



STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY  
BOARD OF PESTICIDES CONTROL  
28 STATE HOUSE STATION  
AUGUSTA, MAINE 04333

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JANET T. MILLS  
GOVERNOR

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COMMISSIONER

**Memorandum**

To: Board of Pesticides Control  
From: Alexander Peacock, Director  
Subject: LD 1697: An Act to Increase Penalties to Deter Violations of the Laws Regarding Improper Pesticide Use

October 3, 2025

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**Background**

Maine's 132<sup>nd</sup> Legislature recently passed LD 1697: An Act to Increase Penalties to Deter Violations of the Laws Regarding Improper Pesticide Use.

Today's discussion is to review the rulemaking requirements set forth in this bill, as seen below.

**Sec. 3. Board of Pesticides Control to adopt rules.** The Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall adopt routine technical rules as described in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to:

1. Establish a penalty schedule for violations of the laws and rules governing pesticides to create transparency for future penalties assessed;

**See attached draft**

2. Provide the means by which separate civil suits may be brought against the same violator of the laws and rules governing pesticides if pesticide migration through soil or bedrock occurs affecting more than one property;

**Discussion about adding rules regarding runoff?**

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3. Provide for the restoration of affected property and replacement of vegetation as penalties for violations of the laws and rules governing pesticides in addition to monetary penalties; and

**Could be accomplished as an administrative order within an administrative consent agreement?**

4. Designate pesticides with the active ingredient tebuthiuron as state-restricted-use pesticides.

**Rulemaking in Chapter 40: Restricted and Limited-Use Pesticides**

STATE OF MAINE

IN THE YEAR OF OUR LORD  
TWO THOUSAND TWENTY-FIVE

H.P. 1132 - L.D. 1697

**An Act to Increase Penalties to Deter Violations of the Laws Regarding  
Improper Pesticide Use**

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

**Sec. 1. 7 MRSA §616-A, sub-§2, ¶A**, as repealed and replaced by PL 2003, c. 452, Pt. B, §6 and affected by Pt. X, §2, is amended to read:

A. A person may not violate this subchapter or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A or a rule adopted pursuant to Title 22, chapter 258-A. This paragraph does not apply to a private applicator as defined in Title 22, section 1471-C, subsection 22 or a private applicator of general use pesticides as defined in Title 22, section 1471-C, subsection 22-A. Except as provided in paragraph B, the following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than \$1,500 may be adjudged as follows.

(a) A fine of not more than \$10,000 may be adjudged except as provided in division (b).

(b) A fine of not more than \$50,000 may be adjudged for an unauthorized pesticide application in a case in which the preponderance of the evidence demonstrates that the person who violated this paragraph benefited substantially from the violation as determined by the board by routine technical rule as described in Title 5, chapter 375, subchapter 2-A. Clear and convincing evidence that only one person benefited substantially from an unauthorized pesticide application constitutes prima facie evidence that the person is responsible for the unauthorized pesticide application.

(2) A person who violates this paragraph and is subject to a fine under subparagraph (1), division (a) after having previously violated this paragraph and having been subject to a fine under subparagraph (1), division (a) within the previous 4-year period commits a civil violation for which a fine of not more than ~~\$4,000~~ \$75,000 may be adjudged. A person who violates this paragraph and is subject to a fine under subparagraph (1), division (b) after having previously

violated this paragraph and having been subject to a fine under subparagraph (1), division (b) within the previous 4-year period commits a civil violation for which a fine of not more than \$150,000 may be adjudged.

**Sec. 2. 7 MRSA §616-A, sub-§2, ¶B**, as amended by PL 2011, c. 510, §1, is further amended to read:

B. A private applicator, as defined in Title 22, section 1471-C, subsection 22, and a private applicator of general use pesticides, as defined in Title 22, section 1471-C, subsection 22-A, may not violate this subchapter or a rule adopted pursuant to this subchapter or Title 22, chapter 258-A or a rule adopted pursuant to Title 22, chapter 258-A or a rule regarding records maintained pursuant to section 606, subsection 2, paragraph G. The following penalties apply to violations of this paragraph.

(1) A person who violates this paragraph commits a civil violation for which a fine of not more than ~~\$500~~ \$1,000 may be adjudged.

(2) A person who violates this paragraph after having previously violated this paragraph within the previous 4-year period commits a civil violation for which a fine of not more than ~~\$1,000~~ \$2,000 may be adjudged.

**Sec. 3. Board of Pesticides Control to adopt rules.** The Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall adopt routine technical rules as described in the Maine Revised Statutes, Title 5, chapter 375, subchapter 2-A to:

1. Establish a penalty schedule for violations of the laws and rules governing pesticides to create transparency for future penalties assessed;
2. Provide the means by which separate civil suits may be brought against the same violator of the laws and rules governing pesticides if pesticide migration through soil or bedrock occurs affecting more than one property;
3. Provide for the restoration of affected property and replacement of vegetation as penalties for violations of the laws and rules governing pesticides in addition to monetary penalties; and
4. Designate pesticides with the active ingredient tebuthiuron as state restricted use pesticides.

**§606. Prohibited acts**

**1. Unlawful distribution.** A person may not distribute in the State any of the following:

A. A pesticide that has not been registered pursuant to the provisions of this subchapter; [PL 2005, c. 620, §5 (AMD).]

B. A pesticide if any of the claims made for it or any of the directions for its use or other labeling differs from the representations made in connection with its registration, or if the composition of a pesticide differs from its composition as represented in connection with its registration; a change in the labeling or formulation of a pesticide may be made within a registration period without requiring reregistration of the product if the registration is amended to reflect that change and if that change will not violate any provision of FIFRA or this subchapter; [PL 2005, c. 620, §5 (AMD).]

C. A pesticide unless it is in the registrant's or the manufacturer's unbroken immediate container and there is affixed to the container, and to the outside container or wrapper of the retail package, if there is one, through which the required information on the immediate container cannot be clearly read, a label bearing the information required in this subchapter and rules adopted under this subchapter; [PL 2005, c. 620, §5 (AMD).]

D. A pesticide that has not been colored or discolored pursuant to section 610, subsection 1, paragraph D; [PL 2005, c. 620, §5 (AMD).]

E. A pesticide that is adulterated or misbranded or any device that is misbranded; [PL 2021, c. 105, §1 (AMD).]

F. A pesticide in containers that are unsafe due to damage; [PL 2021, c. 673, §4 (AMD).]

G. Beginning January 1, 2022, a pesticide containing chlorpyrifos as an active ingredient; [PL 2021, c. 673, §4 (AMD).]

H. A pesticide that has been contaminated by perfluoroalkyl and polyfluoroalkyl substances; or [PL 2021, c. 673, §4 (NEW).]

I. Beginning January 1, 2030, a pesticide that contains intentionally added PFAS that may not be sold or distributed pursuant to Title 38, section 1614, subsection 5, paragraph D. [PL 2021, c. 673, §4 (NEW).]

[PL 2021, c. 673, §4 (AMD).]

**2. Unlawful alteration, misuse, divulging of formulas, transportation, disposal and noncompliance.** A person may not:

A. Detach, alter, deface or destroy, wholly or in part, any label or labeling provided for in this subchapter or rules adopted under this subchapter; [PL 2005, c. 620, §5 (AMD).]

A-1. Add any substance to or take any substance from a pesticide in a manner that may defeat the purpose of this subchapter or rules adopted under this subchapter; [PL 2005, c. 620, §5 (NEW).]

B. Use or cause to be used any pesticide in a manner inconsistent with its labeling or with rules of the board, if those rules further restrict the uses provided on the labeling; [PL 2005, c. 620, §5 (AMD).]

C. Use for that person's own advantage or reveal, other than to the board or proper officials or employees of the state or federal executive agencies, to the courts of this State or of the United States in response to a subpoena, to physicians, or in emergencies to pharmacists and other qualified persons for use in the preparation of antidotes, any information relative to formulas of products acquired by authority of section 607 or any information judged by the board to contain or relate to

trade secrets or commercial or financial information obtained by authority of this subchapter and marked as privileged or confidential by the registrant; [PL 2005, c. 620, §5 (AMD).]

D. Handle, transport, store, display or distribute pesticides in such a manner as to endanger human beings or their environment or to endanger food, feed or any other products that may be transported, stored, displayed or distributed with such pesticides; [PL 2005, c. 620, §5 (AMD).]

E. Dispose of, discard or store any pesticides or pesticide containers in such a manner as may cause injury to humans, vegetation, crops, livestock, wildlife or beneficial insects or pollute any water supply or waterway; [PL 2005, c. 620, §5 (AMD).]

F. Refuse or otherwise fail to comply with the provisions of this subchapter, the rules adopted under this subchapter or any lawful order of the board; [PL 2021, c. 673, §5 (AMD).]

G. Apply pesticides in a manner inconsistent with rules for pesticide application adopted by the board; or [PL 2021, c. 673, §5 (AMD).]

H. Use or cause to be used any pesticide container inconsistent with rules for pesticide containers adopted by the board. [PL 2021, c. 673, §5 (NEW).]

[PL 2021, c. 673, §5 (AMD).]

**3. Unlawful use.** A person may not apply glyphosate or dicamba within 75 feet of school grounds. This subsection does not apply to residential property or land used for commercial farming.

For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings:

A. "Commercial farming" has the same meaning as in section 52, subsection 3; [PL 2021, c. 197, §1 (NEW).]

B. "Residential property" means real property located in this State that is used for residential dwelling purposes; [PL 2021, c. 197, §1 (NEW).]

C. "School" means any public, private or tribally funded elementary school as defined in Title 20-A, section 1, subsection 10, secondary school as defined in Title 20-A, section 1, subsection 32 or a nursery school that is part of an elementary or secondary school; and [PL 2021, c. 197, §1 (NEW).]

D. "School grounds" means:

(1) Land associated with a school building including playgrounds and athletic fields used by students or staff of a school. "School grounds" does not include land used for a school farm; and

(2) Any other outdoor area used by students or staff including property owned by a municipality or a private entity that is regularly used for school activities by students and staff but not including land used primarily for nonschool activities, such as golf courses, farms and museums. [PL 2021, c. 197, §1 (NEW).]

[PL 2021, c. 197, §1 (NEW).]

## SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1983, c. 558, §§1,2 (AMD). PL 1983, c. 761, §§1,2 (AMD). PL 1985, c. 506, §A6 (AMD). PL 1989, c. 878, §§E3,4 (AMD). PL 2005, c. 620, §5 (AMD). PL 2021, c. 105, §§1-3 (AMD). PL 2021, c. 197, §1 (AMD). PL 2021, c. 673, §§4, 5 (AMD).

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## Maine Board of Pesticides Control Enforcement Protocol

The Board adopts the following enforcement protocol to be utilized in routine enforcement matters arising under the Board's statutes and regulations.<sup>1</sup>

1. Persons wishing to report potential violations should refer such matters, as soon and in as much detail as possible, to the Board's staff. Where such reports are submitted by telephone, the Board requests that confirmation be made in writing. As a general rule, where requested by the individual making the report, the Board shall keep the identity of that person confidential, except as the Attorney General may advise in a particular case that such information is subject to public disclosure under the Maine Freedom of Access Law.
2. As soon as practicable after receipt of a report of a potential violation, the Board's staff shall investigate. The precise method and extent of investigation shall be at the discretion of the staff, considering the potential severity of the violation and its consequences, the potential the violation may have for damage to the environment or human health, and other matters which may place demands upon staff resources at the time.
3. Following staff investigation, if the staff determines that a violation has occurred of sufficient consequence to warrant further action, the Board's staff may proceed as follows:
  - a. In matters not involving substantial threats to the environment or public health, the Board's staff may discuss terms of resolution with the Attorney General's office and then with the violator without first reporting the matter to the Board. This procedure may only be used in cases in which there is no dispute of material facts or law, and the violator freely admits the violation(s) of law and acknowledges a willingness to pay a fine and resolve the matter. The terms of any negotiated proposed resolution shall be subject to the Board's subsequent review and approval, as provided in section 6b.
  - b. In matters involving substantial threats to the environment or the public health or other extraordinary circumstances, or in which there is dispute over the material facts or law, the Board's staff shall bring the matter to the attention of the Board. The staff shall prepare a written report summarizing the details of the matter. Copies of the report shall be mailed to the alleged violator and any complainants so they may make comments. The report and any comments will then be distributed to the Board prior to their next available meeting. The staff will also notify the alleged violator and other involved parties about the date and location of the meeting at which the alleged violation will be considered by the Board.
4. At the Board meeting, the Board shall hear from its staff and, if requested, from the alleged violator(s) and/or their attorneys, as well as from other interested members of the public, to the extent reasonable under the circumstances and in a manner which the Board's chairman shall direct. Ordinarily, such a meeting will not be conducted as a formal adjudicatory hearing. Before making a decision regarding any action(s) which it may wish to take in response to an alleged violation, the Board may choose to go into executive session to discuss with its counsel the various enforcement options available to it and other related matters which are not subject to public disclosure under the Freedom of Access Law. However, all Board decisions shall be made on the public record and not in executive session.

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<sup>1</sup> In emergency or other unusual situations, the Board and/or its staff may depart from this protocol, in a manner consistent with State



law, when necessary to the handling of particular enforcement actions.

5. Following receipt of the staff report and other information presented to it and completion of whatever further inquiry or deliberations the Board may wish to undertake, the Board shall make a decision regarding which course(s) of action, as described in Section 6, it deems appropriate in response to the alleged violation. Any such decision will ordinarily be based upon the Board's judgment as to whether a violation of its statutes or regulations appears to have occurred which is of sufficient consequence to warrant an enforcement action, but shall not require that the Board be satisfied to a legal certainty that the alleged violator is guilty of a particularly defined violation. In disputed matters, the ultimate decision as to whether a violation is factually and legally proven rests with the courts.
6. If the Board makes the determination that a violation appears to have occurred which warrants an enforcement action, the Board may choose among one or more of the following courses of action:
  - a. In matters involving substantial violations of law and/or matters resulting in substantial environmental degradation, the Board may refer the matter directly to the Attorney General for the initiation of enforcement proceedings deemed appropriate by the Attorney General. Also, with regard to more routine violations with respect to which the Board finds sufficient legal and/or factual dispute so that it is unlikely that an amicable administrative resolution can be reached, the Board may choose to refer the matter directly to the Attorney General.
  - b. Matters warranting enforcement action that involve impacts to bodily harm and human health, environmental harm and degradation and patterns of repeat offenses by the same entity shall be presented to the Board prior to negotiating an administrative consent agreement.
  - c. On matters warranting enforcement action of a relatively routine nature, the Board may authorize and direct its staff to enter into negotiations with the alleged violator(s) with a view to arriving at an administrative consent agreement containing terms (including admissions, fines and/or other remedial actions) which are satisfactory to the Board, to the Attorney General and to the alleged violator(s). The Board will not ordinarily determine in the first instance the precise terms which should be required for settlement but may indicate to the staff its perception of the relative severity of the violation. In formulating a settlement proposal, the staff shall take into consideration all of the surrounding circumstances, including the relative severity of the violation, the violations record and other relevant history of the alleged violator(s), corrective actions volunteered by the alleged violator(s) and the potential impact upon the environment of the violation. The staff shall consult with the Attorney General's office before proposing terms of settlement to the alleged violator(s). Following successful negotiation of an administrative consent agreement with the alleged violator(s), the staff shall report back to the Board the terms of such agreement for the Board's review and, if it concurs, ratification. All administrative consent agreements shall become final only with the Board's and the Attorney General's approval.
  - d. In the event that an administrative consent agreement cannot be arrived at as provided in paragraph b., the staff shall report the matter back to the Board for further action by it. Such action may include referral to the Attorney General for appropriate action.
  - e. In addition, in appropriate cases, the Board may act to suspend the license of a certified applicator as provided in its statute, may act to refuse to renew the license of a certified applicator and/or may request that the Attorney General initiate proceedings in the Administrative Court to revoke or suspend the license of any such applicator. Where provided for by its statute, the Board shall give the licensee involved the opportunity for a hearing before the Board in connection with decisions by it to refuse to renew a license or to suspend such license.

7. Whereas the Board is establishing this protocol in order to clarify and facilitate its proceedings for the handling by it and its staff of enforcement matters, the Board recognizes that the Attorney General, as chief law enforcement officer of the State, may independently initiate or pursue enforcement matters as he deems in the best interests of the State and appropriate under the circumstances



## **BPC Enforcement Matrix DRAFT, September 2025**

### **Introduction**

The Maine Board of Pesticides Control has been designated as the authority with exclusive jurisdiction with regard to pesticides through the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), the Maine 1975 Pesticide Control Act (MRS Title 7, Ch. 103, 2-A), and its regulations promulgated at MRS Title 22, Ch. 258-A. Through its governing statutes, the Department has the authority to issue enforcement actions when the statute/regulations have been violated. Enforcement Actions may include, but not be limited to: Notice of Warning, Letters of Warning, Administrative Consent Agreements (Fines), Referral to Office of the Attorney General, Referral to EPA, License Suspension, License Revocation, and Criminal Action.

There are many issues to consider when issuing an enforcement action, including but not limited to the following:

Size of the company  
Severity of the violation  
How the violation was found  
Human/ public health impact  
Environmental impact  
History of violations

Due to the fact that each inspection/investigation is different and there are a multitude of factors that contribute to finding violations, this Enforcement Matrix (“Matrix”) is not to be considered a definitive rule of enforcement but rather a guideline to ensure consistency and fairness when issuing enforcement actions. (See Appendix A)

### **Authority**

*The authority to regulate pesticides within the State of Maine is given in the following statute/regulations (See Appendix B):*

- *MRS Title 22 §1471-D: Certifications and Licenses*
- *MRS Title 22 §1471-G: Reports*
- *MRS Title 22 §1471-J: Penalties*
- *MRS Title 7 § 606: Prohibited Acts*
- *MRS Title 7 § 611: Enforcement*
- *MRS Title 7 § 616-A: Penalties*

## **Intent**

It is important when considering an enforcement action to determine what the intent is, to the extent possible. For the purposes of this Matrix, intent can be broken down into the following three categories:

1. **Lack of Knowledge**: When a person or company that has committed a violation was not aware or would not, within reason, be expected to have been aware of statutory requirements. While this is not a defense to any violation, the type of violation coupled with the statute or regulation at issue may show a lack of intent to negligently or willfully commit a violation. An example might be a record-keeping violation or an accident not caused by negligence.
2. **Negligence**: When an individual uses a pesticide in a potentially reckless or harmful manner that may pose a threat to human health or the environment, and the individual should have known that such a manner had the potential to cause such a threat. Negligence may also include when an individual does not know a statute or regulation, but based on their credentials or position, should have knowledge. An example might be when an individual does not follow label directions.
3. **Willful**: When a person or company has committed a violation in a flagrant manner, knowing the statute, regulation, or label requirements, and yet still commits the violation. Examples might be ignoring warnings given by an inspector, knowingly giving false information to the Department or customer, attempting to defraud, or having numerous previous violations of a related fashion, thereby having notice of the correct requirements.

## **Level of Severity**

It is important when considering an enforcement action to determine the level of severity of the violation. For the purposes of this Matrix, the level of severity can be broken into the following three categories:

1. **Minimal (A)**: When there are no injuries or damage, and no large potential for any injuries or damage, and when there has been no inconvenience caused to the client or public, and when all reasonable corrective measures have been taken by the applicator at his own expense.
2. **Moderate (B)**: When there is any potential for or actual minor damage to non-target species, but where there is no actual threat to the client, public, or environment. Minor injuries may be considered moderate if all reasonable efforts were made to rectify the

situation in a manner that significantly reduced the potential for continued damage or problems.

3. Extreme (C): Any application or related activity that results in or has a reasonable potential for causing the injury or death of any person; any widespread or long-term damage to non-target species; contamination by a pesticide with potentially long-term consequences, or any application that has or is likely to have long term damage to the environment.

### **Enforcement Actions**

Depending on the violation (s), enforcement actions may be issued to the company, individual, or both. The Department will determine who the enforcement action is issued to on a case-by-case basis.

Notice of Warning (NOW): NOWs issued on-site are usually given during a routine inspection. These NOWs are already on a standard form. These are given for minor infractions, which are usually “administrative,” such as incomplete records or not providing proper notification. The inspector should plan on conducting a follow-up inspection to ensure that the infractions are fixed. NOWs can be issued for minor infractions during Marketplace Inspections, School IPM inspections, and Worker Protection Standard (WPS) Inspections.

Letters of Warning (LOW): LOWs that are not issued on site are usually due to a violation that was found during an inspection, but either due to the nature of the violation or information available to the inspector, the violation does not rise to the level of issuing an administrative consent agreement. LOWs may include minor actions that the applicator must perform or materials that must be submitted. LOWs will be issued when the infraction is not considered egregious and where there has not been any history of violation.

Administrative Consent Agreements (ACA): ACAs are administrative fines that are expressly authorized by statute. ACAs may be issued under the following circumstances:

Repeat violation/History of Violations

Egregious violations

Violation may have caused potential for harm or actual harm

ACAs may order a company/individual to pay a fine. These actions are intended to ensure that the violation does not occur again and provide avenues so that the human/environment is protected. A violation of the ACA may lead to referral to the Attorney General’s office for further enforcement action.

License Suspension/Revocation (LS/LR): License Suspensions/Revocations may be issued for egregious violations, such as but not limited to the following:

Not following label directions, making false or fraudulent statements

Causing an unreasonable adverse effect on the environment or persons

The Board may issue a suspension for up to 45 days upon an adjudicatory proceeding, while a revocation requires action by the District Court.

DRAFT

## GUIDANCE FOR ENFORCEMENT ACTION

LACK OF KNOWLEDGE			
PREVIOUS VIOLATIONS	A	B	C
0	NOW		
1			
2			

NEGLIGENT			
PREVIOUS VIOLATIONS	A	B	C
0			
1			
2			

WILLFUL			
PREVIOUS VIOLATIONS	A	B	C
0			
1			
2			LS/LR

\*\*NOW – Notice of  
Warning

LOW – Letter of  
Warning

ACA – Administrative  
Consent Agreement

LS – License Suspension

LR – License Revocation