



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY
BOARD OF PESTICIDES CONTROL
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Memorandum

To: Board of Pesticides Control
From: John Pietroski, Acting Director
Subject: LD 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

September 1, 2023

Background:

On June 23, 2023, LD 1770 “Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data” was signed by the governor. This resolve directs BPC to conduct rulemaking requiring electronic submission of annual commercial applicator reports and pesticide dealer reports. The Board is also obligated to submit a report to the legislature by March 2024 that reports on the progress made on the implementation of this resolve.

L.D. 1770 Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

Sec. 1. Board of Pesticides Control; pesticides sales and use data. Resolved: That, pursuant to the Maine Revised Statutes, Title 22, section 1471-M, subsection 2, paragraph D, the Department of Agriculture, Conservation and Forestry, Board of Pesticides Control shall adopt any rules necessary to implement the transition from paper to electronic format of reports required to be submitted to the board as required by Title 22, section 1471-G. The board shall implement a system of electronic data collection that is efficient for those required to submit reports to the board under Title 22, section 1471-G and useful to the board and members of the public. Rules adopted pursuant to this section are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

Sec. 2. Report. Resolved: That, no later than March 1, 2024, the director of the Board of Pesticides Control within the Department of Agriculture, Conservation and Forestry shall submit a report regarding rulemaking and implementation of electronic reporting under section 1 to the Joint Standing Committee on Agriculture, Conservation and Forestry,

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which may report out a bill to the Second Regular Session of the 131st Legislature based on the report.

Below are considerations that staff have identified to transition requiring electronic reports.

Software Changes

Currently, BPC has the capacity to electronically collect annual summary report information from commercial applicators. Commercial applicators enter their summarized information into the Maine Pesticide Enforcement, Registration and Licensing Software (MEPERLS) on an annual basis as part of renewing their license. Renewal of licenses requires submission of this data; data may be entered electronically or paper copies may be sent. Information currently collected electronically for commercial applicator use includes: pesticide trade name, EPA registration number, total gallons/pounds of undiluted formulation, crop site, and total area treated. Dealers of restricted use, and general use pesticides must also submit summaries of pesticides sold annually. Within BPC dealer reports are categorized and compiled as General Use Pesticide Dealers (GUP) and Restricted Use Pesticide Dealers (RUP). The MePERLS system is also currently programmed to allow for GUPs to enter their sales data electronically. Currently, RUP sales data can be uploaded as a static document and is collated on an Excel spreadsheet when temporary staff time can be allocated to the task.

To implement this new law, the Board may want to consider what records applicators must keep for adjuvants. When adjuvants were classified as pesticides in 2022 with the passing of LD 2019 all regulations relevant to pesticides became applicable to adjuvant products. Currently in MePERLS, EPA registration number entry auto fills active ingredients and product name and allows the system to flag for unregistered pesticides and other errors. FIFRA 25(b) minimum risk products do not have EPA registration numbers and are entered by selecting a radio button for product type and manually entering data. Given that adjuvants are not registered by EPA, adjuvants also do not have EPA registration numbers. New functionality will need to be developed in MePERLS to capture adjuvant product use summaries.

Potential Rulemaking

The Board may need to engage in rulemaking to implement LD 1770 in Chapter 50: Recordkeeping & Reporting. The Board may want to consider:

1. Adding language that makes reports submitted electronically through a portal
2. Creating a timeline for implementation and start year that electronic reports will be required; and
3. Additional language for the transition from paper to electronic reports, especially for individuals that do not have computer or broadband access.

Notice to constituents

In accordance with the Administrative Procedures Act (M.R.S.A 5 §8001) constituents will be informed of rulemaking once it is officially initiated. Additionally, public comment regarding the rule change will also be collected and integrated into rule if possible. However, given that not all applicators and dealers are engaged with the BPC rulemaking process, additional notifications will need to be sent to commercial applicators, spray contracting firms, general use pesticide dealers, and restricted use pesticide dealers to ensure transition compliance. These notifications will take place in the form of direct and GovDelivery emails, presentations at recertification meetings, reminders at Board meetings regarding implementation, etc.

Reminders for annual summary reports are typically sent out in the fall, and this information will be attached to any licensing renewal reminders that staff submit to these parties.