this activity. This voluntary posting is made for a limited audience, both in terms of access and frequency (substation visits average once or twice monthly).

In contrast, Chapter 22 posting requirements are prescriptive and more appropriate for the general public, including signage of specific dimensions, material, color, verbiage, contact name and number of the pesticide application company, date and time of application, and date and/or time to remove the sign. This detailed information is not necessary for substation workers at these facilities.

Based on the above, CMP requests that Section 3.A.1. Categories Requiring Posting, be revised to read (proposed language ***bolded/italicized***):

c. B (industrial/commercial/municipal vegetation management), except applications to sidewalks and trails, and applications within restricted-access electrical substations.

2. Section 3.B of Chapter 28 would require, for the first time, that advance notice be published in a newspaper of general circulation in the affected area at least three but no more than 30 days prior to applications conducted under category 6A (rights-of-way vegetation management).

CMP believes that this requirement is excessive and unnecessary considering the hand-pressurized, selective (i.e., individual specimen-specific) herbicide application that it practices as part of its right of way vegetation management program. As well, CMP contractor crews voluntarily avoid herbicide applications when wind speeds exceed 15 mph. As a result, off-target deposition of herbicides (i.e., drift) is very unlikely and negligible on CMP rights of way.

Where transmission line corridors being treated with herbicides cross public roads, on a voluntary basis CMP vegetation management contractors post a notice of herbicide use, including application date and products used, on the utility poles closest to these public roads. These postings alert those who cross or utilize CMP transmission line corridors so that these individuals may take any precautions they deem prudent.

The requirement to publish newspaper notices of upcoming herbicide treatment would create an unnecessary expense for CMP, which would ultimately be borne by ratepayers. Newspaper public notices cost hundreds of dollars each, and it would be difficult for CMP to accurately represent which transmission line segments were to be sprayed or otherwise treated (e.g., cut surface treatment), and specifically when.

Newspaper notices of herbicide application may also cause unwarranted concern among abutters and members of the public who would not be impacted by these operations. Whereas aerial pesticide application is prone to drift and therefore may merit public notice so that proactive steps may be taken to mitigate its effects, hand-pressurized, targeted herbicide application on transmission line rights of way, as noted above, is very unlikely to result in drift or any other adverse offsite impacts. As a result, the purpose and benefits of the proposed broad public notice requirement are doubtful. Currently CMP voluntarily notifies municipalities each January of herbicide applications that are scheduled to occur during the following calendar year.

For the above reasons, CMP requests that Section 3.B. Public Notice, be revised to read:

“...under category 6A (rights-of-way vegetation management, *except utility rights of way*) and...”

Thank you for your consideration of these comments. We are happy to discuss these in more detail at your convenience. You can contact me at #626-9557 or gerry.mirabile@cmpco.com.

Sincerely,



Gerry J. Mirabile  
Manager, Programs/Projects  
Environmental Compliance

cc: Wes Davis (Manager, Vegetation Management)  
Roy Koster (Manager, Environmental Compliance)



## CENTRAL MAINE POWER

August 8, 2014

Director Jennings and members of the Board of Pesticides Control, my name is Nicholas Hahn and I am Lead Analyst – Transmission, in Central Maine Power Company's Vegetation Management Department. Central Maine Power Company appreciates the opportunity to review and comment on the Maine Board of Pesticides Control (BPC) proposed amendments to the Board's regulations. I am here today to respectfully offer Central Maine Power Company's comments on proposed amendments to Board regulations Chapters 22 and 28.

### **Regarding Chapter 22 [STANDARDS FOR OUTDOOR APPLICATION OF PESTICIDES BY POWERED EQUIPMENT IN ORDER TO MINIMIZE OFF-TARGET DEPOSITION]**

CMP supports BPC's proposed amendments to this regulation. Specifically, CMP supports exempting commercial application category 6B (industrial/commercial/municipal vegetation management, which includes CMP substation herbicide treatment) from the requirement to identify and record all sensitive areas within 500 feet. While CMP has developed and updated sensitive area records and maps for 200+ substations since 2010, herbicide application utilizing powered equipment is limited only to those areas within substation fences. Also, because maintenance herbicide application is done annually and so is directed downward at any new/short growth, the likelihood of lateral herbicide drift beyond the substation perimeter fence is minimal.

### **Regarding Chapter 28 [NOTIFICATION PROVISIONS FOR OUTDOOR PESTICIDE APPLICATIONS]**

CMP has two concerns:

**First**, Section 3. of Chapter 28 would require, for the first time, posting prior to pesticide application for Category 6B (industrial/commercial/municipal vegetation management, which includes substation herbicide treatment, as previously noted). CMP believes that this posting requirement is unnecessary for electrical substation herbicide treatments.

CMP electrical substations are secure facilities. Every CMP substation is surrounded by chain-link perimeter fencing and locked chain-link gate(s), all topped with 3-strand barbed wire, and signage along all sides of the fencing reads: "Danger High Voltage." Many substations also have locked gates where the substation access driveway intersects with a public road. As a result of the secure



and restricted-access nature of substation facilities, only CMP substation personnel are present within and in the immediate vicinity of substations, in the area where herbicides are applied. CMP personnel are aware of CMP's herbicide application program, because CMP voluntarily posts signage on substation gates during herbicide application to alert substation workers of this activity. Mandating signage notifying these workers of annual herbicide application is unnecessary.

Based on the above, CMP requests that Section 3.A.1. Categories Requiring Posting, be revised to read (proposed language *bolded/italicized*):

c. B (industrial/commercial/municipal vegetation management), except applications to sidewalks and trails, *and applications within electrical substations.*

**Second**, Section 3.B of Chapter 28 would require, for the first time, that advance notice be published in a newspaper of general circulation in the affected area at least three but no more than 30 days prior to applications conducted under category 6A (rights-of-way vegetation management).

CMP believes that this requirement is excessive and unnecessary considering the hand-pressurized, selective (i.e., individual specimen-specific) herbicide application that it practices as part of its right of way vegetation management program. As well, CMP contractor crews voluntarily avoid herbicide applications when wind speeds exceed 15 mph. As a result, off-target deposition of herbicides (i.e., drift) is very unlikely and negligible on CMP rights of way.

Where transmission line corridors being treated with herbicides cross public roads, on a voluntary basis CMP vegetation management contractors post a notice of herbicide use, including application date and products used, on the utility poles closest to these public roads. These postings alert those who cross or utilize CMP transmission line corridors so that these individuals may take any precautions they deem prudent.

The requirement to publish newspaper notices of upcoming herbicide treatment would create an unnecessary expense for CMP, which would ultimately be borne by ratepayers. Newspaper public notices cost hundreds of dollars each, and it would be difficult for CMP to accurately represent which transmission line segments were to be sprayed or otherwise treated (e.g., cut surface treatment), and specifically when.

Newspaper notices of herbicide application may also cause unwarranted concern among abutters and members of the public who would not be impacted by these operations. Whereas aerial pesticide application is prone to drift and therefore may merit public notice so that proactive steps may be taken to mitigate its effects, hand-pressurized, targeted herbicide application on transmission line rights of way, as noted above, is very unlikely to result in drift or any other adverse offsite impacts. As a result, the purpose and benefits of the proposed broad public notice requirement are doubtful. Currently CMP voluntarily notifies municipalities each January of herbicide applications that are scheduled for that calendar year.

For the above reasons, CMP requests that Chapter 28, Section 3.B. Public Notice, omit the following language:

“...under category 6A (rights-of-way vegetation management) and...”

Thank you for your consideration of these comments. We are happy to answer any questions or discuss these comments in more detail.

~~Christy~~

Nicholas Hahn

also present: Jerry Mirabile

## Chamberlain, Anne

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**From:** Chris Everest <ceverest1@gmail.com>  
**Sent:** Sunday, July 20, 2014 10:24 AM  
**To:** Bills, Anne  
**Subject:** Re: Proposed Amendments to Board of Pesticides Control Regulations

Thanks for the info, we already put out pesticide flags for our mosquito apps at every entrance to the property so that change we will already be in compliance with. Its nice to see some changes that help us out, because you are right about how many sensitive areas there are in our work sites.

On Jul 18, 2014, at 7:50, "Bills, Anne" <[Anne.Bills@maine.gov](mailto:Anne.Bills@maine.gov)> wrote:

If the proposed amendment to Chapter 22 is adopted, applications for mosquitoes and ticks would not require identifying and mapping sensitive areas. *However*, if the proposed amendments to Chapter 28 are adopted, those applications would require posting "...in a manner and at locations designed to reasonably assure that persons entering such area will see the notice." Chapter 28 gives further details on the posting requirements. This change was requested because *everything* tends to be a "sensitive area" in a residential area, so mapping serves little purpose; it is hoped that signage will be more useful.

I hope this answers your question, please feel free to contact me again if you have further questions.

Anne

Anne Bills  
Pesticide Safety Educator  
Maine Board of Pesticides Control  
[anne.bills@maine.gov](mailto:anne.bills@maine.gov)  
[thinkfirstspraylast.org](http://thinkfirstspraylast.org)

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**From:** Chris Everest [<mailto:ceverest1@gmail.com>]  
**Sent:** Thursday, July 17, 2014 3:52 PM  
**To:** Bills, Anne  
**Subject:** Re: Proposed Amendments to Board of Pesticides Control Regulations

Quick question, I'm reading the proposed changes, I spray for mosquitoes and ticks and currently am required to identify sensitive areas, am I reading correctly that they want to eliminate that and then I will no longer be required to identify and list sensitive areas?

On Jul 17, 2014, at 11:35, "Bills, Anne" <[Anne.Bills@maine.gov](mailto:Anne.Bills@maine.gov)> wrote:

### **The Maine Board of Pesticides Control is proposing amendments to regulations**

If you have suggestions or comments on any of the proposed amendments, we urge you to attend the Public Hearing or to submit written comments. Either way, your comments are appreciated and will be considered equally.

Thank you for your help.



*Maine Organic Farmers  
and Gardeners Association  
Common Ground Country Fair*

August 22, 2014

Henry Jennings, Director  
Maine Board of Pesticides Control  
State House Station 28  
Augusta, ME 04333

Dear Mr. Jennings and Members of the Board,

Thank you for the opportunity to provide comments regarding the rulemaking you have undertaken to address recommended changes in several chapters of BPC rules. We appreciate the efforts that have been made to satisfy the needs of several constituent groups and are generally supportive of the proposed language.

For over 40 years MOFGA has been committed to helping farmers and gardeners grow organic products. We represent members in over 7,000 households around the state. Our members have said many times that they would like free, timely and pertinent information when it comes to pesticide use around areas in which they live, work and recreate. As such, MOFGA is supportive of the spirit of the changes to Chapter 28 Section 3B. Public notice of certain pesticide applications is a good starting point in the conversation regarding notification of spraying, however we do not feel the proposed language goes far enough.

Unfortunately, requiring notification via local newspapers alone will not reach a large enough portion of the population. For a variety of reasons, newspaper readership is declining and trends suggest this decline is likely to continue in coming years. Fewer and fewer people are relying on local and regional newspapers for news and legal notices. Thus requiring only newspaper notice will limit the effectiveness of the distribution plan. Also, many local newspapers are regional in nature. Concerned citizens may need to subscribe to multiple newspapers to learn about planned pesticide applications near their homes in addition to where they work or recreate.

A possible solution in keeping with the spirit of notifying the widest possible number of potentially affected individuals would be to reconsider and revive the automated notification options that have been discussed by the Maine Board of Pesticides Control in the past. Alternative notification options could allow citizens to receive the information in a *no-cost* method of their choosing. We recommend the Board consider alternative outlets for dissemination of the information described in section 3B. These outlets have the potential to reach a wider audience and provide more variety of media than the current language allows.

We also appreciate the spirit of the proposed changes to Chapter 20 Section 7 requiring positive identification of the proper treatment site. The proposed changes

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appear to be a positive step toward addressing the problem of pesticide applications mistakenly taking place at the wrong property. However, it is difficult to express support for these proposed changes without having a clearer picture about the policy the Board intends to adopt. We would support a policy that required applicators to have two or more identification criteria, thus reducing the potential for error. We would also support periodic review of the policy and application methods employed. This review could be used to ensure that only the most robust and protective methods are included among those in the policy and that others can be swiftly removed from policy if they are proven to be less effective or potentially problematic.

Thank you for your time and consideration of these important issues.

Regards,

A handwritten signature in cursive script that reads "Ted Quaday".

Ted Quaday  
Executive Director