



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**

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

**Join on your computer, mobile app or room device**

[Join the meeting now](#)

Meeting ID: 293 985 165 048

Passcode: kQuAH3

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Phone conference ID: 282 039 747#

**AGENDA**

1. Introductions of Board and Staff
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 7A 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,

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“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.
7. Additional breakouts of competency standard subcategories for 1B “Agricultural Plant” and 7A “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.

### 3. Minutes of the April 5, 2024 Board Meeting

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

### 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

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

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

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

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

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.

Adjustments and/or Additional Dates?

11. Adjourn

**NOTES**

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