

CHAPTER 258-A**BOARD OF PESTICIDES CONTROL****§1471-A. Purpose and policy**

For the purpose of assuring to the public the benefits to be derived from the safe, scientific and proper use of chemical pesticides while safeguarding the public health, safety and welfare, and for the further purpose of protecting natural resources of the State, it is declared to be the policy of the State of Maine to regulate the sale and application of chemical insecticides, fungicides, herbicides and other chemical pesticides. [PL 2011, c. 510, §2 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1983, c. 542, §§1,3 (AMD). PL 2011, c. 510, §2 (AMD).

§1471-B. Board of Pesticides Control

1. Board established. The Board of Pesticides Control is established by Title 5, section 12004-D, subsection 3, within the Department of Agriculture, Conservation and Forestry. Except as provided in this chapter, the board must be composed of 7 members, appointed by the Governor, subject to approval by the joint standing committee of the Legislature having jurisdiction over agricultural matters and confirmation by the Senate. To provide the knowledge and experience necessary for carrying out the duties of the board, the board must consist of the following members: one person with practical experience and knowledge regarding the agricultural use of chemicals; one person who has practical experience and knowledge regarding the use of chemicals in forest management; one person from the medical community; a scientist from the University of Maine System specializing in agronomy, entomology or plant pathology having practical experience and expertise in integrated pest management; one commercial applicator; and 2 persons appointed to represent the public. The 2 members appointed to represent the public must have a demonstrated interest in environmental protection. A member appointed to represent the public may not have a financial interest in activities regulated by the board and may not be an individual who has been or is licensed, certified or given a permit in this State or any other state for activities regulated by the board. The term must be for 4 years, except that of the initial appointees, 2 serve 4-year terms, 2 serve 3-year terms, 2 serve 2-year terms and one serves a one-year term. Any vacancy must be filled by an appointment for the remainder of the unexpired term.

[PL 2021, c. 179, §1 (AMD).]

2. Organization of the board. The board shall elect a chair and any other officers it determines necessary from among the membership. The board shall meet at the call of the chair or at the request of any 3 members. Four members constitute a quorum and, except as otherwise provided in this subsection, any action requires the affirmative vote of the greater of either a majority of those present and voting or at least 2 members. Any action by the board requesting that the Attorney General pursue a court action against an alleged violator of any law or rule requires an affirmative vote by 3 members or a majority of those present and voting, whichever is greater. The chair and any other officers shall serve in those capacities for a period of one year following their elections.

[PL 1989, c. 841, §4 (AMD).]

3. Compensation of the board. Each public member shall be compensated according to the provisions of Title 5, chapter 379.

[PL 1983, c. 812, §120 (RPR).]

4. Director. 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.

[RR 2021, c. 2, Pt. B, §88 (COR).]

5. Staff. The board must establish standards for the delegation of its authority to the director and staff. Any person aggrieved by a decision of the director and staff has a right to a review of the decision by the board. The Commissioner of Agriculture, Conservation and Forestry shall provide the board with administrative services of the department, including assistance in the preparation of the board's budget. The commissioner may require the board to reimburse the department for these services.

[PL 1989, c. 841, §5 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

6. Registration of pesticides.

[PL 1981, c. 112, §1 (RP).]

7. State contracts. Notwithstanding any other provisions of law, members of the board are eligible to contract with the State when the contracts are awarded in accordance with normal bidding procedures of the Department of Administrative and Financial Services. Members also are eligible to receive grants when grants are awarded in accordance with normal state procedures. A member may not vote on the award of a contract or grant for which that member has submitted a bid or proposal.

[PL 2007, c. 466, Pt. A, §40 (RPR).]

8. Meetings. The board shall periodically meet in various geographic regions of the State. When considering an enforcement action, the board shall attempt to meet in the geographic region where the alleged violation occurred.

[PL 1989, c. 841, §6 (NEW).]

SECTION HISTORY

PL 1975, c. 293, §4 (AMD). PL 1975, c. 397, §2 (NEW). PL 1977, c. 696, §181 (AMD). PL 1979, c. 644, §3 (RPR). PL 1979, c. 731, §19 (AMD). PL 1981, c. 112, §1 (AMD). PL 1981, c. 470, §A66 (AMD). PL 1981, c. 632, §§1,2 (AMD). PL 1983, c. 309 (AMD). PL 1983, c. 812, §§119,120 (AMD). PL 1985, c. 779, §60 (AMD). PL 1985, c. 785, §A95 (AMD). PL 1987, c. 702, §2 (AMD). PL 1989, c. 503, §B83 (AMD). PL 1989, c. 841, §§4-6 (AMD). PL 1991, c. 376, §45 (AMD). PL 2007, c. 466, Pt. A, §40 (AMD). PL 2007, c. 466, Pt. B, §17 (AMD). PL 2011, c. 119, §1 (AMD). PL 2011, c. 119, §2 (AFF). PL 2011, c. 657, Pt. W, §§5, 6 (REV). PL 2019, c. 192, §1 (AMD). PL 2021, c. 179, §1 (AMD). RR 2021, c. 2, Pt. B, §88 (COR).

§1471-C. Definitions

As used in this chapter, the following words have the following meanings. [PL 1983, c. 819, Pt. A, §40 (NEW).]

1. Agricultural commodity. "Agricultural commodity" means any plant, or part thereof, or animal or animal product produced by a person, including farmers, ranchers, vineyardists, plant propagators, Christmas tree growers, aquaculturists, floriculturists, orchardists, foresters or other comparable persons, primarily for sale, consumption, propagation or other use by humans or animals.

[PL 1975, c. 397, §2 (NEW).]

2. Aircraft. "Aircraft" means any machine or device used or designed for navigation of, or flight in, the air.

[PL 1975, c. 397, §2 (NEW).]

3. Board. "Board" means the Board of Pesticides Control as established in section 1471-B.

[RR 2019, c. 1, Pt. A, §20 (COR).]

4. Certified applicator. "Certified applicator" means any person who is certified pursuant to section 1471-D and authorized to use or supervise the use of any pesticides.

[PL 1975, c. 644, §1 (AMD).]

5. Commercial applicator. "Commercial applicator" means any person, whether or not the person is a private applicator with 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.

[PL 2015, c. 58, §2 (AMD).]

5-A. Custom application. "Custom application" means an application of a pesticide:

A. Under contract or for which compensation is received; [PL 2007, c. 245, §2 (NEW).]

B. To a property open to use by the public; or [PL 2007, c. 245, §2 (NEW).]

C. In a food establishment licensed under chapter 551 or an eating establishment licensed under chapter 562, except that "custom application" does not include a pesticides application at a licensed food or eating establishment when:

(1) The establishment is ancillary to the production of an agricultural commodity;

(2) The owner or an employee of that establishment is certified as a private applicator under section 1471-D, subsection 2; and

(3) The property is not open to the public. [PL 2007, c. 245, §2 (NEW).]

[PL 2007, c. 245, §2 (AMD).]

6. Defoliant. The term "defoliant" means any substance or mixture of substances intended for causing the leaves or foliage to drop from a plant, with or without causing abscission.

[PL 1975, c. 397, §2 (NEW).]

7. Desiccant. The term "desiccant" means any substance or mixture of substances intended for artificially accelerating the drying of plant tissue.

[PL 1975, c. 397, §2 (NEW).]

8. Distribute. "Distribute" means to offer for sale, hold for sale, sell, barter, ship, deliver for shipment or receive and, having so received, deliver or offer to deliver pesticides in this State.

[PL 1975, c. 397, §2 (NEW).]

9. FIFRA. "FIFRA" means the Federal Insecticide, Fungicide and Rodenticide Act, 7 U.S.C. 135 et seq., PL 92-516.

[PL 1975, c. 397, §2 (NEW).]

10. Fungi. "Fungi" means all nonchlorophyll-bearing thallophytes, that is, all nonchlorophyll-bearing plants, of a lower order than mosses and liverworts, including but not limited to rusts, smuts, mildews and molds, except those on or in living humans or other animals or those on or in processed food, beverages or pharmaceuticals.

[RR 2021, c. 2, Pt. B, §89 (COR).]

11. Fungicide. "Fungicide" means any substance or mixture of substances intended for destroying or repelling any fungi or mitigating or preventing damage by any fungi.

[PL 1975, c. 397, §2 (NEW).]

11-A. Government pesticide supervisor.

[PL 2015, c. 58, §3 (RP).]

11-B. General use pesticide. "General use pesticide" means any pesticide that is required to be registered by the board pursuant to Title 7, chapter 103, subchapter 2-A and that is not a restricted use or limited use pesticide, as defined in this section. Pesticides restricted or limited by the board are listed by the board.

[PL 2017, c. 59, §1 (AMD).]

11-C. General use pesticide dealer. "General use pesticide dealer" means any person who distributes general use pesticides.

[PL 1987, c. 723, §2 (NEW).]

12. Ground equipment. "Ground equipment" means any machine or device, other than aircraft, for use on land or water, designed for, or adaptable to, use in applying pesticides as sprays, dusts, aerosols, fogs, or in other forms.

[PL 1975, c. 397, §2 (NEW).]

13. Herbicides. "Herbicides" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any weed.

[PL 1975, c. 397, §2 (NEW).]

13-A. Household use pesticide product. "Household use pesticide product" means any general use pesticide product that contains no more than 3% active ingredients and that is applied undiluted by homeowners to control pests in and around the family dwelling and associated structures. For the purposes of this definition and section 1471-W, subsection 5, petroleum solvents are not considered active ingredients.

[PL 2017, c. 475, Pt. A, §28 (AMD).]

14. Insect. "Insect" means any of the numerous small invertebrate animals generally having the body more or less obviously segmented, for the most part belonging to the class insecta, comprising 6-legged, usually winged forms, including but not limited to beetles, bugs, bees, flies and other allied classes of arthropods whose members are wingless and usually have more than 6 legs, including but not limited to mites, ticks, centipedes and wood lice.

[PL 1975, c. 397, §2 (NEW).]

15. Insecticide. "Insecticide" means any substance or mixture of substances intended for destroying or repelling any insect, or mitigating or preventing damage by any insects.

[PL 1975, c. 397, §2 (NEW).]

16. Limited use pesticide. "Limited use pesticide" means any pesticide or pesticide use classified for limited use by the board.

[PL 1975, c. 397, §2 (NEW).]

16-A. Major forest insect aerial spray application. "Major forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing at least 1,000 acres in the aggregate.

[PL 1983, c. 819, Pt. A, §41 (NEW).]

16-B. Minor forest insect aerial spray application. "Minor forest insect aerial spray application" means a project to apply pesticides against a forest insect pest by aerial application over an area containing less than 1,000 acres in the aggregate.

[PL 1983, c. 819, Pt. A, §41 (NEW).]

16-C. Monitor.

[PL 2015, c. 58, §4 (RP).]

17. Person. "Person" means any individual, partnership, association, fiduciary, corporation, governmental entity or any organized group of persons whether incorporated or not.

[PL 1975, c. 397, §2 (NEW).]

18. Pest. The term "pest" means any insect, rodent, nematode, fungus, weed, or any other form of terrestrial or aquatic plant or animal life or virus, bacteria or other micro-organism, except viruses, bacteria or other micro-organisms on or in living humans or other living animals, that the commissioner declares to be a pest.

[RR 2021, c. 2, Pt. B, §90 (COR).]

19. Pesticide. The term "pesticide" means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest, and any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant.

[PL 1975, c. 397, §2 (NEW).]

20. Pesticide dealer. "Pesticide dealer" means any person who distributes limited or restricted use pesticides.

[PL 1975, c. 397, §2 (NEW).]

21. Plant regulator. The term "plant regulator" means any substance or mixture of substances intended, through physiological action, for accelerating or retarding the rate of growth or rate of maturation, or for otherwise altering the behavior of plants or the produce thereof, but shall not include substances to the extent that they are intended as plant nutrients, trace elements, nutritional chemicals, plant inoculants and soil amendments. Also, the term "plant regulator" shall not be required to include any of such of those nutrient mixtures or soil amendments as are commonly known as vitamin hormone horticultural products, intended for improvement, maintenance, survival, health and propagation of plants, and as are not for pest destruction and are nontoxic and nonpoisonous in the undiluted packaged concentration.

[PL 1975, c. 397, §2 (NEW).]

22. Private applicator. "Private applicator" means any person who uses or supervises the use of any pesticide that is classified for restricted or limited use for purposes of producing any agricultural commodity on property owned or rented by the person or the person's employer or, if applied without compensation other than trading of personal services between producers of agricultural commodities, on the property of another person.

[RR 2021, c. 2, Pt. B, §91 (COR).]

22-A. Private applicator of general use pesticides. "Private applicator of general use pesticides" means a person who uses or supervises the use of general use pesticides for purposes of producing agricultural commodities on property owned or rented by that person or that person's employer when:

A. The agricultural commodities produced are plants or plant products intended for human consumption as food; and [PL 2011, c. 169, §1 (NEW).]

B. The person applying the pesticides or the employer of the person applying the pesticides derives \$1,000 or more in annual income from the sale of those commodities. [PL 2011, c. 169, §1 (NEW).]

[PL 2011, c. 169, §1 (NEW).]

23. Restricted use pesticide. "Restricted use pesticide" means any pesticide or pesticide use classified for use only by or under the direct supervision of a certified applicator by the Administrator of the United States Environmental Protection Agency or by the Commissioner of Agriculture, Conservation and Forestry.

[PL 1975, c. 397, §2 (NEW); PL 1979, c. 731, §19 (AMD); PL 2011, c. 657, Pt. W, §6 (REV).]

23-A. Spotter.

[PL 2015, c. 58, §4 (RP).]

23-B. Spray contracting firm. "Spray contracting firm" means a person, as defined in this section, employed or contracted to conduct a public or private pesticide application. This term does not include

the owner or lessee of land to be sprayed, employees of that landowner or lessee, the Bureau of Forestry, the employees of the Bureau of Forestry or individuals who are certified as commercial applicators. [PL 1985, c. 122, §1 (AMD); PL 2011, c. 657, Pt. W, §7 (REV); PL 2013, c. 405, Pt. A, §23 (REV).]

23-C. Spray period.

[PL 2015, c. 58, §4 (RP).]

24. Under the direct supervision of a certified applicator. "Under the direct supervision of a certified applicator," unless otherwise prescribed by its labeling, means the act or process by which a pesticide is applied by a competent person acting under the instructions and control of a certified applicator who is available, if and when needed, even though such certified applicator is not physically present at the time and place the pesticide is applied. In the case of an application made by a commercial applicator, the certified applicator must be physically present at the time and on the site of the application.

[PL 1987, c. 243, §3 (AMD).]

25. Weed. "Weed" means any plant which grows where not wanted.

[PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1975, c. 644, §§1-3 (AMD). PL 1977, c. 20, §§1, 2 (AMD). PL 1979, c. 731, §19 (AMD). PL 1981, c. 374, §§1, 2 (AMD). PL 1983, c. 819, Pt. A, §§40, 41 (AMD). PL 1985, c. 122, §1 (AMD). PL 1987, c. 243, §§1-3 (AMD). PL 1987, c. 723, §§2, 3 (AMD). PL 2007, c. 245, §§1, 2 (AMD). PL 2011, c. 169, §1 (AMD). PL 2011, c. 657, Pt. W, §§6, 7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2015, c. 58, §§2-4 (AMD). PL 2017, c. 59, §1 (AMD). PL 2017, c. 475, Pt. A, §28 (AMD). RR 2019, c. 1, Pt. A, §20 (COR). RR 2021, c. 2, Pt. B, §§89-91 (COR).

§1471-D. Certification and licenses

1. Certification required; commercial applicators and spray contracting firms. Certification is required for commercial applicators and spray contracting firms as follows.

A. No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator; and [PL 1983, c. 819, Pt. A, §42 (NEW).]

B. No spray contracting firm may use or supervise the use of any pesticide within the State without prior certification from the board. [PL 1985, c. 122, §2 (AMD).]
[PL 1985, c. 122, §2 (AMD).]

2. Certification required, private applicators. No private applicator shall use or supervise the use of any limited or restricted use pesticide without prior certification from the board, provided, that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

[PL 1975, c. 397, §2 (NEW).]

2-A. Certification required; government pesticide supervisor.

[PL 2015, c. 58, §5 (RP).]

2-B. Certification required; spotters and monitors.

[PL 2015, c. 58, §6 (RP).]

2-C. Exemptions or reduced licensing requirements for certain commercial or custom applications. The board may by rule provide for exemptions from licensing requirements and for

reduced licensing requirements for classes of commercial applicators of general-use pesticides applied by hand or nonpowered equipment if the board finds that applications by those classes do not pose a significant risk to health or the environment and the requirement of licensing does not serve a meaningful public purpose.

Notwithstanding Title 7, section 610, subsection 6, rules adopted pursuant to this section to provide exemptions from licensing or reduced licensing requirements are routine technical rules as defined in Title 5, chapter 375, subchapter 2-A.

[PL 2007, c. 245, §3 (NEW).]

2-D. Certification required; private applicator of general use pesticides for food production.

A private applicator of general use pesticides may not use or supervise the use of general use pesticides for food production without prior certification from the board, except that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator. Additional certification under this section is not required for a person certified as a commercial applicator or a private applicator under subsection 1 or 2, respectively.

[PL 2011, c. 169, §2 (NEW); PL 2011, c. 169, §6 (AFF).]

3. License required, pesticide dealers. No pesticide dealer shall:

A. Distribute any limited or restricted use pesticide without a distributor's license from the board; or [PL 1975, c. 397, §2 (NEW).]

B. Distribute limited or restricted use pesticides to any person who is not licensed or certified by the board. [PL 1975, c. 397, §2 (NEW).]

[PL 1975, c. 397, §2 (NEW).]

4. Application. Application for licenses or certification shall be accompanied by such a reasonable fee as the board may establish by regulation. The applicant shall provide such information regarding the applicant's qualifications and proposed operations and other relevant matters as required by the board. Commercial applicators and spray contracting firms shall be required by the board to provide proof of financial responsibility in custom application as to such amounts as the board may, by regulation, designate; private applicators may also be required to provide such proof. All applicants to the board for certification or licensing shall be required to comply with such standards of competency as are established by the board concerning adequate knowledge of pesticide distribution or use and the related dangers and necessary precautions; provided that, in the case of applicants for commercial certification and pesticide dealers' licenses, such compliance shall be demonstrated by written examination in addition to such other criteria, including performance testing, as the board may establish.

[PL 1983, c. 819, Pt. A, §44 (AMD).]

5. Issuance. A license or certification may not be issued by the board unless the board determines that the standards for licensing and certification have been met as to those categories for which the applicant has applied and qualified. If a license or certification is not issued as applied for, the board shall provide written notice to the applicant of the reasons therefor. The license or certificate may be issued upon such terms and conditions as the board considers necessary for the protection of the public health, safety and welfare, and for enforcement and administration of this chapter and the rules adopted pursuant to this chapter.

[PL 2015, c. 58, §7 (AMD).]

6. Renewal. Licenses for commercial applicators, spray contracting firms, pesticide dealers and private applicators are valid for such period as prescribed by the board by rule. Application for renewal must be accompanied by such reasonable fee as the board may by rule require. The board may, by rule, require that such renewal application include reexamination or other procedures designed to assure a continuing level of competence to distribute, use or supervise the use of pesticides safely and properly.

If the board fails to renew a license upon application of the licensee or certificate holder, it shall afford the licensee or certificate holder an opportunity for a hearing in conformity with Title 5, chapter 375, subchapter 4.

[PL 2015, c. 58, §8 (AMD).]

7. Suspension.

A. If the board determines that there may be grounds for revocation of a license or certificate, it may temporarily suspend said license or certificate pending inquiry and opportunity for hearing, provided that such suspension shall not extend for a period longer than 45 days. [PL 1975, c. 397, §2 (NEW).]

B. The board shall notify the licensee or certificate holder of the temporary suspension, indicating the basis therefor and informing the licensee or certificate holder of the right to request a public hearing. [PL 1983, c. 819, Pt. A, §47 (AMD).]

C. If the licensee or certificate holder fails to request a hearing within 20 days of the date of suspension, such right shall be deemed waived. If the licensee or certificate holder requests such a hearing, notice shall be given at least 20 days prior to the hearing to the licensee or certificate holder and to appropriate federal and state agencies. In addition, public notice shall be given by publication in a newspaper of general circulation in the State and such other publications as the board deems appropriate. [PL 1983, c. 819, Pt. A, §48 (AMD).]

D. This subsection is not governed by the provisions of Title 4, chapter 5 or Title 5, chapter 375. [PL 1999, c. 547, Pt. B, §39 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

[PL 1999, c. 547, Pt. B, §39 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

8. Revocation. The District Court may suspend or revoke the certification or license of a licensee or certificate holder upon a finding that the applicant:

A. Is no longer qualified; [PL 1975, c. 397, §2 (NEW).]

B. Has engaged in fraudulent business practices in the application or distribution of pesticides; [PL 1975, c. 397, §2 (NEW).]

C. Used or supervised the use of pesticides applied in a careless, negligent or faulty manner or in a manner which is potentially harmful to the public health, safety or welfare or the environment; [PL 1975, c. 397, §2 (NEW).]

D. Has stored, transported or otherwise distributed pesticides in a careless, faulty or negligent manner or in a manner which is potentially harmful to the environment or to the public health, safety or welfare; [PL 1975, c. 397, §2 (NEW).]

E. Has violated the provisions of this chapter or the rules and regulations issued hereunder; [PL 1975, c. 397, §2 (NEW).]

F. Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labelling or other restrictions imposed by the board; [PL 1975, c. 397, §2 (NEW).]

G. Has made false or fraudulent records or reports required by the board under this chapter or under regulations pursuant thereto; [PL 1981, c. 470, Pt. A, §67 (AMD).]

H. Has been subject to a criminal conviction under section 14 (b) of the amended FIFRA or a final order imposing a civil penalty under section 14 (a) of the amended FIFRA; or [PL 1981, c. 470, Pt. A, §67 (AMD).]

I. Has had the license or certificate, which supplied the basis for the Maine license or certification pursuant to subsection 10, revoked or suspended by the appropriate federal or other state government authority. [PL 1977, c. 694, §341 (NEW).]

[PL 1983, c. 819, Pt. A, §49 (AMD); PL 1999, c. 547, Pt. B, §78 (AMD); PL 1999, c. 547, Pt. B, §80 (AFF).]

9. State, federal and local government employees. Individuals who apply pesticides in connection with their duties as officials or employees of federal, state or local governments are subject to the provisions of this chapter concerning licenses and certification, but are exempt from the payment of any fee.

[PL 1975, c. 397, §2 (NEW).]

10. Nonresident licenses. The board may issue a license or certificate 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. Licenses or certificates issued pursuant to this subsection may be suspended or revoked in the same manner and on the same grounds as other licenses or certificates issued pursuant to this chapter. Licenses and certificates issued pursuant to this subsection may be suspended or revoked pursuant to subsection 8, paragraph I.

[PL 1977, c. 694, §342 (AMD).]

11. Arborists. In the case of persons licensed under Title 7, chapter 404, subchapter II, the board may waive the application fee and may consider the arborist license as prima facie evidence of qualification to use pesticides in the categories of use provided by Title 7, chapter 404.

[PL 1999, c. 84, §4 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1977, c. 20, §3 (AMD). PL 1977, c. 694, §§338-342 (AMD). PL 1981, c. 374, §§3-7 (AMD). PL 1981, c. 470, §A67 (AMD). PL 1983, c. 819, §§A42-A49 (AMD). PL 1985, c. 122, §2 (AMD). PL 1997, c. 454, §8 (AMD). PL 1999, c. 84, §4 (AMD). PL 1999, c. 547, §§B39,78 (AMD). PL 1999, c. 547, §B80 (AFF). PL 2007, c. 245, §3 (AMD). PL 2011, c. 169, §2 (AMD). PL 2011, c. 169, §6 (AFF). PL 2015, c. 58, §§5-8 (AMD).

§1471-E. Aquatic application, permit required

No person shall apply or cause to be applied a pesticide to the waters of the State without obtaining a waste discharge license from the Department of Environmental Protection pursuant to Title 38, chapter 3, subchapter I, Article 2. [PL 1979, c. 281, §1 (RPR).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1977, c. 20, §4 (AMD). PL 1979, c. 281, §1 (RPR).

§1471-F. Critical areas

No person shall apply pesticides to any area of the State which the board has determined to be a critical area, except to the extent such application is within the limits prescribed by the board in establishing the area. [PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW).

§1471-G. Reports

1. Pesticide dealers to maintain certain records. All pesticide dealers shall maintain records of pesticide distribution for a period of at least 2 years and shall provide such reports and information as the board may, by regulation, require.

[PL 1975, c. 397, §2 (NEW).]

2. Applicators and firms to maintain certain records. All commercial applicators and spray contracting firms shall maintain, for a period of at least 2 years, records indicating the type and amount of pesticide used, the area of use and such other information as the board may require. Said applicators

and firms shall provide such information, notification and reports as the board, by regulation, may require.

[PL 1983, c. 819, Pt. A, §50 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1983, c. 819, §A50 (AMD).

§1471-H. Inspection

Upon presentation of appropriate credentials, the chair or any member of the board or any authorized employee or consultant of the board may enter upon any public or private premises at reasonable times for the purpose of inspecting any equipment, device or apparatus used in applying pesticides; inspecting storage and disposal areas; inspecting or investigating complaints of injury to persons or land from pesticides; observing the use and application of pesticides; sampling pesticides in use or storage; and sampling pesticide residues on crops, foliage, soil, water or elsewhere in the environment. Upon denial of access to the board or its agents, the board or its agents may seek an appropriate search warrant in a court of competent jurisdiction. Notwithstanding other provisions of this section, a board member or any authorized employee or consultant of the board may enter public or private premises without notification if an emergency exists. The need to take a residue sample in a timely manner constitutes an emergency under this section. [PL 1989, c. 841, §7 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1989, c. 841, §7 (AMD).

§1471-I. Enforcement

(REPEALED)

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1979, c. 644, §4 (RP).

§1471-J. Penalties

A person who violates any provision of this chapter or any order, rule, decision, certificate or license issued by the board or commits any act constituting a ground for revocation, except acts punishable under section 1471-D, subsection 8, paragraphs A and H, commits a civil violation subject to the penalties established in Title 7, section 616-A. [PL 1989, c. 841, §8 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1975, c. 623, §26A (AMD). PL 1975, c. 770, §§91,92 (RPR). PL 1989, c. 841, §8 (AMD).

§1471-K. Appeal

Any person aggrieved by any action of the board may obtain a review thereof by filing in the Superior Court, within 30 days of notice of the action, a written petition praying that the action of the board be set aside. A copy of such petition shall forthwith be delivered to the board, and within 30 days thereafter the board shall certify and file in the court a transcript of evidence received, whereupon the court shall have jurisdiction to affirm, set aside or modify the action of the board, except that the findings of the board as to the facts, if supported by substantial evidence, shall be conclusive. [PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW).

§1471-L. Subpoenas

The board may issue subpoenas to compel the attendance of witnesses and production of such books, documents and records anywhere in the State in any hearing affecting the authority or privilege granted by a license or permit issued under this chapter, as may be relevant to proceedings of the board. If any person refuses to obey a subpoena issued by the board under this section, the board may apply to any Justice of the Superior Court for an order compelling such person to comply with the requirements of the subpoena. Such justice may issue such order and may punish failure to obey the same as a contempt thereof. [PL 1975, c. 397, §2 (NEW).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW).

§1471-M. Powers of board

1. Establishment of categories and standards. The board shall, by regulation promulgated in conformity with Title 5, chapter 375, subchapter II:

A. Establish categories, and where applicable subcategories, of commercial pesticide applicators depending upon the nature and extent of the pesticide use, the type of pesticide equipment, the degree of knowledge or skill required in their application and such other factors as the board considers relevant, as long as such categories are consistent with, but not limited to, the categories established by the United States Environmental Protection Agency; [PL 2015, c. 58, §9 (AMD).]

B. Establish competency standards for the established categories for the certification and renewal of certification of commercial applicators. Such standards shall require, as a minimum, that the applicant demonstrate, by written examination and, as appropriate, performance testing, knowledge of pests, formulation and labelling of pesticides, equipment and application techniques, safety precautions, potential harmful effects on the environment, and applicable federal and state laws and regulations. [PL 1975, c. 397, §2 (NEW).]

C. Establish standards for the certification and renewal of certification of private applicators. Such standards shall require that the private applicator indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label, to apply pesticides in accordance with label instructions and warnings, to recognize local environmental situations that must be considered to avoid contamination, to recognize poisoning symptoms and corrective procedures, and to understand applicable federal and state laws and regulations. [PL 1975, c. 397, §2 (NEW).]

C-1. Establish standards for the certification and renewal of certification of private applicators of general use pesticides. Such standards must require that the private applicator of general use pesticides indicate satisfactory knowledge of pest problems and pest control practices, including as a minimum the ability to recognize common pests and the damage they cause, to understand the pesticide label and to apply pesticides in accordance with label instructions and warnings. [PL 2011, c. 169, §3 (NEW).]

D. Establish the standards for issuance and renewal of licenses of pesticide dealers. These standards shall include, but not be limited to, requirements concerning transportation of pesticides, the applicant's knowledge of applicable federal and state statutes and regulations, and the applicant's understanding of the dangers involved and the precautions necessary for the safe storage and distribution of pesticides; [PL 1983, c. 819, Pt. A, §51 (AMD).]

E. Establish guidelines and requirements for reporting of information by commercial applicators, pesticide dealers and spray contracting firms to the board; and [PL 2015, c. 58, §10 (AMD).]

F. [PL 2015, c. 58, §11 (RP).]

G. [PL 2015, c. 58, §12 (RP).]

H. Establish standards for the certification and renewal of certification of spray contracting firms. [PL 1983, c. 819, Pt. A, §53 (NEW).]
[PL 2015, c. 58, §§9-12 (AMD).]

2. Designation of critical areas; cooperation; promulgation of rules and regulations. The board may:

A. [PL 1987, c. 702, §3 (RP).]

B. Cooperate with any other agency of this State or its subdivisions, or with any agency of any other state or the Federal Government for the purpose of administering this chapter and of securing uniformity of regulations; [PL 1975, c. 397, §2 (NEW).]

C. On its own or in cooperation with other agencies or persons, publish such information as it deems appropriate, including information concerning injury which might result from improper application or handling of pesticides, and methods and precautions designed to prevent the injury; and [PL 1987, c. 702, §4 (AMD).]

D. Promulgate such other rules and regulations and take such other actions as it deems appropriate to control the use and distribution of pesticides within the State and to otherwise provide that the purposes and policies of this chapter are insured. [PL 1975, c. 397, §2 (NEW).]
[PL 1987, c. 702, §§3, 4 (AMD).]

3. Hazard communication and community right to know. The board shall assist the Director of the Bureau of Labor Standards in providing education and training to aid agricultural employers in complying with the federal Occupational Safety and Health Administration requirements for hazard communication and shall assist the responsible state agencies in providing education and training to aid agricultural employers in complying with the federal requirements for emergency and hazardous chemical inventory forms and community right-to-know reporting. [PL 1999, c. 57, Pt. B, §2 (RPR).]

4. Designation of critical areas. The board may designate critical areas which shall include, but not be limited to, areas where pesticide use would jeopardize endangered species or critical wildlife habitat, present an unreasonable threat to quality of the water supply, be contrary to a master plan for the area where such area is held or managed by an agency of the State or Federal Government, or would otherwise result in unreasonable adverse effects on the public health, welfare or the environment of the area. The designation of a critical area may prohibit pesticide use or may include such limitations on such use as the board deems appropriate. The proceedings to designate a critical area under this section shall conform to Title 5, chapter 375, subchapter II.

The board, by rule, shall establish criteria for designation of critical areas by March 1, 1989.

In addition to the provisions of the Maine Administrative Procedure Act, Title 5, section 8001, any municipality and, for the purpose of representing unorganized territory, any county may petition the board for establishment of a critical area within their boundaries. If the board designates a critical area, the board shall develop a pesticide management plan for that area after receiving comments from the municipality or, for unorganized territory, the county; the volunteer medical advisory panel as established through the board; local applicators; owners of land within the critical area; and other interested parties and agencies.

[PL 1989, c. 502, Pt. A, §67 (AMD).]

5. Disclosure of rights. When issuing a license, the board shall provide to each licensee a written statement outlining the enforcement process and the process of negotiating agreements in lieu of court action that may occur in the event enforcement action is pursued. The Department of the Attorney General and the Department of Agriculture, Conservation and Forestry shall assist the board in developing an appropriate written statement. The board shall make this information available to all existing licensees within 30 days of the effective date of this section.

[PL 1989, c. 841, §9 (NEW); PL 2011, c. 657, Pt. W, §5 (REV).]

6. Notification. Whenever the board or its staff investigates a complaint alleging a violation of rules adopted pursuant to Title 7, section 606, subsection 2, paragraph G, the staff shall make all reasonable efforts to notify the alleged violator, if identity is known, prior to collecting samples.

[PL 1989, c. 841, §9 (NEW).]

7. Data collection; report. The board shall implement a system of record keeping, reporting, data collection and analysis that provides information on the quantity of product and brand names of pesticides sold. The board, in cooperation with the University of Maine Cooperative Extension Service, shall study ways to improve pesticide information data bases and to optimize the useful analysis of reported information.

Before April 1, 2002, the board shall submit a report on pesticide activities during the previous calendar year to the joint standing committee of the Legislature having jurisdiction over pesticide control matters. The report must contain sales information on quantities of pesticides sold listed by the common name of the active ingredient.

The board shall also include in the report aggregate data on pesticide use based on reports submitted to the board by commercial applicators and other persons required to submit reports under this chapter and rules adopted pursuant to this chapter. The board shall provide the data by sector of use whenever possible. The board shall provide the data by category of pesticide, including data for herbicides, insecticides, fungicides and other major categories. In addition, the board shall include in the report a summary of survey results or other information published by the University of Maine Cooperative Extension Service or the United States Department of Agriculture relating to pesticides use in the State.

The board shall develop a measure to estimate sales and types of pesticides commonly used by homeowners and track trends in the quantities and types of pesticides used by homeowners.

The board shall provide historical information on pesticide use and sales in the report when the information available is appropriate for comparison.

[PL 2001, c. 355, §1 (AMD).]

SECTION HISTORY

PL 1975, c. 397, §2 (NEW). PL 1977, c. 694, §§343,344 (AMD). PL 1981, c. 374, §§8,9 (AMD). PL 1981, c. 470, §§A68,A69 (AMD). PL 1983, c. 568, §2 (AMD). PL 1983, c. 819, §§A51-A53 (AMD). PL 1987, c. 660, §1 (AMD). PL 1987, c. 702, §§3-5 (AMD). PL 1989, c. 502, §A67 (AMD). PL 1989, c. 841, §9 (AMD). PL 1997, c. 389, §1 (AMD). PL 1999, c. 57, §B2 (AMD). PL 1999, c. 724, §1 (AMD). PL 2001, c. 355, §1 (AMD). PL 2011, c. 169, §3 (AMD). PL 2011, c. 657, Pt. W, §5 (REV). PL 2015, c. 58, §§9-12 (AMD).

§1471-N. Chemical control of vertebrate animals

(REPEALED)

SECTION HISTORY

PL 1977, c. 65 (NEW). PL 1979, c. 187 (AMD). PL 2009, c. 393, §8 (RP).

§1471-O. Exercise of powers by Board of Pesticides Control

The powers established under the Maine Pesticide Control Act of 1975, Title 7, chapter 103, subchapter II-A, shall be exercised by the Board of Pesticides Control established by section 1471-B. [PL 1981, c. 112, §2 (NEW).]

SECTION HISTORY

PL 1981, c. 112, §2 (NEW).

§1471-P. Storage of illegal and obsolete pesticides

1. Board to accept illegal and obsolete pesticides. Within the limits of resources made available to it for the storage or disposal of illegal and obsolete pesticides purchased for use in Maine, the board shall accept, store and dispose of pesticides from persons who purchased them with the intent of applying them.

[PL 1981, c. 705, Pt. S, §1 (NEW).]

2. Board may adopt rules and fees. The board may adopt any rules necessary to implement this section, including rules limiting the quantity and nature of pesticides it accepts for storage or disposal. The board may adopt and charge fees for storage or disposal of pesticides presented to it where the amount of pesticides, or special treatments necessary for safe storage or disposal, will require a substantial cost to the board; provided, that the fees charged are close to the actual cost incurred by the board.

[PL 1981, c. 705, Pt. S, §1 (NEW).]

SECTION HISTORY

PL 1981, c. 705, §S1 (NEW).

§1471-Q. Return and disposal of limited and restricted use pesticide containers

(REPEALED)

SECTION HISTORY

PL 1983, c. 542, §§2,3 (NEW). PL 1985, c. 54, §1 (AMD). PL 2011, c. 510, §3 (RP).

§1471-R. Notification and monitoring

(REPEALED)

SECTION HISTORY

PL 1983, c. 819, Pt. A, §54 (NEW). PL 2011, c. 657, Pt. W, §7 (REV). PL 2013, c. 405, Pt. A, §23 (REV). PL 2015, c. 58, §13 (RP).

§1471-S. Requirement for spotters and monitors

(REPEALED)

SECTION HISTORY

PL 1983, c. 819, §A54 (NEW). PL 2015, c. 58, §14 (RP).

§1471-T. Exemption

(REPEALED)

SECTION HISTORY

PL 1983, c. 819, §A54 (NEW). PL 2015, c. 58, §14 (RP).

§1471-U. Municipal ordinances

1. Centralized listing. The Board of Pesticides Control shall maintain for informational purposes, for the entire State, a centralized listing of municipal ordinances that specifically apply to pesticide storage, distribution or use.

[PL 1989, c. 93, §1 (RPR).]

2. Existing ordinances. The clerk of any municipality which, on the effective date of this section, has an ordinance to be listed under subsection 1 shall file a copy of that ordinance with the board by December 31, 1988.

[PL 1989, c. 93, §1 (RPR).]

3. New ordinances. The clerk of the municipality shall provide the board with notice and a copy of any ordinance to be listed under subsection 1 at least 7 days prior to the meeting of the legislative

body or the public hearing at which adoption of the ordinance will be considered. The clerk shall notify the board within 30 days after adoption of the ordinance.

[PL 1989, c. 93, §1 (RPR).]

4. Intent. It is the intent of this section to provide information on municipal ordinances. This section shall not affect municipal authority to enact ordinances.

[PL 1989, c. 93, §1 (RPR).]

5. Failure to file. For any ordinance which is not filed with the board, with notice given to the board in accordance with this section, which is otherwise valid under the laws of this State, any provision that specifically applies to storage, distribution or use of pesticides shall be considered void and of no effect after the deadline for filing and until the board is given proper notice and the ordinance is filed with the board.

[PL 1989, c. 93, §1 (RPR).]

SECTION HISTORY

PL 1987, c. 702, §6 (NEW). PL 1987, c. 723, §§4,6 (NEW). PL 1989, c. 93, §1 (RPR).

§1471-V. Local participation

1. Representation. When the board, under section 1471-M, considers the designation of a critical area or the establishment of a pesticide management plan for a critical area, the municipal officers of any affected municipality, or county commissioners in the case of unorganized territories, shall be given the opportunity to select a local representative to serve as an additional board member. For a given action, there shall be only one local representative who shall represent the affected municipality or unorganized territory.

[PL 1987, c. 702, §6 (NEW).]

2. Participation and voting procedure. A local representative appointed under this section may participate officially and vote in deliberations on the designation of a critical area or on the establishment of a pesticide management plan only for a critical area which is in the municipality or unorganized territory represented. A local representative may participate on the board until final designation of the critical area or final establishment of the pesticide management plan, including any administrative or judicial appeals. When the board considers a proposed critical area or pesticide management plan that affects more than one municipality, the board shall take separate action on the portion in each municipality.

[PL 1987, c. 702, §6 (NEW).]

3. Compensation. Local representatives shall be reimbursed only for expenses as regular board members during the period of their service, to be paid by the board.

[PL 1987, c. 702, §6 (NEW).]

SECTION HISTORY

PL 1987, c. 702, §6 (NEW).

§1471-W. General use pesticide dealers

1. License required. Unless exempted under subsection 5, no person may distribute general use pesticides without a license.

[PL 1989, c. 93, §2 (NEW).]

2. Issuance of license. The Board of Pesticides Control shall issue a license to distribute general use pesticides to any person upon payment of a fee of \$20 for a calendar year or any part of a calendar year. The Board of Pesticide Control may issue a license for a one-year, 2-year or 3-year period. Licenses for a period in excess of one year may only be issued with the agreement of or at the request of the applicant. The fee for a 2-year license is 2 times the annual fee. The fee for a 3-year license is 3 times the annual fee. Any person licensed to distribute restricted use pesticides is considered licensed

to distribute general use pesticides without any additional fee. All fees collected under this section are deposited in the Board of Pesticides Control Special Fund.

[PL 1997, c. 454, §9 (AMD).]

3. Records; reporting. Any person who distributes general use pesticides to licensed general use pesticide dealers in the State shall keep and maintain records of these sales for annual reporting purposes. These annual reports must include the names of all licensed general use pesticide dealers to whom general use pesticides were distributed, the names of the pesticides, the United States Environmental Protection Agency registration number and the quantity sold. These records must be kept for 2 years after the end of the calendar year. For the purposes of this subsection, "distributes" means sells, ships or delivers general use pesticides to a licensed general use pesticide dealer engaged in retail sales. The board may adopt rules to further clarify who is responsible for reporting under this subsection. Rules adopted pursuant to this subsection are routine technical rules as defined in Title 5, chapter 375, subchapter II-A.

[PL 1997, c. 139, §1 (RPR).]

4. Violations; penalty.

[PL 1989, c. 93, §2 (NEW); PL 1989, c. 841, §10 (RP).]

5. Exemptions. The following situations are exempt from the provisions of this section.

A. Any person may distribute the following products without a general use pesticide dealer license:

- (1) Household use pesticide products with no more than 3% active ingredients;
- (2) The following products, which have limited percentages of active ingredients:
 - (a) Dichlorovos (DDVP) impregnated strips with concentrations not more than 25% in resin strips and pet collars;
- (3) The following products with unlimited percentages of active ingredients:
 - (a) Pet supplies such as shampoos, tick and flea collars and dusts;
 - (b) Disinfectants, germicides, bactericides and virucides;
 - (c) Insect repellents;
 - (d) Indoor and outdoor animal repellents;
 - (e) Moth flakes, crystals, cakes and nuggets;
 - (f) Indoor aquarium supplies;
 - (g) Swimming pool supplies;
 - (h) Pediculocides and mange cure on humans;
 - (i) Aerosol products; and
 - (j) General use paints, stains, and wood preservatives and sealants. [RR 2021, c. 2, Pt. B, §92 (COR).]

B. The board may promulgate rules to exempt the sale of additional general use pesticide products from the dealer licensing provisions of this section. [PL 1989, c. 93, §2 (NEW).]

[RR 2021, c. 2, Pt. B, §92 (COR).]

SECTION HISTORY

PL 1989, c. 93, §2 (NEW). PL 1989, c. 841, §10 (AMD). PL 1997, c. 139, §1 (AMD). PL 1997, c. 454, §9 (AMD). RR 2021, c. 2, Pt. B, §92 (COR).

§1471-X. State policy; public and private initiatives to minimize reliance on pesticides

It is the policy of the State to work to find ways to use the minimum amount of pesticides needed to effectively control targeted pests in all areas of application. The agencies of the State involved in the regulation or use of pesticides shall promote the principles and the implementation of integrated pest management and other science-based technology to minimize reliance on pesticides while recognizing that outbreaks of disease, insects and other pests will necessitate fluctuations in pesticide use. These agencies, in cooperation with private interest groups, shall work to educate pesticide users and the general public in the proper use of pesticides and to determine other actions needed to accomplish the state policy. [PL 1997, c. 389, §2 (NEW).]

SECTION HISTORY

PL 1997, c. 389, §2 (NEW).

§1471-Y. Notification of outdoor pesticides application using aircraft or air-carrier equipment (REPEALED)

SECTION HISTORY

PL 2009, c. 378, §1 (NEW). PL 2009, c. 584, §1 (RP).

§1471-Z. Registry of property requiring notification for pesticides applications (REPEALED)

SECTION HISTORY

PL 2009, c. 378, §2 (NEW). PL 2009, c. 584, §2 (AMD). PL 2011, c. 332, §1 (RP).

§1471-AA. Awareness of outdoor pesticides applications; role of the board (REPEALED)

SECTION HISTORY

PL 2009, c. 584, §3 (NEW). PL 2011, c. 332, §2 (RP).

§1471-BB. Refund of deposits (REPEALED)

SECTION HISTORY

PL 2011, c. 510, §4 (NEW). MRSA T. 22 §1471-BB (RP).

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