



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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

May 6, 2022

9:00 AM Board Meeting

Video conference hosted in MS Teams, to join the meeting:

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 207-209-4724](#) United States, Portland

Phone Conference ID: 945 121 274#

AGENDA

1. Introductions of Board and Staff

2. Minutes of the April 1, 2022 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or approve

3. Consideration of a Request for Variance from Chapter 29 from Davey Tree Expert Company—Railroad Division, to Treat Railroad Rights-of-way in Maine

Davey Tree Expert Company—Railroad Division, is seeking a variance from and Chapter 29, Section 6, Buffer Requirements, in order to treat the Canadian Pacific rail tracks rights-of-way in Maine. Board policy indicates that first-time variance requests must be considered by the Board. Policy further stipulates that railroad variance requests need to be consistent with the Maine Department of Transportation standards.

Presentation By: Megan Patterson, Director and Pam Bryer, Pesticide Toxicologist

Action Needed: Approve/disapprove the variance requests

MEGAN PATTERSON, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
WWW.THINKFIRSTSPRAYLAST.ORG

4. Review and Potential Adoption of Proposed Amendments to Chapter 20 and Re-initiating Rulemaking for Chapter 41

(Note: No additional public comments may be accepted at this time.)

On December 22, 2021 a Notice of Agency Rulemaking Proposal was published in Maine's daily newspapers, opening the comment period on the proposed amendments to Chapters 20 and 41. A public hearing was held on January 14, 2022 by remote meeting on the Microsoft Teams platform and the written comment period closed at 8:00 AM on January 24, 2022. The Board reviewed the rulemaking record on February 25, 2022 and again on April 1, 2022, addressed the comments and provided direction to the staff on appropriate revisions to the proposals. The Board will now review the changes to the proposed amendments, the Response to Comments for Chapters 20 and 41. The Board will also review the Basis Statement and Statement of Impact on Small Business for Chapter 20. The Board will then determine whether it is prepared to adopt the proposed amendments to Chapter 20. Given the substantial changes to Chapter 41, the Board will also determine whether it is prepared to reinstate rulemaking for Chapter 41.

Presentation By: Megan Patterson, Director

Action Needed: Provide direction to the staff on the final adoption of Chapter 20 and reinitiating of rulemaking for Chapter 41

5. Chlorpyrifos Use Permit Policy for Applicators Intending to Use Existing Stocks of Chlorpyrifos, Purchased Before January 1, 2022, On Sites Other Than Crops Intended For Human Consumption

On June 8, 2021 LD 316 was signed into Maine law. This law prohibits, beginning January 1, 2022, the distribution of pesticides containing chlorpyrifos as an active ingredient. The law allows the Board to grant temporary permits from January 1, 2022 to December 31, 2022 authorizing licensed pesticide applicators to use pesticides containing chlorpyrifos, as long as the product was in the State and in the possession of the applicator before January 1, 2022. The law directs the Board to post on its website a list of the temporary permits issued. In 2021, the Board initiated rulemaking related to the use of chlorpyrifos. Proposed rules clarified statutory prohibitions on the distribution of chlorpyrifos and Board issuance of permits for use of existing stocks of chlorpyrifos purchased before January 1, 2022. Due to delays in the rulemaking process, applicators in possession of chlorpyrifos are seeking guidance on how to pursue a Board permit that will allow them to use up existing products during the 2022 growing season. The proposed policy incorporates the related proposed amendment to Chapter 41 and is suggested as a temporary response while rulemaking proceeds.

Presentation By: Megan Patterson, Director

Action Needed: Discussion and approve/disapprove the proposed policy

6. Review of the Board Budget

In early 2017, the Board reviewed the budget with the goal of identifying potential resources that could be allocated to Board priorities. At that time the Board requested ongoing annual updates on the status of the Pesticide Control Fund.

Presentation By: Megan Patterson, Director

Action Needed: Provide guidance to the staff on Board budget priorities

7. Consideration of a Consent Agreement with Brownies Landscaping, Whitefield, Maine

On June 3, 1998 the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involved an unlicensed and unauthorized application of pesticides on public property as well as a failure to post the applications and a failure to follow label directions pertaining to application and personal protective equipment.

Presentation By: Ray Connors, Manager of Compliance

Action Needed: Amend and/or approve

8. Other Old and New Business

a. LD 2019—An Act To Require the Registration of Adjuvants in the State and To Regulate the Distribution of Pesticides with Perfluoroalkyl and Polyfluoroalkyl Substances

b. LD 2021—An Act To Collect Pesticide Sales and Use Records for the Purpose of Providing Information to the Public

c. Variance Permit for CMR 01-026 Chapter 29, Vegetation Control Services, Inc.—Robinson’s Wood, Cape Elizabeth

d. Variance Permit for CMR 01-026 Chapter 29, New England Spray Technologies—Marginal Way, Ogunquit

e. Update on risk assessment of herbicide use on school grounds and human health impacts as proposed by the Medical Advisory Committee

f. Other items?

9. Schedule of Future Meetings

June 17, 2022 is the next tentative Board meeting date. The Board will decide whether to change and/or add dates.

The Board will also decide if there is a continuing need to meet remotely.

Adjustments and/or Additional Dates?

10. Adjourn

NOTES

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