

**BASIS STATEMENT FOR ADOPTION OF
CMR 01-026, CHAPTER 20, 31, 32, AND 41**

Basis Statement

Chapter 20 – Two amendments are proposed:

1. Adopting current policy language into rule to make “Proper Identification of Treatment Sites” methods enforceable. Adding language from this policy under subsection 1-4 and creating a new subsection 5 that allows master applicators to submit their own methods for identifying treatment sites.
2. Adding a section B that outlines penalties if violations occur over a 5-year period.

Chapter 31 – Two amendments are proposed:

1. Combining categories 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one category 7C Disinfectant and Biocide and retaining language from the other categories under this new category.
2. Combining competency standards for 7C(1) Disinfectant and Biocide Treatments, 7C(2) Swimming Pool & Spa, and 7C(3) Mold Remediation into one competency standard 7C Disinfectant and Biocide and retaining language from the other competency standard categories to align with language from the category descriptions in Section 2.

Chapter 32 – One amendment is proposed:

1. Adding requirements for certified applicators supervising noncertified applicators that align with federal standards outlined in 40 CFR 171.201 (2023). These standards are required by EPA for certification and training program updates.

Chapter 41 – One amendment is proposed:

1. Amend grower requirements and product-specific requirements to broaden the scope from Bt corn to all plant incorporated protectants and delete or amend language regarding refuges that is not relevant to current plant incorporated protectant growing practices.

The amendments to the proposed rule are in response to several needs BPC has identified in its rules. The amendments to Chapter 20 are for enforcement purposes, as the current policy regarding proper identification of treatment sites is not sufficient for violations, additionally the Board has added provisions where licensure suspension can be considered for violations of the new rules. The amendments to Chapter 31 are for administrative purposes, combining 7C: Disinfectant and Biocide subcategories 1. Disinfectant and Biocide Treatments, 2. Swimming Pool & Spa Treatments, and 3. Mold Remediation into one category 7C: Disinfectant and Biocide will reduce confusion among applicators on what testing is need for their licensure. This change also comes as a new manual for all three groups has been updated and will be easier to

distribute if all are considered the same category. The amendments to Chapter 32 are requirements for updates to Maine's Certification and Training Plan, as mandated by the United States Environmental Protection Agency (EPA). Amendments to Chapter 41 are in response to the need to modernize the language regarding Bt Corn. The Board decided to change the language to reflect all plant-incorporated protectants (PIP) that may be included in this chapter. The Board also changed the requirements for training certificates, removing the requirement for new trainings every three years.

Fifteen comments were received. Comments received for Chapter 20 included a concern for the strictness of the amendments, with an emphasis on the impact of small and large businesses. Many agreed that there is an issue of identifying the correct treatment sites in Maine. Commenters discussed the length of the penalties, asked for additional clarity and if there were licensure categories that would be exempt from these amendments, and discussed customer confidentiality. For Chapter 32, commenters wanted clarity in the rule that these federal requirements applied to restricted-use pesticides. Comments received for Chapter 41 included detailed history of how Maine was the last state to allow the use of plant-incorporated protectants. Additionally, commenters agreed with the new amendments that only require training and a certificate issuance once for continued licensure. There were concerns regarding the requirement for dealers to sell at least one acre of product, as this could be difficult for small, diverse farms to adopt.

Impact on Small Business

In accordance with 5 MRSA §8052, sub-§5-A, a statement of the impact on small business has been prepared. Information is available upon request from the Maine Board of Pesticides Control office, State House Station #28, Augusta, Maine 04333-0028, telephone 207-287-2731.