

§610. Determinations; rules; restricted use pesticides; uniformity**1. Determinations.** The board may by rule:

A. Declare as a pest any form of plant or animal life, except viruses, bacteria or other microorganisms on or in living human beings or other living animals, that is injurious to health or the environment; [RR 2005, c. 2, §8 (COR).]

B. Determine whether pesticides registered under the authority of FIFRA, Section 24(c) are highly toxic to human beings. [PL 2005, c. 620, §10 (AMD).]

C. Determine whether pesticides or quantities of substances contained in pesticides are injurious to the environment. The board must be guided by EPA regulations in this determination; and [PL 2005, c. 620, §10 (AMD).]

D. Require any pesticide to be colored or discolored if it determines that such a requirement is feasible and is necessary for the protection of health and the environment. [PL 2005, c. 620, §10 (AMD).]

[RR 2005, c. 2, §8 (COR).]

2. Rule-making powers. The board may adopt other rules that it determines necessary to carry out the provisions of this subchapter. The board's rule-making authority includes, but is not limited to, rules:

A. Providing for the collection, examination and reporting of samples of pesticides or devices; [PL 2005, c. 620, §10 (AMD).]

B. Providing for the safe handling, transportation, storage, display, distribution and disposal of pesticides and their containers; [PL 2005, c. 620, §10 (AMD).]

C. Establishing requirements of all pesticides required to be registered under provisions of this subchapter, provided that such rules do not impose any requirements for federally registered labels in addition to or different from those required pursuant to FIFRA; [PL 2005, c. 620, §10 (AMD).]

D. Specifying classes of devices that are subject to the provisions of section 605, subsection 1; [PL 2005, c. 620, §10 (AMD).]

E. Governing pesticide application, including, but not limited to, rules:

(1) Designed to minimize pesticide drift to the maximum extent practicable under currently available technology;

(2) Prescribing procedures to be used for the application of pesticides, including the time, place, manner and method of that application;

(3) Restricting or prohibiting the use of pesticides in designated areas or during specified periods of time; and

(4) Prescribing tolerance levels for pesticide residues in off-target areas; [PL 2005, c. 620, §10 (NEW).]

F. Prescribing the submission of information necessary for the board to undertake its responsibilities under this subchapter; [PL 2005, c. 620, §10 (NEW).]

G. Prescribing requirements as necessary to carry out the provisions of section 607; [PL 2005, c. 620, §10 (NEW).]

H. Governing the registration and the cancellation and suspension of registration of pesticides pursuant to section 609; and [PL 2005, c. 620, §10 (NEW).]

I. For the purpose of achieving uniformity of requirements between the states and the Federal Government, provided the rules are in conformity with the primary pesticide standards, particularly

as to labeling, registration requirements and criteria for classifying pesticides for restricted use, as established by EPA or other federal or state agencies. [PL 2005, c. 620, §10 (NEW).]
[PL 2005, c. 620, §10 (AMD).]

3. Uniformity of requirements; restricted uses.

[PL 2005, c. 620, §10 (RP).]

4. Designation of rules. Rules adopted under this subchapter are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A unless otherwise specified or designated in accordance with subsection 5.

[PL 2005, c. 620, §10 (NEW).]

5. Review of regulatory agenda; designation as major substantive rules. Notwithstanding Title 5, section 8060, subsection 2, the due date for the submission of a regulatory agenda by the board under section 8060 is January 15th. The board shall annually submit a regulatory agenda complying with Title 5, section 8060, subsection 1 to the joint standing committee of the Legislature having jurisdiction over pesticides regulation. The legislative committee of jurisdiction shall complete its review of the board's regulatory agenda no later than February 15th of each year. The committee may report out legislation no later than February 20th to designate any rule on the board's regulatory agenda as a major substantive rule subject to legislative review under Title 5, chapter 375, subchapter 2-A.

[PL 2005, c. 620, §10 (NEW).]

6. Major substantive rules. Rules proposed for adoption by the board after July 1, 2007 that pertain to topics specified in paragraphs A to E are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on July 1, 2007 that pertain to topics specified in paragraphs A to E continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Rules proposed for adoption by the board after March 1, 2008 that pertain to topics specified in paragraphs F and G are major substantive rules as defined in Title 5, chapter 375, subchapter 2-A. Rules in effect on March 1, 2008 that pertain to topics specified in paragraph G continue in effect, except that proposed amendments to those rules are major substantive rules and must be reviewed and approved prior to final adoption in accordance with Title 5, section 8072. Topics governed by this subsection are:

A. Drift from outside spraying; [PL 2007, c. 145, §1 (NEW).]

B. Notification requirements for outside spraying; [PL 2007, c. 145, §1 (NEW).]

C. Pesticides applications in occupied buildings; [PL 2007, c. 145, §1 (NEW).]

D. A notification registry for indoor applications of pesticides; [PL 2007, c. 484, §2 (AMD).]

E. Buffers from shorelines for broadcast applications of pesticides; [PL 2007, c. 484, §2 (AMD).]

F. Use of organophosphate pesticides adjacent to occupied areas; and [PL 2007, c. 484, §2 (NEW).]

G. Distribution and use of plant-incorporated protectants. [PL 2007, c. 484, §2 (NEW).]

[PL 2007, c. 484, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 382, §3 (NEW). PL 1977, c. 694, §§62,63 (AMD). PL 1989, c. 878, §E9 (AMD). RR 2005, c. 2, §8 (COR). PL 2005, c. 620, §10 (AMD). PL 2007, c. 145, §1 (AMD). PL 2007, c. 484, §2 (AMD).

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