



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

July 19, 2024

9:00 AM Board Meeting

Join the meeting in person in Room 101, Deering Building, 32 Blossom Lane, Augusta

Or

Join on your computer, mobile app or room device

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Meeting ID: 245 788 190 223

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Phone conference ID: 985 414 906#

AGENDA

1. Introductions of Board and Staff
2. Public Hearing on Request to Designate Eagle Lake Water District Wellheads as a Critical Pesticide Control Area

Staff have received a petition to designate Eagle Lake Water District Wellheads as a critical pesticide control area as outlined in Chapter 60: Designation of Critical Pesticide Control Areas. The Board shall conduct rulemaking according to 5 MRSA Ch. 375, subchapter II and allow for local representation on board decisions regarding the designation according to Title 22 § 1471-V. The purpose of this public hearing is to collect public comments related to the petition that may help the Board draft the proposed rule. The comment period for these amendments is open until July 29, 2024 at 11:59PM. All written comments may be submitted by emailing the BPC at pesticides@maine.gov.

The Board will hear testimony on this petition.

3. Minutes of the June 7, 2024 Board meeting and March 20, 2024 Emergency Board Meeting

ALEX PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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

Presentation By: Alex Peacock, Director
Action Needed: Amend and/or Approve

4. Workshop Session to Review the Rulemaking Record on the Proposed Amendments to Chapters 31, 32, and 50

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

A public hearing was held on June 7, 2024 via a hybrid meeting in Deering Building 101 at 90 Blossom Lane, Augusta and on the Microsoft Teams platform. The written comment period closed on June 17, 2024 at 11:59 PM. Two people spoke at the public hearing and no written comments were received by the close of the comment period. The Board will now review the rulemaking comments and determine how it wishes to proceed with the rulemaking proposals.

Presentation By: Karla Boyd, Policy & Regulations Specialist
Action Needed: Vote on whether to provisionally adopt Chapters 31, 32, and 50

5. Draft Director Appointment Policy

At the April 5, 2024 Board meeting, members approved the appointment of Alex Peacock as BPC's new director. Further discussion led to a request from the Board to clarify the appointment procedure via policy. At the June 7, 2024 board meeting, the Board asked for changes to the draft policy. Staff have brought forward a draft policy for the Board to review.

Presentation By: Alex Peacock, Director
Action Needed: Discuss; Approve/Disapprove adoption of policy

6. Consideration of a Request for Variance from CMR01-026 Chapter 29 from Green Thumb Lawn Service

Green Thumb Lawn Service is seeking a variance from CMR01-026 Chapter 29, Section 6, to treat a private property to prevent grub damage and broadleaf weeds. Board policy indicates that the Board must consider all first-time variance requests unrelated to invasive or noxious plants.

Presentation By: Alex Peacock, Director
Action Needed: Discuss; Approve/Disapprove Variance Request

7. Consideration of a Request for Variance from CMR01-026 Chapter 29 from Green Thumb Lawn Service

Green Thumb Lawn Service is seeking a variance from CMR01-026 Chapter 29, Section 6, to treat a private property to prevent grubs and crane fly larvae. Board policy indicates that the Board must consider all first-time variance requests unrelated to invasive or noxious plants.

Presentation By: Alex Peacock, Director
Action Needed: Discuss; Approve/Disapprove Variance Request

8. Other Old and New Business

- a. Variance Permit for CMR01-026 Chapter 29, RCL Services, LLC
- b. Variance Permit for CMR01-026 Chapter 29, Bartlett Tree Expert Co.
- c. Variance Permit for CMR01-026 Chapter 29, Bartlett Tree Expert Co.
- d. Variance Permit for CMR01-026 Chapter 29, Bartlett Tree Expert Co.
- e. Worcester Holdings Drone Spray Article
- f. Camden Pesticide Ordinance Discussion Article

9. Schedule of Future Meetings

The next scheduled Board meeting dates are September 6 and October 25. The Board will decide whether to change and/or add dates.

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.
- 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. 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.

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY**026 BOARD OF PESTICIDES CONTROL****Chapter 60: DESIGNATION OF CRITICAL PESTICIDE CONTROL AREAS**

SUMMARY: These regulations establish criteria which the Board will use in deciding if an area should be designated as a critical pesticide control area. In addition, these regulations specify the procedures parties must follow in requesting such a designation. These regulations also define the locations that have been designated as critical areas by the Board.

1. Procedure

- A. The Board shall receive, consider and act upon petitions for designation of critical pesticide control areas in accordance with 5 M.R.S.A., Ch. 375, subchapter II. Citizen petitions shall be allowed in accordance with 5 M.R.S.A. §8055. A municipality or county may make such petition in accordance with 22 M.R.S.A. §1471-M, sub-§ 4. In addition, the Board's staff may initiate such a petition.
- B. The Board shall provide public notice and opportunity for public comment on any such petition in accordance with 5 M.R.S.A., Ch. 375, subchapter II.
- C. There shall be opportunity for local participation in Board decisions regarding the designation of critical areas, as provided by 22 M.R.S.A. §1471-V.

2. Information required in Petition

Any person or persons petitioning the Board to designate an area as a critical pesticide control area shall submit the following information in support of the petition:

- A. The name, address and telephone number of the petitioner(s) and a statement of the petitioner's interest in the proposed designation.
- B. The name of the pesticides or group of pesticides for which restrictions are sought. Petitioners may seek restrictions on specific formulations which have enhanced toxicity, rather than on all products containing the active ingredient. For purposes of this regulation, pesticides shall include both active and inert ingredients, and carriers used in any pesticide application.
- C. The name(s) and address(es) of the owner(s) of property within the proposed critical area.
- D. A map of the proposed critical area.
- E. A description of the purposes for which the pesticide(s) is or may be applied within the proposed area (if known).

- F. For petitions for designation under criteria of sections 3(A), 3(B) or 3(C), the name(s) of the species for which protection is sought and a summary of the data establishing adverse effects of pesticides upon the species.
- G. For petitions for designation under criteria of section 3(D), a copy of any applicable town ordinances, a summary of: evidence establishing that the pesticides may enter ground or surface water, hydrogeologic data which adequately defines the proposed critical area, and evidence establishing that the pesticide(s) may have an adverse effect upon the health of current or future users of the ground or surface water.
- H. For petitions for designation under criteria of section 3(E), a summary of medical and/or epidemiological evidence that exposure to the pesticide(s) causes serious and/or longstanding health effects to sensitive individuals or groups of individuals.
- I. For petitions for designation under criteria of sections 3(F) or 3(G), a copy of any management plan for the area or species.
- J. A description of the petitioner's proposed restrictions on the use of pesticide(s) within the proposed critical area.

3. **Criteria for designation**

The Board of Pesticides Control will use the following criteria to determine whether to designate a critical pesticide control area. Where the Board is persuaded by the evidence that any of these criteria are met, it may designate a critical pesticide control area and adopt additional pesticide use restrictions, prohibitions or management plans for that area as necessary to protect health, welfare and the environment.

- A. Areas where use of pesticide(s), without additional restrictions, is likely to cause the significant destruction or curtailment of the habitat or range of any animal or plant species that:
 - (1) is listed as endangered pursuant to state or federal law; or
 - (2) is listed as threatened pursuant to state or federal law; or
 - (3) is an invertebrate species ranked G1, G2 or S1 under the Natural Heritage Program of The Nature Conservancy and which is, in the Board's judgment, of natural significance.
- B. Areas where use of pesticide(s), without additional restrictions, is likely to negatively affect the mortality rate and/or reproductive capability of any animal or plant species that:
 - (1) is listed as endangered pursuant to state or federal law; or
 - (2) is listed as threatened pursuant to state or federal law; or
 - (3) is an invertebrate species ranked G1, G2 or S1 under the Maine Natural Areas Program in the Department of Conservation and which is, in the Board's judgment, of natural significance.

- C. Areas where use of pesticide(s), without additional restrictions, is likely to cause the significant destruction or curtailment of significant wildlife habitat. "Significant wildlife habitat" is as identified under the Natural Resources Protection Act, 38 M.R.S.A., Ch. 3, subchapter 1, Art. 5-A.
- D. Areas where use of pesticide(s), without additional restrictions, is likely to significantly risk the quality of surface or groundwater supplies used for human consumption.
- E. Areas where use of pesticide(s), without additional restrictions, is likely to cause serious and/or longstanding impairment of the health of sensitive individuals or groups of individuals who normally occupy such areas. The Board contemplates that this designation will require verified medical and/or epidemiological documentation of human sensitivity to one or more pesticides.
- F. Areas where use of pesticide(s), without additional restrictions, is likely to significantly harm natural or other resources owned or managed by a government agency, or is contrary to the duly adopted management plan for an area owned or managed by a government agency.
- G. Areas where use of pesticide(s), without additional restrictions, is likely to significantly harm natural resources within an area which is identified as an exemplary natural community or ecosystem of recognized exceptional qualities and has been designated for long-term ecological research and/or conservation purposes.

4. Designated Critical Pesticide Control Area

A. Dennys River Critical Pesticide Control Area

- (1) The above entitled matter having come up for public hearing on 7 March, 1978, at 2:00 p.m. before the Pesticides Control Board in Room 102 of the Science Building at the University of Maine in Machias; and the Board, having considered the evidence and arguments presented, and with a quorum present, has this day voted to declare a critical area under provisions of Title 22, Chapter 258-A, Sections 1471-F and 1471-M (2)(A), within which critical area no aerial application of pesticide is to be made without prior approval of the Board of Pesticides Control.
- (2) The critical area herein established is described as follows: Commencing at the dam at the foot of Meddybemps Lake and extending down the Dennys River to the Gilman Dam, so-called, the critical area shall include all land within one-half mile of either bank of the Dennys River; commencing at the Gilman Dam, so-called, and extending down the Dennys River to its entrance into Dennys Bay, so-called, the critical area shall include all land within one mile of either bank of the Dennys River.

FISCAL IMPACT: This rule will not impose any fiscal impact on counties or municipalities.

STATUTORY AUTHORITY: 5 M.R.S.A., § 8051 *et seq.* and 22 M.R.S.A., §§ 1471-F and M.

EFFECTIVE DATE:

July 6, 1979

AMENDED:

May 8, 1989

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

April 14, 1998

July 12, 2000

MINOR CORRECTION:

November 23, 2000 - citation in § 4(C)(4)

AMENDED:

December 24, 2000 - repealed §4(C)

December 26, 2011 – filing 2011-475

CORRECTIONS:

February, 2014 – agency names, formatting

Gerry Raymond's Responses to Critical Pesticide Control Area Questions From BPC

(Q). Chapter 60, Sec. 2 (B) – The request asks for a “total ban on the use of pesticide and herbicide within this area.” For clarification, is the intent to ban the use of all pesticide chemistries including minimal risk pesticides that are exempt from EPA registration (FIFRA, Section 25b).

Chapter 60, Sec. 2 (D) – The map provided depicts the 200-Day and 2,500-Day Travel Zones. Please clarify if the proposed control area is the 200-Day Travel Zone, 2,500-Day Travel Zone or the 300-foot radius well recharge zone.

(A). We want the proposed zone to cover the 500 ft radius of the well recharge zone.

Justification:

- The purpose of extending the 300 ft radius to 500 ft radius is to cover the entire residential infrastructure which could effect our well recharge zone.
- For reference the recharge zone wells are shallow gravel pack (approx. 40 ft. deep).
- It is unknown if the half-life for the products utilized would allow contaminants it to leach into the well's recharge zone.
- In this sensitive area, it is impossible to monitor pesticide/herbicide application activities.
- Residents or applicators are not forthcoming in notifying our organization when they will occur.
- Applicators do not voluntarily supply SDS (MSDS) information prior to application for our approval.
- Normally, we only witness applicators after they have applied products.
- One of the residents has a perimeter drain around foundation that discharges in the well recharge zone. It is unknown if contaminants are being discharged into the well recharge zone.
- If this pesticide/herbicide restriction is not approved, the Maine Drinking Water Program will require us to conduct pesticide monitoring/sampling.
 - This would be very costly for our organization and would not guarantee contamination to our wells/groundwater.
 - It is more significantly more expensive after contamination than prevention (moving wells or cleanup).
 - Potential for legal action from contamination or sickness in the future.
 - This preventative measure would better protect the town citizens/customers from contamination.

(Q). Chapter 60, Sec. 2 (E) – The request acknowledges abutting landowners use of herbicides and pesticides. Can you elaborate on the purpose for the use of those pesticides, i.e. lawncare, tick & mosquito control, structural pest control, etc.?

(A). The purposes for the applications were for infrastructure pest control (ants/earwigs), herbicide lawncare (weeds), invasive wildlife control (Canada Geese).

Further information:

- We will provide the SDS' for products we were provided and what we know was applied
- It is unknown if further applications are conducted besides the activities witnessed, we are not voluntarily provided with this information.

(Q). Chapter 60, Sec. 2 (G) – The request provides evidence establishing the impacts of “agricultural” pesticides on ground and surface waters and potential risks to human health. Can information be provided regarding the use of pesticides in “residential” settings and their potential impact on ground and surface waters and the potential for adverse effects on human health?

(A). Commercial agriculture is not conducted in the zone and no residential agriculture has been witnessed

- If residential agricultural (gardens) activities are conducted, there is potential for herbicide/pesticide application in these zones.

(Q). Chapter 60, Sec. 2 (J) –Please provide a more detailed description of the proposed restrictions on the use of pesticide(s) within the proposed critical area.

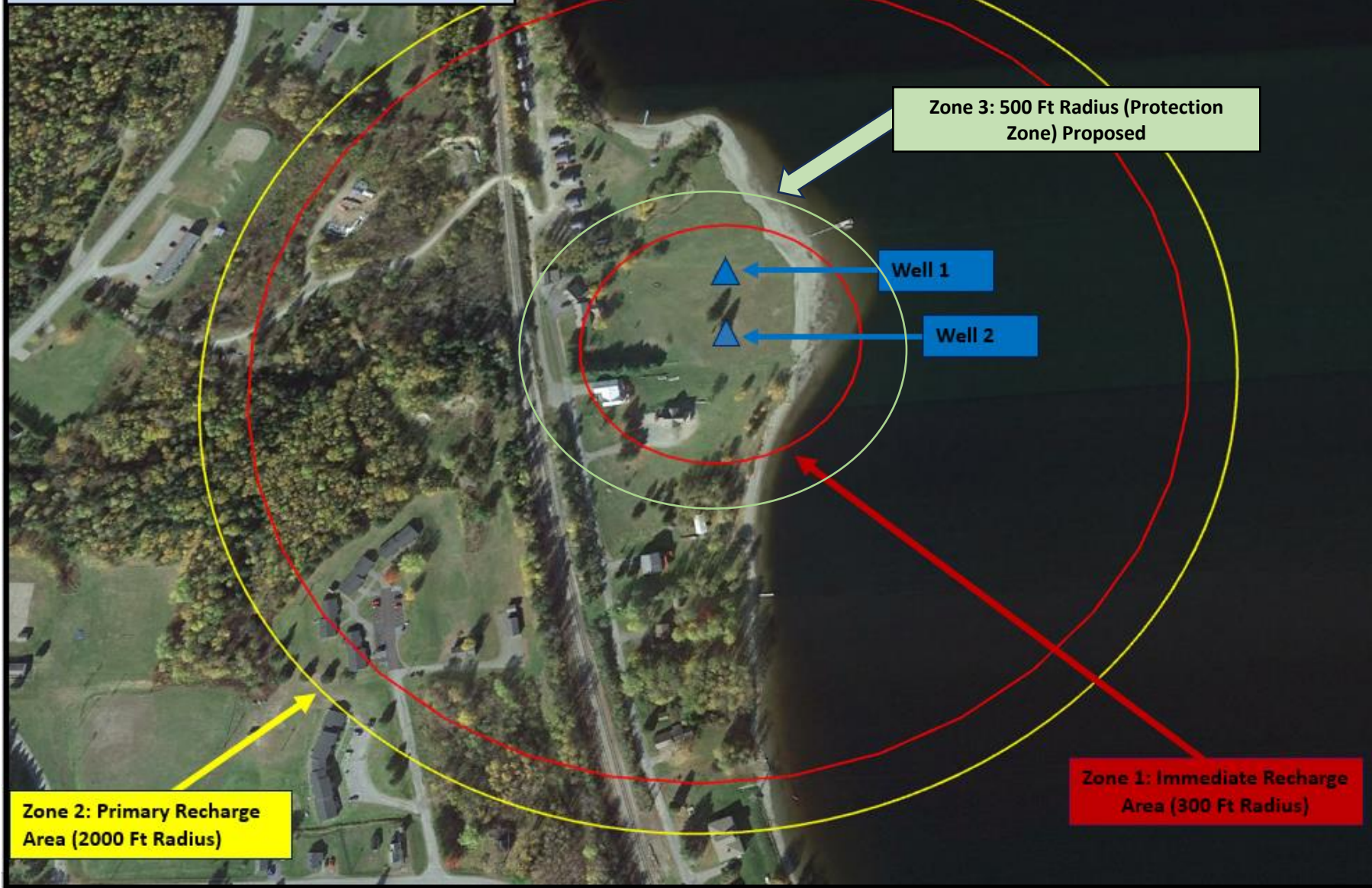
(A). We are requesting that no pesticide or herbicides be applied in the 500 ft radius of our well recharge area. Also, we are requesting that no intentional activities or infrastructure be allowed to be discharged in this zone (i.e. stormwater drains, industrial activities, agricultural activities, construction activities, fueling activities, unnecessary vehicle traffic, equipment fueling, residential drainage, etc.)

Please feel free to reach out with any questions regarding this request. Staff does plan to include the pesticide use inspection report completed in September of 2022 with your request for consideration by the Board.

Clarification is requested by the close of business on Tuesday, March 26, 2024, for proper submission to the Board. A copy of Chapter 60 has been attached.

We look forward to working with you on this matter.

Wellhead Protection Area
Eagle Lake Water District
Leboeuf Wells



DEC 22 2023

2

Eagle Lake Water & Sewer District
PO Box 137
243 Old Main Street
Eagle Lake, ME 04739-0137
207-444-5441
[elwsd@fairpoint.net]

December 18, 2023

Mr., John Pietroski
Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028

Dear Mr. Pietroski,

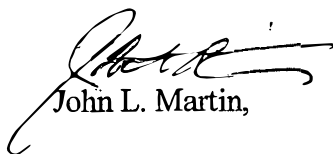
The Board of Trustees of Eagle Lake Water & Sewer District is requesting that the Board of Pesticides Control designate the district's public water supply, which is wellhead protection area along Eagle Lake as a Critical Pesticide Control Area and have a total ban on the use of pesticide and herbicide within this area.

The public water supply is two (2) 16" gravel pack groundwater wells, 42 feet in depth. Wells were installed in 2008 and put in service in January, 2009. In 2008 the district and the town tried to create a wellhead protection plan ordinance but failed. Over the years we have notice that abutting land owners have been active in applying herbicides and pesticides within our wellhead protection area. We have requested the abutting land owners stop this practice, but they have refused. The board of trustees is requesting your help to protect our drinking water supply.

Enclosed is a copy well site management plan, produce by our engineers and approved by the Maine Drinking Water Program, a site map, abutting land owners and mailing addresses.

Should you need additional information please contact district office at (207)-444-5441.

Sincerely,



John L. Martin,

Clerk, ELWSD

Eagle Lake Water & Sewer District
Eagle Lake, Maine (Public Water Source)

Land Owners located within the 200 day travel time Zone of Contribution

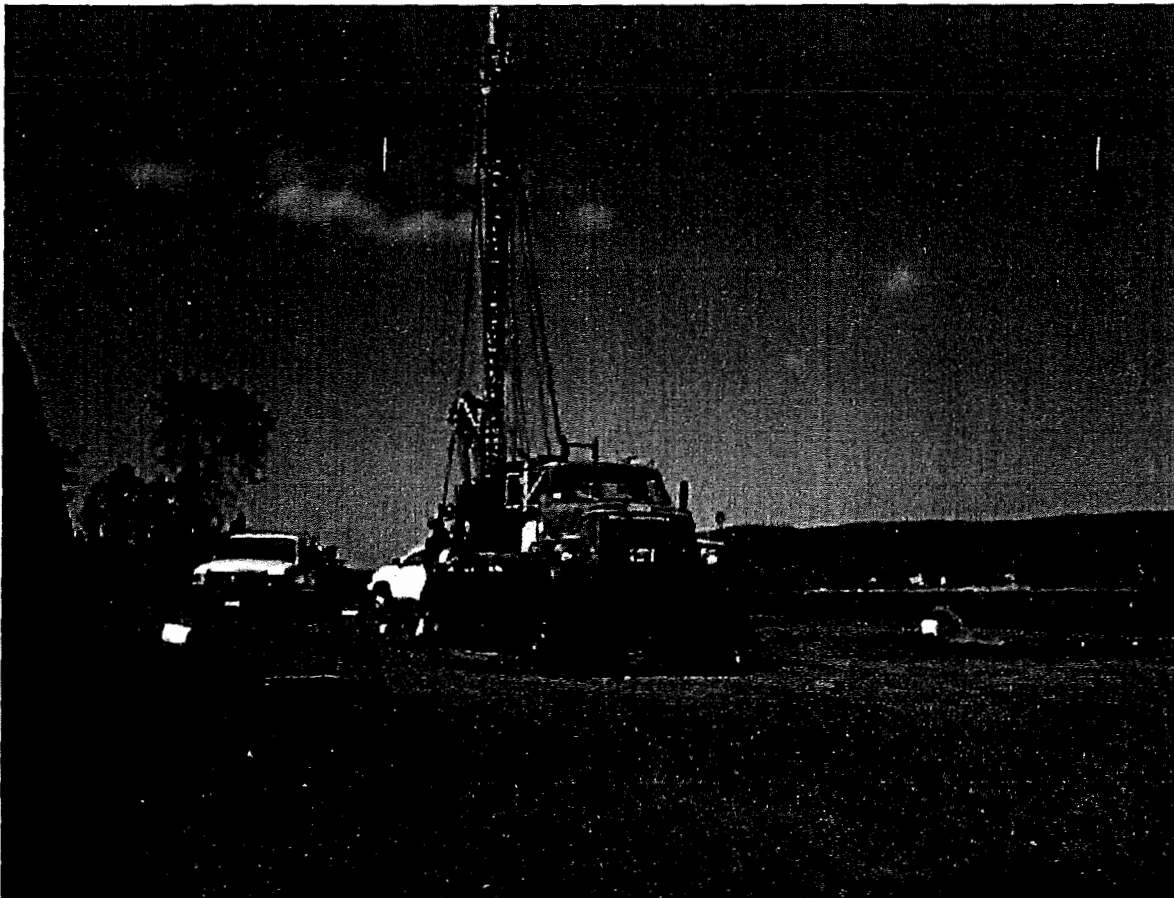
Tax Map / Lot	Property Owner Name	Mailing Address
16 / 29	Phillip LeBoeuf Overlook Cabins	PO Box 347, Eagle Lake, ME 04739
16 / 29 -1	ELWSD District Sewer Pumping Station # 2	PO Box 137, Eagle Lake, ME 04739
16 / 30	Phillip LeBoeuf Home	PO Box 347, Eagle Lake, ME 04739
16 / 30A	ELWSD District Wellhead Area	PO Box 137, Eagle Lake, ME 04739
16 / 31 -3	Louis & Lillian Roy Home	PO Box 347, Eagle Lake, ME 04739
16 / 31 -4	Paula Ouellette RV Lot	75 Pleasant St., Fort Kent, ME 04743
16 / 31 -5	Jonathan & Karen Trudo Home	20 Apple Blossom Lane, Kennebunkport, ME 04046
	Maine Northern Railway	103 School Street, Oakfield, ME 04763

**200-DAY AND 2,500-DAY TRAVEL ZONE
MANAGEMENT PLAN**

LEBOEUF WELL SITE

**EAGLE LAKE WATER AND SEWER DISTRICT
EAGLE LAKE, MAINE**

September 2008



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**200-DAY AND 2,500-DAY TRAVEL ZONE
MANAGEMENT PLAN**

LEBOUEF WELL SITE

**EAGLE LAKE WATER AND SEWER DISTRICT
EAGLE LAKE, MAINE**

SEPTEMBER 2008

Prepared By:

**Wright-Pierce
230 Commerce Way, Suite 302
Portsmouth, NH 03801**

200 DAY AND 2,500 DAY TRAVEL ZONE MANAGEMENT PLAN

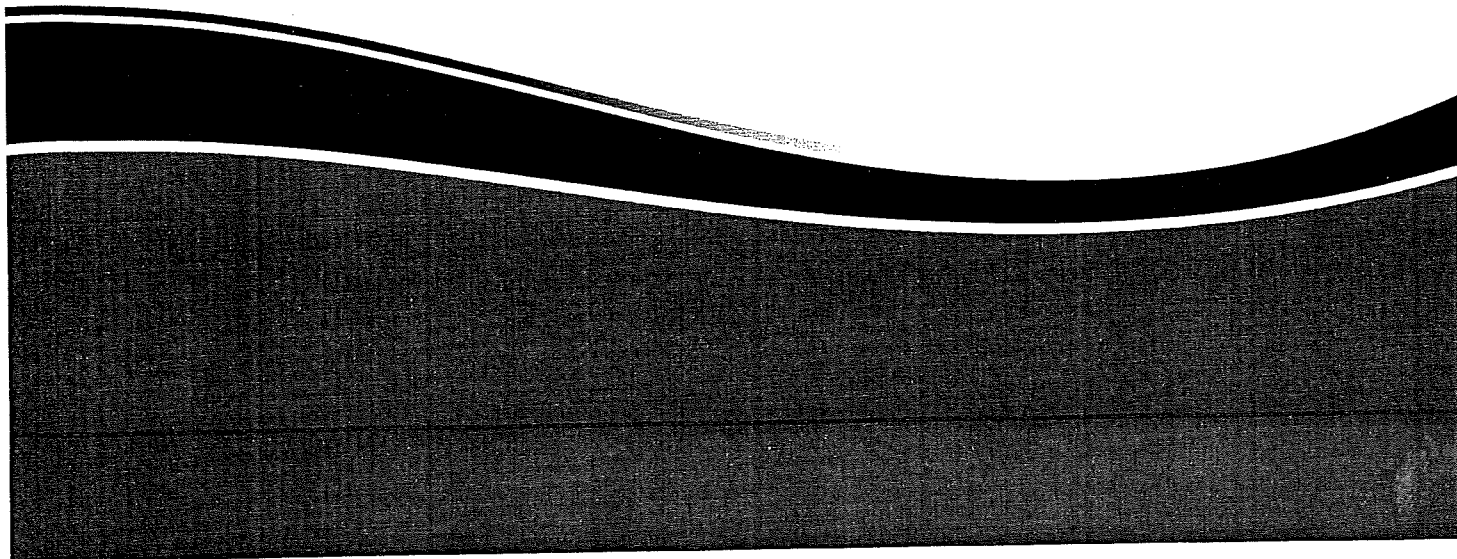
LEBOUEF WELLS SITE

**EAGLE LAKE WATER AND SEWER DISTRICT
EAGLE LAKE, MAINE**

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SECTION 1 INTRODUCTION

In 1986, amendments to the Federal Safe Drinking Water Act (SDWA) law established the Wellhead Protection (WHP) Program. Under these amendments, each state was called upon to develop and submit to the United States Environmental Protection Agency (USEPA) for approval, a plan that would protect groundwater which supplies wells, wellfields, springs, and tunnels that provide drinking water to the general public. Also specified in the SDWA are the basic, minimum elements that states must address and include in their WHP plans.

State of Maine's "*Rules Relating To Drinking Water*" (10-144, Chapter 231) requires a plan be prepared that describes how the owner of a municipal well will manage land use activities within a well's wellhead protection area. The purpose of this plan is to help protect groundwater quality through land use activities and controls that will prevent groundwater contamination.

The State of Maine's Drinking Water Program granted the Eagle Lake Water and Sewer District final approval for its LeBouef Well on March 24, 2008. This well approval was conditioned on the preparation of 2,500-Day Travel Zone Management Plan for the LeBouef Well. This approval letter, along with other correspondence between the Eagle Lake Water and Sewer District and the State of Maine's Drinking Water Program is included in Appendix A.

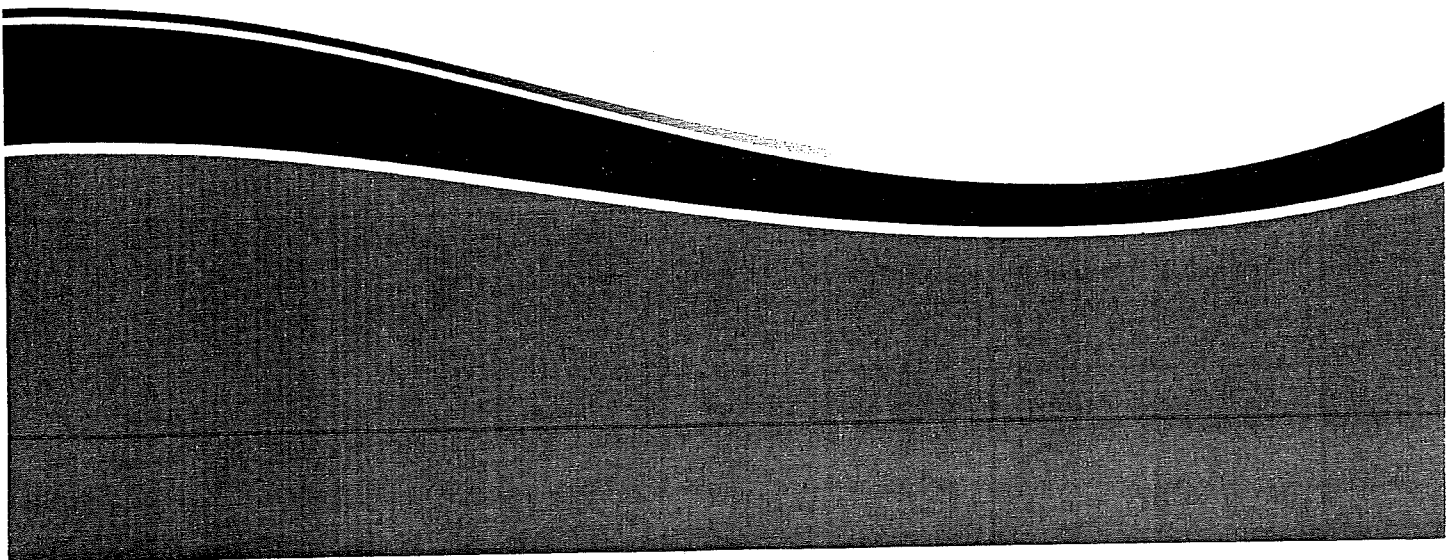
The basic physical details of the LeBouef Well are presented below:

1.1 LeBouef Wells

The LeBouef Well Site is located on Furlong Road on the western shore of Eagle Lake. Two 16-inch diameter gravel developed wells, known as PW-1 and PW-2, were constructed on the property in November 2007 by the Layne-Christensen Company of Dracut, Massachusetts. PW-1 is 42 feet deep and is located approximately 200 feet

west of Eagle Lake. PW-2 is located 145 feet south of PW-1 (approximately 180 feet from Eagle) and is also 42 feet deep. PW-1 will act as the primary well and PW-2 will serve as a back-up to PW-1. Pump tests of these wells, conducted in November and December, 2007 indicated each well can produce approximately 200 gallons per minute when pumped individually. See Figure 1 for the location of these wells.

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SECTION 2

200-DAY AND 2,500-DAY TRAVEL ZONE WELLHEAD PROTECTION AREAS

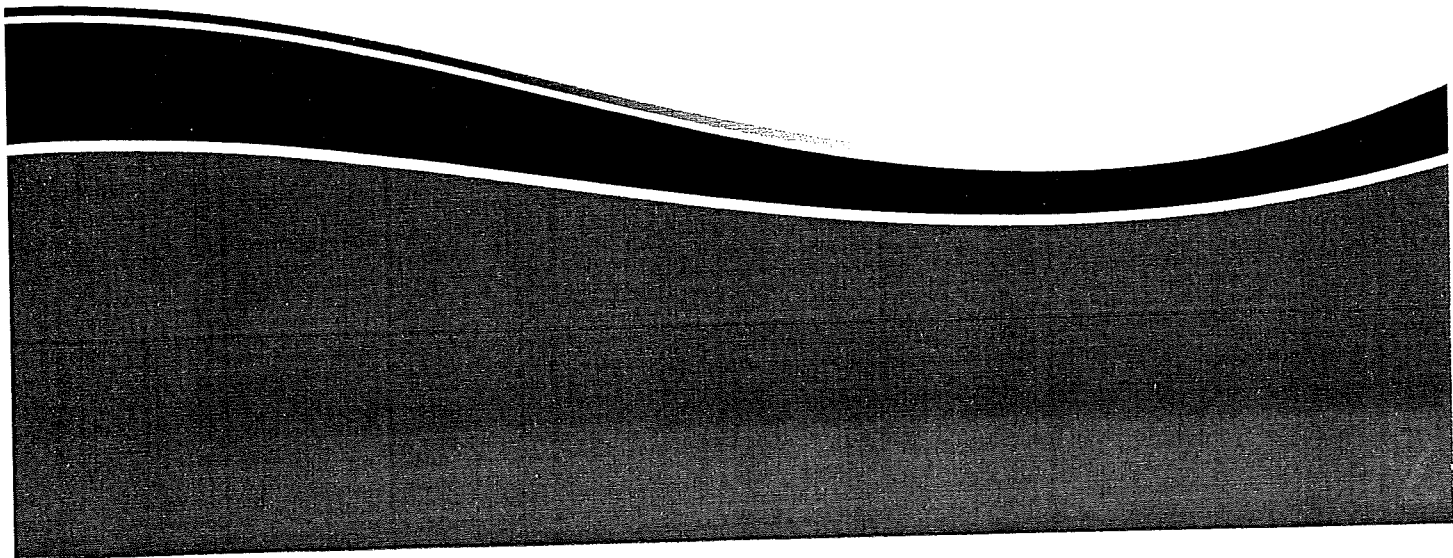
In Maine, wellhead protection area boundaries are established by determining the distance (boundary to well) that groundwater would travel over a period of 200 days and 2,500 days of well operation. These boundaries are determined through the use of sophisticated groundwater computer models and are customized for the specific hydrogeologic conditions around each well. Ideally, a water system is to own the all the property within the 200-day time of travel zone. Easements, aquifer protection zoning ordinances or other land use controls are typically required for the area within the 2,500-day time of travel zone.

Below are the details for the 200-Day and 2,500-Day Travel Zone for the LeBouef Wells.

2.1 LeBouef Wells

The 200-day travel zone for the LeBouef Wells is approximately circular shaped and is approximately 650 feet long (north - south) and 650 feet wide (east-west). The 2,500-day travel zone is more oval shaped and is approximately 850 feet long (north - south) and 650 feet wide (east - west). These time of travel zones were determined as part of a study that is summarized in a report titled, "*Request for Final Approval for a New Public Water Supply Well*" dated March, 2008 that was prepared by Wright-Pierce for the Eagle Lake Water and Sewer District. The 200-day and 2,500-day time of travel zones are shown on Figure 1 (Section 1).

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SECTION 3

POTENTIAL CONTAMINANT SOURCES (PCS) IDENTIFICATION AND DESCRIPTION

Using the State of Maine's Geographic Information System (GIS) system, threats to groundwater quality from known Potential Contaminant Sources (PCS) located within the wells' 200-day and 2,500-day time of travel zone were identified. The State of Maine Department of Environmental Protection maintains a database of PCS in a system known as the Maine Environmental and Geographic Analysis Database (EGAD)

EGAD, (formerly known as the Environmental and Groundwater Analysis Database) was originally designed to store site and water quality information and currently includes spatially located data for 39 different types of potential and actual sources of contamination to groundwater in Maine. Table 1 lists the 39 types of Potential Contaminant Sources.

TABLE 1

Maine's EGAD Database PCS Site Types

- Agricultural Chemical Use
- Agriculture Nitrate Bacteria
- Ash Utilization Site
- Automobile Graveyard/Junkyard
- Bulk Fuels Storage/Distribution Facility
- Compost Site
- Construction/Demolition
- Dry Cleaner
- Engineered Subsurface Wastewater Disposal System
- Industrial Complex
- Infiltration Retention Basin
- Landfill Commercial
- Landfill Municipal

Table 1 (continued)
Maine's EGAD Database PCS Site Types

Landfill Special Waste
Leaking Above-ground Storage Tank
Leaking Underground Storage Tank
Marina/Boat Yards
Mystery Spill
NPS Golf Courses Etc
RCRA Large Quantity Generators
RCRA Medium Quantity Generators
RCRA Remediation
RCRA Small Quantity Generators
Residuals Utilization Site
Resource Extraction Activities (Gravel Pits)
SWAT Surface Water Ambient Toxics - Lakes
SWAT Surface Water Ambient Toxics -
Rivers/Streams
Sand/Salt Storage
Sanitary and Industrial WWTF
Septage Disposal Storage Site
Sludge Utilization Site
Surface Impoundments SIA
Surface Spill
Transfer Station
Uncontrolled Site (All Others)
Uncontrolled Site DOD
Uncontrolled Site NPL
Underground Injection Sites
Unsewered Subdivisions
Woodyards/Lumberyards/Piles

Below are the details for the PCS's located in the 200 and 2,500-day travel zones for the LeBouef Wells.

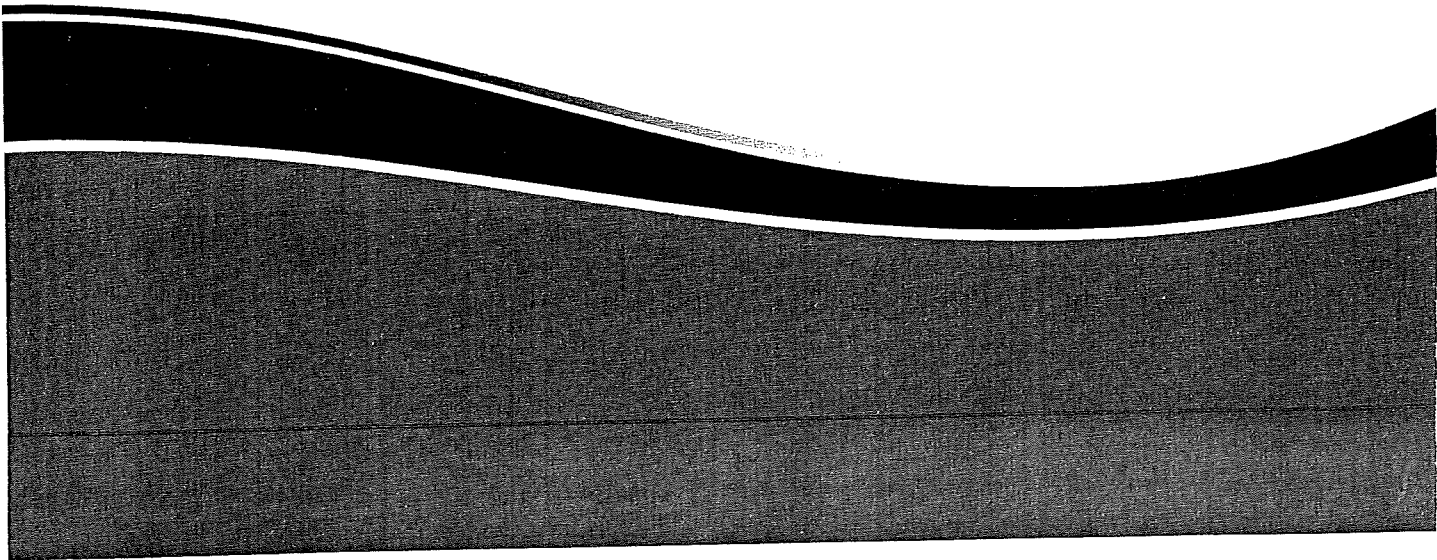
3.1 LeBouef Wells

The State of Maine's EGAD data base did not indicate any PCS in the LeBouef Wells' 200 and 2,500-day time of travel zones. The nearest PCS sites were two underground storage tank sites (two tanks each) located approximately 1,000 feet and 1,600 feet to the southwest of the production wells.

The PCS sites in the vicinity of the LeBouef Wells Wellhead Protection Areas are shown on Figure 1.

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Section 4



SECTION 4

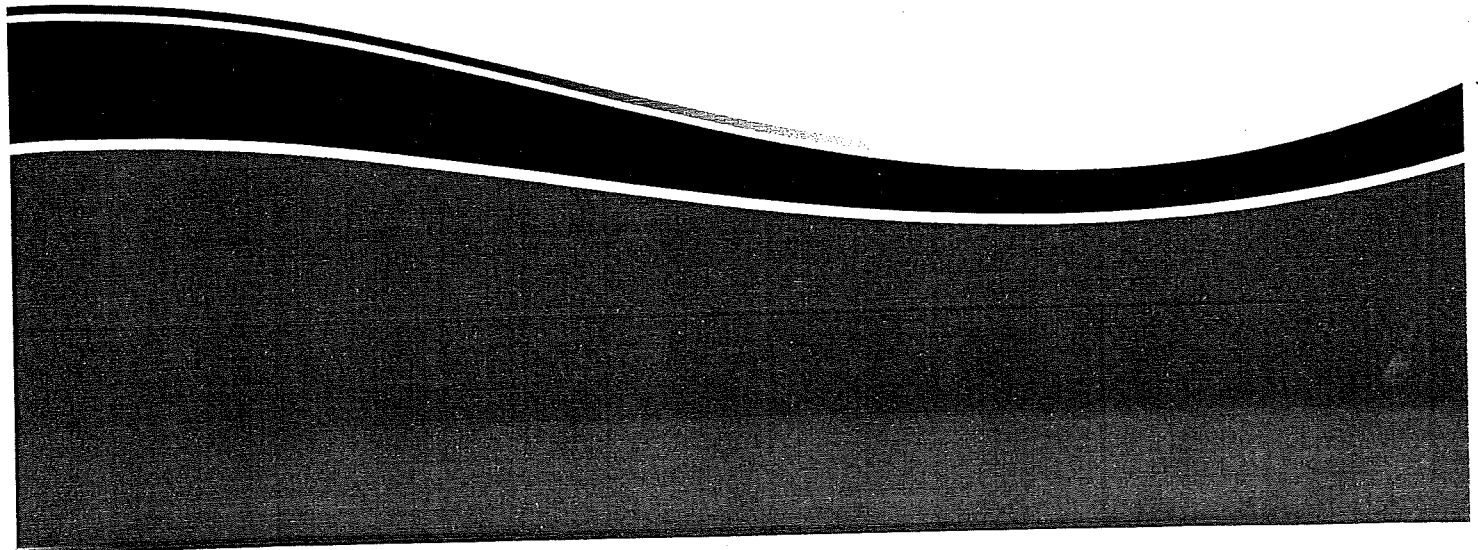
WELLHEAD PROTECTION OUTREACH AND GUIDANCE

Educating owners of property that are located within the 200-day 2,500-day travel time wellhead protection areas of the need to protect groundwater quality is a key component of Eagle Lake Water and Sewer District's wellhead protection strategy. Therefore, the names and addresses of all property owners that own land inside the wellhead protection area for the LeBouef Wells have been tabulated using information from the Town of Eagle Lake Tax Assessor's office. This property owner information is included in Appendix B.

A generic cover letter that explains the importance of wellhead protection has been prepared and is included in Appendix C. This letter will be mailed to the property owner along with a groundwater protection guidance document prepared by the Maine Rural Water Association titled "*The Safe Home Program*". This document provides comprehensive groundwater protection "Do's and Don'ts" and a copy is included in Appendix D.

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Section 5



SECTION 5

LONG-TERM WELLHEAD PROTECTION STRATEGIES

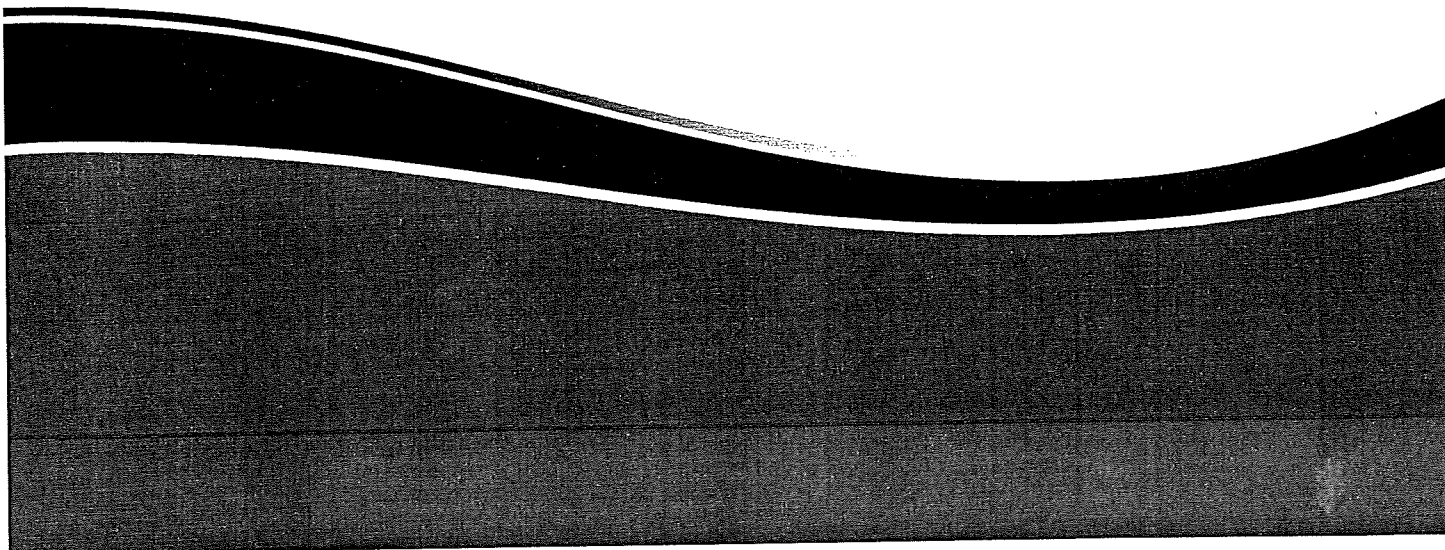
Ideally, all properties located within the wellhead protection area of the LeBouef Wells would be owned by the Eagle Lake Water and Sewer District or their land uses controlled through legal easements. The 200-day time of travel zone contains 7 properties and the 2,500-day time of travel zone contains 8 properties (see Figure 1). However, because these properties are located on Eagle Lake, they are very expensive and the cost of acquisition or easements would have an unacceptable adverse impact on water rates.

When land ownership or easements cannot be obtained for the properties in the wellhead protection areas, typically a water district would seek to incorporate a wellhead protection ordinance into its zoning regulations. However, the Eagle Lake Water and Sewer District recently attempted to enact a wellhead protection ordinance and was met with significant local opposition. Therefore the district will focus its efforts on public outreach and education through mailings and public informational meetings. Public outreach is discussed in Section 4.

Finally, on June 20, 2007, the State of Maine amended Chapter 353 of their public laws to require Natural Resource Protection Act (NRPA) permitting for activities within the shoreland zone of public water supplies. Rules established by this new law, which are expected to be issued within the next few years, will likely provide additional protection for the LeBouef wells.

For reference, a model Wellhead Protection Ordinance is included in Appendix E.

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Maine Center for Disease
Control and Prevention
An Office of the
Department of Health and Human Services

John E. Baldacci, Governor

Brenda M. Harvey, Commissioner

Department of Health and Human Services
Maine Center for Disease Control and Prevention
286 Water Street
11 State House Station
Augusta, Maine 04333-0011
Tel: (207) 287-2070
Fax: (207) 287-4172; TTY: 1-800-606-0215

March 24, 2008

Mr. Gerald Raymond
Eagle Lake Water & Sewer District
P.O. Box 137
Eagle Lake, ME 04739

COPY

RE: Final Approval for Water Supply Wells PWSID # 90480

Dear Mr. Raymond:

The Department has reviewed the 'Request for Final Approval' submitted by Wright-Pierce for the two gravel packed wells constructed in November 2007. These wells are designated PW-1 and PW-2 and are located on the LeBoeuf site. In the materials presented, the well specifications and water quality analysis results meet all applicable State and Federal standards.

Final approval is granted for wells PW-1 and PW-2 subject to the following requirements:

1. The District must develop and implement an effective wellhead protection plan for the new wells. The Plan must include either ownership or legal control over the delineated 2,500 day contributing area for the wells. This control may take the form of a local ordinance restricting activities in the area, or of an easement on the land within the area that will accomplish the same purpose.
2. As a water district, chlorination facilities are required and continuous chlorination must be in operation upon initial utilization of the wells. Chlorination must continue for no fewer than 60 days. The District may petition to discontinue chlorination after the two month period.
3. Tests for gross alpha from each well must be conducted as soon as possible to fulfill the requirement of two quarterly tests. This follows the initial tests for gross alpha done in November.
4. First Year Water Testing: Monthly testing for bacteria for at least 12 months. Annual testing for nitrate/nitrite and volatile organic compounds. To a six-month testing schedule for lead/copper. Quarterly testing for disinfectant by-products. Quarterly composite tests for Radium 228 (TSVY) to be collected in the first two calendar quarters that the wells are on-line.

These testing requirements pertain to the groundwater sources only and exclude the current water testing requirements for surface water. You will be notified in the future regarding any additional routine monitoring requirements.

Please contact us if you have any questions or concerns.

Sincerely,

Lawrence R. Girvan, P.E.
Field Services Engineer 768-3610
Drinking Water Program

Lindy Moceus
Compliance Officer 287-8402

cc: Andy Tolman

Caring..Responsive..Well-Managed..We are DHHS.

Maine Drinking Water Program Well to Contamination Source Setback Waiver Form
Rev B 1/9/2007

System Name: *Eagle Lake Water District*
System Contact Name: *Gerry Raymond*
PWSID# (If applicable): *90480*
DWP Field Inspector: *Larry Girvan*
DWP Waiver Reviewer: (Field Inspection Team Manager or DWP Geologist):

Date: *8/15/07*

1. What is the measured setback the waiver is requested for? (Attach drawings and describe)
220' From Saucier Residence
2. What circumstance warrants a setback reduction waiver: *Maintain 150' setback from Eagle Lake surface water and allow sufficient land area to locate backup production well PW 2 (see attached site plan) in a location where high yield sand and gravel sediment is likely to exist on the LeBeouf Site. Saucier and LeBeouf residences are on municipal sewer system. Septic systems do not exist within 600 feet of the proposed well sites.*
3. If setback is less than 150 feet, was a hydrogeological study completed by a certified Geologist?

Yes (attach report)

No If No, why was the study not completed? (e.g. septic pretreatment required, study not needed? other?)

4. Waiver granted? Yes No

Explain reasoning:

Existing residential building poses limited risk. Well site highly constrained by geologic and regulatory restrictions.

5. Record waiver conditions (e.g. septic pretreatment, extended well casing or jazwell seal, monitoring requirements):
Applicant shall delineate actual protection zone (200 day travel time
New activities within that zone will be reviewed by Eagle Lake PB
and DWP.

DWP Authorizing Signature (Field Inspection Team Manager or DWP Geologist):

Andrews L. Tolman

Digitally signed by Andrews L. Tolman
DN: cn=Andrews L. Tolman, o=Eagle Lake Water District, ou=Maine, email=Andrew.L.Tolman@eaglelake.org, c=US

Date: 8/22/07

Retain this form in the PWS file.

APPROVED BY: Nancy Beardsley, Director

Nancy Beardsley

Signature

Effective Date

Rev A - 9/25/06 ; Rev B -1/9/07 ;

Revision Dates

_____; _____;



John Elias Baldacci
Governor

Maine Department of Health and Human Services

Maine Center for Disease Control and Prevention
(Formerly Bureau of Health)
286 Water Street
11 State House Station
Augusta, ME 04333-0011

Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

July 31, 2007

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District, PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Wellhead protection status, LeBoeuf site and potential impacts on Saucier Property, Eagle Lake

Dear Mr. Raymond:

You requested that we clarify the status of the Saucier property's wellhead protection status given the recent agreement to develop a well on the LeBoeuf site. It is our understanding that the well will be developed in the vicinity of test boring 7-05, 150 + feet from the normal high water level of Eagle Lake. A well at that location would have a preliminary 300-foot radius protection area, pending actual delineation of a 200-day travel time area. The 300-foot circle would extend on to the Saucier property, primarily in the shoreland zone.

Based on our understanding of the Eagle Lake Shoreland Zoning Ordinance, it is our expectation that the use of the Saucier property would not face significant additional restrictions by the potential of this portion of their land being within the preliminary wellhead protection area. Additionally, it is important to note that the final delineation, based on the actual contributing area, may well not include the Saucier property, although we cannot be certain of that until the hydrogeologic evaluation is complete.

Another factor that will influence the long-term land use in the area is PL 2007, Chapter 353, which provides protection for the sanitary protection area of community public water systems (either a 300 foot radius or a 200 day travel time). Any new activity (e.g., a new building) in that area would be subject to state-level review and approval. Existing, ongoing low-intensity recreational use will not be regulated under this law.

We will continue to work with Eagle Lake to provide a safe and secure public water source for your customers. Please give me a call if you have questions about this letter.

Sincerely,

Larry Girvan, P.E.
Northern Maine Field Services
Maine Drinking Water Program

Andrews L. Tolman, C.G.
Water Resources Team Leader

Cc: Larry Girvan, Terry Trott, Roger Crouse

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Governor

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286 Water Street
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Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

July 6, 2007

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District, PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Wellhead protection status, LeBoeuf site and potential impacts on Saucier Property, Eagle Lake

Dear Mr. Raymond:

You requested that we clarify the status of the Saucier property's wellhead protection status given the recent agreement to develop a well on the LeBoeuf site. It is our understanding that the well will be developed in the vicinity of test boring 7-05, 150 + feet from the normal high water level of Eagle Lake. A well at that location would have a preliminary 300-foot radius protection area, pending actual delineation of a 200-day travel time area. The 300-foot circle would extend on to the Saucier property, primarily in the shoreland zone.

Based on our understanding of the Eagle Lake Shoreland Zoning Ordinance, it is our expectation that the use of the Saucier property would not face significant additional restrictions by the potential of this portion of their land being within the preliminary wellhead protection area. Additionally, it is important to note that the final delineation, based on the actual contributing area, may well not include the Saucier property, although we cannot be certain of that until the hydrogeologic evaluation is complete.

We will continue to work with Eagle Lake to provide a safe and secure public water source for your customers. Please give me a call if you have questions about this letter.

Sincerely,

Larry Girvan, P.E.
Northern Maine Field Services
Maine Drinking Water Program

Andrews L. Tolman, C.G.
Water Resources Team Leader

Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801, Jeff Musich W-P, Larry Girvan, Terry Trott, Roger Crouse

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Maine Center for Disease Control and Prevention
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286 Water Street
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Augusta, ME 04333-0011

Brenda Harvey
Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

June 27, 2007

Mr. Gerald Raymond
Superintendent
Eagle Lake Water and Sewer District
PO Box 137
Eagle Lake, Maine 04739

Subject: Purchase of Saucier Property and the Development of Production Wells

PWSID# 90480

Dear Gerry:

Thank you for meeting with me and other Drinking Water Program (DWP) staff via telephone on June 26, 2007. The Eagle Lake Water and Sewer District (District) has an option to purchase the Saucier property located on the shore of Eagle Lake. However, due to the limited foot-print of this lot, the primary wellhead protection zone will extend beyond the boundaries of the property. The DWP requires that the District have ownership or other land use controls over the primary wellhead protection zone.

The District has sought unsuccessfully for opportunities to purchase land or easement rights from the abutting property owners. The District has conducted testing on a total of 12 separate locations in an effort to identify the most viable ground water supply. The District also worked with the Town of Eagle Lake to create a municipal ordinance that would provide the necessary wellhead protection. However, the DWP understands that the Selectmen in the Town of Eagle Lake have removed the wellhead protection ordinance from the municipal ballot.

The DWP has earmarked approximately \$956,000 from the Drinking Water State Revolving Fund (DWSRF) for the District for the development of a new water supply and the Community Development Block Grant Program has committed \$500,000. Approximately \$235,000 has been spent to-date.

Due to the District's great difficulties finding an acceptable water supply of water, the DWP agrees to the following terms:

1. The District may use DWSRF money to purchase the Saucier property and design and construct the necessary component of the new water source.
2. The District must continue working with abutting property owners and/or local government officials to obtain necessary ownership or control of the primary

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- wellhead protection area. The District must attain this ownership/control before the DWP will grant final approval of the new supply.
3. The District must provide evidence to the DWP that they have the rights to install and/or fully access the necessary monitoring wells to develop the groundwater model.

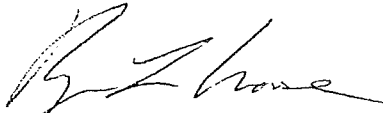
As you may know for the last several years the DWP has been working with the Legislature to find ways to better protect Maine's drinking water sources. This session we were successful in getting legislation passed that designates wellhead protection areas and areas around surface water intakes as protected natural resources; a very important first step in better protecting our drinking water sources. This is intended to provide a minimum acceptable level of land use control.

We are now working with the Department of Environmental Protection to develop rules that clarify the law. There are a number of steps in this process, and we will not know the shape of the new rules until after the next legislative session.

As I stated in our phone conversation, the District assumes a risk if it decides to proceed forward with this project without having the land ownership/control in place. Please do not confuse the DWP's agreement to fund this project as the DWP assuming part of that risk. The District remains the entity that is responsible for complying with State and Federal regulations and providing safe and reliably protected water to its customers in Eagle Lake.

The DWP appreciates the difficult situation you are in. We strongly support the development of a safe and reliable drinking water source in Eagle Lake. If you have any questions, please contact me at 287-5684 or roger.crouse@maine.gov.

Yours for safe drinking water,



Roger L. Crouse, P.E.
Assistant Director
Maine Drinking Water Program

Ec Andy Tolman, Nate Saunders, Nancy Beardsley, Tera Pare, Jeff Musich and Gary Smith –WP, Karen Asselin –MMBB



John Elias Baldacci
Governor

Maine Department of Health and Human Services

Maine Center for Disease Control and Prevention
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Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

June 6, 2007

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Preliminary Hydrogeologic Approval well construction and testing, Saucier Site, Eagle Lake

Dear Mr. Raymond:

We have reviewed a draft report dated June 1, 2007 from Wright-Pierce, concerning location of a production well or wells for Eagle Lake. The current proposal is for naturally developed gravel wells on the Saucier property, located more than 150 feet from mean high water of the lake. We understand that this report will become part of the final hydrogeologic report for the system, and that this is an interim submittal.

The plan for development and testing is appropriate, and we have also reviewed the language and coverage of your proposed wellhead protection ordinance for this area. It meets our minimum standards for new source protection.

Based on the information available in these reports, we believe that a well on the Saucier site is acceptable from a source protection standpoint. Final well approval will depend on the characteristics of well(s) as they are developed. This approval is separate from the Environmental Review required for SRF.

Sincerely,

Larry Girvan, P.E.
Northern Maine Field Services
Maine Drinking Water Program

Andrews L. Tolman, C.G.
Water Resources Team Leader

Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801, Jeff Musich W-P, Larry Girvan, Terry Trott, Roger Crouse



John Elias Baldacci
Governor

Maine Department of Health and Human Services

Maine Center for Disease Control and Prevention
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Brenda Harvey
Acting Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

May 9, 2006

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Location of production wells at Eagle Lake

Dear Mr. Raymond:

On May 4, Drinking Water Program (DWP) staff and Wright-Pierce staff conducted a conference call to clarify the location and path to approval for the new Eagle Lake wells. Determining the location of the wells is complicated by two potential sources of contamination. The first potential source of contamination is the proximity to surface water. All wells located less than 150 feet from a surface water body must be tested, using Microscopic Particulate Analysis (MPA), to determine if the wells are under the direct influence of surface water. Wells that are determined to be under the direct influence of surface water are subject to the provisions of the Surface Water Treatment Rule. Since the early 1990s the DWP has used a definition of the edge of the surface water body that is consistent with the definition of the "Normal high water line" found in Maine Statute (38 MRSA, §480B).

In a letter dated November 18, 2005, the DWP authorized development and testing of new wells on the LeBoef property. That letter was based on Wright-Pierce's November, 2005 request for preliminary approval report, which indicated that the well was to be located "152 feet from the Eagle Lake shoreline". The DWP did not recognize during the review of the report that the shoreline identified was not the statutory edge of the lake, but rather an observed summer water level.

On May 3, 2006, Larry Girvan and Bill Johnson of the DWP, measured from the normal high water line of Eagle Lake to the staked well locations. The distances were determined to be 119 and 125 feet. Since the staked locations are less than the 150 feet from a surface water body, any wells constructed at these points would need to be tested to determine if they are under the direct influence of surface water.

The second potential source of contamination is the existing home on the LeBoef property. The State of Maine Rules Relating to Drinking Water requires that "New wells shall be located at least 300 feet away from potential contamination sources." (Section 3. G. 2. f. iii.). In the subsequent paragraph (iv) the DWP has the ability to "grant a waiver on a case-by-case basis." The locations of the wells, as staked on May 3, 2006, are more than 300 feet from the existing home. Moving the wells further away from surface water, to avoid the required MPA testing, will result in the home being located within the 300 foot circle. However, since no subsurface disposal field exists on the property, the DWP would approve a waiver if a strong management plan is implemented.

Larry Girvan is anticipating meeting Gary Smith from Wright-Pierce, at the LeBoef property on May 15, 2006 to help delineate the 150 foot set-back from surface water. If you have any questions, please contact me at 287-6196.

Sincerely,

Andrews L. Tolman
Education and Technical Assistance Team Leader
Maine Drinking Water Program

Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801, Jeff Musich, Larry Girvan, Terry Trott, Roger Crouse

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John R. Nicholas
Commissioner

Dora Anne Mills, MD, MPH
Public Health Director
Maine CDC Director

November 18, 2005

Gerald Raymond, Superintendent
Eagle Lake Water and Sewer District PWSID 90480
PO Box 137
Eagle Lake ME 04739

Subject: Preliminary Approval, Pump test plan and hydrogeologic evaluation, Eagle Lake.

Dear Mr. Raymond:

We have reviewed the November, 2005 report prepared by Wright-Pierce for the LeBoef site. The plan presents a clear understanding of the site hydrogeologic conceptual model, as well as an appropriate plan for testing that model's assumptions during the production well pump test.

The pumping test plan includes a variable duration, depending on the system response. This is appropriate for this setting, with both a positive and negative boundary condition to evaluate. We note that a delineation of the contributing area (200 and 2,500 day travel time) will be required for final approval of the production well, along with an effective wellhead protection plan that provides for ownership or legal control of activities in the contributing area.

We wish you good luck in the well installation and development process. Please keep us apprised of your progress, so that we can work together to provide Eagle Lake with safe drinking water.

Sincerely,

Andrew L. Tolman
Manager Source Protection,
Maine Drinking Water Program
286 Water Street, 3rd Floor
Augusta, ME 04333-0011



Cc: Gary Smith, Wright-Pierce, 135 Commerce St. Portsmouth, NH 03801

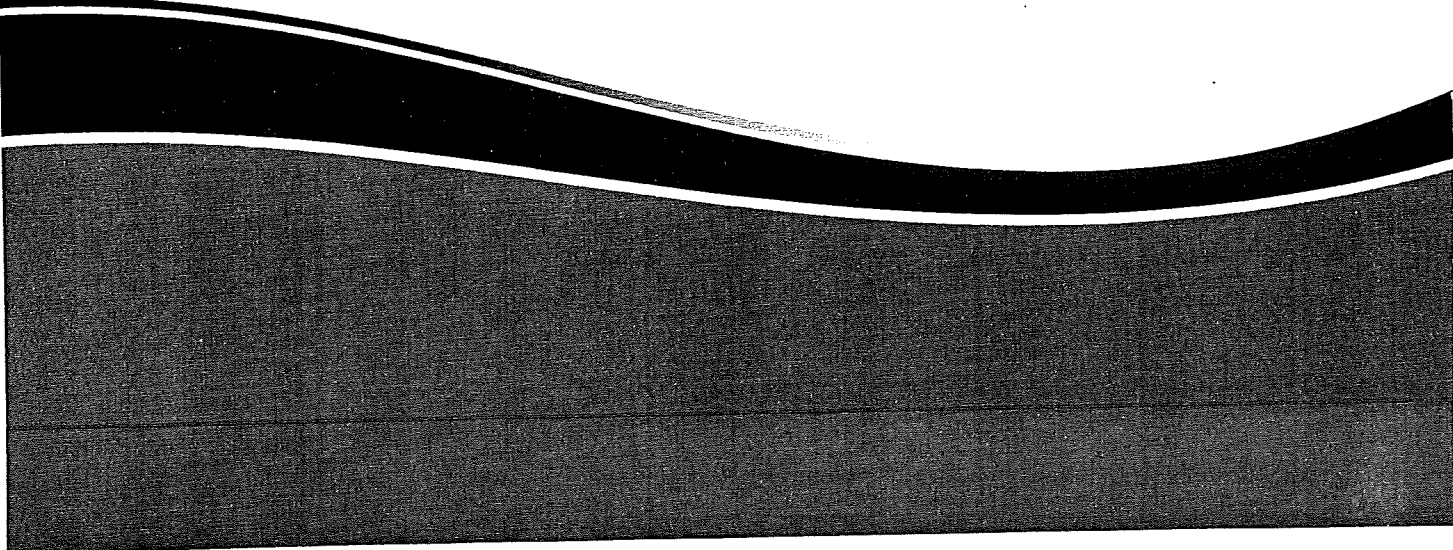
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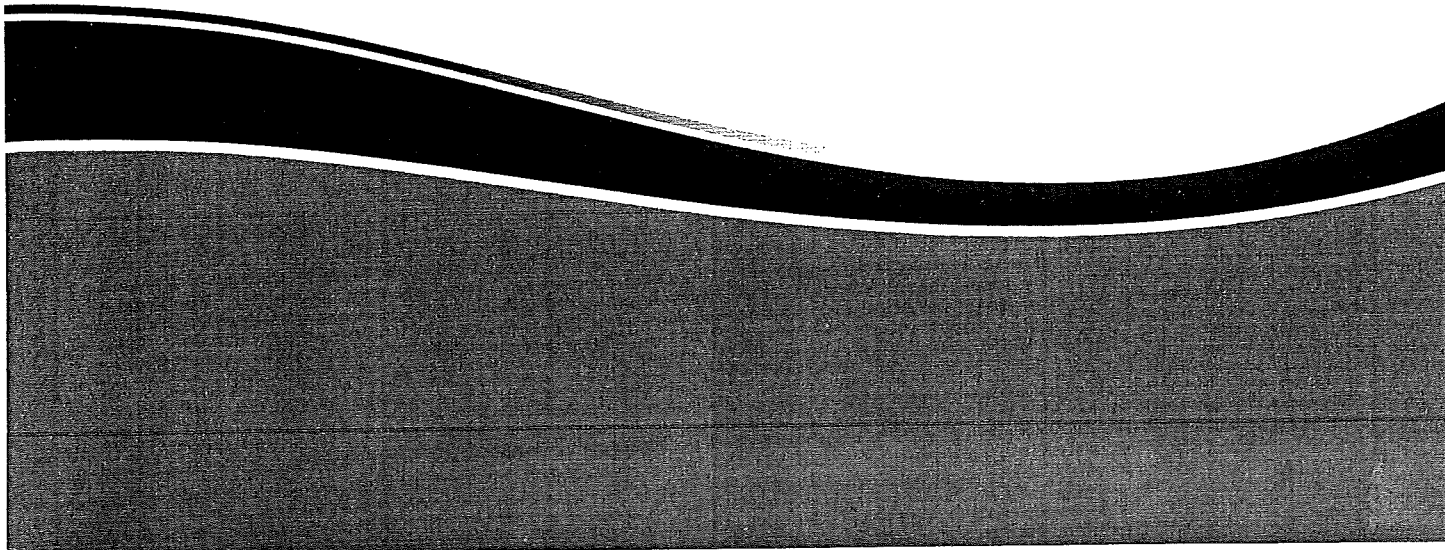


Eagle Lake Water & Sewer District
Eagle Lake, Maine (Public Water Source)

Land Owners located within the 200 day travel time Zone of Contribution

Tax Map / Lot	Property Owner Name	Mailing Address
16 / 29	Phillip LeBoeuf Overlook Cabins	PO Box 347, Eagle Lake, ME 04739
16 / 29 -1	ELWSD District Sewer Pumping Station # 2	PO Box 137, Eagle Lake, ME 04739
16 / 30	Phillip LeBoeuf Home	PO Box 347, Eagle Lake, ME 04739
16 / 30A	ELWSD District Wellhead Area	PO Box 137, Eagle Lake, ME 04739
16 / 31 -3	Louis & Lillian Roy Home	PO Box 347, Eagle Lake, ME 04739
16 / 31 -4	Paula Ouellette RV Lot	75 Pleasant St., Fort Kent, ME 04743
16 / 31 -5	Jonathan & Karen Trudo Home	20 Apple Blossom Lane, Kennebunkport, ME 04046
	Maine Northern Railway	103 School Street, Oakfield, ME 04763

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September 1, 2008

Name

Address

Eagle Lake, ME 04090

Subject: Eagle Lake Water and Sewer District
Wellhead Protection Area Information for Homeowners - LeBouef Wells
Eagle Lake Tax Map _____, Lot _____

Dear Property Owner:

As you may be aware, the Eagle Lake Water and Sewer District (ELWSD) uses groundwater wells as water sources for its municipal water supply system. In order to supply the safest and highest quality drinking water to its customers, ELWSD is committed to keeping these water sources as pristine and free of land use related contamination as possible.

This letter is to notify you that your property is located within a wellhead protection area for new groundwater wells located on the LeBouef property between Dube Lane and Old Main Street. As part of the municipal groundwater well approval process, State of Maine Drinking Water Program rules require a wellhead protection area be established around municipal water supply wells. The wellhead protection area boundaries are established by determining the distance (boundary to well) that groundwater would travel over a period of 2,500 days of well operation.

Land use activities on your property could affect the quality of groundwater that reaches the LeBouef Well Site. We, therefore, urge you to be aware of, and avoid, activities that can adversely impact groundwater quality.

Enclosed please find some information that explains how you can protect your groundwater quality. We hope you will take a moment to review this material and follow its recommendations to prevent groundwater contamination. If water for your home is supplied by an on-site private well, this information will also help to ensure your family's water remains clean and safe to drink.

If you have any question regarding this letter or the enclosed materials, please do not hesitate to contact me at the Eagle Lake Water and Sewer District at 207-444-5441. Thank you for helping keep our community's groundwater safe and clean.

Sincerely,

Gerry Raymond, Superintendent
Eagle Lake Water and Sewer District



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 7, 2024

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff

- Adams, Carlton, Ianni, Jemison, Lajoie, Neavyn
- Assistant Attorney General, Carey Gustanski
- Staff: Boyd, Couture, Peacock, Pietroski, Vacchiano

2. Public Hearing on Proposed Rule Amendments to Chapters 31, 32, and 50

The Board will hear testimony on the proposed amendments:

Chapter 31 – Seven amendments are proposed:

1. Incorporation by reference of 40 CFR 171.201, which adds federal standards for direct supervision of non-certified applicators supervised by commercial applicators.
2. Addition of the word “soil” to option III of the 1B “Agricultural Plant” category, this clarifies that this category is for soil fumigation and aligns it with the federal category “Agricultural Crop Pest Control”.
3. Addition of “maintenance of public roads” to the description for category 6A and B “Vegetation Management”.
4. Incorporation by reference of 40 CFR 171.103(d)(13) and 40 CFR 171.103(c)(1 through 10) (2023), which adds federal competency standards for option III of 1B “Agricultural Plant” category related to soil fumigation.
5. Incorporation by reference of 40 CFR 171.103(d)(14) and 40 CFR 171.103(c)(1 through 10) (2023), which adds federal competency standards for the 7B category, “Industrial, Institutional, Structural and Health Related Pest – Fumigation” category related to non-soil fumigation.
6. Incorporation by reference of 40 CFR 171.103(d)(15) and 40 CFR 171.103(c)(1 through 10) (2023), which adds federal competency standards for the 11 category, “Aerial Pest Control” related to aerial application of pesticides.

ALEX PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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

7. Additional breakouts of competency standard subcategories for 1B “Agricultural Plant” and 6A and B “Vegetation Management” to clarify the competency standards for each subcategory.

Chapter 32 – Five amendments are proposed

1. Incorporation by reference of 40 CFR 171.201 and 40 CFR 171.105(a) (1 through 11), which adds federal standards for direct supervision of non-certified applicators supervised by private applicators.
2. Incorporation by reference of 40 CFR 171.105(d) (2023) to (a) Soil Fumigation, which adds federal standards for private applicators under the soil fumigation category.
3. Incorporation by reference of 40 CFR 171.105(e) (2023) to (b) Non-Soil Fumigation, which adds federal standards for private applicators under the non-soil fumigation category.
4. Incorporation by reference of 40 CFR 171.105(f) (2023) to (c) Aerial, which adds federal standards for private applicators under the aerial category.
5. Updating the date for federal standards referenced from (2017) to (2023) under Chapter 32 (5)(a through c).

Chapter 50 – Three amendments are proposed

1. Require electronic reporting for commercial applicators annual use reports and dealers annual sales reports. This requires these parties to electronically report to a board-approved software solution.
 2. Outlines a transition period in 2024 and 2025 with reports required to be submitted electronically by 2026 (reporting year 2025) or seek an exemption waiver.
 3. Describes a waiver process for those who do not have access to an electronic device capable of submitting electronic reports.
- Heather Spaulding, Deputy Director of MOFGA, stated that it was good to see the Board working to expand and improve pesticide use reporting. She added that MOFGA would like to see comprehensive data collection and analysis with a little more transparency. Spaulding commented that the phase in time was reasonable and should help commercial applicators comply.
 - Eric Venturini, Executive Director of the Wild Blueberry Commission stated that he was still concerned about requiring commercial applicators to share information publicly, especially if it could include location information in the future. He added that this information could be detrimental to the standing of a business. Venturini brought up the topic of confidentiality and asked how the Board would determine what would be confidential and what would not be.
 - **Carlton/Jemison: Moved and seconded to close the oral portion**
 - **In Favor: Unanimous**

3. Minutes of the April 5, 2024 Board Meeting

Presentation By: Alex Peacock, Director
Action Needed: Amend and/or Approve

- **Carlton/Jemison: Moved and seconded to approve the April 5, 2024 minutes as amended**
- **In Favor: Unanimous**

4. Bartlett Tree Expert's Request for 24(c) Registration for Arbotect

The University of Maine Cooperative Extension with support from Bartlett's Tree Experts have requested a Special Local Need [24(c)] for the use of Arbotect (100-892) as an injection for the treatment of Beech Leaf Disease. Arbotect is currently registered in the state as an injectable fungicide for Dutch Elm Disease and Sycamore Anthracnose. The proposed SLN would add trees in the Fagus genus to the sites for use, and target pests would be expanded to include the nematode that has been determined to be the cause of Beech Leaf Disease, *Litylenchus crenatae mccannii*.

Presentation By: Julia Vacchiano, Registrar
 Action Needed: Approve/Disapprove SLN Request

- Vacchiano explained that F A Bartlett Tree Expert Co., with support from UMaine Extension, had requested to add the nematode determined to be the cause of Beach Leaf Disease, BLD, to the list of approved target pests for Arbotect.
 - Dr. Alicyn Smart, Associate Extension Professor and Extension Plant Pathologist for UMaine Cooperative Extension explained the symptoms of BLD, its spread across the State and the need for an efficacious product.
 - Ianni asked how applications in a limited area in residential settings would mitigate the spread throughout the State of Maine.
 - Dr. Smart responded that she wished there was a better option and spoke about the relevance of these trees in residential landscapes and how important they were to landowners. She added that it was still not completely understood how the disease was spread. Dr. Smart noted that by protecting trees in separate residential areas it would help maintain their genetic diversity.
 - Carlton noted the importance of the trees and that he was willing to consider anything that could protect them.
 - Neavyn commented that upon reviewing the product, he was less concerned about human toxicity but asked if there were any implications on other flora and fauna.
 - Dr Smart responded that this active ingredient had been used on livestock since the 1980's. She added that she had tried to find data about phytotoxicity or effects on wildlife but could not find much.
 - Matthew Borden, Plant Pathologist with Bartlett Tree Research Laboratories, stated they considered this low risk due to its longevity and that it would be injected rather than used as a soil drench or broadcast spray that would require multiple applications. He added that it had been documented that there was a negative impact on soil mycorrhizae, but that the death of the trees from the disease also affected native bird and animal food sources. Borden stated that due to the long history of this active as a Dutch elm disease treatment, negative health effects were not anticipated, and they felt it was the best choice out of the other options available.
 - Dr. Smart asked how long it would take for the SLN to go into effect if it was approved.
 - Vacchiano said if the SLN was approved all paperwork would be submitted to the EPA and BPC would hopefully receive a response in a week or two.
- **Jemison/Carlton: Moved and seconded to approve the SLN request**

- **In Favor: Unanimous**

5. Request to Designate Eagle Lake Water District Wellheads as a Critical Pesticide Control Area

Staff have received a petition to designate Eagle Lake Water District Wellheads as a critical pesticide control area as outlined in Chapter 60: Designation of Critical Pesticide Control Areas. Staff has provided the information provided by the requesting party. Once received, the Board shall conduct rulemaking according to 5 MRSA Ch. 375, subchapter II and allow for local representation on board decisions regarding the designation according to Title 22 § 1471-V. This request was presented at the April 5, 2024 meeting and was tabled.

Presentation By: Alex Peacock, Director
Action Needed: Discussion/Amend/Approve rulemaking

- Adams stated that the only other request to designate an area as a critical pesticide control area had been associated with a specific health issue that was easy to identify. Regarding this request, the Board was being asked to consider possible contamination that had not yet happened.
- Gustanski noted that the merits of the request were not up for discussion today. He added that the Board needed to receive public comment, and then they could discuss it in detail.
- Peacock spoke about the process of the last petition received.
 - **Carlton/Jemison: Moved and seconded to schedule a public comment period to begin on July 19 and with written comment received for an additional ten days thereafter**
 - **In Favor: Unanimous**

6. Draft Director Appointment Policy

At the April 5, 2024 Board meeting, members approved the appointment of Alex Peacock as BPC's new director. Further discussion led to a request for the Board to clarify the appointment procedure via policy. Staff have brought forward draft policy for the Board to review.

Presentation By: Alex Peacock, Director
Action Needed: Discuss; Approve/Disapprove adoption of policy

- The Board did not vote on the draft policy at this time. They requested staff strike option three and bring the policy back to the next meeting for consideration.

7. Consideration of Consent Agreement For Orkin LLC DBA Mainely Ticks

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 several applications by unlicensed applicators and use of a pesticide inconsistent with its product label.

Presentation By: Alex Peacock, Director

Action Needed: Review and/or Approve

- Peacock summarized the violations for the Board.
- There was Board discussion about the revocation of licenses and if an applicator operated without a license at multiple locations, if each application could be considered a separate violation. Gustanski said an argument could be made that each action may be a separate violation.
- Peacock stated that the individuals responsible for the applications had since been relieved of their duties.
 - **Carlton/Jemison: Moved and seconded to approve consent agreement**
 - **In Favor: Unanimous**

8. Board Member Appointment Updates

Staff are presenting the Board with the current appointment status of all board members.

Presentation By: Alex Peacock, Director

Action Needed: None

- Peacock thanked Jemison for his nearly 22 years of service to the BPC.
- Craig Lapine, Director of the Bureau of Agriculture, Food and Rural Resources, thanked Jemison for his long service and dedication to the Board and relayed that DACF Commissioner Amanda Beal also sent her regards. He thanked Jemison for his thoughtful and insightful decision-making and willingness to share his expertise. Lapine concluded that Jemison's coming retirement was well deserved, but the Board and Maine were still sorry to be losing him.
- Jemison recalled when he was asked many years ago to join the Board he anticipated it would be for two or three terms, but he found great importance in what the Board did and generated and that he was able to use it in his own work. He added that staff and directors were always amazing and thanked everyone for all they did and that he really believed in the BPC's mission.
- There was discussion about who would be filling Jemison's position on the Board.

9. Other Old and New Business

- a. Variance Permit for CMR01-026 Chapter 29, Stantec Consulting Services, Inc.
- b. Variance Permit for CMR01-026 Chapter 29, Basswood Environmental, LLC
- c. Variance Permit for CMR01-026 Chapter 29, F.A. Bartlett Tree Expert Co.
- d. Review of Pesticide Notification Procedures
- e. EPA Update: EPA Publishes Update on Herbicide Strategy Progress
- f. EPA Update: EPA Proposes to Cancel All but One Use of Pesticide Acephate to Protect Human Health
- g. Pesticide Registration Review: Proposed Decisions for Several Pesticides
- h. Staff memo: Reporting Requirements for Dealers and Distributors

10. Schedule of Future Meetings

The next scheduled Board meeting date is July 19. The Board will decide whether to change and/or add dates.

Tentative dates for the next Board meetings are September 6 and October 25.

10. Adjourn

- **Carlton/Adams: Moved and seconded to adjourn at 10:30 AM**
- **In Favor: Unanimous**



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

March 20, 2024

2:00 PM Emergency Remote Board Meeting

MINUTES

1. Introductions of Board and Staff

- Board: Adams, Bohlen, Carlton, Ianni, Jemison, Lajoie
- Assistant Attorney General: Carey Gustanski
- Staff: Boyd, Couture, Peacock, Pietroski, Vacchiano

2. Select Board Member(s) to Attend the Environment and Natural Resources Committee Work Session Regarding LD 1960

There will be a legislative work session on Thursday, March 20, 2024 before the Environmental and Natural Resources Committee regarding LD 1960: An Act to Support Farming in Maine by Extending the Deadline for Manufacturers of Products Containing Perfluoroalkyl and Polyfluoroalkyl Substances to Report on Those Products.

Presentation By: John Pietroski, Acting Director

Action Needed: Discuss and appoint a Board member or members to attend the work session before the Environment and Natural Resources Committee

- This meeting was in response to a request from the Environmental and Natural Resources Committee to have someone from BPC attend the work session for LD 1960. Patterson explained the bill language to the Board. There was discussion about specific active ingredients that are considered PFAS in Maine and how the current legislation could affect the availability of those products.
 - **Jemison/Carlton: Moved and seconded to appoint Curtis Bohlen to attend the work session for LD 1960**
 - **In Favor: Unanimous**

3. Board Director Appointment

Presentation By: Megan Patterson, Director of Animal and Plant Health

Action Needed: None

- Pietroski announced that Alex Peacock had been chosen as the next Director of the BPC.

4. Adjourn

- **Jemison/Bohlen: Moved and seconded to adjourn at 2:40 PM**
- **In Favor: Unanimous**

01 DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY

026 BOARD OF PESTICIDES CONTROL

Chapter 31: CERTIFICATION AND LICENSING PROVISIONS/COMMERCIAL APPLICATORS

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

1. Individual Certification and Company/Agency Licensing Requirements

- A. Any commercial applicator must be either:
 - I. licensed as a commercial applicator/master; or
 - II. licensed as a commercial applicator/operator; or
 - 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. Applicators must also follow the standards outlined in 40 CFR 171.201 (2023).
- B. All commercial applicators responsible for the supervision of noncertified applicators of restricted use pesticides must ensure compliance with training, record keeping, and all other requirements as indicated in 40 CFR 171.201(c) "Supervision of Noncertified Applicators" (2017).
- C. All commercial applicator licenses shall be affiliated with a company/agency and shall terminate when the employee leaves the employment of that company or agency.
- D. Individuals certified as commercial applicators are eligible to license with one or more companies/agencies upon submission of the application and fee as described in Section 6 of this regulation. The individual's certification remains in force for the duration of the certification period as described in Section 5 of this regulation.
- E. Each branch office of any company, agency, organization or self-employed individual ("employing entity") required to have personnel licensed commercially under state

pesticide law shall have in its employment at least one master applicator. This Master must be licensed in all categories which the branch office of the company or agency performs applications and any Operators must also be licensed in the categories in which they perform or supervise pesticide applications. This master applicator must actively supervise persons applying pesticides within such employing entity and have the ability to be on site to assist such persons within six (6) hours driving time. Whenever an out-of-state employing entity is conducting a major application project they must have a master applicator within the state.

F. Exemptions

- I. Persons applying pesticides to household pets and other non agricultural domestic animals are exempt from commercial applicator licensing.
- II. Swimming pool and spa operators that are certified by the National Swimming Pool Foundation, National Spa and Pool Institute or other organization approved by the Board are exempt from commercial applicator licensing. However, these persons must still comply with all provisions of C.M.R. 10-144, Chapter 202 – *Rules Relating to Public Swimming Pools and Spas*, administered by the Maine Department of Health and Human Services, Division of Environmental Health..
- III. Certified or licensed Wastewater or Drinking Water Operators applying registered disinfectants to waste or drinking water as part of their employment.
- VI. Adults applying repellents to children with the consent of parents/guardians.
- VII. Persons installing antimicrobial metal hardware.

2. Categories of Commercial Applicators

- A. All commercial applicators shall be categorized according to the type of work performed as outlined below:
 - I. **Agricultural Animal and Plant Pest Control**
 - a. **Agricultural Animal** - This subcategory includes commercial applicators using or supervising the use of pesticides on animals and to places on or in which animals are confined. Doctors of Veterinary Medicine engaged in the business of applying pesticides for hire as pesticide applicators are included in this subcategory; however, those persons applying pesticides as drugs or medication during the course of their normal practice are not included.
 - b. **Agricultural Plant** - This subcategory includes commercial applicators using or supervising the use of pesticides in the production of crops including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops.

Option I - Limited Commercial Blueberry - This option includes commercial applicators using or supervising the use of pesticides in the production of blueberries only.

Option II - Chemigation - This option includes commercial applicators using or supervising the use of pesticides applied through irrigation equipment in the production of crops.

Option III - Agricultural Soil Fumigation - This option includes commercial applicators using or supervising the use of soil fumigant pesticides in the production of crops.

Option IV - Post Harvest Treatment - This option includes commercial applicators using or supervising the use of pesticides in the post harvest treatment of food crops.

II. **Forest Pest Management**

This category includes commercial applicators using or supervising the use of pesticides in forests, forest nurseries, Christmas trees, and forest seed producing areas.

III. **Ornamental and Turf Pest Control**

- a. **Outdoor Ornamentals** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of outdoor ornamental trees, shrubs and flowers.
- b. **Turf** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of turf, such as at turf farms, golf courses, parks, cemeteries, athletic fields and lawns.
- c. **Indoor Ornamentals** - This subcategory includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of live plants in shopping malls, businesses, residences and institutions.

IV. **Seed Treatment**

This category includes commercial applicators using or supervising the use of pesticides on seeds.

V. **Aquatic Pest Control**

- a. **General Aquatic** - This subcategory includes commercial applicators using or supervising the use of pesticides applied directly to surface water, including but not limited to outdoor application to public drinking water supplies, golf course ponds, rivers, streams and wetlands.

Excluding applicators engaged in public health related activities included in categories VII(e) and VIII below.

- b. **Sewer Root Control** - This subcategory includes commercial applicators using or supervising the use of pesticides applied to sewers to control root growth in sewer pipes.

VI. **Vegetation Management**

- a. **Rights-of-Way Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation on utility, roadside, maintenance of public roads, and railroad rights-of-way.
- b. **General Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation (including invasive plants) on sites not included in category VI a including, but not limited to, municipal and other publicly owned properties, maintenance of public roads, industrial or commercial plants and buildings, lumber yards, airports, tank farms, storage areas, parking lots, sidewalks, and trails.

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

- a. **General** - This subcategory includes commercial applicators using or supervising the use of pesticides in, on or around human dwellings, office buildings, institutions such as schools and hospitals, stores, restaurants, industrial establishments (other than in Category 6) including factories, warehouses, food processing plants, food or feed transportation facilities and other structures, vehicles, railroad cars, ships, aircraft and adjacent areas; and for the protection of stored, processed or manufactured products. This subcategory also includes commercial applicators using or supervising the use of pesticides to control rodents on refuse areas and to control other pests, including but not limited to birds and mammals.
- b. **Fumigation** - This subcategory includes commercial applicators using or supervising the use of fumigants or fumigation techniques in any type of structure or transportation device.
- c. **Disinfectant and Biocide** - This subcategory includes commercial applicators using or supervising the use of pesticides to treat mold or microbial growth problems, to treat water in manufacturing, industrial cooling towers, public drinking water treatment plants, sewers, air conditioning systems, and in swimming pools and spas.
- d. **Wood Preserving** - This subcategory includes commercial applicators using or supervising the use of restricted use pesticides to treat lumber, poles, railroad ties and other types of wooden structures including bridges, shops and homes. It also includes commercial applicators applying general use pesticides for remedial treatment to utility poles.

- e. **Biting Fly & other Arthropod Vectors** - This subcategory includes commercial applicators and non-public health governmental officials using or supervising the use of pesticides in management and control of biting flies & other arthropod vectors of public health and public nuisance importance including, but not limited to, ticks, mosquitoes, black flies, midges, and members of the horsefly family.
- f. **Termite Pests** - This subcategory includes commercial applicators using or supervising the use of pesticides to control termites.

VIII. **Public Health Pest Control**

- a. **Biting Fly Pests** - This subcategory includes governmental officials using pesticides in management and control of potential disease vectors or other pests having medical and public health importance including, but not limited to, mosquitoes, black flies, midges, and members of the horsefly family.
- b. **Other Pests** - This subcategory includes governmental officials using pesticides in programs for controlling other pests of concern to public health including, but not limited to, ticks and birds and mammal vectors of human disease.

IX. **Regulatory Pest Control**

This category includes governmental employees using pesticides in the control of pests regulated by the U.S. Animal and Plant Health Inspection Service or some other governmental agency.

X. **Demonstration and Research Pest Control**

This category includes all individuals who (1) demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration, (2) conduct field research with pesticides, and in doing so, use or supervise the use of pesticides. Individuals who conduct only laboratory-type research are not included. Applicants seeking certification in this category must also become certified in whatever category/subcategory they plan to make applications under; e.g., Categories I - IX.

XI. **Aerial Pest Control**

This category includes commercial applicators, including pilots and co-pilots, applying or supervising the application of pesticides by means of any aircraft. Applicants seeking certification in this category must also become certified in whatever category/subcategory they plan to make applications under; e.g., Categories I - IX.

3. Competency Standards for Certification of Commercial Applicators

- A. Applicants seeking commercial certification must establish competency in the general principles of safe pest control by demonstrating knowledge of basic subjects including, but not limited to, pesticide labeling, safety, environmental concerns, pest organisms, pesticides, equipment, application techniques and applicable laws and regulations. (Core Exam).
- B. Applicants seeking commercial certification must demonstrate competency in each applicable category or subcategory. (Category Exam). Competency in the applicable category or subcategory shall be established as follows:

I. Agricultural Animal and Plant Pest Control

- a. **Agricultural Animals.** Applicants seeking certification in the subcategory of Animal Pest Control as described in Section 2(A)(I)(a) must demonstrate knowledge of animals, their associated pests, and methods of pest control. Areas of practical knowledge shall include specific toxicity, residue potential, relative hazards of different formulations, application techniques, and hazards associated with age of animals, stress, and extent of treatment.

- b. ~~**Agricultural Plant.** Applicants seeking certification in the subcategory of Plant Pest Control as described in Section 2(A)(I)(b) Options I–IV must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. For option III, applicants must demonstrate practical knowledge of agricultural soil fumigation as outlined in 40 CFR 171.103(d)(13) and 40 CFR 171.103(e)(1 through 10) (2023).~~

- 1. Option I - Limited Commercial Blueberry - Applicants seeking certification in Limited Commercial Blueberry must demonstrate practical knowledge of blueberries. This option includes commercial applicators using or supervising the use of pesticides in producing blueberries only. Areas of such practical knowledge shall include IPM, soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the

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

2. Option II - Chemigation - This option includes commercial applicators using or supervising the use of pesticides applied through irrigation equipment in the production of crops. Areas of such practical knowledge shall include IPM, soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. The proper meteorological conditions for applying pesticides and the potential adverse effect of pesticides on plants, animals, or humans.
3. Option III - Agricultural Soil Fumigation - This option includes commercial applicators using or supervising the use of fumigant pesticides in the production of crops. Applicants seeking certification must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include IPM, soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. Applicants must demonstrate practical knowledge of agricultural soil fumigation as outlined in 40 CFR 171.103(d)(13) and 40 CFR 171.103(c)(1)-(10) (2023).
4. Option IV - Post-Harvest Treatment - This option includes commercial applicators using or supervising the use of pesticides in the post-harvest treatment of food crops. Applicators must demonstrate practical knowledge of the crops being treated, the specific pests of those crops on which they may be using pesticides, and the potential adverse effect of pesticides on animals or humans.

II. **Forest Pest Management**

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

III. **Ornamental and Turf Pest Control**

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

IV. **Seed Treatment**

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

V. **Aquatic Pest Control**

- a. **General Aquatic** - Applicants seeking certification in the subcategory of General Aquatic as described in Section 2(A)(V)(a) must demonstrate practical knowledge of proper methods of aquatic pesticide application, application to limited area, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include basic factors contributing to the development of nuisance aquatic plant growth such as algal blooms, understanding of various water use situations and potential downstream effects from pesticide use, and potential effects of various aquatic pesticides on plants, fish, birds, insects and other organisms associated with the aquatic environment. Also required shall be an understanding of the Department of Environmental Protection laws and regulations pertaining to aquatic discharges and aquatic weed control and a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- b. **Sewer Root Control** - Applicants seeking certification in the subcategory of Sewer Root Control as described in Section 2(A)(V)(b) must demonstrate practical knowledge of proper methods of sewer root control pesticide application, application to pipes, and a recognition of the adverse effects which can be caused by improper techniques, dosage rates, and formulations. Such knowledge shall include potential effects on water treatment plants, movement of pesticides into off target pipes or buildings and the hazards of sewer gases.

VI. **Vegetation Management**

~~Applicants seeking certification in the subcategories under Vegetation Management as described in Section 2(A)(VI) (a-b) must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include an ability to recognize target organisms and circumstances specific to the subcategory, awareness of problems of runoff, root pickup and aesthetic considerations associated with excessive foliage destruction and "brown-out", and an understanding of the mode of action of herbicides, and reasons for the choice of particular chemicals for particular problems, importance of the assessment of potential impact of spraying on adjacent public and private properties and activities, and effects of spraying on fish and wildlife species and~~

their habitat. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

a. **Rights-of-Way Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in the management of vegetation on utility, roadside, and railroad rights-of-way. Applicants seeking certification must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include maintenance of public roads to Maine vegetation management rights of ways vegetation management. The ability to recognize target organisms and circumstances specific to the subcategory, awareness of problems of runoff, root pickup, and aesthetic considerations associated with excessive foliage destruction and "brown-out," and an understanding of the mode of action of herbicides and reasons for the choice of particular chemicals for particular problems, the importance of the assessment of the potential impact of spraying on adjacent public and private properties and activities, and effects of spraying on fish and wildlife species and their habitat. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

b. **General Vegetation Management** - This subcategory includes commercial applicators using or supervising the use of pesticides in managing vegetation (including invasive plants). Applicants seeking certification must demonstrate practical knowledge of the impact of pesticide use on a wide variety of environments. Such knowledge shall include the ability to recognize target organisms and circumstances specific to the subcategory, awareness of problems of runoff, root pickup, and aesthetic considerations associated with excessive foliage destruction and "brown-out," and an understanding of the mode of action of herbicides and reasons for the choice of particular chemicals for particular problems, and effects of spraying on fish and wildlife species and their habitat. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals, or humans.

VII. Industrial, Institutional, Structural and Health Related Pest

a. **General.** Applicants seeking certification in the subcategory of General Pest Control as described in Section 2(A)(VII)(a) must demonstrate a practical knowledge of a wide variety of pests and methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans,

domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

- b. **Fumigation.** Applicants seeking certification in the subcategory Fumigation as described in Section 2(A)(VII)(b) must demonstrate a practical knowledge of wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees and customers. Applicants must also demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(14) and 40 CFR 171.103(c)(1)-(10) (2023).
- c. **Disinfectant and Biocide.** Applicants seeking certification in the subcategory of Disinfectant and Biocide as described in Section 2(A)(VII)(c) must demonstrate practical knowledge of water organisms and their life cycles, pool and spa design systems, drinking water treatment plant designs, cooling water system designs, mold and problematic microbial organisms, labels, hazards of disinfectants and biocides and proper application techniques to ensure adequate control while minimizing exposure to humans and the environment.
- d. **Wood Preserving.** Applicants seeking certification in the Wood Preserving Subcategory described in Section 2(A)(VII)(d) must demonstrate practical knowledge in wood destroying organisms and their life cycles, nonchemical control methods, pesticides appropriate for wood preservation, hazards associated with their use, proper handling of the finished product, proper disposal of waste preservatives, and proper application techniques to assure adequate control while minimizing exposure to humans, livestock and the environment.
- e. **Biting Fly and Other Arthropod Vector Pests.** Applicants seeking certification in the subcategory of Biting Fly and Other Arthropod Vector Pest control as described in Section 2(A)(VII)(e) must demonstrate a practical knowledge of the species involved, their potential roles in disease transmission, and the use of pesticides in their control. Such knowledge shall include identification of and familiarity with life cycles and habitat requirements, special environmental hazards associated with the use of pesticides in control programs, and knowledge of the importance of integrating chemical and non-chemical control methods. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.
- f. **Termite Pests.** Applicants seeking certification in this subcategory must demonstrate a practical knowledge of Termite pests and methods for their control. Such knowledge shall include identification of termites and knowledge of life cycles, formulations appropriate for various indoor and outdoor uses, methods to avoid contamination of food and feed, and damage to structures and furnishings, avoidance of risk to humans,

domestic animals, and non-target organisms and risks to the environment associated with structural pesticide use.

VIII. **Public Health Pest Control**

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

IX. **Regulatory Pest Control**

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

X. **Demonstration and Research Pest Control**

Applicants seeking certification in the category of Demonstration and Research Pest Control as described in Section 2(A)(X) must demonstrate practical knowledge in the broad spectrum of activities involved in advising other applicators and the public as to the safe and effective use of pesticides. Persons

involved specifically in demonstration activities will be required to demonstrate knowledge of pesticide-organism interactions, the importance of integrating chemical and non-chemical control methods, and a grasp of the pests, life cycles and problems appropriate to the particular demonstration situation. Field researchers will be required to demonstrate general knowledge of pesticides and pesticide safety, as well as a familiarity with the specific standards of this Section which apply to their particular areas of experimentation. All individuals certified in this category must also be certified in one or more of the previous categories or subcategories which represent at least 80% of their practice. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans.

XI. **Aerial Pest Control**

Applicants seeking certification in the category of Aerial Pest Control as described in Section 2(A)(XI) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Applicants must also demonstrate competency in the specific category or subcategory in which applications will be made, as described in paragraphs I, II, VI and VIII herein. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. Applicants must also demonstrate practical knowledge of topics indicated in 40 CFR 171.103(d)(15) and 40 CFR 171.103(c)(1)-(10) (2023).

4. **Competency Standards for Certification of Commercial Applicator/Master**

- A. **Regulations Exam.** An applicant seeking certification as a commercial applicator/master must successfully complete a closed book exam on the appropriate chapters of the Board's regulations. The passing grade shall be 80%. An applicant must successfully complete the regulations exam before being allowed to proceed to the master exam. The staff may waive the requirements for the closed book regulation exam if it determines that a pest management emergency exists necessitating the issuance of a nonresident license pursuant to Section 6 B. of this chapter, provided that the staff verbally reviews the pertinent regulations with the applicant prior to issuing a nonresident license.
- B. **Master Exam.** An applicant seeking certification as a commercial applicator/master must also demonstrate practical knowledge in ecological and environmental concerns, pesticide container and rinsate disposal, spill and accident mitigation, pesticide storage and on site security, employee safety and training, potential chronic effects of exposure to pesticides, pesticide registration and special review, the potential for groundwater contamination, principles of pesticide drift and measures to reduce drift, protection of public health, minimizing public exposure and use of non pesticide control methods. In addition, applicant must demonstrate the ability to interact with a concerned public.

5. Certification Procedures for Commercial Applicators

A. **Initial Certification.** Individuals attempting to certify as a commercial applicator must be at least 18 years of age.

I. **Application for Exams.** Individuals applying to take exams must submit a completed application and associated fees. All fees are waived for governmental employees.

- a. Information shall include name, home address, company address, name and telephone number of supervisor and categories for which certification is desired.
- b. A non-refundable fee of \$10.00 for each core, category or subcategory exam shall accompany the application.
- c. Study materials for other than the regulations exam are available through the University of Maine Cooperative Extension Pest Management Office for a fee.
- d. A non-refundable fee of \$10.00 for the regulations exam and \$40.00 for the Master exam shall accompany the application for Master exams. Study material for the regulations exam will be sent to the applicant upon receipt of their application and the required fees.

II. Appointment for Exams

- a. Exams will be scheduled by Board staff. It is the responsibility of the applicant to reschedule if necessary.
- b. All exam fees shall be forfeited if an applicant fails to notify the Board that he/she cannot sit for the exams on the scheduled date at least 24 hours in advance of the scheduled exam. Applicants who cancel their exam appointment two times in a row shall also forfeit their exam fees. Re-application shall require an additional \$15.00 fee.
- c. Exams will be available year-round on an appointment basis at the Board's office in Augusta.
- d. Exams may also be offered at other locations designated by the Board staff. Appointments for these exams should be arranged by application with the Board's office in Augusta.

III. Exams

- a. Applicants shall take a closed book core exam plus a closed book category technical exam on each applicable category or subcategory for which they anticipate making pesticide applications.

- b. In addition to the exams described above in sections (a), applicants for commercial applicator/master certification must complete a closed book written regulations exam as well as a master exam. Applicants for commercial applicator/master must successfully complete the core and at least one category exam or the combined exam before being eligible to take the master exams. Applicants must also successfully complete the regulations exam before being allowed to commence on the master exam.

IV. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.

- a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.
- b. Applicants should be present and ready to take the exams at the appointed time.
- c. Applicants shall not talk during the examination period.
- d. Applicants shall not be allowed to bring any books, papers, cellular telephones, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.
- e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.

V. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.

- a. An applicant who fails the core exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.
- b. An applicant who fails a category exam must re-apply and pay all required fees and may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must reapply and pay all required fees and wait 6 more days before retaking again.
- c. An applicant who passes the core and one category exam shall be considered eligible for operator level licensing in that particular category so long as that person will be working under the supervision of a Master applicator. If at a later date the applicant wishes to add another category, only the appropriate category exam shall be required.
- d. An applicant who fails a master exam must re-apply and pay all required fees and may not retake the examination prior to 6 days after the date of such failed examination.

- e. Any applicant must pass both the core and at least one category exam by December 31 of the third year from the date on which the first exam was passed.
- f. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retaking.

VI. **Expiration.** Certification under this Section will expire on December 31st of the third year after the date of successful completion of required exams and on December 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.

VII. An applicant's original certification period shall not be extended due to the applicant qualifying for another category or upgrading to the master level.

B. **Recertification of Applicators**

I. Persons with current valid certification may renew that certification by either providing documentation from a substantially equivalent professional certification program approved by the board or by accumulating recertification credits during the certification period described in Section 5(A)VI according to the following schedule:

- a. **Master level** - 9 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.
- b. **Operator level** - 6 credit hours in subject areas applicable to the categories/subcategories in which the licensee is certified.

II. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.

- a. Board staff will review program agendas and monitor programs as time permits.

III. Credit will be allowed for topics including, but not limited to:

- a. Applicable laws and regulations.
- b. Environmental hazards.
- c. Calibration and new application techniques.
- d. Label review.
- e. Applicator safety.
- f. Storage and disposal.

- g. Pest identification and control.
 - h. Integrated pest management.
- IV. Persons organizing meetings for which they want credits awarded must contact the Board in writing at least 15 days in advance of the meeting with details of the agenda. Board staff will review program agendas and assign credit values.
- a. One credit will be assigned for each 1 hour of presentation on appropriate topics.
 - b. An individual who conducts a meeting for which the Board does assign recertification credits will be eligible for two credits for each 1 hour of presentation on appropriate topics.
 - c. An individual who organizes a meeting shall be required to maintain a sign up sheet and supervise the signing of the sheet by all applicators attending the program. That individual shall submit the signup sheet to the Board at the same time the verification attendance forms are collected and submitted to the Board.
- V. For in state programs, applicants must submit verification of attendance at approved programs to the Board. For out of state programs, applicators must submit verification of attendance; they may also be asked to provide documentation such as an agenda or descriptions of the presentations attended.
- VI. A person who fails to accumulate the necessary credits during their first three year certification period will have to retake and pass all exam(s) required for initial certification. If a person fails to accumulate the necessary credits again that person must retake and pass all exam(s) required for initial certification and within one year thereafter, obtain the balance of the recertification credits which that person failed to accumulate during the previous certification period. If that person does not obtain the balance of credits needed, the Board will not renew their license until the make- up credits are accrued.
- VII. Applicants must attend the entire approved program(s) for which recertification credit is sought. No other person may complete or sign a verification form on another applicator's behalf. Any form that is completed or signed by a person other than the applicator will be deemed a fraudulent report and will not be approved by the Board for recertification credit(s). Any credit(s) approved by the Board pursuant to an attendance verification form which is subsequently determined by the Board to have been completed or signed by a person other than the applicator shall be void and may not be counted towards the applicator's recertification requirements; and any recertification issued on the basis of such credits shall be void.

6. Licensing

- A. All Commercial Applicators required to be certified under this chapter and state pesticide law shall be licensed before using or supervising the use of pesticides as described in Section 1(A).
- B. **Nonresident licenses.** When the staff determines that a pest management emergency exists which necessitates the use of aerial application and for which there are not sufficient qualified Maine licensees, it may issue a license without examination to nonresidents who are licensed or certified by another state or the Federal Government substantially in accordance with the provisions of this chapter. Nonresident licenses issued pursuant to this section are effective until December 31 of the year in which they are issued.
- C. **Application.** Application for a commercial applicator license shall be on forms provided by the Board.
- I. The completed application must include the name of the company or agency employing the applicant.
- II. Unless the applicant is the owner of a company, the completed application must be signed by both the applicant and that person's supervisor to verify the applicant is an employee of the company/agency.
- D. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
- I. For a commercial applicator license - \$105.00 per person.
- E. Commercial applicators who apply pesticides for hire (custom applicators) and operate a company that is incorporated or which employs more than one applicator (licensed or unlicensed) must comply with Chapter 35, *Certification & Licensing Provisions/Spray Contracting Firms* which requires an additional Spray Contracting Firm License.
- F. **Insurance.** Commercial applicators who spray for hire (custom applicators) shall be required to have liability insurance in force at any time they make a pesticide application.
- I. Applicators shall submit a completed and signed form provided by the Board at the time they apply for their license which attests that they will have the required amounts of insurance coverage in effect when they make pesticide treatments. The information submitted on the form must be true and correct.
- II. Insurance coverage must meet or exceed the following minimum levels of liability:
- a. **Ground applicators**
- | | |
|------------------|--|
| Public liability | \$100,000 each person
\$300,000 each occurrence |
| Property damage | \$100,000 each occurrence |
- b. **Aircraft applicators**
- | | |
|------------------|--|
| Public liability | \$100,000 each person
\$300,000 each occurrence |
|------------------|--|

Property damage

\$100,000 each occurrence

- G. **Reports.** Annual Summary Reports described in Chapter 50, Section 2(A) must be submitted for each calendar year by January 31 of the following year. In the event a required report is not received by the due date, the person's license is temporarily suspended until the proper report is received or until a decision is rendered at a formal hearing as described in 22 MRSA §1471-D (7).
- H. **Expiration**
- I. All licenses will expire at the end of the certification period as determined in Section 5(A)VI or when an individual licensee terminates employment with the company/agency with which the individual's license is affiliated.
 - II. The licensee or a company/agency representative shall notify the Board in writing within 10 days after a licensee is terminated from employment.
 - III. Also, all licenses within a company/agency are suspended if the licensed Master is terminated from employment or dies.
- I. **Decision.** Within 60 days of receipt of application by the Board, unless the applicant agrees to a longer period of time, the Director shall issue, renew or deny the license. The Director's decision shall be considered final agency action for purposes of 5 M.R.S.A. §11001 *et seq.*
- J. **Credentials Contact.** Licenses issued under this rule will include the following information:
- I. Full name of applicator
 - II. License number
 - III. Categories
 - IV. Expiration date
 - V. Maine statute under which license is issued.
-

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

EFFECTIVE DATE:

January 1, 1983 (filed with Secretary of State August 13, 1982)

AMENDED:

December 29, 1982

January 1, 1984

January 1, 1984 - Section 7

May 20, 1984 - Section 6

May 13, 1985 - Section 5

Emergency amendment effective April 18, 1986 - Section 6

August 3, 1986 - Section 6

November 30, 1986 - Section 3

May 23, 1987 - Section 1

April 27, 1988

April 29, 1990

January 1, 1996 (adopted by Board October 7, 1994 - see Section 8 for transition dates)

October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

December 28, 1999 -- also converted to MS Word

March 5, 2003

July 3, 2005 – filing 2005-267

March 4, 2007 – filing 2007-69

July 2, 2009 – filing 2009-318 (EMERGENCY, later reverted to pre-emergency status)

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

December 9, 2014 – filing 2014-280

September 23, 2015 – filing 2015-168

July 23, 2019 – filing 2019-131

BASIS STATEMENT FOR ADOPTION OF CMR 01-026, CHAPTER 31

Basis Statement

Chapter 31 – Seven amendments are proposed:

1. Incorporation by reference of 40 CFR 171.201, which adds federal standards for direct supervision of non-certified applicators supervised by commercial applicators.
2. Addition of the word “soil” to option III of the 1B “Agricultural Plant” category, this clarifies that this category is for soil fumigation and aligns it with the federal category “Agricultural Crop Pest Control”.
3. Addition of “maintenance of public roads” to the description for category 6A and B “Vegetation Management”.
4. Incorporation by reference of 40 CFR 171.103(d)(13) and 40 CFR 171.103(c)(1)-(10) (2023), which adds federal competency standards for option III of 1B “Agricultural Plant” category related to soil fumigation.
5. Incorporation by reference of 40 CFR 171.103(d)(14) and 40 CFR 171.103(c)(1)-(10) (2023), which adds federal competency standards for the 7B category, “Industrial, Institutional, Structural and Health Related Pest – Fumigation” category related to non-soil fumigation.
6. Incorporation by reference of 40 CFR 171.103(d)(15) and 40 CFR 171.103(c)(1)-(10) (2023), which adds federal competency standards for the 11 category, “Aerial Pest Control” related to aerial application of pesticides.
7. Additional breakouts of competency standard subcategories for 1B “Agricultural Plant” and 6A and B “Vegetation Management” to clarify the competency standards for each subcategory.

The amendments to the proposed rules are in response to the provisional adoption of Maine’s Pesticide Certification and Training Program (C&T) by the Environmental Protection Agency. These changes were identified to add requirements to categories through federal incorporation by reference, adding key words to descriptions, and adding subcategory competency standards. Maine’s C&T Plan was accepted on August 18, 2023, and Maine identified a timeline for implementation of changes to Chapter 31 as the end of 2024.

Zero comments were received during the public hearing and comment period.

Impact on Small Business

In accordance with 5 M.R.S. § 8052(5-A), a statement of the impact on small business has been prepared. Information is available upon request from the Maine Board of Pesticides Control office, State House Station #28, Augusta, Maine 04333-0028, telephone 207-287-2731.

Rulemaking Statement of Impact on Small Business

5 M.R.S. § 8052(5-A)

Agency

Department of Agriculture, Conservation and Forestry—Maine Board of Pesticides Control

Chapter Number and Title of Rule

CMR 01-026, Chapter 31—Certification and Licensing Provisions/Commercial Applicators

Identification of the Types and an Estimate of the Number of the Small Businesses Subject to the Proposed Rule

Currently, there are 1,480 commercial applicators that would be impacted by this rule. This is based on the number of active licenses that BPC currently has in its registration system (MEPERLS).

Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, including the Type of Professional Skills Necessary for Preparation of the Report or Record

The changes to this rule incorporate federal rule by reference, adds additional information for category descriptions, aligns Maine's categories with EPA's, and adds description and competency information for several subcategories. These changes may have some administrative costs for commercial applicators that must study additional competency information for affected categories. BPC does not anticipate any reporting or recordkeeping costs with the proposed amendments.

Brief Statement of the Probable Impact on Affected Small Businesses

Prospective applicators that work for companies may have additional information to study and train for during the licensing process, which could impact their ability to work for a spray contracting firm. Otherwise, no fiscal impact is expected.

Description of Any Less Intrusive or Less Costly, Reasonable Alternative Methods of Achieving the Purposes of the Proposed Rule

The Board cannot use a less intrusive or less costly alternative method to achieve this rule. All of the changes proposed were identified during the review of Maine's Certification and Training Plan by EPA, and these changes are required as a part of the plan's conditional approval. If this rulemaking is rejected, the Board is at risk of losing its federal grants with EPA, as these changes align Maine's pesticide categories with federal requirements.

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

1. Competency Standards for Certification - Private Applicator

- A. No person shall be certified as a private applicator unless he has fulfilled requirements demonstrating his knowledge of basic subjects including pesticide label comprehension, ability to read and understand pesticide labeling, safety, environmental concerns, stewardship, pest organisms, pesticides, equipment, application techniques, responsibilities for supervisors of non-certified applicators, and applicable laws and regulations. Also required shall be knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans (core exam). Applicators must also follow the standards outlined in 40 CFR 171.201 and 40 CFR 171.105(a) (1)-(11) (2023).
- B. No person shall be certified as a private applicator unless he has demonstrated knowledge of the general principles of pest control for his major commodity, including specific pests of the crop, their life cycle, and proper timing of control measures to be efficacious (Commodity Exam).

2. Certification Procedures for Private Applicators

A. Initial Certification

- 1. Any person attempting to certify as a private applicator must be at least 18 years of age.
- 2. Any person seeking to be certified as a private applicator must pass a written core exam and a written exam in the area of his primary commodity. Both exams shall be closed book.
- 3. Exams may be taken at cooperating County University of Maine Cooperative Extension offices. Exams may also be offered at other locations designated by the Board staff or available on an appointment basis at the office of the Board.
- 4. **Examination Procedures.** All applicants shall comply with these rules or forfeit their opportunity to complete the exams at a specified appointment.

- a. Applicant shall present a government issued identification to the moderator prior to commencement of exams.
 - b. Applicants should be present and ready to take the exams at the appointed time.
 - c. Applicants shall not talk during the examination period.
 - d. Applicants shall not be allowed to bring any books, papers, calculators or electronically stored data into the examining room. Pencils and work sheets will be provided and all papers shall be collected at the end of the period.
 - e. Applicants shall not make notes of the exams and shall not leave the table during an exam unless authorized by the staff.
5. **Qualification Requirements.** An applicant must achieve a passing score of 80 percent on each exam.
- a. An applicant who fails the core exam may not retake that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - b. An applicant who fails the exam in the area of his primary commodity may not retake the that examination prior to 6 days after the date of such failed examination. If an applicant fails again the applicant must wait 6 more days before retaking the exam again.
 - c. Any applicant must pass both the core and at least one commodity exam within 12 months before qualifying for certification.
 - d. Any applicant who violates any of the rules pertaining to examinations shall wait a minimum of 60 days before retesting.
6. Certification under this section will expire on October 31st of the third year after the date of successful completion of the exams and on October 31st of every third year thereafter unless a special restricted certification period is assigned by the Board or Board staff.
- B. **Supplemental Certification.** Private applicators who are certified as described in Section 2(A), and intend to conduct soil fumigation, non-soil fumigation or aerial applications must be certified in the appropriate supplemental category. Certification is obtained by passing a written exam with a minimum score of 80.
1. Supplemental category exams shall be closed book.
 2. Supplemental category exams will be available year-round on an appointment basis at the Board's office in Augusta.

3. Examination and qualification requirements described in Section 2(A)(4-6) pertain to supplemental certification.
4. **Categories for Supplemental Certification of Private Applicators**
 - a. **Soil Fumigation.** This category includes private applicators using or supervising the use of pesticides to fumigate crops in production including blueberries, orchard fruit, potatoes, vegetables, forage, grain and industrial or non-food crops as outlined in 40 CFR 171.105(d) (2023).
 - b. **Non-soil Fumigation.** This category includes private applicators using or supervising the use of fumigant pesticides or fumigation techniques in any type of structure or transportation device as outlined in 40 CFR 171.105(e) (2023).
 - c. **Aerial.** This category includes private applicators, including pilots and co-pilots, applying pesticides by means of any aircraft as outlined in 40 CFR 171.105(f) (2023).
5. **Competency Standards for Supplemental Certification of Private Applicators**

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

- a. **Soil Fumigation.** Applicants seeking supplemental certification in the category of Soil Fumigation as described in Section 2(B)(4)(a) must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using pesticides. Areas of such practical knowledge shall include soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, potential for environmental contamination, non-target injury, and community problems related to pesticide use in certain areas. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (d) (~~2017~~2023).
- b. **Non-soil Fumigation.** Applicants seeking supplemental certification in the category of Structural Fumigation as described in Section 2(B)(4)(b) must demonstrate a practical knowledge of a wide variety of pests and fumigation methods for their control. Such knowledge shall include identification of pests and knowledge of life cycles, fumigant formulations, methods to avoid contamination of food and damage to structures and furnishings, and avoidance of risks to employees. In addition to the above competencies, private applicators obtaining

supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (e) (~~2017~~2023).

- c. **Aerial Pest Control.** Applicants seeking supplemental certification in the category of Aerial Pest Control as described in Section 2(B)(4)(c) must demonstrate at least a practical knowledge of problems which are of special significance in aerial application of pesticides, including chemical dispersal equipment, tank, pump and plumbing arrangements; nozzle selection and location; ultra-low volume systems; aircraft calibration; field flight patterns; droplet size considerations; flagging methods; and loading procedures. Also required shall be a knowledge of current methodology and technology for the control of pesticide drift to non-target areas, the proper meteorological conditions for the application of pesticides, and the potential adverse effect of pesticides on plants, animals or humans. In addition to the above competencies, private applicators obtaining supplemental certification in this category must demonstrate practical knowledge of topics indicated in 40 CFR 171.105 (f) (~~2017~~2023).

- C. **Requirements for Noncertified Applicators.** A certified applicator directly supervising a noncertified applicator to use restricted use pesticides must follow the provisions in 40 CFR 171.201 (2023).

D. **Recertification**

1. Any person with current valid certification may renew that certification by accumulating 6 recertification credits during the certification period described in Section 2(A)6.
2. Recertification credits will be available through Board-approved meetings including but not limited to industry and trade organization seminars, workshops where pesticide topics are presented and approved home study courses.
3. Credit will be allowed for topics including, but not limited to:
 - a. Applicable laws and regulations.
 - b. Environmental hazards.
 - c. Calibration and new application techniques.
 - d. Label review.
 - e. Applicator safety.
 - f. Storage and disposal.
 - g. Pest identification and control.
 - h. Integrated pest management.

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

3. Licensing

- A. **Application.** Application for a private applicator license, shall be on forms provided by the Board. Information shall include name; Social Security number; mailing address; farm name, location and telephone number; and major crop(s).
- B. **Fee.** At the time of application, the applicant must tender the appropriate fee as follows:
 1. For a private applicator license - \$15.00 per person.
 2. For replacement or alteration - \$5.00.
- C. **Expiration.** Private applicator licenses are issued on a three-year period and will expire on October 31st of the third year. Any person who has accumulated the required number of recertification credits must apply for license renewal within one year of the expiration date of the license or the recertification credits are forfeited and that person must retake and pass both the core and commodity exams to again be eligible for licensing.
- D. **Decision.** Within 60 days of receipt of application by the Board, unless the applicant agrees to a longer period of time, the Director shall issue, renew or deny the license. The Director's decision shall be considered final agency action for purposes of 5 M.R.S.A. §11001 *et seq.*

- E. **License Issued.** Licenses issued under this rule will include the following information:
- I. Full name of applicator
 - II. License number
 - III. Commodities and categories
 - IV. Expiration date
 - V. Maine statute under which license is issued
-

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

EFFECTIVE DATE:
January 1, 1983

AMENDMENT EFFECTIVE:
December 6, 1987
August 17, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
March 1, 1997

AMENDED:
August 25, 1997 – fees
January 4, 2005 – filing 2004-605, Section 3.C.

CORRECTIONS:
February, 2014 – agency names, formatting

AMENDED:
December 9, 2014 – Section 2(A)(4)(a, b), filing 2014-281
July 23, 2019 – filing 2019-132

BASIS STATEMENT FOR ADOPTION OF CMR 01-026, CHAPTER 32

Basis Statement

Chapter 32 – Five amendments are proposed:

1. Incorporation by reference of 40 CFR 171.201 and 40 CFR 171.105(a) (1)-(11) (2023), which adds federal standards for direct supervision of non-certified applicators supervised by private applicators.
2. Incorporation by reference of 40 CFR 171.105(d) (2023) to (a) Soil Fumigation, which adds federal standards for private applicators under the soil fumigation category.
3. Incorporation by reference of 40 CFR 171.105(e) (2023) to (b) Non-Soil Fumigation, which adds federal standards for private applicators under the non-soil fumigation category.
4. Incorporation by reference of 40 CFR 171.105(f) (2023) to (c) Aerial, which adds federal standards for private applicators under the aerial category.
5. Updating the date for federal standards referenced from 2017 to 2023 under Chapter 32 (5)(a)-(c).

The amendments to the proposed rules are in response to the provisional adoption of Maine's Pesticide Certification and Training Program (C&T) by the Environmental Protection Agency. These changes were identified to add requirements to categories through federal incorporation by reference for non-certified applicators supervised by private applicators, soil fumigation category holders, non-soil fumigation category holders, and aerial category holders. Maine's C&T Plan was accepted on August 18, 2023, and Maine identified a timeline for implementation of changes to Chapter 32 as the end of 2024.

Zero comments were received during the public hearing and comment period.

Impact on Small Business

In accordance with 5 M.R.S. § 8052(5-A), a statement of the impact on small business has been prepared. Information is available upon request from the Maine Board of Pesticides Control office, State House Station #28, Augusta, Maine 04333-0028, telephone 207-287-2731.

Rulemaking Statement of Impact on Small Business

5 M.R.S. § 8052(5-A)

Agency

Department of Agriculture, Conservation and Forestry—Maine Board of Pesticides Control

Chapter Number and Title of Rule

CMR 01-026, Chapter 32—Certification and Licensing Provisions/Private Applicator

Identification of the Types and an Estimate of the Number of the Small Businesses Subject to the Proposed Rule

Currently, there are 1,142 private applicators that would be impacted by this rule. This is based on the number of active licenses that BPC currently has in its registration system (MEPERLS).

Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, including the Type of Professional Skills Necessary for Preparation of the Report or Record

The changes to this rule incorporate federal rule by reference for several categories. These changes may have some administrative costs for private applicators that must study additional competency information for affected categories. BPC does not anticipate any reporting or recordkeeping costs with the proposed amendments.

Brief Statement of the Probable Impact on Affected Small Businesses

Prospective applicators may have additional information to study and train for during the licensing process. Otherwise, no fiscal impact is expected.

Description of Any Less Intrusive or Less Costly, Reasonable Alternative Methods of Achieving the Purposes of the Proposed Rule

The Board cannot use a less intrusive or less costly alternative method to achieve this rule. All of the changes proposed were identified during the review of Maine's Certification and Training Plan by EPA, and these changes are required as a part of the plan's conditional approval. If this rulemaking is rejected, the Board is at risk of losing its federal grants with EPA, as these changes align Maine's pesticide categories with federal requirements.

SUMMARY: These regulations describe the types of records and reports which commercial applicators, commercial agricultural producers, limited/restricted use pesticide dealers, spray contracting firms and monitors must maintain and submit to the Board.

Section 1. Records

A. Pesticide Application Records

- I. Commercial agricultural producers and commercial applicators shall maintain pesticide application records consistent with paragraph II. below for a period of two years from the date of application. Such records shall be kept current by recording all the required information on the same day the application is performed. These records shall be maintained at the primary place of business and available for inspection by representatives of the Board at reasonable times, upon request.
- II. Pesticide application records shall include, at a minimum:
 - a. Site information including town and location, crop or site treated, target organism, customer and customer address_(where applicable); and
 - i. for broadcast applications, size of treated area (when completed);
 - ii. for volumetric applications as described on the label, the volume treated;
 - iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).
 - b. **Application information.** For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the licensed applicator's name and certification number, the name of any noncertified applicator that made the application (where applicable), and spray contracting firm (where applicable).

- c. **Rate information.** For each distinct site, application rate information must be maintained as follows:
- i. **Restricted Use Pesticides.** For restricted use pesticides, applicators shall record the total amount of pesticide applied (undiluted).
 - ii. **General Use Pesticides.** For general use pesticides, applicators shall record:
 - (1) rate information as described in (i.) above; or
 - (2) the mix ratio and the total mix applied; or
 - (3) the mix ratio and the mix per unit area applied.
- d. For outdoor applications, except those listed below, weather conditions including wind speed and direction, air temperature and sky conditions recorded such as sunny, partly cloudy, overcast, foggy or rainy. No weather condition records need be kept for outdoor applications involving:
- i. pesticides placed in bait stations;
 - ii. pesticide-impregnated devices placed on animals, such as ear tags; or
 - iii. pesticides injected into trees or utility poles.
- e. For TBT applications to marine vessels, applicators must also record the vessel identification and size, and the disposition of TBT wastes including chips/dust removed prior to application and empty containers.

B. **Limited Use/Restricted Use Pesticide Sales Records**

- I. Licensed pesticide dealers shall maintain records of each sale of a restricted/limited use pesticide on their sales slips and the customer's name, and license number must be recorded on every invoice or electronic record involving that individual. Licensed pesticide dealers must also maintain records to verify that sales of restricted/limited use pesticides to unlicensed purchasers are only made where a licensed applicator is employed to supervise the use of the restricted/limited use products. These records must include the name, address, license number, issuing agency, expiration date, and categories of certification (if applicable) of each person to whom the restricted use pesticide was distributed or sold. These records are to be available for inspection by representatives of the Board at reasonable times, upon request, and are to be maintained for two calendar years from the date of sale.
- II. Pesticide dealer records shall also include the signature of purchaser or his/her agent, the product name, the EPA registration number, state special local need registration (SLN) number (if applicable), the quantity and size of containers purchased, and the date of purchase.

- III. Any pesticide dealer who discontinues the sales of restricted/limited use pesticides shall notify the Board in writing and shall provide the Board, upon request, with all required records including a final sales report up to the date of discontinuance.

Section 2. Reports

- A. **Annual Summary Reports by Commercial Applicators.** Annual summary reports must be electronically submitted for each calendar year by January 31 of the following year through a board-approved software solution. In the event a required report is not received by the due date, the person's license may be temporarily suspended until the proper report is received or until a decision is tendered at a formal hearing as described in 22 M.R.S.A. §1471-D(7). The report filed with the Board by or on behalf of commercial applicators shall contain the following information for each site or crop treated: quantity of each pesticide used, EPA registration number and total area treated (where applicable) for each pesticide.
- B. **Annual Pesticide Sales Reports.** Pesticide dealers licensed to sell limited and restricted use pesticides must provide the Board with a calendar year-end report of total sales of all limited, restricted and general use pesticides electronically through a board-approved software solution before their pesticide dealer license can be renewed. The Board will furnish report forms.
- C. **Transition to Electronic Submission of Sales and Use Reports.**
- I. The 2024 amendments to Section 2 shall not affect the licensing status of applicators or dealers until reports for 2025 are due on January 31, 2026. At that time, reports will be required to be submitted in an electronic format through a board-approved software solution unless the submitter has received an electronic reporting waiver.
- II. The 2024 amendments to this chapter which will transition annual summary reports by commercial applicators and annual pesticide sales reports to an electronic format shall be phased in over two years. Phase one shall include promotion of the electronic portal and education for commercial applicators and dealers on how to utilize the electronic submission portal for reporting year 2024. Phase two shall include requiring commercial applicators and dealers to use the electronic submission portal for reporting year 2025, unless the submitter has received an electronic reporting waiver.
- D. **Waivers**
- I. If commercial applicators or dealers do not have access to an electronic device capable of submitting electronic reports, they may seek an electronic reporting waiver. Waiver applications must include the following:
- a. The name, address and telephone number of the applicant;

- b. The license number of the applicant;
- c. The intended format for submitting reports; and
- c. Testimonial or proof that the submitter is unable to complete the electronic submission process outlined in Section 1.

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

- a. The waiver application is received prior to December 31 of the reporting year;
- b. The applicant possesses a valid pesticide applicator or dealer license issued by the State; and
- c. The applicant agrees to submit physical copies of the annual reports required in Section 1 no later than January 31 of the following year.

The Board may place conditions on any such waiver, and the applicant shall comply with such conditions. Except as required by the waiver, the applicant shall undertake the reporting in accordance with all of the conditions described in their request and all other applicable legal standards. Waivers 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.

The contents of this section will be effective for the reporting year 2024.

€E. **Spray Incident Reports**

- I. Commercial agricultural producers, commercial applicators, spray contracting firms and licensed pesticide dealers shall be responsible for telephoning a spray incident report to the Board as soon as practicable after emergency health care has been obtained for injured parties and efforts have been initiated to contain any spills.
 - II. A reportable spray incident is any significant misapplication or accidental discharge of a pesticide. Such incidents shall include: fires involving pesticides; vehicle and aircraft accidents resulting in a spill or human contamination; failure to turn off spray booms or other spray equipment resulting in application to sensitive areas (such as water bodies, accidentally applying pesticides to the wrong site or places of human habitation) when such application is a violation of label instructions or other law; overfilling of spray equipment resulting in risk of contamination of water; and any other equipment breakage or malfunction or pesticide handling activity which causes a pesticide release which may result in a threat to human health or the environment.
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STATUTORY AUTHORITY: Title 22 M.R.S. Chapter 258-A §1471-G, M and R

EFFECTIVE DATE:

July 6, 1979 - as "Reporting Requirements," filing 79-338

AMENDED:

August 12, 1985 - filing 85-275

REPEALED AND REPLACED:

April 5, 1995 - as "Record Keeping and Reporting Requirements," filing 95-149

AMENDED:

October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):

March 1, 1997

AMENDED:

November 11, 2001 - filing 2001-483

March 5, 2003 - filing 2003-61

January 4, 2005 – filing 2004-606 affecting Section 1.A.I.

December 23, 2012 – filing 2012-348 affecting Section 1.B.II.

CORRECTIONS:

February, 2014 – agency names, formatting

AMENDED:

July 23, 2019 – filing 2019-133

BASIS STATEMENT FOR ADOPTION OF CMR 01-026, CHAPTER 50

Basis Statement

Chapter 50 – Three amendments are proposed:

1. Require electronic reporting for commercial applicators' annual use reports and dealers' annual sales reports. This requires these parties to electronically report to a Board-approved software solution.
2. Outlines a transition period in 2024 and 2025 with reports required to be submitted electronically by 2026 (reporting year 2025) or seek an exemption waiver.
3. Describes a waiver process for those who do not have access to an electronic device capable of submitting electronic reports.

The 131st Legislature passed LD 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data, which directed the BPC to transition annual sales and annual use reports to an electronic format. In order to comply with this resolution, the BPC has upgraded its MEPELRS system, which can accept these reports electronically. The proposed rule would impact commercial applicators and pesticide dealers that are already required to submit these reports to the Board annually. The content of the reports would not change, only the process by which they are submitted.

Additionally, for applicators or dealers that are not able to submit these reports electronically, a waiver process is outlined in these proposed rules that would allow for these reports to be physically submitted. A transitional period of electronic reporting is also proposed. Electronic reporting is encouraged and promoted in reporting year 2024 but not required until reporting year 2025 in early 2026.

Two comments were received during the public hearing and comment period. Some comments received asked for the Board to require more information and publish more information related to pesticide sales and use information for the public. BPC responded that it must consider confidentiality and is complying with LD 1770 by requiring reports to be submitted electronically. Another comment asked for clarification for how the Board determines what is confidential and reporting frequency requirements. The BPC responded that report content is not changing and confidential information will not be collected, and that these annual reports will be required annually.

Impact on Small Business

In accordance with 5 M.R.S. § 8052(5-A), a statement of the impact on small business has been prepared. Information is available upon request from the Maine Board of Pesticides Control office, State House Station #28, Augusta, Maine 04333-0028, telephone 207-287-2731.

Rulemaking Statement of Impact on Small Business

5 M.R.S. § 8052(5-A)

Agency

Department of Agriculture, Conservation and Forestry—Maine Board of Pesticides Control

Chapter Number and Title of Rule

CMR 01-026, Chapter 50—Record Keeping & Reporting Requirements

Identification of the Types and an Estimate of the Number of the Small Businesses Subject to the Proposed Rule

This rule would impact 1,480 commercial applicators, 801 general-use pesticide dealers, and 63 restricted-use pesticide dealers based on the number of active licenses in BPC's registration system (MEPERLS).

Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, including the Type of Professional Skills Necessary for Preparation of the Report or Record

The 131st Legislature passed LD 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data. This law requires the Board of Pesticides Control (BPC) to implement an electronic annual sales and use reporting system to collect information from applicators and dealers. These proposed changes are in response to this legislative resolve.

The proposed changes would have several recordkeeping and administrative changes for companies. Instead of physical reports sent to the BPC, companies would now be required to use the Maine Pesticide Enforcement, Registration, and Licensing Software (MEPERLS) to submit their annual use and sales reports electronically. While the system is currently accepting electronic reports, it is voluntary with about 20% of licensed users submitting their information digitally. The proposed changes will require these companies to create an online profile and complete a digital aggregate use and sales report for their company or agency. This would require some computing and administrative skills to know what products were used, how much was used, and the EPA registration number for products (if applicable).

Brief Statement of the Probable Impact on Affected Small Businesses

This new reporting process may have an impact on companies that hire for administrative tasks. There may be more time needed to enter this information electronically versus the physical paper system. Companies will also need to know their login information, license information, and light computer skills to navigate the system. If they are unable to enter information electronically because of a lack of these skills, they can opt to submit a waiver application to submit this information in another way.

Description of Any Less Intrusive or Less Costly, Reasonable Alternative Methods of Achieving the Purposes of the Proposed Rule

The Board cannot use a less intrusive or less costly alternative method to achieve this rule. LD 1770 was a legislative resolve that required the Board to transition to a system of electronic submission of annual reports for applicators and dealers, and it directed the Board to conduct routine technical rulemaking to achieve this. Unless the BPC amends its rule, it cannot enforce the required reporting requirements. The rule does have provisions for a transition to electronic reporting in 2024 to encourage applicators and dealers to use the system prior to 2025, as well as a waiver process for any applicators or dealers that are unable to use the MEPERLS system.

Summary of Comments Received Regarding Proposed Amendments Rules

Board of Pesticides Control CMR 01-026 Chapter 50

#	Name	Summary	Response
1	Heather Spaulding – The Maine Organic Farmers & Gardeners Association	<ul style="list-style-type: none"> • MOFGA is encouraged by the work that BPC staff is doing. MOFGA believes that the timeline for implementation is sufficient. This rulemaking does not encompass all of the amendments that MOFGA would like to see, which would include a comprehensive data analysis and publishing process. MOFGA feels there are data gaps and would like to keep the discussion open and continue to let technology gather information. Without this data, MOFGA feels that BPC cannot answer questions regarding pesticide use in Maine. 	<ul style="list-style-type: none"> • The Board appreciates MOFGA’s input. • The proposed amendments are in response to LD 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data, which directed the Board to transition to an electronic data collection system. The Board has proposed changes to do this under their electronic portal, the Maine Pesticide Enforcement, Registration, and Licensing Software (MEPERLS). BPC will use the information submitted to create aggregate sales and use data that collects the reports and summarizes, by active ingredient, the number of pesticides that were reported as used in a given calendar year. BPC can only summarize data collected; it cannot publish sensitive or confidential business information.
2	Eric Venturini – Wild Blueberry Commission of Maine	<ul style="list-style-type: none"> • The Wild Blueberry Commission of Maine is concerned that these proposed amendments could harm businesses. The proposed changes could include specific location information and lead to issues with confidential business information as location can give a competitive 	<ul style="list-style-type: none"> • The Board appreciates the Wild Blueberry Commission of Maine’s input. • The rule will only impact commercial applicators and pesticide dealers. Commercial applicators are defined as “any person, whether or not the person is a private applicator with

		<p>advantage. The Commission asked additional questions in their comments:</p> <ol style="list-style-type: none"> 1. How will the board determine what is confidential? 2. What is the frequency that people will need to enter this information online? 	<p>respect to some uses, who uses or supervises the use of any limited or restricted-use pesticides on any property other than as provided by subsection 22, or who uses general-use pesticides in custom application on such property. “Commercial applicator” also includes individuals who apply any pesticides in connection with their duties as officials or employees of federal, state or local governments.” 22 M.R.S. § 1471-C. A “dealer” is defined as “any person who distributes limited or restricted use pesticides.” 22 M.R.S. § 1471-C.</p> <ul style="list-style-type: none"> • There is a confidentiality clause in this section of rule. While commercial applicators and dealers will need to input their information to submit this data, none of the published data/analyses will include applicator details, locations, or other sensitive information. The proposed changes do not change what information is required to be submitted, only that commercial applicators and dealers submit their annual use and annual sales reports electronically on the Board’s portal (MEPERLS). <ol style="list-style-type: none"> 1. The Board determines confidentiality through several means. The only information that may currently be published on the Board’s website is aggregate
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			<p>data on pesticide sales and usage. There will not be any names, locations, businesses, or other sensitive information published on the annual sales and use data analyses.</p> <p>2. The proposed changes only pertain to commercial pesticide applicators and dealers or distributors in Maine. In order for these groups to remain licensed, they must submit annual reports to the Board. The frequency of reports is not changing. The deadline for these reports is January 31th of the following year.</p>
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STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

5

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

MAINE BOARD OF PESTICIDES CONTROL DIRECTOR APPOINTMENT POLICY Adopted XXX

Background

[Title 22 §1471-B](#) outlines the organization of the Board of Pesticides Control. Under this section, the Board is to approve the appointment of the Director, who oversees all staff and works to ensure that staff, the Board, and the Department are meeting regulatory requirements. At the April 5, 2024 Board Meeting, the Board discussed the new director appointment and voted to create a policy formalizing the approval process mentioned in [Title 22 §1471-B](#).

Approval Process

Under [Title 22 §1471-B](#), the director and their appointment is described as:

- 4. The commissioner shall appoint a director, with the approval of the board. The director is the principal administrative, operational and executive employee of the board. The director shall attend and participate in all meetings of the board, but may not vote. The director, with the approval of the commissioner and the board, may hire any competent professional personnel and other staff the director considers necessary. All employees of the board are subject to [Title 5, Part 2](#). The director may obtain office space, goods and services as required.*

The Board of Pesticides Control will grant approval of new directors through one of the following means:

1. A formal vote to approve the selected candidate or;
2. An active board member sitting on the hiring committee for the director.

Official approval by vote should occur after the department selects a candidate following DACF's interview process.

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. Jeremy Legasse (207-989-1433
Name Telephone Number

Green Thumb Lawn Service
Company Name

64 Stevens Road, Brewer ME 04412
Address City State Zip

II. Jeremy Legasse CMA-3240 7E, 7A, 6B, 3B, 3A
Master Applicator (if applicable) License Number

44 Squantum Point Road, Mount Desert, ME 04660
Address City State Zip

III. **As part of your application, please send a revegetation plan and digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov**

IV. Area(s) where pesticide will be applied:
Barrier strip

V. Pesticide(s) to be applied:(Including EPA Registration Number)
Acelepryn: 100-1492-82757 Chaser: 34704-928 (spot treat ONLY)

VI. Purpose of pesticide application:
Prevent damage from grubs, manage broadleaf weeds as necessary.

VII. Approximate dates of spray application:

April 1 - October 1

VIII. Application Equipment:

Push spreader & Low Pressure Pump Tank

IX. Standard(s) to be varied from:

The strip the owner would like managed is just shy of the 25' restriction. It's approximately 10-15' away from the water.

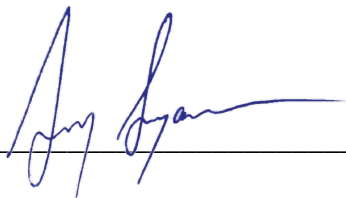
X. Method to ensure equivalent protection:

Detailed Comments & technician training

XI. Revegetation Plan (attach separately if necessary)

N/A

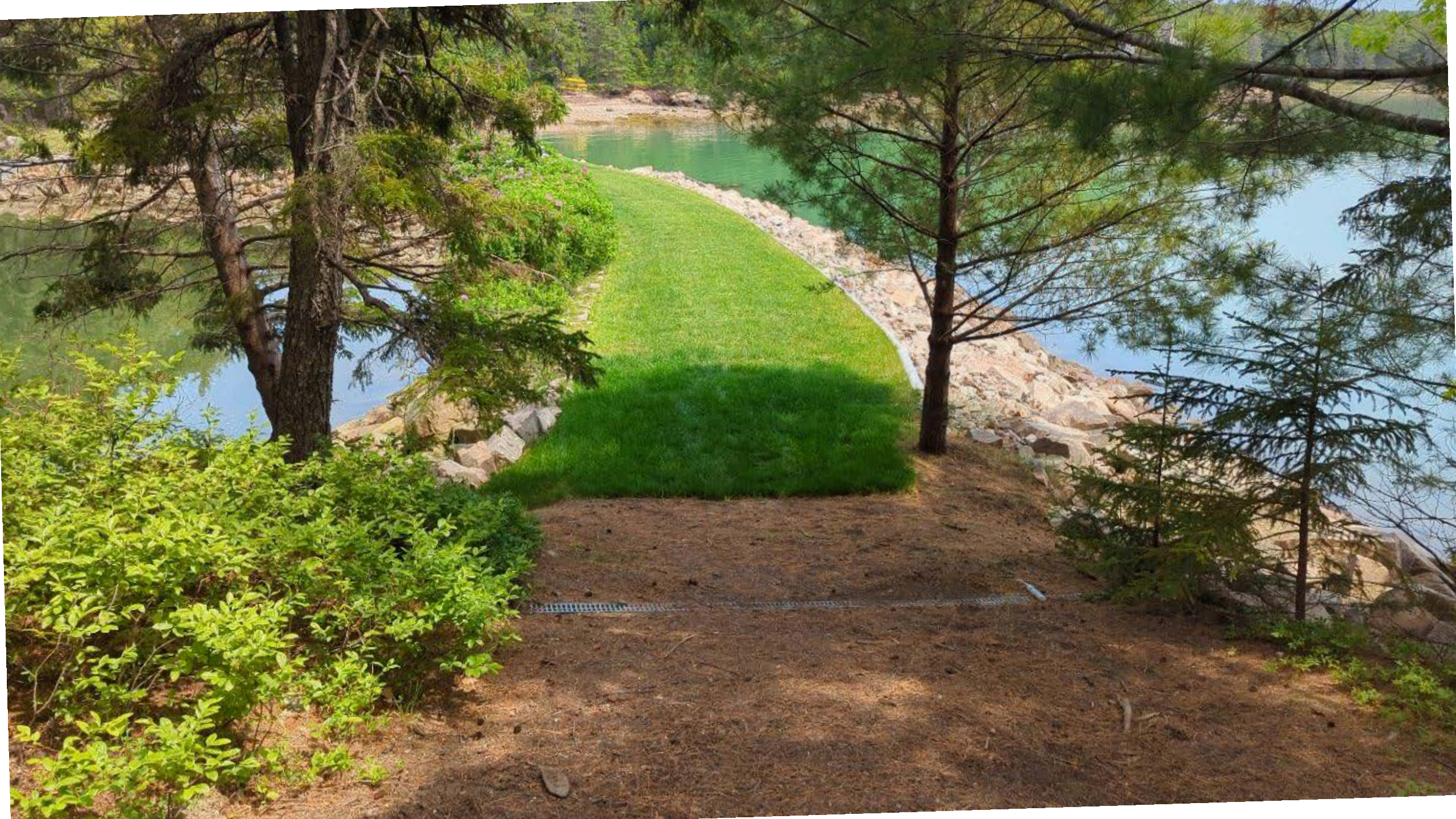
Signed:



Date: 6/21/2024

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028**
OR E-mail to: pesticides@maine.gov









BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)

I. Jeremy Legasse (207) 989-1433
Name Telephone Number

Green Thumb Lawn Service
Company Name

64 Stevens Rd Brewer ME 04412
Address City State Zip

II. Jeremy Legasse CMA-3240
Master Applicator (if applicable) License Number

36 Aspen Way Brewer ME 04412
Address City State Zip

III. As part of your application, please send a revegetation plan and digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov

IV. Area(s) where pesticide will be applied:
Andy Silvernail - 42 Larchwood Ln, Blue Hill, ME 04614
Along shoreline up to rockwall. Please see map attached.

V. Pesticide(s) to be applied:(Including EPA Registration Number)
0-0-7 Acelepryn 100-492-82757

VI. Purpose of pesticide application:
To prevent grubs and crane fly larvae.

VII. Approximate dates of spray application:
May 31, 2024 - June 15, 2024

VIII. Application Equipment:
Hand spreader to ensure no product gets past rock wall.

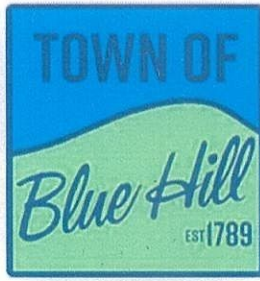
IX. Standard(s) to be varied from:
Area is within 25ft of body of water.

X. Method to ensure equivalent protection:
Hand spreader so product does not get past rock wall.

XI. Revegetation Plan (attach separately if necessary)

Signed:  Date: 5. 28. 2024

Return completed form to: **Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028**
OR E-mail to: pesticides@maine.gov



5/24/2024

To whom it may concern,

Andrew Silvernail has my permission to use pesticides to control the outbreak of an invasive species (Crane Flies and Japanese Beetles) listed on the State of Maine Invasive Pests website in accordance with the Blue Hill Healthy Ecosystem Ordinance Section E. Exemptions:

1. Prohibited Pesticides may be used in a Pest Emergency (e.g. an Invasive Species) per Federal Code 40CFR166 and/or State of Maine summary of FIFRA Section 18 Emergency Exemptions. when Pest Emergency exists that would result in a significant risk to the health of humans, the environment, or animals.

At 42 Larchwood Lane Blue Hill, ME.

With any questions or concerns, please contact the Local Health Officer Bryce Emerson, at bemerson@bluehillme.gov or 207-374-2281

Thank you,

Bryce Emerson, CEO, LPI, LHO



**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. RONALD C. LEMIN, JR (207) 944-6160
Name Telephone Number

RCL SERVICES, LLC
Company Name

291 LINCOLN ST BANGOR ME 04401
Address City State Zip

II. RONALD C. LEMIN, JR CMA-4546
Master Applicator (if applicable) License Number

SAME
Address City State Zip

III. As part of your application, please send digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov

IV. Area(s) where pesticide will be applied:

A 0.07 ACRE STAND OF PHRAGMITES ON THE POPHAM RD (RT 209) HEADING INTO POPHAM BEACH (SEE MAPS). THE SMALL STAND IS NEXT TO THE PAVED ROAD ON A SALTWATER WETLAND, THE PHRAG IS NOT GROWING IN STANDING WATER, BUT AT HIGH TIDE THE WATER LEVEL COULD IMPACT THE STAND.

V. Pesticide(s) to be applied:

I WOULD LIKE TO USE IMAZAMOX (2 BRANDS - IMOX EPA REG. 81927-66, OR CLEARCAST EPA REG. 241-437).

VI. Purpose of pesticide application:

THE MAINE NATURAL AREAS PROGRAM (MNAAP) WISHES TO STOP THE SPREAD OF THE PHRAG FURTHER INTO THE WETLAND, I WOULD LIKE TO USE THE IMAZAMOX BECAUSE IT CAN BE APPLIED EARLIER THAN GLYPHOSATE IS RESIDUAL, SAFE TO WOODY PLANTS, AND LESS TOTALLY NONSELECTIVE THAN GLYPHOSATE.

VII. Approximate dates of spray application:

I WOULD LIKE TO SPRAY EARLY SUMMER TO MINIMIZE TOTAL
HEIGHT GROWTH OF THE PIIRAG

VIII. Application Equipment:

LOW VOLUME BACKPACK, MAXIMUM RATE FOR IMAZAMOX,
1% LI 700 AQUATIC SURFACTANT

IX. Standard(s) to be varied from:

CHAPTER 29 SECTION 6.A.IV. BROADCAST
APPLICATIONS WITHIN 25' OF A WETLAND

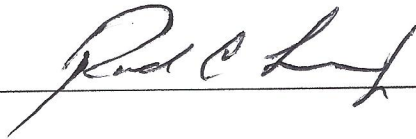
X. Method to ensure equivalent protection:

I WILL MAKE APPLICATIONS WHEN WINDS ARE LIGHT AND FAVORABLE,
APPLYING FROM THE OUTER EDGE INWARD. LI 700 AND
IMAZAMOX ARE AQUATICALLY LABELED, LOW PRESSURE
AND LARGER DROPLETS TO MINIMIZE DRIFT. APPLICATION
WILL BE MADE EARLY MORNING TO MINIMIZE TRAFFIC,

XI. REGENERATION PLAN

IMAZAMOX IS RESIDUAL BUT SAFE FOR WOODY PLANTS. IT WILL BE
CLOSE TO A NON-SELECTIVE APPLICATION, BUT PLANTS WILL BEGIN REGENERATING
THE FOLLOWING YEAR. APPLICATION WILL REQUIRE A FOLLOWUP SPOT TREATMENT
IN 2025, SPOT TREATMENTS CAN BE MADE TO ~~SAFE~~ PROTECT DESIRABLE
VEGETATION.

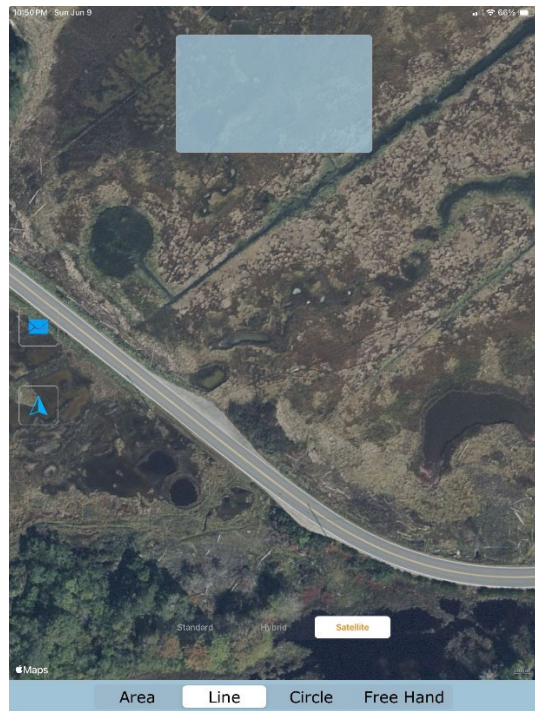
Signed: _____

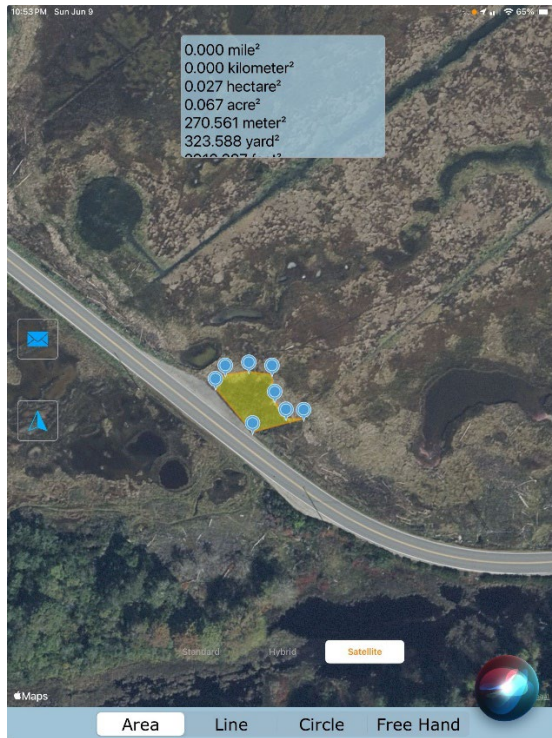


Date: _____

6/9/2024

Return completed form to: Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028
OR E-mail to: pesticides@maine.gov











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

July 2, 2024

RCL Services, LLC.
Ronald C Lemin, Jr
291 Lincon St.
Bangor, ME 04401

RE: Variance permit for CMR 01-026 Chapter 29, RCL Services, LLC.

Greetings,

The Board of Pesticides Control considered your application for variance from Chapter 29. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase and any application is made above the high-water line. Additionally, for added protection this application must be conducted one hour after high tide to minimize overspray into standing water.

The Board authorizes the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2025, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of changes, particularly if you plan to use a different product from those listed.

Please bear in mind that your permit is based upon your company adhering to the precautions listed in Section X of your Chapter 29 variance request.

I will alert the Board at its next meeting that the variance permit has been issued. If you have any questions concerning this matter, please feel free to contact me at (207) 287-2731.

Sincerely,

Alexander Peacock
Director

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations) -**

I. Noah Tucker (207) 883.3340
Name Telephone Number

Bartlett Tree Experts
Company Name

P.O. Box 6828 Scarborough, Maine 04076
Address City State Zip

II. Noah Tucker CMA-4242
Master Applicator (if applicable) License Number

9 Washington Avenue #3 Scarborough, ME 04074
Address City State Zip

III. As part of your application, please send a revegetation plan and digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov

IV. Area(s) where pesticide will be applied:

Sea View Home Owners Association
47 Seaside Way - Falmouth

V. Pesticide(s) to be applied:(Including EPA Registration Number)

Sightline 74779-8

VI. Purpose of pesticide application:

TO Assist in the Control of Knotweed, which is a
invasive plant impacting native plant material

VII. Approximate dates of spray application:

Late Summer 2024 (August - September)

3 Follow up treatments 2025, June-July-August

VIII. Application Equipment:

Hand held backpack sprayer with a precise hand held nozzle, low volume stem injection bottle.

IX. Standard(s) to be varied from:

To apply within 25' water

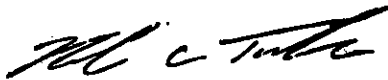
X. Method to ensure equivalent protection:

Treatment method & timing to reduce potential run off

XI. Revegetation Plan (attach separately if necessary)

Replanting in this area would be difficult. Home owners association will try to plant low growth plantings.

Signed:



Date: 2.16.24

Return completed form to: Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028
OR E-mail to: pesticides@maine.gov

Bartlett Tree Experts
9 Washington Ave,
Scarborough, ME
(207) 883-3340
Att: Noah Tucker

Client:
Sea View Homeowners Association
Robert Kline
47 Seaside Way
Falmouth ME

Application Location:
End of Glen Road, (22 Glen Road) along the beach.



Knotweed locations



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

July 9, 2024

Bartlett Tree Experts
Noah Tucker
PO Box 6828
Scarborough, ME 04070

RE: Variance permit for CMR 01-026 Chapter 29, Bartlett Tree Experts, 47 Seaside Way, Falmouth

Greetings,

The Board of Pesticides Control considered your application for variance from Chapter 29. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase and any application is made above the high-water line.

The Board authorizes the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2025, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of changes, particularly if you plan to use a different product from those listed.

Please bear in mind that your permit is based upon your company adhering to the precautions listed in Section X of your Chapter 29 variance request.

I will alert the Board at its next meeting that the variance permit has been issued. If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

Alexander Peacock
Director

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

I. Noah Tucker (207) 883.3340
Name Telephone Number

Bartlett Tree Experts
Company Name

P.O. Box 6828 Scarborough, Maine 04070
Address City State Zip

II. Noah Tucker CMA-4242
Master Applicator (if applicable) License Number

9 Washington Avenue #3 Scarborough, Maine 04074
Address City State Zip

III. As part of your application, please send a revegetation plan and digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov

IV. Area(s) where pesticide will be applied:

71 Foreside Road - Falmouth

V. Pesticide(s) to be applied:(Including EPA Registration Number)

Sightline 74779-8

VI. Purpose of pesticide application:

To assist in the control of Knotweed, which is an invasive plant impacting native plant material.

VII. Approximate dates of spray application:

Late Summer 2024 (August-September)

3 follow up treatments 2025, June, July & August

VIII. Application Equipment:

Hand held backpack sprayer with
a precise handheld nozzle, low volume stem injection
Bottle

IX. Standard(s) to be varied from:

To Apply within 25' water

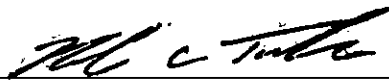
X. Method to ensure equivalent protection:

Treatment & Timing to reduce potential
Run OFF

XI. Revegetation Plan (attach separately if necessary)

Native woody shrubs will be planted by the
landscape company once the knotweed has
been suppressed.

Signed:



Date: 2.16.24

Return completed form to: Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028
OR E-mail to: pesticides@maine.gov

Bartlett Tree Experts
Att: Noah Tucker
9 Washington Ave,
Scarborough, ME
(207) 883-3340

Client:
All Things Green
Att: Micaela Greco
76 Haskell Road
North Yarmouth

Application Location:
71 Foreside Road, Falmouth ME.



 Knotweed locations



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

July 9, 2024

Bartlett Tree Experts
Noah Tucker
PO Box 6828
Scarborough, ME 04070

**RE: Variance permit for CMR 01-026 Chapter 29, Bartlett Tree Experts, 71 Foreside Rd.
Falmouth**

Greetings,

The Board of Pesticides Control considered your application for variance from Chapter 29. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase and any application is made above the high-water line.

The Board authorizes the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2025, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of changes, particularly if you plan to use a different product from those listed.

Please bear in mind that your permit is based upon your company adhering to the precautions listed in Section X of your Chapter 29 variance request.

I will alert the Board at its next meeting that the variance permit has been issued. If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

Alexander Peacock
Director

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

**BOARD OF PESTICIDES CONTROL
APPLICATION FOR VARIANCE PERMIT
(Pursuant to Chapter 29, Section 6 of the Board's Regulations)**

- I. Noah Tucker 207) 883.3340
Name Telephone Number
- Bartlett Tree Experts
Company Name
- P.O. Box 6828 Scarborough, Maine 04070
Address City State Zip
- II. Noah Tucker Cma-4242
Master Applicator (if applicable) License Number
- 9 Washington Ave. Scarborough, Maine 04074
Address City State Zip

III. As part of your application, please send a revegetation plan and digital photos showing the target site and/or plants and the surrounding area, particularly showing proximity to wetlands and water bodies, to pesticides@maine.gov

IV. Area(s) where pesticide will be applied:

5 Russell Road Cumberland Foreside

V. Pesticide(s) to be applied:(Including EPA Registration Number)

Sightline 74779-8

VI. Purpose of pesticide application:

TO assist in the control of knotweed, which is a
invasive plant impacting native plant material

VII. Approximate dates of spray application:

Late Summer 2024 (August - September)
3 follow up treatments 2025 & 2026 June, July, August
As needed.

VIII. Application Equipment:

Hand held backpack sprayer with a
precise handheld nozzle, low volume stem injection
bottle

IX. Standard(s) to be varied from:

To Apply within 25^{ft} water

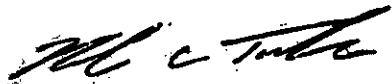
X. Method to ensure equivalent protection:

Treatment & timing to reduce potential
run-off

XI. Revegetation Plan (attach separately if necessary)

Native woody shrubs will be planted by the
landscape company once the knotweed has been
suppressed. Due to the size and density of the
area this may take a few years before replanting
can be performed.

Signed:



Date: 2.16.24

Return completed form to: Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028
OR E-mail to: pesticides@maine.gov

Bartlett Tree Experts
Att: Noah Tucker
9 Washington Ave,
Scarborough, ME
(207) 883-3340

Client:
Nate Clark
5 Russell Road
Cumberland ME

Application Location:
5 Russell Road, Cumberland ME.



 Knotweed locations



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

July 9, 2024

Bartlett Tree Experts
Noah Tucker
PO Box 6828
Scarborough, ME 04070

**RE: Variance permit for CMR 01-026 Chapter 29, Bartlett Tree Experts, 5 Russell Rd.
Cumberland Foreside**

Greetings,

The Board of Pesticides Control considered your application for variance from Chapter 29. The variance is approved, with the condition that all products to be used are currently registered in the State of Maine or were registered at the time of purchase and any application is made above the high-water line.

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Sincerely,

Alexander Peacock
Director

ALEXANDER PEACOCK, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
THINKFIRSTSPRAYLAST.ORG

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🕒 6 minute read

As Worcester Holdings sprays pines with pesticide, Addison residents call for moratorium



By Joyce Kryszak (<https://themainemonitor.org/author/joycekryszak/>)

June 22, 2024

http

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But the company isn't the only one. A Maine Monitor analysis found that five leading conservation groups have registered pesticide applicators on staff.



Worcester Holdings notified nearby Addison residents that the company would be using drones to spray imidacloprid over 190 acres of its pine forest this summer. Photo by Kate Cough.

Along the sea-smoke-covered shores of Great Wass Island Preserve in Beals, the swelter of an unusually hot June day melted away. The preserve's ever-present maritime winds carried the chill of salt spray over granite ledges, verdant heaths and jack pine woodlands.

A mere 13 miles away on the mainland, something less pleasant wafted through the air: the toxic pesticide imidacloprid. It is one of several popular neonicotinoids, a [class of pesticides designed to mimic nicotine](#) (<https://environmentamerica.org/articles/epa-report-says-pesticides-endanger-wildlife/>), whose use is banned in the European Union and restricted in 10 U.S. states.

On June 10, the Columbia Falls-based Worcester Holdings — the company behind the scrapped [Flagpole of Freedom project](#) (<https://themainemonitor.org/flagpole-of-freedom-project-dropped/>) — notified nearby Addison residents that the company would use drones to spray imidacloprid over 190 acres of its pine forest this summer.

The pesticide is being used to control balsam gall midge and woolly adelgid in the fir trees that supply balsam branch tips for Worcester Wreath, one of the company's holdings.

The news caused a furor on social media, with residents alarmed about the potential threat to wildlife, humans and the environment.

But the Worcesterers aren't the only ones applying pesticides. The practice is common in forestry and agriculture.

A recent push to ban aerial pesticide application in the state was vetoed by Gov. Janet Mills, but environmental advocates continue to push for more regulations.

"We've long been concerned about the impacts of pesticides," said Heather Spalding, deputy director of the Maine Organic Farmers and Gardeners Association. "There are so many studies, peer-reviewed studies — every week more and more information comes out about the impact on human health and the environment."

In 2022, the U.S. Environmental Protection Agency concluded that imidacloprid and other neonicotinoids were ["likely to adversely affect"](#) (<https://www.epa.gov/pesticides/epa-finalizes-biological-evaluations-assessing-potential-effects-three-neonicotinoid/>) "endangered or threatened species, and critical habitats.

In addition to imidacloprid, many of the more than 11,000 pesticides registered for legal use in Maine have been identified as potentially harmful.

The state sets regulations for their application via the Board of Pesticides Control (BPC), including by requiring training and licensing for applicators. In the commercial category, there are 1,648 registered and certified pesticide applicators working for 573 companies or organizations. Eleven of them hold aerial application licenses.

Despite Worcester Holdings' [track record](#) (<https://themainemonitor.org/worcester-cabins-fine/>) of [violations](#) (<https://themainemonitor.org/osha-delivers-latest-penalty-to-worcester-resources-nearly-24000-in-fines/>), the company appears to be following protocol. Worcester Holdings gave proper notice and is duly registered.

Surprisingly, so are five of the state's leading conservation organizations — including The Nature Conservancy in Maine, stewards of the Great Wass Island Preserve.

According to a *Maine Monitor* review of state data, The Maine Coast Heritage Trust, Friends of Acadia, Mount Desert Land & Garden Preserve, and the Kennebec Estuary Land Trust also have licensed commercial pesticide applicators on staff.

'Crushingly disappointing'

Among them, the five conservation groups have 17 pesticide applicators helping to manage a combined 2.6 million-plus acres, mostly along the coast.

None hold aerial application licenses, instead manually applying the chemicals from "pesticide backpacks" as part of what is called an integrated pest management approach. It involves using pesticides to augment hand-pulling and other natural means of eradicating invasive pests and plants.

All of the conservation groups interviewed for this story blistered at the idea of using aerial application, saying their methods are much safer.

A spokesperson for The Nature Conservancy in Maine — a group founded with the help of esteemed biologist Rachel Carson — said it has several licensed applicators on staff who occasionally need to use very targeted herbicide applications to control invasive plants. TNC has conserved roughly 2.4 million acres over 193 preserves.

The other conservation groups that responded to questions from *The Monitor* had similar responses: They reluctantly use pesticides as part of a comprehensive approach to control invasive plants and vegetation from consuming entire habitats.

“It would be irresponsible if we called ourselves conservation landowners to let invasive plants kind of spread unchecked over the lands we’ve conserved because they greatly diminish ecological value. That’s not something we’re willing to stand by and let happen,” said Amanda Devine, director of stewardship for the Maine Coast Heritage Trust, which oversees 180,000 acres from Kittery to Calais.

Devine, as well as Dillon Mulhern, the preserve’s manager for the Kennebec Estuary Land Trust, described their groups’ use of pesticides as “surgical.”

But some environmental advocates, like Spalding from MOFGA, say there are better, non-chemical methods to manage even extensive acreage. Spalding called the news that some conservation groups are using glyphosate and other pesticides “crushingly disappointing.”

The question of aerial application

In 2021, the legislature passed L.D. 125, An Act to Prohibit Aerial Spraying of Glyphosate and Other Synthetic Herbicides for the Purpose of Silviculture. Despite broad support, Mills **vetoed the bill** (<https://www.mainepublic.org/environment-and-outdoors/2021-06-25/mills-vetoes-bill-that-would-have-banned-aerial-herbicide-spraying-in-woods>) and lawmakers failed to override the veto.

The governor subsequently ordered the BPC and Maine Forest Service to review the rules related to aerial pesticide application for the purpose of silviculture, the science of managing woodland.

The agencies hired a consultant named Harold Thistle, a retired expert in forest meteorology, and paid him \$30,000 to conduct a study. An additional \$98,436 in federal and other funding was used for water quality monitoring.

The **175-page report** (https://www.maine.gov/DACF/php/pesticides/documents2/legislative%20reports/EO_41_Report_Final.pdf), released in 2022, draws on a number of studies that consider the impact of buffer zones, droplet size, height of pesticide release, weather and wind drift.



One particular concern is the effect on local pollinators. Although pine forests are not a honeybee habitat, aphids live among the trees and honeybees are attracted to the excrement aphids leave behind. Photo by Kate Cough.

Thistle found that aerial herbicide treatments produced the highest internal rate of return for the forestry industry, and alternative methods would be too costly.

Many of the concerns about aerial application have to do with the degree to which droplets of pesticide drift through the air, potentially catching a breeze and landing outside the intended area.

“Though aerial herbicide application as practiced in Maine is very low risk, it is impossible to assert that ‘no drift’ of herbicide occurs,” Thistle concluded in the report. “It is demonstrated that drift amounts at long ranges are minute when present.”

While drones have seen significant usage in pesticide applications in the South, they remain an emerging technology in the Northeast.

Patrick Strauch, the Maine Forest Products Council executive director, and other industry professionals believe drones can help reduce drift because they can fly close to the ground, more precisely spraying targeted invasive plants and insects.

“The technology may offer precision treatment of browntail moth outbreaks in areas of high sensitivity,” Strauch said in an email.

‘This needs to be stopped’

Though the statewide ban failed, at least seven Maine municipalities have passed [ordinances](https://www.maine.gov/dacf/php/pesticides/public/municipal_ordinances.shtml) (https://www.maine.gov/dacf/php/pesticides/public/municipal_ordinances.shtml) prohibiting or restricting the aerial application of pesticides. A total of 32 municipalities have ordinances that ban or limit pesticide application.

Some Addison residents are calling for town officials to enact such a measure.

“The town selectmen need to do a moratorium on aerial spraying until an ordinance can be passed,” posted one Addison resident, later adding, “We do not want spraying anywhere near our property. This needs to be stopped!!!”

One particular concern is the effect on local pollinators. Cornell University biologist Thomas Dyer Seeley, who lives in Downeast Maine part of the year and is an expert on honeybees, said although pine forests are not a honeybee habitat, aphids live among the trees and honeybees are attracted to the excrement aphids leave behind.

“Honeybees can go to those aphids and drink what’s called honeydew,” Seeley said. “So even though they’re just spraying in coniferous places... these pesticides could get into honeybees.”

The pesticide is being used to control balsam gall midge and woolly adelgid in the fir trees that supply balsam branch tips for Worcester Wreath. Photo by Kate Cough.

Alex Cammen, a licensed forester and pesticide applicator for Worcester Holdings, said the company is abiding by the laws governing safe pesticide use, and also wants to be good stewards of the land.

“(We) are members of the communities ... and care deeply about the health of our neighbors, forests, wildlife, waters and ourselves,” Cammen said.

There are no legislative or advocacy group efforts to mount a new fight for a statewide aerial pesticide ban, according to Spalding. She said her focus is now on issues such as the clear-cutting of forests.

Her group has also advocated against an exemption for agricultural pesticides during recent legislative discussions about banning the sale of products containing PFAS. There are at least 55 PFAS-related chemicals present in more than 1,400 pesticides registered for use in Maine, according to Spalding’s testimony.

“When you’re laying down fungicides and herbicides, insecticides, larvicides, you’re really adversely impacting the health of the soil microbiome,” Spalding said. “We need to be moving away from dousing agricultural lands and forest lands with chemicals.”

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 [\(mailto:joyce.kryszak@gmail.com\)](mailto:joyce.kryszak@gmail.com)

Joyce Kryszak

As the Washington County reporter for The Maine Monitor, Joyce Kryszak writes stories crucial to the people of this remarkable, rural, coastal community. A Buffalo, New York transplant, Joyce previously reported for NPR and its affiliates, Voice of America, New England News Collaborative, The Environment Report, Native Voice, Buffalo News, and Down East Magazine.

Her in-depth reporting on government, social justice, cultural affairs, and the environment earned her an Edward R. Murrow Regional Award, dozens of Associated Press awards, and Maine Press Association awards. Joyce, her husband, Alan, and their Great Pyrenees, Kashmir, live, work, and hike all over Downeast Maine.

[\(https://themainemonitor.org/denmark-water-extraction/\)](https://themainemonitor.org/denmark-water-extraction/)

Denmark considers tightening regulations on water extraction despite Poland Spring opposition (<https://themainemonitor.org/denmark-water-extraction/>)

By Emmett Gartner(<https://themainemonitor.org/author/emmettgartner/>) June 22, 2024

(<https://themainemonitor.org/imminent-tidal-flood-risks/>)

NEXT POST

'No one should be taken by surprise': Mapping imminent tidal flood risks in Maine (<https://themainemonitor.org/imminent-tidal-flood-risks/>)

By Annie Ropeik(https://themainemonitor.org/author/annie_ropeik/) June 28, 2024

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B Alexa Foust (<https://themainemonitor.org/author/alexafoust/>)



Denmark considers tightening regulations on water extraction despite Poland Spring opposition (<https://themainemonitor.org/denmark-water-extraction/>)

B Emmett Gartner (<https://themainemonitor.org/author/emmettgartner/>)



Six months in, Maine's first public defenders' office talks strategy (<https://themainemonitor.org/maine-first-public-defenders-office-strategy/>)

B Josh Keefe (<https://themainemonitor.org/author/joshkeefe/>)



A place for women in recovery and their kids (<https://themainemonitor.org/safe-harbor-recovery/>)

B Emily Bader (<https://themainemonitor.org/author/emilybader/>)



(<https://weru.org/>)



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MEET THE MAINE MONITOR TEAM (<https://themainemonitor.org/maine-monitor-staff-and-contributors/>)

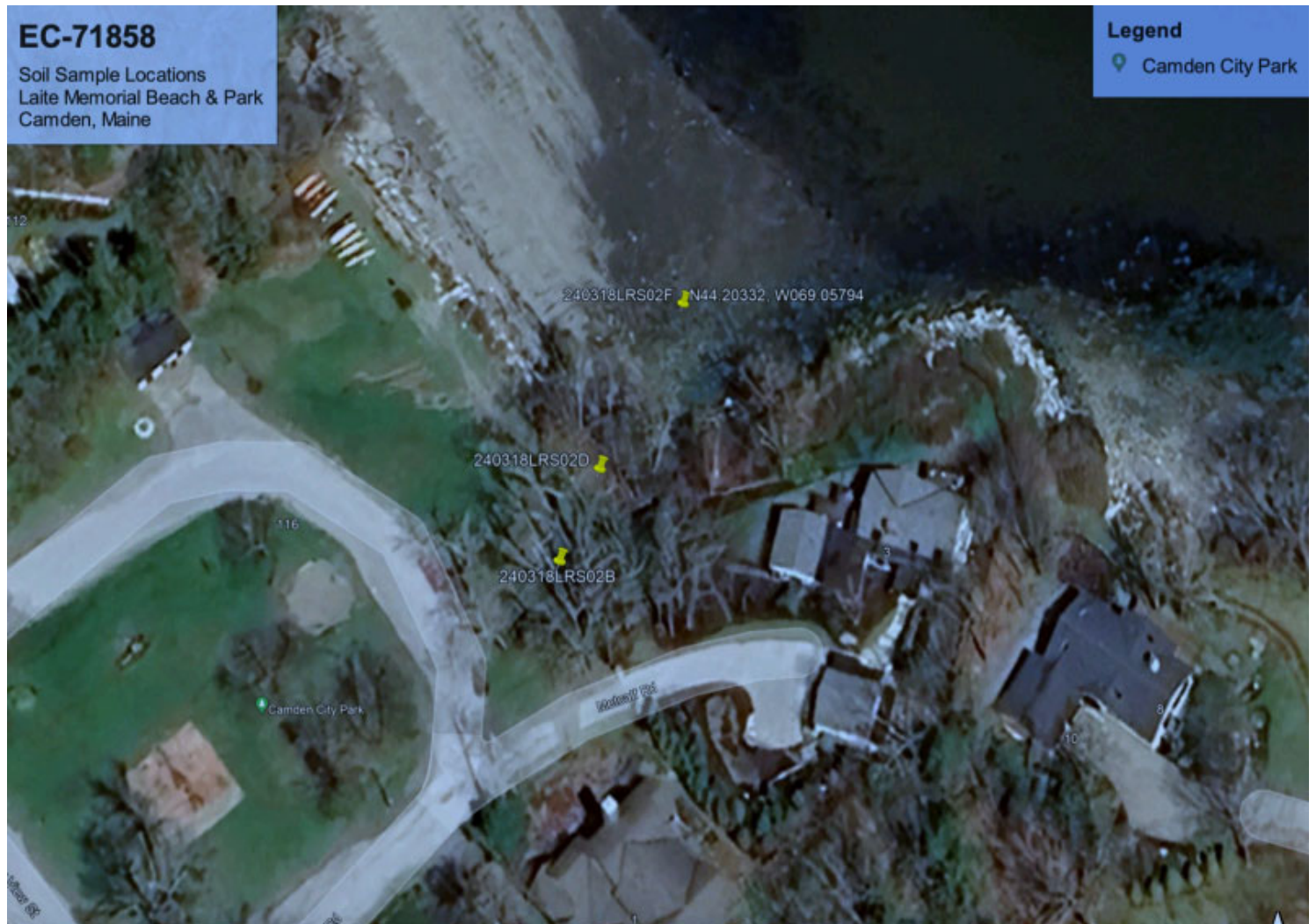
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Select Board meeting tonight

Regulating pesticides and herbicides under Camden ordinance to be discussed July 2

Lynda Clancy

Tue, 07/02/2024 - 2:15pm



Where test bores were drilled in March in order to test Laite Beach, in Camden, for the presence of toxic chemicals that leached from property on Metcalf Road. The amount detected has been determined minimal, but the Camden Select Board Chair said in March: "It's [Alligare] in our park. It's on our beach, where our citizens, our children, our pets go."

Camden's Select Board will open a discussion July 2 at its regular scheduled meeting about initiating an amendment to the town ordinance that would regulate herbicide and pesticide use.

The illegal herbicide applications to Camden Harbor waterfront property in 2021 that poisoned trees and leached toxins onto the publicly owned Laite Beach has helped to elevate the conversation about regulating chemicals at the municipal level.

But it is a process that first requires research and public education, those involved emphasize. And any proposed ordinance amendments would first require the approval of Maine’s Bureau of Pesticide Control, the state agency that oversees herbicide and pesticide use and abuse.

The Camden Select Board is to convene in the French Conference Room of the Camden Town Office at 6:30 p.m.

Select Board meetings are broadcast live on Spectrum Cable TV channel 1303 and [streamed live](https://www.youtube.com/TownofCamdenMaine). (<http://www.youtube.com/TownofCamdenMaine>)

For those wishing to participate remotely, click this [Zoom link](#)

The agenda also includes:

Approval of Board Minutes – June 4, 2024 and June 18, 2024

3. Consent Agenda:

a) Approval of annual request for block party on July 20th from 4 to 8 p.m. on Central Street between Cross and Trim streets

b) Consideration of approval of Benches for People Place Fundraiser

4. Select Board Reports

5. Town Manager’s Report

6. Action Items

a) Award of RFP Harbor Resiliency

b) Election of Member for Legislative Policy Committee for MMA

7. Discussion Items

a) Overview of Articles Passed

b) Pesticide/Herbicide Amendment to Code of Ordinances

8. Adjournment

See the full Select Board packet here.

A small group of Camden residents began meeting a few years ago to educate themselves about pesticides and herbicides, how those chemicals are regulated in Maine, and their possible effects on humans and pets.

“It is a small group of concerned citizens that got together,” said Jo-Ann Wilson, of Camden, adding that the inception of their meetings predated the, “Bond incident.”

The Bond incident is the 2021 herbicide application that resulted tree and vegetation poisoning on Metcalf Road property. It was followed by a \$210,000 consent agreement between private landowners Arthur III and Amelia Bond, of St. Louis,



Attachments

[DearbornPesticide HC 11-7-2007.pdf](#)

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Missouri, and the Town of Camden, and a \$1.58 million private settlement between the Bonds and their neighbor, Lisa Gorman, whose property had been affected.

Gorman's property fronts the harbor and is adjacent to Camden's popular Laite Beach, frequented year-round by locals and visitors. Laite Beach fronts Camden Harbor, which is part of Penobscot Bay and the Atlantic Ocean.

Samples taken last winter from test bores at the publicly-owned Laite Beach on Camden Harbor tested positive for [Alligare, the herbicide](#) used illegally on nearby property.

On March 6, the [Camden Select Board voted to elevate their concerns](#) to the office of Maine's Attorney General and the Maine Legislature.

"It's [Alligare] in our park," said Board Chair Tom Hedstrom, at a [March 6 Select Board meeting](#). "It's on our beach, where our citizens, our children, our pets go."

He said at that March meeting: "I would make a public call right now to our Attorney General and our District Attorney to seriously consider criminal charges against the Bonds for this application of poison into our property, our resident's property, our harbor, and endangering all of us."

In April, Maine's Office of Attorney General responded to a March 13 appeal from Camden Town Manager Audra Caler for support in pursuing additional enforcement.

Scott Boak, Assistant Attorney General listed the facts to date, which included the private settlement between the Bonds and Gorman, the consent agreement between the Bonds and Town of Camden, and the consent agreement between the Bonds and Maine's Bureau of Pesticide Control, of \$4,500.

Boak said his office would, "consider all of this information and the underlying situation carefully, in consultation with the BPC, DEP, and other interested state agencies, as we consider your request related to further enforcement."

The AG's office does comment on open investigations, nor does it confirm if it is even investigating a case.

For Camden's informal group of citizens researching herbicides and pesticides, the Bond incident produced a silver lining, as Jo-Ann Wilson wrote in a recent [letter to the editor](#).

"The silver lining to this story may be to recognize and bring an awareness of how we all may be slowly poisoning our own health, our loved ones and the natural world by innocently using such toxic agents."

The discussion at the July 2 board meeting will touch on various aspects of the group's research. They have so far learned that 33 municipalities in Maine restrict or ban pesticides within town lines.

In 2008, Camden [instituted a policy](#) that instructs the town to "refrain from the use of pesticides upon property it owns, uses or controls, except in situations that pose an imminent threat of serious injury to persons, property or agriculture."

According to the Maine Bureau of Pesticide Control, the sample results from Laite Beach are as follows:

240318LRS02B – 0.017 ppm (parts per million)

240318LRS02D – Q detection, present at less than reporting limit of 0.0025 ppm

240318LRS02F – 0.0029 ppm

"Please see the attachment, DearbornPesticide HC 11-7-2007.pdf, for information regarding the potential public health hazard of tebuthiuron in residential soils. This Health Consultation following tebuthiuron contamination at residential properties in

Dearborn, Michigan, concludes that there is no apparent public health hazard to people living at or visiting properties where tebuthiuron contamination has occurred.”

The policy said: “All pesticides are toxic to some degree and the widespread use of pesticides is both a major environmental problem and a public health issue. Federal regulation of pesticides is no guarantee of safety. Camden recognizes that the use of pesticides may have profound effects upon indigenous plants, surface water and ground water, as well as unintended effects upon people, birds and other animals in the vicinity of treated areas. Camden recognizes that all citizens, particularly children, have a right to protection from exposure to hazardous chemicals and pesticides.”

In 2008, the Citizens for a Green Camden were the catalyst for that effort, with Marsha Smith at the helm.

She has passed the torch to the more recent group that has been meeting, and both she and Beedy Parker, another longtime steward of Camden’s environmental health, have said it is time to control what is being applied on private property.

“Not only are the chemicals currently being used a hazard to our environment but more directly to our children and pets and future generations,” Smith wrote. “Chemical runoffs are poisoning the lakes, rivers, harbor and the bay. Many of these are forever chemicals. Recent situations in town amplify the urgent need to protect our environment.”

The current group of citizens recognize the need to disseminate information.

A grassroots effort in Ogunquit spent two years with volunteers educating the public, going door-to-door with information before the voters passed an [herbicide/pesticide amendment](#) to their municipal ordinance.

“The slower you go, the faster you get there,” said Wilson.

She hopes the Town of Camden will establish an *ad hoc* committee to produce recommendations and support educational efforts.

The group dreams even that some day towns along the west side of Penobscot Bay might band together and share similar policies regarding the use of toxic chemicals in the environment.

Reach Editorial Director Lynda Clancy at lyndaclancy@penbaypilot.com; 207-706-6657

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