

**BASIS STATEMENT FOR ADOPTION OF AN AMENDMENT TO CHAPTER 41—
SPECIAL RESTRICTIONS ON PESTICIDE USE**

Chapter 41 of the Board's rules describes special limitations placed upon the use of (1) aldicarb (Temik 15G) in proximity to potable water bodies; (2) trichlorfon (Dylox); (3) hexazinone (Velpar, Pronone); and (4) aquatic herbicides in the State of Maine. In conjunction with the registration of seven Bt-corn plant-incorporated protectants in July 2007, the Board proposed amending the current rule to include a new Section (5) that would establish regulations to control the distribution and use of plant-incorporated protectants. The Board determined it is necessary and appropriate to institute additional safeguards on Bt corn because use of the products presents unique and significant risks that are not currently addressed through the Board's existing educational and regulatory programs.

The Board received comments from 135 individuals about the proposed Chapter 41 amendment regulating the sale and/or use of plant-incorporated protectants. Twenty-five of these comments were either irrelevant (i.e., comments to rescind the registrations of the products already registered in July 2007) or provided background information. In some cases individuals were not in support of a portion of the rule and supportive of another section. Because of this, the persons providing comments were not grouped as proponents or opponents.

Board's Jurisdiction: Chapter 41, Section 5(A)

There were 22 comments (16%) relating to the question "Is a plant-incorporated protectant containing seed, tuber, etc., a pesticide?" or "Is a plant-incorporated protectant containing seed, tuber, etc., a treated article?" Regulation of plant-incorporated protectants (the protein and the genetic material necessary for its production) is under the Board's jurisdiction. Plant-incorporated protectants cannot be separated from the seed, tuber, etc., which makes Section A(II) redundant and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed.

Grower Licensing and Training: Chapter 41, Section 5(B)

Twenty-eight comments (21%) addressed applicator (grower) licensing requirements. The comments ranged from "require a pesticide license and appropriate certification for plant-incorporated-protectant growers" to "neither licensing nor certification is needed." The Board opted to require Board-approved training and a product-specific training certificate instead of a pesticide applicator license. The Board decided that use of existing training materials, programs, and examinations was not appropriate because there isn't information specific to plant-incorporated protectants. Consequently, the Board favored requiring attendance at a Board-approved, specially tailored training seminar with proof of attendance provided through a Board certificate. Such an approach would ensure that plant-incorporated protectant users receive pertinent education that addresses the unique risks posed by these products.

Dealer Licensing, Dealer Notification, and Record Keeping: Chapter 41, Section 5(C)

Similar to the applicator (grower) licensing, 28 individuals (21%) commented on requirements for dealer's licenses. The comments ranged from "keep licensing requirement" to "dealer licensing requirement was not necessary." The Board decided to keep the dealer licensing requirement as it is already required under 22 M.R.S.A., Section 1471-W, and it provides a mechanism for the Board to contact distributors to determine who is growing Bt corn so that

compliance checks can be made by the field staff. The Board added the clause allowing a Restricted Use Pesticide Dealer's License in place of the General Use Pesticide Dealer's License, to be consistent with the statute.

The issue of whether the seed dealers need to notify the Board of their intention to sell or distribute Bt-corn varieties received 65 comments (48%). Some thought that "dealer notice was necessary," and others thought that it was "burdensome and not necessary." The Board kept the requirement for dealers to provide notice both when they are distributing and when they stop distributing Bt corn, so they know which general use pesticide dealers are distributing plant-incorporated protectants. This allows the Board to verify compliance with the required insect resistance management plans and the Board's rules.

Dealer record keeping was addressed in 66 (49%) of the comments. Similar to other issues addressed, the comments ranged from "extensive record keeping" to "record keeping not necessary." The Board decided to keep the record-keeping requirements for dealers in order to provide a mechanism to monitor compliance associated with insect resistance management and pollen drift requirements, but reduced the information to be kept to those already required by 7 M.R.S.A., Section 1052 (2).

Grower Record Keeping and Confidentiality: Chapter 41, Sections 5(D) and 5(F)

The issue of record keeping and who has access to those records received 69 comments (51%). These ranged from "make records open to the public" to "keep as confidential business information." The Board recognized that confidentiality of pesticide-use records is already allowed by 7 M.R.S.A, Section 20; thus, no changes to Section F of the rule were made.

Product-Specific Requirements: Chapter 41, Section 5(E)

There were 105 comments (78%) regarding grower training. These ranged from "grower training is not necessary" to "training every three years." The Board recognized that the current licensing and training program were not the appropriate avenue for grower training, since they do not contain information about Bt corn. However, the Board decided that biennial training of Bt-corn users should be required to ensure that growers are knowledgeable about the risks.

There were also 105 comments (78%) relating to establishment of a buffer between a Bt cornfield and a non-Bt-corn crop. Suggestions ranged from "no buffer is necessary" to "a buffer of one mile or more." The Board acknowledged the precedent that growers with "value-added commodities" must provide necessary protections to their crops. However, as an added protection for the non-Bt-corn grower, the Board reasoned that the Bt-corn grower should plant the federally mandated 20% refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops, when those crops are within 500 feet. The Board determined such a requirement is really just common sense, and would place a minimal impact on the Bt corn grower. The requirement would also provide additional protection from pollen drift, which evidence from the comment record suggests is difficult to eliminate.

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.

Rulemaking Statement of Impact on Small Business

5 MRSA §8052, sub-§5-A

Agency

Department of Agriculture, Food and Rural Resources—Maine Board of Pesticides Control

Chapter Number and Title of Rule

Chapter 41—Special Restrictions on Pesticide Use

Identification of the Types and an Estimate of the Number of the Small Businesses Subject to the Proposed Rule

174 farms listing the forage commodity as a primary crop on their private pesticide applicator license application may be subject to the proposed rule.

Projected Reporting, Record Keeping, and Other Administrative Costs Required for Compliance with the Proposed Rule, including the Type of Professional Skills Necessary for Preparation of the Report or Record

Field corn growers planting Bt corn will need to create a map depicting the location of the crop, the location of the refuge planting, and the location of any adjacent crops susceptible to cross pollination. Bt corn growers must also record the seed brand name, the seeding rate, the planting date, and the total acres planted for both the Bt corn and the refuge. The Board estimates this will take between thirty minutes to two hours annually for Bt corn growers, depending on the number of fields planted, for an estimated cost of \$10 to \$40 per year in labor charges. The record-keeping requirements for seed dealers are the same as are already required in 7 MRSA §1052 (2). Similarly, the general use pesticide dealer's license is already required in 22 MRSA §1471-W. Therefore, there are no additional burdens for Bt-corn seed dealers.

Brief Statement of the Probable Impact on Affected Small Businesses

The proposed rule will add a small amount of record keeping for Bt corn growers each year at planting time. Less time may be required in subsequent years as growers become more familiar with procedures and reuse maps created in previous years. Growers may have to plant the required 20% non-Bt-corn refuge in a manner that protects susceptible crops from cross-pollination. This requirement should have minimal impact on farming operations.

Description of Any Less Intrusive or Less Costly, Reasonable Alternative Methods of Achieving the Purposes of the Proposed Rule

The Board reviewed existing requirements in the development of this proposal in order to avoid duplicative or conflicting requirements. Record-keeping requirements were reduced in some cases and aligned with existing requirements in other cases to minimize any administrative burden.

Chapter 41 Response to Comments

Commenter	Comments on Chapter 41	Board Response
A. Ingrid Eriksson, Sumner	Submitted Seeds of Doubt: North American farmers' experiences with GM crops, Soil Association	Informational only, was not directly relevant to the rule.
Adam Tomash, W Gardiner	Prefers that we rescind the registration, but in lieu of that mandate LARGE buffer zones (1 mile), mandate that the Bt corn grower and manufacturer are liable for cross-contamination, make planting information publicly available.	Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.
Alan McHughen, Univ of California	PNAS paper is not a study from the National Academy of Sciences, only published in the journal and was not commissioned nor endorsed by the Academy. Consider reports from Ohio and Midwest that show increased yields and decreased pesticide use with Bt corn. Co-existence is not a problem in California.	Informational only, was not directly relevant to the rule.
Andrei Alyokhin, Entomologist University of Maine	Submitted manuscript from Galen Dively regarding the caddisfly study published by PNAS.	Informational only, was not directly relevant to the rule.

Andrew King	Thinks the rule is too restrictive. Too many corn varieties have been traited with Bt so it leaves him few choices.	The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.
Andrew LaVigne, American Seed Trade Association	PIPPs are not restricted or limited use pesticides and no additional state regulations are necessary. The rule is anticompetitive and discriminatory among all sectors of Maine agriculture, and impacts Maine, growers, seed dealers and consumers.	The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v).
C R Lawn, FEDCO Seeds	Wants to bring back the 660 foot buffer because that is the setback adopted by USDA for seed corn and FEDCO has seen encroachment on their seed corn supplier which was demonstrated in trace GE contamination in 2 out of 3 of his sweet corn varieties and one had that showed 0.01% contamination. FEDCO has zero tolerance for GMO in their seed. Also wants the buffer to be required of the Bt corn grower.	Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Charles Kojigian and Gail Britton-Kojigian, South China

Require annual licensing for growers, require Bt corn growers to provide a buffer that guarantees 0% cross contamination or consider a moratorium.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Charles Kojigian, China

Would like to add a 1 mile buffer. Feels no buffer is adequate.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Chrissy Fowler, Teacher and Gardener, Belfast

Wants strong rules. Growers of Bt corn have Rights and Responsibilities. Onus should be on the person using the risky technology. Would like to see the 1 mile buffer or at least 661 feet, burden of notification should be on the Bt corn grower and to require annual training.

The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Christopher Sewell, Phippsburg
Paul Drowns, Portland
Nancy Kline, Washington
Rob Stenger, St George
Vikki Rosenbaum, Palm Harbor, FL
Nancy Chandler, Monmouth
Larry Dansinger, Monroe
Siu Hin Lee, South Pasadena, CA

Ask for 1 mile buffer provided by the transgenic grower, annual training for dealers and growers including information on alternatives to transgenic crops, reporting for both dealers and growers with information available to the public, require Bt corn grower to notify all neighbors within 1 mile radius before planting. (Rights and Responsibilities Form Letter)

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Clark Santee

Wants large buffer with onus on Bt corn grower to provide it. Says insect resistance will happen so need to enforce refuges and the refuge can help serve as a buffer.

The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Clint Giustra, Corn
Grower

Rules too burdensome; doesn't like recordkeeping or licensing requirements. Follow science not emotion. Worried the Board will not be able to enforce the rules. Tough regulations will drive the use of the products underground.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Cynthia Pettengill,
Wayne
Nancy Reynolds
Erik Missal
Annie Sheble, Unity
Kate Ballou, Wayne
Gene Stewart,
Farmer, Winterport

Rescind Bt corn registration.

Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.

Dean Bureau,
Grocery Store
Owner, Waterville

Doesn't allow GE produce in his store. Very difficult to trace GE contamination. He will not accept produce if there is any question at all. Rescind registration.

Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.

Commenter**Comments on Chapter 41****Board Response**

Dick Perkins, Dairy Farmer

Rules too restrictive, since very few cases of organic growers juxtaposed with conventional corn grower.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Don Eskelund, Hay Man Farm

Submitted the book Seeds of Deception and spoke of an allergic reaction he had to GMO corn.

Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.

Doug Gurian-Sherman, Union of Concerned Scientists

Recommends following precautionary principle. Provided point-counter point on criticism of PNAS caddisfly study.

Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.

Doug Johnson, Maine Biotechnology Information Bureau

If buffers are added back into the rule, he suggests there be another hearing, because many people did not address the buffer topic in their hearing testimony. He opposes the inclusion of buffers because the Legislature already addressed the issue of out-crossing and together with the Department of Agriculture they support the co-existence policy. Also, requiring Bt corn growers to provide a buffer would be contrary to the USDA National Organic Program requirement that the organic grower provide sufficient buffers to prevent incursion. He also added that buffers to protect seed growers are contrary to The American Seed Trade Association accepted practices. Doug also submitted a statement about the Maine Farm Bureau passing a resolve supporting the use of Bt corn.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Doug Johnson,
Maine
Biotechnology
Information Bureau

Agrees with sections D and E because the Board should have enough information to make sure IRM requirements are followed. Doesn't think a license should be required for Bt when it is not required for application of Malathion. Cross-pollination is not a problem beyond 10 meters (33 feet) according to German study (abstract submitted). Thinks the grower of a higher value crop should be responsible for any buffer. Also submitted Report of the PIP Technical Committee and Biopesticides Registration Action Document on Bt Plant-Incorporated Protectants.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Elery Keene,
Retired, Kennebec
County Council of
Governments

Thinks whoever is encroaching on an established grower, organic or conventional, should have to provide the buffer. Thought some of this could be controlled at the municipal ordinance level.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Emily Posner, After
the Fall Farm,
Waldo County

Wants highest buffer possible, thinks neighbors have a right-to-know who is growing Bt corn and that there should be reporting to the BPC that is accessible to the public. Also encourages a moratorium.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Galen Larrabee,
Dairy Farmer

Thinks neighbors should work out the buffer amongst themselves and have no buffer in the rule.

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Commenter	Comments on Chapter 41	Board Response
Garin Smith, Grassland Farm, Organic Dairy Farmer, Skowhegan	Wants the 660 foot buffer to prevent cross contamination. Bt corn grower should provide the buffer and should have to reconstitute the organic grower if there is contamination.	The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.
Gary Fish, BPC	Allow either licensed general use pesticide dealer or a (restricted or limited use) pesticide dealer to distribute PIPPs.	The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request.
Gary Mullen, 3 Moons Farm	Believes the person concerned about cross contamination should provide any buffer	Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.
Greg Ponte, Maine Council of Trout Unlimited	Prefer rescinding of registration, but in lieu of that want large buffer zones next to waters to protect invertebrates like caddisflies.	Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.
Heidi Ellrich, Alna	Submitted Greenpeace Canada report titled Toxic Corn: Summary of New Scientific Evidence on the Health Dangers Posed by Genetically Engineered Food	Informational only, was not directly relevant to the rule.
Hillary Lister	Prefers moratorium. 660 feet not a large enough buffer, cannot decontaminate a crop. Concerned about lawsuits against neighbors whose crops are unintentionally cross-contaminated. Need more public participation.	Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Hillary Lister
Judi Silver,
Waterville
Walter Isgro
Michelle Russell,
Waterville
Richard Gabey, W
Gardiner
Evan Grant, Greene
Phyllis Capanna,
Waterville
John O'Donnell,
Organic Beef
Farmer, Monmouth
Taffy Field, Dresden

Rescind Bt corn registration.

Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.

Ingrid Ericksson,
Orthopedic surgeon

No rule could provide adequate protection. Pollen can drift for up to 30 miles. Suggested setting the buffer at the same level as for pharmaceutical crops which is 1 mile. Wants a moratorium on all GE crops.

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Jaki Erodes, Mt
Desert
Selena Craig,
Allston, MA

Ask for 1 mile buffer provided by the transgenic grower, annual training for dealers and growers including information on alternatives to transgenic crops, reporting for both dealers and growers with information available to the public, require Bt corn grower to notify all neighbors within 1 mile radius before planting. (Rights and Responsibilities Form Letter)

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Jean English,
Lincolntonville

Suggests that records be kept longer than 2 years to help trace health and environmental problems, training should be annual, growers intent to plant PIPPs should be public information to facilitate communication with neighbors, Maps should show PIPPs in relation to other crops within 1 mile, rule should specify buffer distances to susceptible crops that will limit contamination to virtually 0% and should also specify setbacks from bodies of water, UC Davis publication recommends a 1/2 mile setback distance, in year following planting the Board should require monitoring for volunteer plants and require removal, should require refuges of non-PIPP corn and clarify the size and configuration of the refuge in the rule.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Jennifer Hughes, S
Portland

Concerned about insect resistance and non-target effects

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Jesse Watson, Dad

Follow precautionary principle, the technology is ahead of the regulatory framework. Young farmers will have to deal with the long term consequences so Board should listen to them on this issue.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Commenter**Comments on Chapter 41****Board Response**

Jim Crane, Corn Grower, Exeter

Supports co-existence policy. Should not be set buffer. License not required for sprayed Bt so no license should be required for Bt corn. Should rely on seed companies to train and enforce requirements.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Jim Crane, Crane Brothers Farms – Potato and corn growers

Technology has improved his yields. Doesn't like the record keeping requirements and the license requirement makes no sense to him. Many growers don't have a license. Doesn't think there should be any buffers and Bt corn growers should not be held responsible for any buffers. Farmers can work it out together. Need to make planting decisions now and we should rely on dealers to do the education.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Jim Freeman, Dragon Fly Flower Farm

Wants to have large buffer. 660 feet may not be enough when the Bt corn is planted at the top of a mountain. Onus to provide buffer should be on the Bt corn grower.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Jim Thomas, Thomas Farms, Garland

Wants Bt corn without road blocks and he would be okay with a split buffer.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Jody Spear, Sierra Club, Harborside

Bt corn grower should be required to disclose location and size of plots, training should be annual and should not be done by industry, rescind Bt corn registration in light of new studies and evidence of allergic reactions and reproductive problems.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

John Allen, Heath Hill Farm, Sumner

Wants buffer zones. Government regulation is bad enough doesn't want to be regulated by Monsanto.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

John Gibson,
Biotechnology
Industry
Organization

Opposed to rules and challenge the Board's legal authority to promulgate such rules. Federal regulation is adequate. Other forms of Bt do not require a license to distribute or use. Support co-existence policy and NOP standards that place onus on organic grower to provide buffers. Bt is already allowed on organic crops.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Jon Olson, Maine
Farm Bureau

Allow co-existence policy to work. Against any set buffer. Rules too inflexible.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Commenter**Comments on Chapter 41****Board Response**

Julie Sawtelle,
Litchfield

Require GMO growers to accept liability for contamination, no law suits against unintentionally contaminated crops, require comprehensive training on reducing contamination, limit approval of field corn, require substantial buffer zones, prefers moratorium.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Katie Boverman,
Giant's Belly Farm,
Greene

Wants at least a 1 mile buffer. Could be a shared buffer. Must be extensive and detailed records. Her customers have zero tolerance for GMO contamination.

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Kyla Hershey-
Wilson,
Gardener/Consumer

Worried about insect resistance developing. Should only allow GE crops to be grown in indoor clean rooms. Should be public notice in newspapers, should be large buffer and training should not be done by seed dealers.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Larry Ireland, Corn
Grower

Canadian growers can use Bt corn causing a competitive disadvantage for Maine growers.

The rule allows the use of Bt corn.

Lauchlin Titus, Ag Matters

Thinks the Board should defer some of these decisions to the Legislature and the workgroup convened by the ACF Committee. Sees no justification for licensing based on environmental and human health risks. Seems to be based on protecting markets for identity preserved crops and that is not the BPC's responsibility. It is the responsibility of the grower of that identity preserved crop. He is okay with requiring registrants to report total use to the BPC and to have dealers acquire a general use dealer license, but does not think there is a need for dealers to keep track of who purchased the seed. Agrees that growers should obtain product-specific training certificates to qualify to purchase PIPPs, but thinks registrants should provide the training using materials approved by the Board. Does not think there should be a need for additional training in the future. He agrees with the confidentiality clause in Section F.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Lauchlin Titus, Ag Matters, Vassalboro

Has been a part of the Legislature's work group investigating buffers and cross contamination with seed crops (LD 1650). They are recommending a 1% cross contamination level for organic crops. He thinks the Legislature should determine the buffer, not the Board. Does not support licensing requirements for dealers. Wants to strike sections B and CII. Thinks the records are already required and there is no need to have in this rule. Still should require training certificates in order to purchase PIPPs.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Lebelle Hicks, BPC	Submitted Report of the PIP Technical Committee and Biopesticides Registration Action Document on Bt Plant-Incorporated Protectants.	The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.
Lebelle Hicks, BPC	Listing of all Bt corn products registered throughout US identifying which states register each product also includes labels for the Bt corn products currently registered in Maine.	The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed.
Logan Perkins, Protect Maine Farmers	Those that have the rights should bear the responsibilities, require a 1mile buffer like pharmaceutical crops, 0.1% contamination level should be okay. Make training annual and add an IPM component to it. Use organic growers as trainers. Have public accessible reporting from dealers and growers, require rotation before allowed to use Bt corn, require Bt corn grower to notify neighbors, 500 feet notice is not enough.	The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.
Merideth Hall, Writer from Sabattus	Board should be more stringent to help protect smaller farms. Bt corn growers should provide a large buffer. Prefers local governance.	Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Merideth Hall,
Writer, Sabattus

Shared buffers a good concept it could be used for other crops, establish largest possible buffer zone you can agree upon, Bt corn reproduces and cannot be recalled like a bottle of pesticide.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Michelle Henrion,
Belfast

No longer support sharing of any mandated buffer because the Bt crop can contaminate her organic but not vice versa, small land owners will not have room to provide the buffer, asking for 1 mile buffer, annual training, easy public access to records, notification of neighbors within 1 mile of the crop by Bt corn grower

The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Michelle Henrion,
Local Food
Supporter

Wants buffer zone to be as big as justifiable, Free testing of surrounding crops supported by registration fees, keep record for 5 – 10 years with good maps showing where crops were grown. She thought any buffer zone could be split.

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Molly Jennings,
Windsor

Rescind Bt corn registration. Concerned about food allergies.

Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.

Nancy Allen	<p>Sent article on caddisfly study. Adopt strict rules with large buffer zones next to all waterways and organic growers, certification process for growing Bt corn, independent testing of air, plants and water surrounding any plantings, require Seed companies to do health effect studies on livestock, humans and environment, assessment of Maine plantings by Union of Concerned Scientists annually.</p>	<p>The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.</p>
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Nancy Oden, Jonesboro	<p>Rescind Bt corn registration because of health and environmental effects.</p>	<p>Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.</p>
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Nicholas Storer, Agricultural Biotechnology Stewardship Technical Committee	<p>Support education goal, but don't think dealers or growers need to be licensed. Existing education program works fine. Field sales staff already trained annually. Dealers who do not inform/educate growers about IRM obligations lose their opportunity to sell Bt corn. Growers must sign a contract that obligates them to follow IRM guidelines. Registrants must assess grower adherence with IRM requirements through surveys and farm visits and follow-up on non-compliance as part of a compliance assurance program, must also respond to tips or complaints about non-compliance. Non-compliance leads to loss of privilege to use the technology. Also, US EPA and/or State Lead Agencies have access to these compliance records if agency can demonstrate CBI will be protected.</p>	<p>The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.</p>
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Commenter**Comments on Chapter 41****Board Response**

Nikos Kavanya,
FEDCO Seeds

Records should be kept for at least 5 years to help trace cross-contamination, Grower records should include susceptible crops more than 500 feet away as corn can outcross more than 2 miles away and neighbors should be notified in case they are growing a susceptible crop of I they experience health effects from eating contaminated food, growers should report annually, should be required to produce copies of bills and seed bag tags, wants mandatory buffer zones and regulation should stipulate refuge requirements, BPC should inspect crops in field, PIP crops should be labeled, seed savers whose seed is cross-contaminated should be exempted from the rule

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Paul Schlein, BPC

Copy of article from Proceedings of the National Academy of Sciences (PNAS) titled Toxins in transgenic crop byproducts may affect headwater stream ecosystems

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Rachael Katz,
Farmer

Wants buffers to guarantee less than 0.01% contamination. At least 1 mile and the buffer should be born proportionally to the amount of land each neighbor has. More land, bigger buffer.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Ric Mallamo,
Belfast

Enact the minimum safeguards requested by MOFGA

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Commenter**Comments on Chapter 41****Board Response**

Rob Fish, Food for
Maine's Future

Supports strong rules since the Board registered the product contingent on passing rules. Also submitted information on many of the scientists that commented on the caddisfly study in PNAS that Robert Tardy submitted. Rob also submitted Genetic Roulette on behalf of the author Jeffery Smith.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Rob Stenger, St
George

Does not like the co-existence policy, Bt corn growers should be required to notify neighbors, records should not be confidential, GE crop growers should be liable for any cross-contamination or at a minimum neighboring growers should have guaranteed indemnity, Board should consider the effects on aquatic invertebrates.

The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Robert Tardy,
Lobbyist, Somerset
Associates

Should only have educational requirement, emphasize co-existence, treating Bt corn seed like a restricted use pesticide goes beyond the Board's statutory mandate. Submitted letter signed by 11 alleged organic dairy farmers who think growers can work out the buffers amongst themselves and are concerned they may have to go back to conventional farming and may want to be able to use Bt corn then without all the restrictions. Also submitted letter from many scientists that are concerned about the PNAS article on Bt corn and caddisflies.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Ron Litterer,
President, National
Corn Growers
Association

Pesticide rules don't apply well to Bt corn because it is not subject to drift, is harmless to non-target pests, and is completely benign to the environment. They encourage grower training, they do not agree that a license is needed since no license is need to plant non-biotech seed that is treated with fungicides and/or insecticides. No need for record keeping, since a corn field will not move and you cannot apply the seed to the wrong area, it doesn't drift and won't spill. See merit in mapping fields as a learning tool in regards to insect resistance management, but do not see how adjacent fields can be mapped as they may not know what will be planted and don't see where 500 feet came from as it is not in Chapter 50. Only need 50 feet to limit cross pollination. Don't see need to record date and time of planting, many growers will not know the EPA Reg. No. of the corn trait in the seed they buy, they will not know the active ingredient of the pesticide protein, there is no benefit to knowing the number corn plants per acre. Although they support training, they do not see a need for special training to handle Bt corn seed.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Russell Libby,
MOFGA

Record keeping rules are appropriate, may make allowances for seed dealers that do not sell pesticides by offering some other type of certification, Support Section D as minimum grower requirements, Want to make training requirement annual, suggest that training include suggestions on how to accommodate requests for buffers and setbacks through the use of refuges (language offered).

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Russell Libby,
MOFGA

Believed that the registration decision was based on having a rule in place before planting. Will ask to rescind registration if no rule is in place. Bt corn is clearly a pesticide. Need to add 500 foot buffer requirement which will mesh with current notification standard. MOFGA prefers the 660 foot buffer as well, also cited two publications that recommend either a two mile or one kilometer buffer. Also would like to see the training required annually. He is also concerned about reports that mid-west farmers are not adhering to the refuge requirements. Wants to make sure a rule is in place before planting.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Scott Vlaun, Norway

Prevent the spread of GE crops, Bt in Bt corn is persistent and may cause pest to become resistant making sprayed Bt ineffective.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Seth Bradstreet,
Commissioner,
Maine Department
of Agriculture, Food
and Rural
Resources

Reiterates support of co-existence policy, license requirement for Bt corn is inconsistent since no license is required to purchase or use other Bt formulations, Section C duplicates what's required by 7 MRSA Section 1052(2) which requires dealers to keep records of sales and make those records available to the Department. Section D is redundant, why make farmers keep the same records, defer to the LD 1650 working group to develop BMPs.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Commenter**Comments on Chapter 41****Board Response**

Shep Erhart,
Franklin
Jeffrey Hotchkiss
Abi Morrison
Tess Woods, Unity
Wendy Clark,
Falmouth
Wendy Hebb,
Nobleboro
Rebecca Leathe,
Eliot
Richard Sawyer,
Blue Hill
Karen D'Andrea,
Scarborough
Mary Cupp,
Falmouth
Richard Chambers,
Orono

Ask for 1 mile buffer provided by the transgenic grower, annual training for dealers and growers including information on alternatives to transgenic crops, reporting for both dealers and growers with information available to the public, require Bt corn grower to notify all neighbors within 1 mile radius before planting. (Rights and Responsibilities Form Letter)

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Spencer Aitel, Two
Loons Farm,
Organic Dairy
Farmer

Should add an IPM component to rule and require insect damage threshold before grower can use Bt corn. Using the right hybrid and using rotation will take care of borer and other insect problems.

The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Steve Russell, Pine
Hill Jerseys,
Organic Dairy
Farmer, Winslow

Bt corn rules should be strict just like the nutrient management rules. A compromise buffer would be good. Refuge is very important. Better to start with strict rules and loosen them later if we find that is possible.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Storm Waters,
Rising Tide North
America

Be as strict as possible, support organic because it is better at sequestering carbon from the atmosphere. Use precautionary principle.

Comment is not relevant to the rule, the registration decision was made previous to the rulemaking.

Commenter**Comments on Chapter 41****Board Response**

Strongheart Loney

Set minimum buffer zone of 660 feet, make records and reports open and reported to the public, burden of notification should be on the Bt corn user.

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Sue Allen, Mother of soon to be five children

Wants safe and economical food. Wants farmers to be able to compete and wants farmers to have access to Bt corn.

Regulation will allow farmers to access Bt corn.

Terra Marks, Aspiring farmer, Thorndike

Should be the Bt corn growers' responsibility to notify neighbors before planting a crop. Should be right-to-know.

The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Tim Libby, Organic Farm worker in Dixmont and Charleston

Wants strong rules with at least a 660 foot buffer but 1 mile would be better, very worried about insect resistance because Bt is an important control for organic growers. Should reconsider registration.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Commenter**Comments on Chapter 41****Board Response**

Tim Libby,
Thorndike
Sherry Streeter,
Brooklin
Peter Carminati,
Stonington
Laura Sholtz, Exeter
Robert MacLeod,
Hollis
Elizabeth Jackson,
Robbinston
Jakki Austin,
Newport
Prescott McCurdy,
Harspell
Sandra Wachholz,
Portland
Anne Ball,
Yarmouth

Ask for 1 mile buffer provided by the transgenic grower, annual training for dealers and growers including information on alternatives to transgenic crops, reporting for both dealers and growers with information available to the public, require Bt corn grower to notify all neighbors within 1 mile radius before planting. (Rights and Responsibilities Form Letter)

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Timothy Hobbs,
Maine Potato Board

NOP requires organic grower to provide buffers so no buffers should be added to the rule.

Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Tom Cote,
Somerset Farms,
Dairy Farmer

Wants to keep the regulations consistent across the US so Board should not regulate Bt corn. Any buffer should be the responsibility of the person growing the seed or organic crop. The rule overburdens farmers with paper work.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (l) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

Commenter**Comments on Chapter 41****Board Response**

Vernon Delong,
Agricultural
Bargaining Council

Rules unfair to the Bt corn grower since the rules for use of sprayed Bt are different. Seed dealers already required to keep records of PIPP sales and make available to the Department of Agriculture. No need for additional rules. MOFGA manual states organic growers must provide their own buffers and if buffers are brought back into the rule there should be an additional hearing.

The Board decided it wasn't necessary to establish a definition for plant-incorporated protectant products since the genetic material cannot be separated from the seed, tuber, etc. making Section A(II) duplicative and unnecessary; therefore the definition of a plant-incorporated protectant was retained, but the definition of a plant-incorporated protectant product was removed. The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate. The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet.

Walter Fletcher,
Dairy Farmer,
Pittsfield

Doesn't think a license should be required to plant seed.

The Board decided to keep the dealer licensing requirement as it is already required under 22 MRSA, Section 1471-W and added the clause allowing a (Restricted Use) Pesticide Dealer license to be equally adequate. They also agreed that requiring a private or commercial pesticide applicator license was not necessary as long as there is a requirement for a product-specific training certificate.

William Branigan,
Waldoboro
Flower Noble,
Topsham
Douglas Wollmar,
Trenton
Grace Mueller,
Portland
R.L. Chapman,
Harpwell
Lindsay Sterling,
Freeport
Mitch Kihn, Warren
Paul Drowns,
Portland
Nell Beer, Ellsworth
Kim Patnode,
Bethel

Ask for 1 mile buffer provided by the transgenic grower, annual training for dealers and growers including information on alternatives to transgenic crops, reporting for both dealers and growers with information available to the public, require Bt corn grower to notify all neighbors within 1 mile radius before planting. (Rights and Responsibilities Form Letter)

The Board decided to keep the dealer notice to distribute or to stop distributing so they know which general use pesticide dealers are PIP distributors. They also kept the recordkeeping requirements for dealers, but reduced the information to be kept to those required by 7 MRSA, Section 1052 (2). That information includes a list of the names and addresses of all growers of plant-incorporated protectant plants, plant parts or seeds. They also retained the requirement for the records to be available to Board representatives upon request. The Board was firmly in support of grower records but did not see the need for grower reports, as the records will be available to Board inspectors. They did decide to remove reporting elements that are not necessary, including: the elements in Section D (I) e (iii, iv & v). Almost all commenters and the Board agreed that product-specific training is needed, but not all agreed on the frequency of the training. The Board decided to require the training biennially. The Board also decided to add a requirement for the Bt corn grower to plant the federally mandated refuge in a configuration that provides maximum protection for neighboring non-Bt-corn crops when those crops are within 500 feet. Since confidentiality of the records is already allowed by 7 MRSA, Section 20, the Board saw no reason to make any changes to Section F of the rule.

01 DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES

026 BOARD OF PESTICIDES CONTROL

Chapter 41: SPECIAL RESTRICTIONS ON PESTICIDE USE

SUMMARY: This chapter describes special limitations placed upon the use of (1) aldicarb (Temik 15G) in proximity to potable water bodies; (2) trichlorfon (Dylox, Proxol); (3) hexazinone (Velpar, Pronone), ~~and~~ (4) aquatic herbicides in the State of Maine and (5) plant-incorporated protectants.

Section 1. ALDICARB (TEMIK®)

The registration of aldicarb (Temik 15G) is subject to the following buffer zone requirements:

- A. Aldicarb (Temik 15G) shall not be applied within 50 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in the range of one to ten parts per billion (ppb). The 50 foot buffer would be mandatory for one year with a required retesting of the water at the end of the period.
- B. Aldicarb (Temik 15G) shall not be applied within 100 feet of any potable water source if that water source has been tested and found to have an aldicarb concentration in excess of 10 ppb. The 100 foot buffer would be mandatory for one year with a required retesting of the water at the end of this period.

Section 2. TRICHLORFON (DYLOX, PROXOL)

The registration of trichlorfon (Dylox, Proxol) is subject to the following requirements:

- A. Trichlorfon shall only be used for control of subsurface insects on turf.
- B. Prior to application the target pest must be identified and the severity of the infestation must be determined, including the extent of the damage.
- C. Only infested areas shall be treated with trichlorfon. Broadcast treatments of the entire turf area are prohibited.
- D. Following application, the trichlorfon must be watered into the soil with at least ½ inch of water and according to the label directions. The applicator must assure that the appropriate watering will take place prior to re-entry by any unprotected person.

Section 3. HEXAZINONE (VELPAR, PRONONE)

The registration of hexazinone is subject to the following limitations and conditions.

A. Prohibition of Certain Air-Carrier Application Equipment

It shall be unlawful to apply any liquid pesticide mixture containing the active ingredient hexazinone with any application equipment that utilizes a mechanically generated airstream to propel the spray droplets unless the airstream is directed downward.

B. Licenses Required

I. No person shall purchase, use or supervise the use of any pesticide containing the active ingredient hexazinone unless they have obtained a private or commercial pesticide applicators license from the Board.

II. No person shall:

a. Distribute any pesticide containing the active ingredient hexazinone without a restricted use pesticide dealer's license from the Board; or

b. Distribute any pesticide containing the active ingredient hexazinone to any person who is not licensed as a private or commercial pesticide applicator by the Board.

C. Records and Reporting

Dealers distributing pesticides containing the active ingredient hexazinone shall keep records of such sales and provide reports to the Board as described in Chapter 50, "Record Keeping and Reporting Requirements."

Section 4. AQUATIC HERBICIDES

The registration of pesticides for which there is an aquatic herbicide use on the product label shall be subject to the following limitations and conditions.

A. Board Publication of List

The Board of Pesticides Control will publish by May 23, 2003 and by March 15th of each year thereafter a list of herbicide products registered in Maine for which the manufacturer has verified that there is an aquatic use on the pesticide label. Based on available information, the Board may exempt from this list pesticides that it determines are not for use in the control of aquatic vegetation. Pesticides labeled solely for use in aquariums and antifouling paints; are specifically exempt from this list.

B. Licenses Required

- I. Unless exempted under Chapter 41, Section 4 (B) (III), no person shall purchase, use or supervise the use of any aquatic herbicides identified on the Board's annual listing unless they have obtained a private or commercial pesticide applicator's license from the Board.
- II. No person shall:
 - a. Distribute any aquatic herbicides identified on the Board's annual listing without a restricted use pesticide dealer's license from the Board; or
 - b. Unless exempted under Chapter 41, Section 4 (B) (III), distribute any aquatic herbicides identified on the Board's annual listing to any person who is not licensed as a private or commercial applicator by the Board.
- III. Registered herbicides containing only the active ingredients erioglaucline (Acid Blue 9 or FD&C Number 1, CAS Registry No. 1934-21-0) and/or tartrazine (Acid Yellow 23 or FD&C Yellow Number 5, CAS Registry No. 2650-18-2 (trisodium salt) or 3844-45-9 (triammonium salt)) are exempt from the applicator licensing requirements described in Chapter 41, Section 4 (B) (I) and Chapter 41, Section 4 (B) (II) (b).

C. Disclosure

The Board will make a disclosure form available to dealers distributing any aquatic herbicides identified on the Board's annual listing. The Board requests that dealers present to customers the disclosure form that advises purchasers that, (1) an aquatic discharge license must be obtained from the Maine Department of Environmental Protection before any application may be made to any surface waters of the State as defined in 38 M.R.S.A. Section 361-A(7) including any private ponds that may flow into such a body of water at any time of year, (2) that Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection on the use of aquatic herbicides are available.

D. Records and Reporting

Dealers distributing any aquatic herbicides identified on the Board's annual listing shall keep records of such sales and provide reports to the Board as described for restricted use pesticides in Chapter 50, "Record Keeping and Reporting Requirements."

E. Use of Best Management Practices

Aquatic herbicides applied to private ponds and not subject to an aquatic discharge permit may only be applied consistent with Best Management Practices developed jointly by the Board and the Maine Department of Environmental Protection.

Section 5. PLANT-INCORPORATED PROTECTANTS

The registration, distribution and use of plant-incorporated protectants are subject to the following limitations and conditions:

A. Definitions

"Plant-incorporated protectant" means a pesticidal substance that is intended to be produced and used in a living plant, or in the produce thereof, and the genetic material necessary for the production of such a pesticidal substance.

B. License or Certificate Required

No person shall:

- I. Distribute any plant-incorporated protectant without either a general use pesticide dealer license or a (restricted or limited use) pesticide dealer license from the Board; and
- II. Distribute a plant-incorporated protectant to any person who does not have in his/her possession a valid product-specific training certificate, as required by Section 5(E).

C. Dealer Requirements

Dealers distributing plant-incorporated protectants are subject to the following requirements:

- I. General use and (restricted or limited use) pesticide dealers shall notify the Board of their intent to distribute plant-incorporated protectants on all initial license and license renewal application forms provided by the Board.
- II. General use and (restricted or limited use) pesticide dealers shall maintain sales records showing the list of the names and addresses of all purchasers of plants, plant parts or seeds containing plant-incorporated protectants. These records must be made available to representatives of the Board for inspection at reasonable times, upon request, and must be maintained for two calendar years from the date of sale.
- III. Any general use and (restricted or limited use) pesticide dealer who discontinues the sale of plant-incorporated protectants shall notify the Board in writing and shall provide the Board, upon request, with all records required by Section 5(C)II of this chapter.

D. Grower Requirements

- I. All users of plant-incorporated protectants shall maintain the records listed below for a period of two years from the date of planting. Such records shall be kept

current by recording all the required information on the same day the crop is planted. These records shall be maintained at the primary place of business and shall be available for inspection by representatives of the Board at reasonable times, upon request.

- a. Site and planting information, including town and field location, a map showing crop location and refuge configuration in relation to adjacent crops within 500 feet that may be susceptible to cross-pollination;
- b. Total acres planted with the plant-incorporated protectant and seeding rate;
- c. Total acres planted as refuge and seeding rate;
- d. Detailed application information on any pesticide applied to the refuge as described in Section 1(A) of Chapter 50, "Record Keeping and Reporting Requirements"; and
- e. Planting information for each distinct site including:
 - i. date and time of planting; and
 - ii. brand name of the plant-incorporated protectant used.

II. There are no annual reporting requirements for growers.

E. Product-Specific Requirements

- I. Requirements for plant-incorporated protectant corn containing *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production.
 - a. Prior to purchasing or using plant-incorporated protectant corn containing any *Bacillus thuringiensis* (Bt) protein and the genetic material necessary for its production, the grower must have attended a Board-approved training session and possess a valid product-specific training certificate.
 - b. Product-specific training certificates shall be issued following each Board-approved session. The certificates will remain valid until December 31 of the second year after issuance.
 - c. When non-Bt-corn crops are or will be located within 500 feet of a prospective Bt corn planting site, the refuge must be planted in a configuration that provides maximum protection from pollen drift onto the adjacent non-Bt-corn crop. This standard shall apply only where, prior to planting the Bt corn, the non-Bt-corn grower notifies the owner or lessee of the land to be planted with Bt corn, with such notice identifying the non-Bt-corn crop to be protected.

- d. Bt corn growers are encouraged to follow all best management practices developed by the Board or the Department of Agriculture, Food and Rural Resources.

F. Confidentiality

Any person providing information to the Board in connection with the record keeping and reporting requirements of Section 5 of this chapter may designate that information as confidential in accordance with 7 M.R.S.A. § 20.

STATUTORY AUTHORITY: 5 M.R.S.A. §§ 8051 *et seq.*
7 M.R.S.A. §§ 601-610;
22 M.R.S.A. §§ 1471-A, 1471-B, 1471-C, 1471-D, 1471-M.

EFFECTIVE DATE:
March 8, 1981 (Captan)

AMENDED:
May 7, 1981 (Trichlorfon)
January 2, 1984 (Aldicarb)
May 8, 1988 (Trichlorfon)
August 5, 1990 (Captan)
August 17, 1996 (Hexazinone)
October 2, 1996

EFFECTIVE DATE (ELECTRONIC CONVERSION):
March 1, 1997

AMENDED:
May 7, 1997 - Section 3(B)(II)

CONVERTED TO MS WORD:
March 11, 2003

AMENDED:
May 12, 2003 - Section 4 added

NON-SUBSTANTIVE CORRECTIONS:
June 24, 2003 - summary only

AMENDED:
February 2, 2004 - Section 4, 1st paragraph and sub-section A, filing 2004-31
April 30, 2007 – filing 2007-154