



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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PAUL R. LEPAGE
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WALTER E. WHITCOMB
 COMMISSIONER

To: Board Members
 From: Staff
 Re: Rulemaking Timeline and Topics
 Date: February 6, 2017

At the December 16, 2017 meeting the Board discussed the possibility of initiating rulemaking to Chapter 29 around browntail moth control and asked staff to determine possible hearing dates. Major-substantive rulemaking needs to be submitted to the Legislature by the second Friday of January, 2018 for consideration in that legislative session.

Discuss	Submit to SOS	Public Hearing	Public Comment Period Ends	Review	Adopt
Mar 31	April 11	May 12	May 26	June 23	Aug-Dec
Mar 31, May 12	May 23	Jun 23	July 7	Aug 4	Sept-Dec
Mar 31, May 12, Jun 23	Jul 4	Aug 4	Aug 18	Sept	Oct-Dec
Mar 31, May 12, Jun 23, Aug 4	August	September	Oct	Nov	Dec

Since rulemaking is expensive and time-consuming the Board generally tries to consolidate rulemaking initiatives. Below is a list of potential amendments that have been identified by the Board or staff.

Chapter	
10 Section 2(P)(2)b	Incorporate policy regarding application of pesticides to unoccupied hotel rooms and apartments. Currently the rule specifies “occupied apartments” but is silent on “unoccupied apartments.” May want to consider the 7 day exception (section 2(P)(2)(d)ii) because indoors 7 days may not be enough
10 Section 2(P)(2)(d)ii	Incorporate Policy Concerning Denying Access to the Public for Seven Days to Areas “Open to Use by the Public”



26 Section 1(E)	Incorporate Interim Interpretative Policy on the Applicability of CMR 01-026 Chapter 26 (Clarify the definition of “occupied buildings” to mean fully enclosed indoor spaces inside building and that open air structures are not buildings for the purpose of the rule)
27 Section 2(B)(4)ii	Change wording “a list of pesticide applications conducted on school grounds” to include “ to school buildings” to clarify that all pesticide applications must be included in log
27 Section 2(B)(5)	Change wording from “made in school buildings and on school grounds” to “made <u>to</u> school buildings and on school grounds” to clarify that it includes the exterior of buildings
27 Section 3(A)	Add insect repellents to the list of exemptions
27 Section 3(C)	Change wording “When the Maine Center for Disease Control has identified arbovirus positive animals (including mosquitoes and ticks) in the area, powered applications for mosquito control are exempt...” to clarify that all applications are exempt not just mosquito control applications.
28 Section 3(B)(2)(d)v	Clarify that the telephone number on the sign must be a working number
29 Section 5	Restrictions on Pesticide Applications to Control Browntail Moths Near Marine Waters
29 Section 6	Incorporate Interim Policy to Delegate Authority to the Staff to Approve Requests for Variance from CMR 01-026 Chapter 29 for Control of Plants that Pose a Dermal Toxicity Hazard
29 Section 6	Incorporate Interim Policy to Delegate Authority to the Staff to Approve Requests for Variance from CMR 01-026 Chapter 29 for Control of Invasive Plants
31 Section 1	Do unlicensed applicators have to be employees of the same company as the Master or Operator? Question has arisen around employees of temp agencies and volunteers. Clarify
31 Section 2(A)(II) Section 3(B)(VII)c	Change Forest Pest Control to Forest Pest Management Change Disinfectant and Biocide Treatments to <ul style="list-style-type: none"> • 1 Disinfectant and Biocide Treatments • 2 Swimming Pool & Spa • 3 Mod Remediation & Water Damage Restoration To align with exams
36	Certification and Licensing Provisions/Monitors and Spotters for Forest Insect Aerial Spray Program. Requirements were repealed in statute. Repeal entire chapter
41	Refuge in a bag.
50 Section 1(C)	Definition of “spray period” was repealed in Title 22 so Spray Period Records should not be required. Also if Chapter 36 is repealed there will be no monitors
50	During discussion of removing the requirements for monitors and spotters, the Legislature suggested that the spray application maps should be provided to the BPC after application.