



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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

March 8, 2019
9:00 AM

Room 118 Marquardt Building
32 Blossom Lane, Augusta, Maine

AGENDA

1. Introductions of Board and Staff
2. Public Hearing on Proposed Rule Amendments to Chapters 10, 26, 27, 31, 32, and 50 and Repeal of Chapter 36

The Board will hear testimony on the proposed amendments and repeal:

Chapter 10—Two amendments are proposed:

1. Amend the definition of “Aerial Applicator” to allow certification as a private applicator. Currently the rule requires applicators to hold a commercial license which prevents an individual from making applications on their own property. This is required by the new EPA C&T rules, and is in anticipation of potential applications by unmanned aircraft systems.

Chapter 26—One amendment is proposed:

1. Clarify the definition of “occupied buildings” to mean fully enclosed indoor spaces inside buildings and that roofed structures which are otherwise not enclosed are not buildings for the purpose of the rule.

Chapter 27—Three amendments are proposed:

1. Change wording to clarify that all pesticide applications, inside and outside, must be included in the pest management activity log.
2. Change wording to clarify that applications made to the exterior of buildings are included in the rule.
3. Add personal insect repellents to the list of products which do not require licensure.

Chapter 28—One amendment is proposed:

1. Clarify that the telephone number required on signs must be a working number.

Chapter 31—Eleven amendments are proposed:

1. Add requirement for a government-issued photo id for all exams (required by EPA C&T).
2. Establish annual training requirements for noncertified applicators of restricted use pesticides (required by EPA C&T).
3. Establish minimum age for individuals certified as commercial or private applicators (required by EPA C&T).
4. Describe the credentials which will be issued to each applicator verifying certification (required by EPA C&T).
5. Remove section on transitioning to revised licensing and certification requirements since the time frame has passed.
6. Update the names of certain categories to align with current exams.
7. Remove requirement to collect social security number.
8. Change cost of master exams from \$50 for both to \$10 for Master Regulations exam and \$40 for Master Oral exam.
9. Remove exemption for those certifying in the Post Harvest Treatment category from having to take the core exam.
10. Remove requirements for applicators to receive continuing education credits in specific categories as the Board doesn't categorize courses this way.
11. Remove fee for replacement and upgraded licenses as the Board no longer charges for these due to improved software.

Chapter 32—Six amendments are proposed:

1. Amend competency standards to include those required by EPA C&T: label comprehension; responsibilities for supervisors of noncertified applicators; stewardship; ability to read and understand pesticide labeling.
2. Remove option to provide oral exam as EPA C&T no longer allows non-reader accommodations.
3. Add supplemental private categories which can be obtained in addition to certification for private licensure: aerial application; soil fumigation; non-soil fumigation (required by EPA C&T).
4. Establish minimum age for individuals certified as commercial or private applicators (required by EPA C&T).
5. Describe the credentials which will be issued to each applicator verifying certification (required by EPA C&T).
6. Add requirement for a government-issued photo id for all exams (required by EPA C&T amendments).

Chapter 50—One amendment is proposed:

1. Add requirements to dealer records of sales (required by EPA C&T amendments):
 - a. customer address
 - b. issuing authority, certification expiration date, and categories of certification in addition to the applicator's certification number

Chapter 36—Repeal of chapter is proposed. Associated requirements were previously repealed because they are no longer necessary with the current technology used in aircraft.

3. Minutes of the January 16, 2019 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

4. Overview of Mosquito-borne Diseases and Monitoring in Maine

The Maine Center for Disease Control and Prevention (Maine CDC) coordinates state activities around preventing vector-borne diseases. As part of its responsibilities, the CDC coordinates mosquito and disease monitoring in Maine. The presence of mosquito-borne diseases and the species of vector mosquitoes present in Maine have been on the rise in recent years. Maine CDC and BPC entered into a Memorandum of Understanding in 2013 to establish cooperation to conduct surveillance for mosquito-borne diseases to protect public health. Sara Robinson of the Maine CDC will provide an overview of the trends and the state's monitoring program and discuss the possibility of increased BPC financial support for the 2019 season.

Presentation By: Sara Robinson, Program Director

Action Needed: Discussion and Determination if the Board Wishes to Increase Funding to CDC for Environmental Monitoring of Mosquitoes

5. Request from Integrated Pest Management Program for Funds for Mosquito Monitoring

The Integrated Pest Management Program is requesting funds to assist with on-going efforts for mosquito surveillance and identification, development of a GIS-based mosquito habitat mapping system, and continued outreach around vector-borne diseases.

Presentation By: Kathy Murray, DACF IPM Specialist

Action Needed: Discussion and Determination if the Board Wishes to Fund this Request

6. Request for Special Local Need [24(c)] Registration for Express® Herbicide with TotalSol (FMC Corporation) for Spot Application and Bunchberry Control in Lowbush Blueberries

In September 2008, the Board first approved a Section 24(c) registration for DuPont Express® Herbicide with TotalSol (EPA Reg. No. 352-632). The 24(c) was renewed in 2010 and 2013, but the registration expired December 31, 2018. The EPA Section 3 registration was recently transferred to FMC Corporation which supports the request by the University of Maine Cooperative Extension for a new 24(c) registration. This 24(c) has been expanded to allow for spot applications to control labeled weeds during the prune year and applications in the fall after harvest and in the spring of the noncrop year to control bunchberry.

Presentation By: Mary Tomlinson, Pesticides Registrar and Water Quality Specialist

Action Needed: Approve/disapprove 24(c) registration request

7. Review of Proposed Surface Water Testing for 2019

7 M.R.S. § 607-A, Section 2-A, directs the Board to conduct water residue surveys, for both ground and surface water, to prepare profiles of the kinds and amounts of pesticides present. At the November 2018 Board meeting, Board staff proposed a continuation of past water monitoring efforts. The Board asked that staff provide the Board with the proposed cost, purpose of the testing, and set objectives.

Presentation By: Mary Tomlinson, Registrar and Water Quality Specialist and Pam Bryer, Toxicologist

Action Needed: Approve or disapprove funding for the proposed monitoring effort

8. Request to Fund Development of Additional Functionality Within Existing MEPERLS Framework of Digital Inspection Flows and Digital Reports for Submission of Existing Annual Pesticide Use and Sales Reports

Board staff and constituents are now successfully working with the Maine Pesticide Enforcement, Registration and Licensing System (MEPERLS). Staff propose that there are opportunities to use the system to provide further benefit to constituents and further improve the efficiency of the Board's work. One suggestion is to incorporate required reporting within the system, allowing dealers and applicators to report sales/use using an online fillable form linked to the product registration data. This would force the data to be entered consistently and allow accurate reporting. These forms are currently submitted on paper or through email as static digital documents. A second improvement would be to replace the current digital, but static, fillable PDFs used for the inspection process with interactive flows within MEPERLS resulting in a fully searchable enforcement dataset.

Presentation By: Megan Patterson, Director

Action Needed: Approve or disapprove funding for the proposed development effort

9. Correspondence

- a. Letter from Linda Titus, Ag Matters

10. Other Items of Interest

- a. Montana Universal Pesticide Analysis (Water) June 2018
- b. LD 643 An Act To Provide Funding to Municipalities Severely Affected by Pest Infestations
- c. LD 785 Resolve, Directing the Board of Pesticides Control To Educate the Public on the Proper Use of Pesticides and To Promote Integrated Pest Management
- d. LD 796 An Act To Reestablish the Department of Agriculture, Food and Rural Resources and the Department of Conservation
- e. LD 889 An Act To Require the Labeling of Foods Made with Nanotechnology
- f. LD 908 An Act To Require Schools to Submit Pest Management Activity Logs and Inspection Results to the Board of Pesticides Control for the Purpose of Providing Information to the Public

11. Schedule of Future Meetings

April 19, 2019, and May 24, 2019 are proposed meeting dates.

Adjustments and/or Additional Dates?

12. Adjourn

NOTES

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



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BOARD OF PESTICIDES CONTROL

January 16, 2019

Augusta Civic Center, 76 Community Drive, Kennebec/Penobscot Room, Augusta, Maine

DRAFT MINUTES

3:00 - 4:00 PM BOARD MEETING

4:00 - 5:00 PM PUBLIC FORUM

5:00 - 6:00 PM BOARD MEETING CONTINUED IF NECESSARY

Present: Adams, Bohlen, Flewelling, Granger, Jemison, Morrill, Waterman

1. Introductions of Board and Staff

- The Board, Assistant Attorney General Randlett, and Staff introduced themselves
- Staff Present: Bryer, Connors, Couture, Nelson, Patterson, Pietroski, Tomlinson

2. Minutes of the November 16, 2018 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

- **Flewelling/Jemison: Moved and seconded approval of minutes as amended**
- **In Favor: Unanimous**

3. Request for Financial Support from the Maine Mobile Health Program and the Eastern Maine Development Corporation

Since 1995 the Board has supported a Migrant and Seasonal Farmworker Safety Education program. The Maine Mobile Health Program (MMHP) and Eastern Maine Development Corporation (EMDC) provided training to 421 migrant agricultural workers during the 2018 season. Funding to support this effort in 2019 is being requested in the amount of \$5,360,

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which is the same amount the Board provided in 2018. The funding has been accounted for in the Board's FY'18 budget.

Presentation By: Chris Huh, Program Manager, Farmworkers Jobs Program, Eastern Maine Development Corporation

Elizabeth Charles McGough, Director of Outreach, Maine Mobile Health Program

Action Needed: Discussion and Determination if the Board Wishes to Fund this Request

- Huh thanked the Board for their ongoing support. He added that MMHP trained 421 workers in 2018, which was up from 335 in 2017.
- Charles McGough stated their intent is to hire bilingual staff similar as they have in past years. The curriculum is amended year to year to better fit the needs of the farmworkers.
- Jemison stated he supports this program and they do great work.
 - **Jemison/Flewelling: Moved and seconded to support request**
 - **In Favor: Unanimous**

4. Maine Cooperative Extension Request to Extend FIFRA Section 24(c) Registration (ME-130001) Malathion 8 Flowable for Use on Blueberries

Maine Cooperative Extension is requesting to extend §24(c) ME-140001 registration. Gowan Company supports this registration which increases the maximum application rate of Malathion 8 Flowable agricultural insecticide to control spotted wing drosophila (SWD) in blueberries. Gowan Malathion 8 Flowable has been highly effective against SWD in Maine at the higher application rates. In addition, this product offers growers the advantage of very short pre-harvest and re-entry intervals. Available data indicate that residues are expected to be below the established tolerance.

Presentation By: Mary Tomlinson, Pesticides Registrar and Water Quality Specialist

Action Needed: Approve or disapprove the request

- Tomlinson recommended the Board consider the FIFRA Section 24(c) extension requests together (Items 4-6), because they are essentially duplicates.
- Yarborough stated the request is for an increased rate of application for management of spotted wing drosophila (SWD) with a product that is already registered. He added that the first year SWD arrived in Maine, approximately one quarter of the blueberry crop was lost.
- Yarborough stated resistance management with this pest has been considered, and growers are attempting to implement the cultural control of early harvesting. He explained that a residue tolerance for wild blueberry has been determined, and this pesticide active ingredient is a needed tool that also has a short preharvest interval.
- Jemison asked how much the rate would be increased.
- Tomlinson stated that the current rate is 1¼ pints/acre three times per year, and the 24(c) extension allows for a maximum of 2.5 pints/acre twice a year.

- Morrill asked why Gowan has not just changed their label. Yarborough speculated that most likely because it is a lengthy and expensive process and this does not represent a large enough market to justify.
- Tomlinson stated companies are strongly encouraged to incorporate these types of changes into a label but Gowan has not yet done that.
- Morrill asked if there was any data showing how many growers are using this product.
- Yarborough stated they do not currently track that data, but they could take a survey.
- Flewelling asked how many years the registration extension would be for.
- Tomlinson replied that it would be for five years.
- Morrill asked if the 2.5 pints per acre rate is the standard in other states. Tomlinson replied that this is what EPA has agreed to for the 24(c) registrations.
- Morrill questioned why the Board keeps seeing this label back, why the manufacturer is not changing it, and how much need is out there.
- Bohlen noted that he did not see anything in the package that told him about the relevant efficacy of those two rates, and he would like to see that data next time.
- Flewelling stated he would like to err on the side of the EPA.
- Jemison stated he wished there was a better chemistry available. Yarborough responded that there is and they are using those also.
- Jemison asked if Yarborough knew of a new chemistry coming out that may allow them to move away from organophosphates. Yarborough stated he was unsure. Handley stated Assail and Exirel are new products that came out for cane berries but they do not work as well as malathion.
 - **Flewelling/Adams: Moved and seconded to accept the 24(c) extension for blueberries**
 - **In Favor: Unanimous**

5. Maine Cooperative Extension Request to Extend FIFRA Section 24(c) Registration (ME-170001) Malathion 8 Flowable for Use on Cane berries

Maine Cooperative Extension is requesting to extend §24(c) ME-170001 registration. Gowan Company supports this registration which increases the number of allowable applications of Malathion 8 Flowable agricultural insecticide to control SWD in cane berries. Gowan Malathion 8 Flowable has been highly effective against the SWD in Maine cane berries with the extra application. In addition, this product offers growers the advantage of very short pre-harvest and re-entry intervals. Available data indicate that residues are expected to be below the established tolerance.

Presentation By: Mary Tomlinson, Pesticides Registrar and Water Quality Specialist

Action Needed: Approve or disapprove the request

- Tomlinson stated that this 24(c) extension allows two pints per acre to be applied a maximum of four times a year, rather than three times per year.
- Handley told the Board that the raspberry harvest lasts four to six weeks, and they need to be sprayed every five to seven days to keep the berries from turning to mush. He added that most growers have one half to five acre plantings, so they are not large plots, but a lot of people are growing cane berries.

- Handley stated they want a product with a preharvest interval of three days or less. Growers are also using spinosad and synthetic pyrethroids, and they are very worried about resistance with the spinosad. Handley noted that synthetic pyrethroids work well at higher rates but because they are a broad-spectrum insecticide they extremely hard on beneficial insects.
- Handley explained that netting with at least one millimeter mesh that completely covers the planting, with double doors at the entrance, is a non-chemical option that has been successful, but it is not inexpensive or easy to achieve.
 - **Adams/Flewelling: Moved and seconded to accept the 24(c) extension for cane berries.**
 - **Unanimous in favor**

6. Maine Cooperative Extension Request to Extend FIFRA Section 24(c) Registration (ME-170002) Malathion 8 Aquamul for Use on Blueberries

Maine Cooperative Extension is requesting to extend §24(c) ME-170002 registration. Loveland Products, Inc. supports this registration which increases the maximum application rate of Malathion 8 Aquamul to control SWD in blueberries. This request is based on economic considerations and the request is identical to the Gowan Company §24(c) ME-130001.

Presentation By: Mary Tomlinson, Pesticides Registrar and Water Quality Specialist

Action Needed: Approve or disapprove the request

- Yarbrough stated that product options allow for competition in the marketplace, potentially resulting in cost savings for growers.
 - **Flewelling/Granger: Moved and seconded to accept the 24(c) extension for blueberries.**
 - **Unanimous in favor**

7. Review of Proposed Groundwater Testing for 2019

7 M.R.S. § 607-A, Section 2-A, directs the Board to conduct water residue surveys, for both ground and surface water, to prepare profiles of the kinds and amounts of pesticides present. At the November 2018 Board meeting, Board staff proposed a continuation of past groundwater monitoring efforts. The Board asked that staff provide the Board with the proposed cost, purpose of the testing, and set objectives.

Presentation By: Mary Tomlinson, Registrar and Water Quality Specialist and Pam Bryer, Toxicologist

Action Needed: Approve or disapprove funding for the proposed monitoring effort

- Tomlinson summarized past groundwater sampling efforts and detailed the plan for upcoming sampling that was submitted as part of the Board packet. She noted that there

is a statutory requirement to conduct water residue surveys, and in previous years they sampled 124-197 wells that were within one quarter mile down gradient from a currently active agricultural field. Tomlinson told the Board she would like to increase this number to 200 and narrow the sampling area to be more specific.

- Bryer and Tomlinson have been working with Bohlen to refine the process of selecting points and to make the process statistically justifiable.
- Morrill asked Patterson if there were sufficient funds available.
- Patterson replied that there were.
- Adams asked if there would be any sampling of surface waters.
- Bryer responded not at this time, but plans are in the works for surface water sampling in the future.
- Adams stated he felt the Board should be conducting both above and below ground water surveys.
 - **Flewelling/Waterman: Moved and seconded to approve funding for the proposed monitoring effort.**
 - **Unanimous in favor**

4:00pm- Morrill opened public forum

4:38pm- The Board returned from public forum.

8. Update on Water Quality Monitoring Activities

7 M.R.S. § 607-A, Section 2-A, directs the Board to conduct water residue surveys, for both ground and surface water, to prepare profiles of the kinds and amounts of pesticides present. In 2018, the Board's staff was involved in surface water and sediment sampling. The staff will update the Board on those activities and the sampling results.

Presentation By: Mary Tomlinson
Pesticides Registrar and Water Quality Specialist

Action Needed: None—Informational Only

- Tomlinson outlined recent water surveys as described in memo submitted with the Board packet.
- Tomlinson stated extended surface water sampling was conducted in September 2018 in the Bangor area around the Penobscot river. Raw data from these samples has not yet been analyzed.
- Bohlen stated there was not a list in the memo of all pesticides the samples were tested for and he would like to see that list to know what was not found.
- Flewelling asked if the report was good news.
- Tomlinson responded that bifenthrin was found throughout the sediment, which was not unexpected since it is used both in urban and agricultural settings.

9. Correspondence

a. Email and article from Jody Spear

- Spear asked that the board rescind the registration for J.R. Simplot's plant incorporated protectants for late blight in potatoes. Spear stated the potato will modify regular strains of potatoes on the market.
- Jemison responded that he does not know how industry is finding this white russet potato compared to others.
- Alvin Winslow of Winslow Agriculture LLC stated that he is a Certified Crop Advisor and provides advisory services for approximately eight thousand acres of potatoes. He stated that he was employed with Monsanto when these potatoes were being developed. He further stated that the author of this book did not invent this potato and that his faulty lab work resulted in his resignation.
- Winslow stated that he would like to retain this product registration to help the potato industry stay competitive. He stated that over 200 research trials were done on these potatoes and the regulatory research data is a matter of public record.
- Tomlinson stated there are two registrations for Simplot, both for late blight protection (note: there were three in 2017, but one was cancelled by the registrant in 2017).
- Jake Dyer of the Maine Potato Board indicated that these potatoes are not currently being grown in Maine for either table or chipping stock.
- Morrill thanked both Spear and Winslow for bringing info to the Board.
- Jemison stated that [because of the 2018 farm bill] a bioengineered label will be on the bag that these chips come in. (note: staff is unsure whether Jemison was referring to the farm bill. Please verify)

b. Letter from Linda Titus, Ag Matters

- Titus would like the Board to remove the requirements for recordkeeping for use of disinfectants in post-harvest wash tanks, such as used for washing leafy greens, because growers already must keep records of these applications under the Food Safety Modernization Act, and are being inspected by Quality Assurance and Regulations inspectors based on those records.
- Patterson stated that per BPC Chapter 50, Record Keeping and Reporting Requirements, commercial agricultural producers must maintain records for pesticide applications. By definition a commercial agricultural producer is any person who produces and agricultural commodity for commercial purposes. An agricultural pesticide application is any application of pesticide upon an agricultural commodity which is performed by or for a commercial agricultural producer. Additionally, the Board's policy on applications requiring an Agricultural Basic license states that production begins with the growing medium and ends when the product leaves the farm—which is inclusive of the applications described by Titus. This language appears to require growers to maintain records when they use dips and washes on produce prior to it leaving the farm.
- Jemison asked about the common active ingredients in the dips and washes.
- Patterson stated some common ones are bleach products and hydrogen peroxide, among others.

- Bohlen stated he needs more info before making a decision and would like the public to come before the Board to explain in detail. He added that this needs to be added to the future rule-making list.
- Morrill directed staff to add this as an agenda item for the next Board meeting.

10. Other Items of Interest

- a. LD 36 An Act To Change the Composition of the Board of Pesticides Control

11. Schedule of Future Meetings

March 8, 2019, April 19, 2019, and May 24, 2019 are proposed meeting dates. The March meeting will include a hearing on proposed rule amendments.

- Patterson suggested combining a Board meeting with a planning session.
- Morrill responded that the Board will defer to Patterson for this decision.

12. Adjourn

- **Flewelling/Jemison: Moved and seconded to adjourn at 5:26pm**
- **In Favor: Unanimous**

Janet T. Mills
Governor



Maine Department of Health and Human Services
11 State House Station
Augusta, Maine 04333-0011

Briefing Memo

To: Megan Patterson, Board of Pesticides Director
From: Sara Robinson, Infectious Disease Epidemiology Program Director
Subject: Mosquito Monitoring Collaboration
Date: February 27, 2019

Issue: Maine CDC is responsible for environmental monitoring of mosquitoes in Maine. This monitoring consists of trapping and identification of mosquitoes, testing of certain species for Eastern Equine Encephalitis virus and West Nile virus, and monitoring specific species for pesticide resistance. Federal funding for these activities is sporadic and must be supplemented with other funds in order to maintain a consistent program.

Background: Maine CDC began monitoring for arboviruses in 2001 after the introduction of West Nile virus into the United States. Maine's first positive mosquito pool occurred in 2002 and surveillance has continued annually since then. Funding fluctuates frequently for environmental monitoring, so Maine attempts to maintain historical trap sites, particularly those in areas with a previous positive. When additional funding is available trap sites expand to new areas. In response to Zika's arrival in the United States in 2016 Maine expanded trapping to specifically look for *Aedes* species in our four urban areas. Using federal Zika response funds Maine also developed the capacity to test for pesticide resistance in mosquitoes here in Maine. This testing began in 2018 and has not identified resistance to date. Maine CDC has a Memorandum of Understanding with the Maine Board of Pesticide Control (BPC) that BPC will provide at least \$25,000 for mosquito monitoring annually when funds are available.

Justification: Environmental monitoring is the first indication that a virus is in the state and prompts notification and response activities. In the event the Commissioner declares an Arboviral Public Health Threat BPC is expected to assist in the response including coordinating any use of pesticides.

Next Steps: Discuss the possibility of increased BPC financial support for the 2019 season during the March 8th Board meeting.

Attachments:

1. Historical Arboviral Surveillance in Maine
2. Maine CDC - BPC mosquito monitoring MOU

Historical Arboviral Surveillance in Maine

- **2001: WNV presence found in Maine, September 2001**
 - 6 birds tested positive for WNV
 - 1 bird tested positive for EEE
- **2002:**
 - 60 birds tested positive for WNV
 - 1 mosquito pool (collection of mosquitoes) tested positive for WNV from Wells, ME
 - 1 bird tested positive for EEE
- **2003:**
 - 98 birds tested positive for WNV (July – October)
 - 2 mosquito pools positive for WNV from Brunswick, ME
- **2004:**
 - 1 bird tested positive for WNV (August)
- **2005:**
 - 22 birds tested positive for WNV (July – October)
 - 1 mosquito pool tested positive for EEE from York, ME (October)
 - 2 horses tested positive for EEE in York County (September, October)
 - 12 birds tested positive for EEE (September, October)
- **2006:**
 - 11 birds tested positive for WNV (July – September)
- **2007: No recorded WNV or EEE activity in Maine**
- **2008: No recorded WNV activity in Maine**
 - 1 mosquito pool tested positive for EEE from Arundel, ME (September)
 - 1 horse tested positive for EEE in York County (September)
 - A fatal case of EEE was diagnosed in a Massachusetts resident who may have acquired the infection while vacationing in Cumberland County
- **2009: EEE Outbreak Year in Maine**
 - 15 horses tested positive for EEE (August – October)
 - 12 confirmed
 - 3 suspect
 - Spread over 5 counties in ME (York, Cumberland, Kennebec, Waldo, Penobscot)
 - 1 llama tested positive for EEE from York Beach, ME (September)
 - 3 flocks of pheasants tested positive for EEE from S. (September, October)
 - South Berwick, Parsonsfield, Dayton
 - 2 mosquito pools tested positive for EEE from York County (September)
 - 1 mosquito pool tested positive for WNV from York County
- **2010: No recorded EEE activity in Maine**
 - 1 seropositive Wild Turkey from Penobscot County

- 1 mosquito pool tested positive for WNV from York County
- **2011: No recorded WNV in Maine**
 - 10 Turkeys sero-positive for EEE (indicates prior infection, not active virus)
- **2012:**
 - 7 mosquito pools tested positive for WNV from Lebanon & Gorham
 - First pool collected 8/1/2012 – Earliest virus has been found in MOSQUITOES in Maine
 - 1 pheasant flock with EEE
 - Flock came down with illness in first week of September, culled to stop further transmission
 - Maine's first WNV + human
 - Symptom onset 10/1/2012, meningitis, encephalitis, double vision, fever, overall muscle weakness. No travel history.
 - 2 EEE sero-positive songbirds via a research project between BRI & MMCRI, collected in May
- **2013:**
 - 26 EEE positive mosquito pools all from York county
 - First pool collected 7/16/2013 – Earliest virus found in mosquitoes in Maine
 - Most positive mosquito pools ever
 - 3 EEE positive horses from Somerset, Oxford and York counties (September)
 - 1 EEE positive Emu from Cumberland (September)
 - 1 EEE positive Pheasant from York (September)
 - 3 WNV positive mosquito pools all from York county
 - 1 positive Powassan case in an adult female from Knox county
 - First Powassan since 2004
 - Case was fatal
 - Onset was late October
- **2014: No recorded WNV activity in Maine**
 - 22 EEE positive mosquito pools all from York county (August, September)
 - First pool collected 8/20/2014
 - 1 EEE positive Emu from Cumberland county (September)
 - 1 EEE positive case in an adult male from York county
 - First EEE case in Maine resident
 - Symptom onset 8/22/2014, fever, encephalitis, confusion. Travel to New Hampshire. Hospitalized 15 days.
- **2015:**
 - 1 EEE positive mosquito pool from York county (September)
 - 1 EEE positive case in adult male from York county
 - First human fatality from EEE in Maine. Died on 10/17/2015.

- Symptom onset 9/30/2015, fever, encephalitis, altered mental status. Travel to Massachusetts, Connecticut. Hospitalized 13 days in New Hampshire.
 - 1 WNV positive mosquito pool from York county (September)
 - 1 WNV positive case in adult male from Cumberland county
 - Symptom onset 9/2/2015, fever, rash, myalgia, nausea, aseptic meningitis, encephalitis. Travel to Delaware, Maryland. Hospitalized 5 days.
 - 1 POW positive case in adult female from Cumberland county
 - Symptom onset 11/11/2015, fever, nausea, chills, vomiting, confusion. No travel history. Hospitalized 9 days.
- **2016: No recorded EEE or WNV activity in Maine**
 - 1 POW positive case in adult female from Cumberland county
 - Symptom onset 10/8/2016, fever, nausea, vomiting, fatigue, stiff neck, seizures, cognitive decline. No travel history. Hospitalized 30 days in Massachusetts.
- **2017: No recorded EEE or WNV activity in Maine**
 - 3 POW positive cases
 - 1 adult male from Cumberland county
 - Symptom onset 5/27/2017, fever, nausea, aseptic meningitis, encephalitis, altered mental status. No travel history. Hospitalized 14 days.
 - 2 adult males from Knox county
 - Symptom onset 4/28/2017, fever, encephalitis, ataxia. No travel history. Hospitalized 20 days in Massachusetts.
 - Symptom onset 4/28/2017, fever, aseptic meningitis, encephalitis, altered mental status, CNS involvement. No travel history. Hospitalized 8 days.
 - 2 JCV positive cases, both locally-acquired
 - 1 adult female from Kennebec county
 - First JCV positive case in Maine resident
 - Symptom onset 6/9/2017, fever, headache, nausea, encephalitis, altered mental status, falls, septic shock. No travel history. Hospitalized 19 days.
 - 1 adult female from Franklin county
 - Symptom onset 6/27/2017, fever, headache, myalgia, arthralgia, syncope, neck pain, fatigue, cough, coryza. No travel history. Not hospitalized.
- **2018: No recorded EEE activity in Maine**
 - 4 WNV positive mosquito pools from York and Penobscot counties (August, September)
 - 1 WNV positive horse from York county (September)

- First WNV positive horse in Maine
- 2 WNV positive cases, travel-acquired
 - 1 adult male from Cumberland county
 - West Nile Encephalitis (neuroinvasive)
 - Symptom onset 8/8/2018, fever, headache, rash, encephalitis, weakness, ataxia, aphasia, anorexia, dizziness. Multistate travel. Hospitalized 4 days in Missouri.
 - 1 adult female from Cumberland county
 - West Nile Fever (non-neuroinvasive)
 - Symptom onset 9/11/2018, fever, headache, myalgia, arthralgia, nausea, diarrhea, thrombocytopenia, hyponatremia, tachycardia, afib. Travel to New York. Hospitalized 3 days in New York.
- 1 JCV positive case in adult female from Knox county, locally-acquired
 - Symptom onset 8/31/2018. Fever, headache, encephalitis. Travel to Florida (travel not during exposure period). Hospitalized 11 days.
 - Patient died 9/25/2018. Second JCV reported death in US.

Seropositive animals or animals with active illness have been found in 15 of Maine's 16 counties. Seropositivity does not indicate active infection.

Maine discontinued testing birds in 2006.

Memorandum of Understanding
Between
Maine Center for Disease Control and Prevention (Maine CDC),
Department of Health and Human Services,
And
Board of Pesticides Control,
Department of Agriculture, Conservation and Forestry

I. PURPOSE: The purpose of this agreement is to establish cooperation between the Maine Center for Disease Control and Prevention (Maine CDC), Department of Health and Human Services, and the Board of Pesticides Control (BPC), Department of Agriculture, Conservation, and Forestry to conduct surveillance for mosquito-borne diseases to protect public health.

II. AUTHORITY: The principal statutory authority for Maine CDC to control communicable diseases is established at 22 M.R.S.A. Chapter 250.

The principal statutory authority for the Maine Board of Pesticides Control is established at 22 M.R.S.A. Chapter 258-A.

III. GENERAL:

Maine CDC has established activities related to surveillance and control for mosquito-borne diseases. The purpose of surveillance is to describe the magnitude and characteristics of mosquito-borne disease in Maine, prevent human infection, and provide consultation and guidance on prevention and control of mosquito-borne illnesses.

The BPC conducts activities related to the use of integrated pest management, including the use of pesticides, to control and prevent mosquitos and other pests. Rules and regulations exist to ensure pesticides are used and applied appropriately.

IV. RESPONSIBILITIES:

A. The Maine Center for Disease Control and Prevention will:

1. In collaboration with partners, conduct surveillance for mosquito-borne diseases through active collection and testing activities each year.
2. Consult with the Maine State Vector Borne Disease Work Group to establish annual collection, sampling and testing procedures.
3. Publish the results of mosquito surveillance through weekly reports, health alert messages, and other communications.
4. Utilize the results of annual mosquito surveillance to inform disease response planning and interventions.

B. The Department of Agriculture, Conservation, and Forestry will:

1. Participate in the Maine State Vector Borne Disease Work Group.
2. Provide technical advice on Integrated Pest Management strategies.
3. Provide personnel to support mosquito surveillance, and planning activities in the event that mosquito control programs are deemed necessary for the protection of the public health.
4. Provide the Maine CDC financial support for annual mosquito-borne disease surveillance of at least \$25,000 annually, provided that the Department determines that sufficient funding is available for such purposes.

V. AGREEMENT AND ADMINISTRATION:

A. Management:

1. Effective date: The provisions contained within this MOU are effective beginning on the date of the last signature and shall expire on June 30, 2019.
2. Review: No amendment to this agreement shall be effective unless in writing and signed by both parties.
3. Termination: This agreement may be terminated at any time by written agreement of the parties, or by either party upon the provision of written notice to the other party at least thirty (30) days prior to termination.

B. Point of Contact:

1. Board of Pesticides Control, Department of Agriculture, Conservation, and Forestry, Board of Pesticides Control
Henry Jennings
Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028
Phone: 207-287-2731
Email: henry.jennings@maine.gov

2. Maine Center for Disease Control and Prevention, Department of Health and Human Services

Lori Wolanski MPH

Maine CDC

Division of Infectious Disease

286 Water Street,

11 State House Station

Augusta, ME 04330-0011

Phone: 207-287-6448 (desk) or 1-800-821-5821 (24-hour disease reporting line)

Email: lori.wolanski@maine.gov

Signatures:

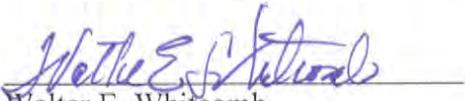
Department of Health & Human Services:



Mary C. Mayhew
Commissioner

Date: 6/18/14

Department of Agriculture, Conservation, and Forestry:



Walter E. Whitcomb
Commissioner

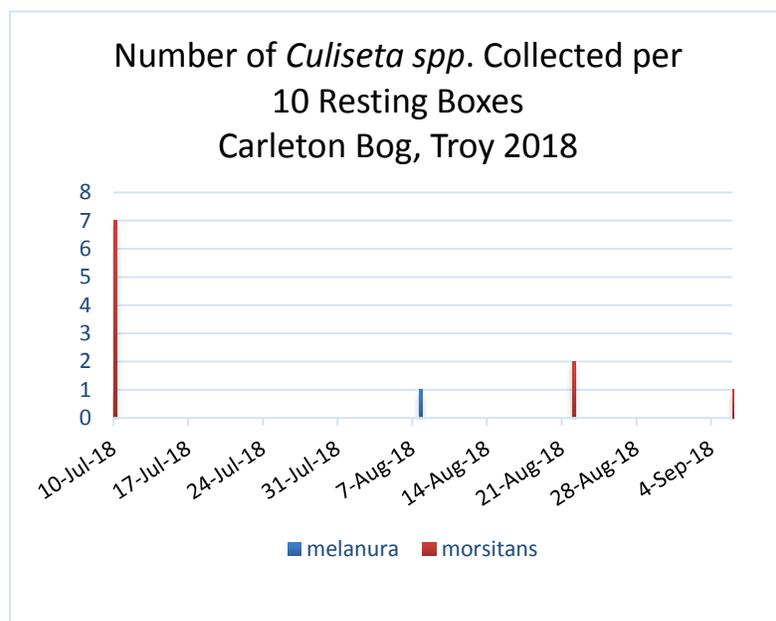
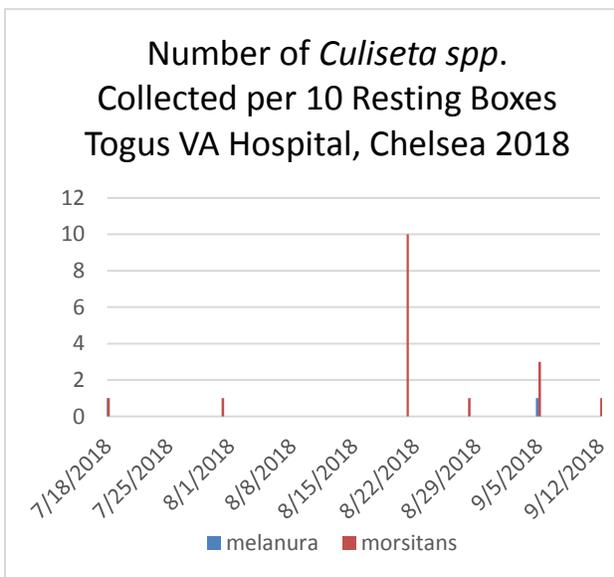
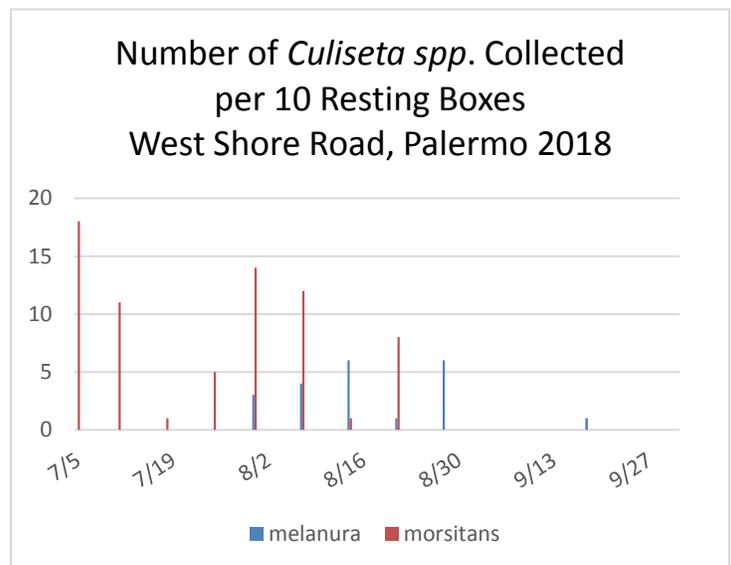
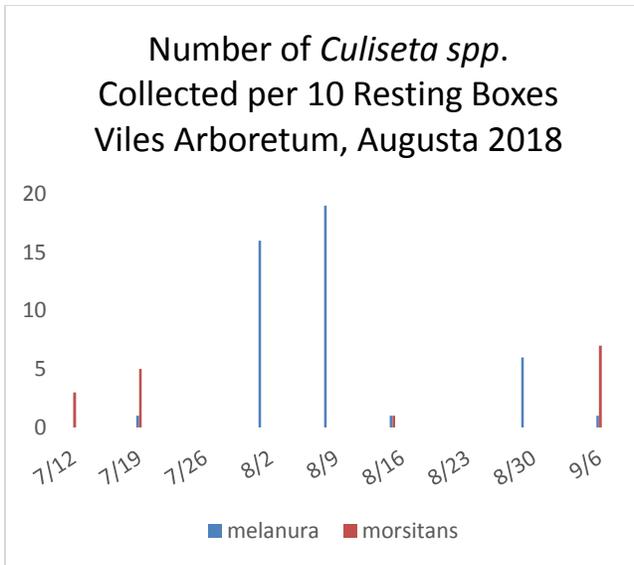
Date: 6/24/14

Results of Mosquito Monitoring Conducted by Maine Department of Agriculture, Conservation and Forestry IPM Program- 2018

Two types of traps were used. At each site 10 resting boxes and/or one CO2-baited CDC mini light trap was deployed. Traps were deployed at 10 sites:

Town	County	State	Trap Type(s)
Palermo	Waldo	Maine	RB (Resting Boxes)
Windsor	Kennebec	Maine	RB
Troy	Waldo	Maine	LT (Light Trap)
Chelsea	Kennebec	Maine	RB
Augusta	Kennebec	Maine	RB+LT (both)
Farmingdale	Kennebec	Maine	RB+LT
Unity Plantation	Kennebec	Maine	RB
Troy	Waldo	Maine	RB
Farmington	Franklin	Maine	LT
Belgrade	Kennebec	Maine	LT

- Mosquitoes collected, sorted, identified and submitted for disease testing at State of Maine Health and Environmental Testing Laboratory (HETL) weekly from 7/05/18 through 9/28/18. None of the samples were found to be positive for West Nile Virus, Eastern equine encephalitis virus or Zika virus in 2018.
- Labor: summer temporary staff member (Hailey Mealey): 131 hrs (@\$17.22/hr = \$2253; included salary plus temp agency service fee). In addition, DACF entomologist, Kathy Murray contributed approximately 100 hours to train and supervise Hailey, deploy traps and service 3 sites in the Unity/Troy area weekly for the entire season, service all 10 sites each week for the last 4 weeks of the field season, and to collect all traps from the field at the end of the season.
- Resting boxes are used to collect primarily *Culiseta spp.* mosquitoes, which are important vectors of EEE. The highest numbers of *Culiseta spp.* were found at four of the ten sites we monitored. The numbers of *Culiseta spp.* collected at each weekly visit from July 1 through Sept 31st 2018, from the 10 resting boxes deployed at each of these four sites, are shown below. Note: Although mosquitoes were monitored at all sites July 1-Sept 31, only *Culiseta spp.* data from the first detection of the season through the last are shown for each site.



Request to BPC for funding to support 2019 DACF mosquito surveillance

10 sites

Item	rate	salary plus temp staffing fee	hours (20hrs/wk *15 wks)	total \$
summer field and lab assistant	\$14.50/hr	17.255	300	\$5,176.50
mileage	100 miles/week x 12 weeks @0.45/mi			\$540.00
supplies (co2)	\$55/week x 12 weeks			\$660.00
total				\$6,376.50



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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

To: Board of Pesticides Control Members
From: Mary Tomlinson, Pesticides Registrar/Water Quality Specialist
Pam Bryer, Toxicologist
RE: Water Quality Monitoring Proposals: 2019 Surface Water and Sediment Monitoring Projects
Date: February 26, 2019

Background

The Board of Pesticides Control (BPC) surface monitoring program is rooted in statute and past precedent.

Under 7 M.R.S. §607-A. REVIEW OR REREGISTRATION 2-A, “The board shall conduct a water residue survey at least once every 6 years to establish a representative sample of a number of wells or bodies of water, selected at random, in areas of possible contamination or at other locations to be described by the board, for the purpose of testing these waters and preparing a profile of the kinds and amounts of pesticides present.
[2005, c. 620, §7 (NEW) .]”

The board has a history of monitoring surface water and sediment for pesticides that are prone to contaminate water bodies and underlying sediment via run-off. Past studies included: monitoring for blueberry pesticides in the Salmon, Pleasant, and Naraguagus Rivers; corn herbicides; potato herbicides; railroad rights-of-way pesticides in lakes bordering railroad tracks; browntail moth monitoring and urban watershed monitoring.

Past results of these studies indicate that pesticide contamination does occur in surface water due to runoff from agricultural and urban landscapes. Exceedances of maximum contaminate levels (MCLs), Lifetime Health Advisory Levels (HALs), Maine Maximum Exposure Guidelines (MEGs), or Aquatic Life Benchmarks (ALB) for atrazine, metribuzen, chlothalonil, and imidacloprid did occur at some sites after storm events. Bifenthrin is frequently in sediment samples collected in urban areas.

The surface water monitoring program is as critical as the groundwater monitoring program in identifying and addressing emerging contaminants in the state. Sampling results have been used in educational outreach to promote identification of best management practices to reduce groundwater contamination.

Two surface water studies are proposed for 2019 and will run concurrently. The estimated cost for both projects is \$68,760.

MEGAN PATTERSON, DIRECTOR
32 BLOSSOM LANE, MARQUARDT BUILDING



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

Project 1: 2019 Penobscot Bay Study

This study is a follow up to the study conducted in September 2018.

Study Objectives

The objectives of this study are to:

- Assess the occurrence of pesticides in surface water and sediment after spring applications of pesticides.
- Compare spring and late fall results for evidence of variation in occurrence and concentration.

Sampling Plan

- The eight 2018 sampling sites will be re-sampled in June for surface water and sediment.
- One surface water grab sample and one sediment sample will be collected at each site.
- One Polar Organic Chemical Integrative Sampler (POCIS) will be deployed by the Maine Maritime Academy at an accessible site in the Bagaduce River near Castine.
- One surface water field duplicate, one surface water field blank, and one sediment field duplicate will be collected for quality control and quality assurance purposes. The number of duplicates and blanks are typically collected on a 5% basis.
- Water and sediment samples will be shipped to Montana Analytical Laboratory for pesticide analysis. The laboratory is accredited and has a current Quality Assurance Project Plan (QAPP) which is required by the Environmental Protection Agency (EPA) as part of the Cooperative Agreement between the EPA and Maine.
- Sediment samples will also be shipped to the University of Maine Analytical Laboratory for total organic carbon and particle size analysis.
- The analysis method employed for sediment samples will be the Montana Department of Agriculture “Universal Method for the Determination of Polar Pesticides in Water Using Solid Phase Extraction and Liquid Chromatography/Mass Spectrometry/ Mass Spectrometry” and analyzes for 102 pesticides.
- The analysis method employed for sediment samples will be the Montana Department of Agriculture, PYR_SI, Revision 2: January, 2014 “Determination of Pyrethroids in Sediment Using Solid Phase Extraction and GC/MS/NCI and /or GC/MS/MS E1.

Estimated Project Cost

The estimated cost for analysis, shipping, and materials is \$12,750. Montana Analytical Laboratory offers a 20% discount on six or more samples shipped in a batch. There will likely be some overlap with the Ten Cities Project in Bangor which will slightly reduce the cost of this project.

Projected Costs for Proposal

	Item	Number	Total Cost (\$)
Analysis	Water/sediment pesticide analysis	18	9450
	Passive sampler analysis (includes laboratory validation experiment)	4	1500
	Particle size/total organic carbon analysis	9	675
Materials	Sediment sample containers/supplies	22	55
Shipping	Shipping to Montana	22	1070
Estimated project total			12750

Project 2: 2019 Ten Cities Project

The objectives of this study are to:

- Assess the occurrence of pesticides in surface water and sediment in urban waters along a population gradient of the 10 largest Maine cities.
- Establish the feasibility of implementing passive sampling techniques for future BPC water quality sampling by comparing passive sampling results to our traditional grab samples.
- Establish a baseline for future trend studies of pesticide contamination in urban waters of Maine's ten largest cities.

Sampling Plan

- Urban waters flowing through the ten largest Maine cities by population size will be selected.
- One Polar Organic Chemical Integrative Sampler (POCIS) will be deployed in June at an accessible site in each river downstream of each city.
- Three surface water grab samples will be collected at the POCIS sample site: one at deployment of the POCIS, one at two weeks after deployment, and one at recovery.
- One sediment sample will be collected at the POCIS sample site at recovery of the POCIS.
- Two additional surface water grab samples will be collected upstream in major tributaries as close to the river as possible two weeks after deployment of the sampler.
- Two surface water field duplicates, two surface water field blanks, and one sediment field duplicate will be collected for quality control and quality assurance purposes. The number of duplicates and blanks collected are typically equivalent to five percent of the total number of samples collected.
- Water and sediment samples will be shipped to Montana Analytical Laboratory for pesticide analysis. The laboratory is accredited and has a current Quality Assurance Project Plan (QAPP) which is required by the Environmental Protection Agency (EPA) as part of the Cooperative Agreement between the EPA and Maine.
- Sediment samples will also be shipped to the University of Maine Analytical Laboratory for total organic carbon and particle size analysis.
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- The analysis method employed for sediment samples will be the Montana Department of Agriculture, PYR_SI, Revision 2: January, 2014 "Determination of Pyrethroids in Sediment Using Solid Phase Extraction and GC/MS/NCI and /or GC/MS/MS E1.

Estimated Project Cost

The estimated cost for analysis, shipping, equipment, and materials is \$56,010. Montana Analytical Laboratory offers a 20% discount on six or more samples shipped in a batch.

Projected Costs for Proposal

	Item	Number	Cost (\$)	Total Cost (\$)
Analysis	Water/sediment pesticide analysis	65	27100	46625
	Passive sampler analysis (includes laboratory validation experiment)	44	18700	
	Particle size/total organic carbon analysis	11	825	
Equipment/Materials	POCIS with SPMD	10	5680	8285
	POCIS & SPMD membranes	20	2550	
	Sediment sample containers/supplies		55	
Shipping	Shipping to Montana		1255	1100
Estimated project total				56,010



AgMatters LLC

Linda Titus

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November 12, 2018

To the Honorable Members of the Board of Pesticide Control,

I work with hundreds of Maine growers of Specialty Crops with food safety, GAP audits, and the Produce Safety Rule.

I myself do not have a pesticide license, however part of my work involves educating growers about the laws of Maine and FSMA's Produce Safety Rule. I stumbled upon the fact that Maine's Chapters 10 and 50 require growers to document their use of sanitizers for maintaining the quality of wash water and for cleaning food contact surfaces.

This has come as a surprise to many people, including state food inspectors. A restaurant might use the same sanitizer to wash their produce and food contact surfaces and not have to document use. However if you are a farmer, you do.

I understand that there always exists the option of conducting rulemaking to change the applicability of these regulations and that you are about to conduct rulemaking which will require the opening of Chapter 50 as well as Chapter 10 **and I would like to begin that process.**

The Board of Pesticides Control's regulations are clear about record keeping for pesticides (including sanitizers) used by commercial agricultural producers. If soap is not registered in Maine as a pesticide, its use in routine cleaning would not need to be included in pesticide use records.

I believe there is some confusion because certain uses do not require licensing.

1. BPC issued a policy in 2014 pertaining to agricultural uses of pesticides which states:

For the purpose of determining the requirement for a private applicator of general use pesticide license (Agricultural Basic) per 22 MRS 1471-D (2-D), "food production" will include treatments beginning with the growing media

and ending when the plant or plant product is transferred out of the grower's control.

This includes, but is not limited to:

- *soil or other growing medium applications*
- *seed treatments*
- *foliar or root treatments*
- *soil, root or stem injections*
- *smoke, mist, fumigant or total release fogger applications to greenhouses or hoop houses, when food plants are present*
- *post-harvest treatments, such as dips, fumigation, produce rinsing with a disinfectant, etc.*

Therefore the agricultural use of sanitizers on containers, benches and other surfaces, in and of themselves, would not require a license. However, under this policy, use of sanitizers for post-harvest treatment would require, at minimum, an agricultural basic license.

2. BPC Chapter 10 includes the following language, pertaining solely to commercial applicators, which may have caused further confusion:

Ch 10 §2(I) "*Commercial applicator*" means any person, unless exempted in I(4) hereunder, whether or not the person is a private applicator with respect to some uses, who:

(4) The following classes of applicators are exempt from commercial certification/licensing requirements. Applications not listed below must be performed under the direct on-site supervision of a licensed commercial applicator Master and/or Operator.

(b) Persons applying general use antimicrobial products by hand or with non-powered equipment to interior or exterior surfaces and furnishings of buildings during the course of routine cleaning procedures.

This language provides the exemption that allows restaurants, kitchens, delis, etc. to conduct routine cleaning (possibly using sanitizers and disinfectants) without needing to employ licensed commercial applicators to do so.

3. BPC Chapter 10 also includes definitions for agricultural pesticide application and commercial agricultural producer, which helps explain the applicability of Chapter 50 record keeping requirements.

Ch 10 § 2(B) "*Agricultural pesticide application*" means any application of a pesticide upon an agricultural commodity which is performed by or for a commercial agricultural producer.

Ch 10 § 2(H) *“Commercial agricultural producer” means, for the purposes of Chapter 50, any person who produces an agricultural commodity for commercial purposes.*

4. Chapter 50 describes *the types of records and reports which commercial applicators, commercial agricultural producers, limited/restricted use pesticide dealers, spray contracting firms and monitors must maintain and submit to the Board.*

Ch 50 §1(A)(I) *Commercial agricultural producers and commercial applicators shall maintain pesticide application records consistent with paragraph II below for a period of two years from the date of application.*

(II) Pesticide application records shall include, at a minimum:

- a. Site information including town and location, crop or site treated, target organism, customer (where applicable); and*
- i. for broadcast applications, size of treated area (when completed);*
 - ii. for volumetric applications as described on the label, the volume treated;*
 - iii. for non-broadcast applications (such as spot treatments, crack and crevice or stump treatments) a practical description of the scope or extent of the application (such as number of trees, stumps or rooms treated).*
- b. Application information. For each distinct site, records must include date and time of application(s), brand name of pesticide(s) applied, EPA registration number(s), active ingredient(s), restricted entry interval(s) and/or ventilation period(s) (where applicable), method of application (type of equipment), dilution agent(s) (other than water), the applicator's name and certification number (where applicable) and spray contracting firm (where applicable).*
- c. Rate information. For each distinct site, application rate information must be maintained as follows:*
- i. Restricted Use Pesticides. For restricted use pesticides, applicators shall record the total amount of pesticide applied (undiluted).*
 - ii. General Use Pesticides. For general use pesticides, applicators shall record:*
 - (1) rate information as described in (i.) above; or*
 - (2) the mix ratio and the total mix applied; or*

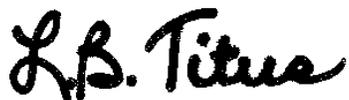
(3) *the mix ratio and the mix per unit area applied.*

The definition of commercial agricultural producer in Ch 10 and the summary of applicability in Ch 50 make no reference to licensure requirements. Further, they do not specifically exempt certain types of applications made to agricultural commodities. So, even if the agricultural producer was not required, for some reason, to hold an agricultural basic license—they would still be required to record the use of sanitizers for post-harvest treatment.

I have spoken to Maine Organic Farmers and Gardeners Association, the Maine Vegetable and Small Fruit Growers and some Pomological Society members and they have expressed interest in supporting this change. I realize the process make take as long as a year. Please let me know next steps and I will follow through.

Lastly, I wish to acknowledge Megan Patterson's assistance with pulling this information together.

Sincerely,

A handwritten signature in black ink that reads "L.B. Titus". The letters are cursive and fluid, with a prominent loop on the "L" and a long tail on the "s".

CC: Lisa Turner, President of MVSFGA
Dave Colson, MOFGA
Joel Gilbert, Maine Pomological Society
Ellen MacAdam, Orchardist
Marilyn Meyerhans, Orchardist



PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER E. WHITCOMB
COMMISSIONER

HENRY S. JENNINGS
DIRECTOR

**MAINE BOARD OF PESTICIDES CONTROL POLICY RELATING TO THE INTERPRETATION
OF “FOOD PRODUCTION” AS IT RELATES TO THE AGRICULTURAL BASIC PESTICIDE
LICENSE**

ADOPTED AUGUST 8, 2014

BACKGROUND

The term “food production” is an important term used in the statute (*excerpt below*) that requires a “private applicator of general use pesticides” to obtain a license (referred to as an “Agricultural Basic” pesticide applicator license) 22 MRS § 1471-D (2-D):

2-D. (TEXT EFFECTIVE 4/1/15) Certification required; private applicator of general use pesticides for food production. A private applicator of general use pesticides may not use or supervise the use of general use pesticides for food production without prior certification from the board, except that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator. Additional certification under this section is not required for a person certified as a commercial applicator or a private applicator under subsection 1 or 2, respectively.

Some growers have asked for clarification as to whether certain practices constitute “food production” in this context, including:

- growing vegetable seedlings for sale to home gardeners
- sanitizing containers, benches or other surfaces to prepare for growing the crop
- post-harvest treatments applied directly to the food or applied to food boxes, containers or storage bins

The staff asked the Board to provide a clear interpretation of the meaning of “food production” in order to be able to consistently inform growers about which practices require an Agricultural Basic license. The Board had a lengthy discussion at its June 27, 2014, meeting and agreed on the policy below.

POLICY

For the purpose of determining the requirement for a private applicator of general use pesticide license (Agricultural Basic) per 22 MRS 1471-D (2-D), “food production” will include treatments beginning with the growing media and ending when the plant or plant product is transferred out of the grower’s control.

This includes, but is not limited to:

- soil or other growing medium applications
- seed treatments
- foliar or root treatments
- soil, root or stem injections
- smoke, mist, fumigant or total release fogger applications to greenhouses or hoop houses, when food plants are present
- post-harvest treatments, such as dips, fumigation, produce rinsing with a disinfectant, etc.

MONTANA UNIVERSAL PESTICIDE ANALYSIS (WATER)
JUNE 2018

Compound	Reporting Limit ppb (ng/mL)
2,4-D	0.0090
Acetochlor	0.14
Acetochlor ESA	0.020
Acetochlor OA	0.0084
Alachlor ESA	0.044
Alachlor OA	0.0068
Alachlor	0.11
AMBA (mesotrione metab)	0.021
Aminocyclopyrachlor	0.025
Aminopyralid	0.030
Atrazine	0.0022
Azoxystrobin	0.0052
Bentazon	0.0022
Bromacil	0.0041
Bromoxynil	0.012
Carbaryl	0.014
Chlorpyrifos	0.060
Chlorsulfuron	0.0056
Clodinafop-propargyl acid	0.013
Clopyralid	0.088
Clothianidin	0.016
DEA	0.0017
DEDIA	0.10
DIA	0.040
Dicamba	0.88
Difenoconazole	0.011
Dimethenamid	0.0060
Dimethenamid OA	0.0072
Dimethoate	0.0022
Diuron	0.0053
Disulfoton sulfone	0.0067
FDAT	0.0051
Fipronil	0.0024
Fipronil desulfinyl	0.14
Fipronil sulfide	0.080
Fipronil Sulfone	0.040
Flucarbazone	0.0024
Flucarbazone sulfonamide	0.0039
Flumetsulam	0.029

Compound	Reporting Limit ppb (ng/mL)
Flupyradifurone	0.045
Fluroxypyr	0.035
Glutaric acid	0.030
HA	0.0040
Halosulfuron methyl	0.010
Hexazinone	0.0015
Imazamethabenz acid	0.0025
Imazamethabenz ester	0.0010
Imazamox	0.0057
Imazapic	0.0030
Imazapyr	0.0035
Imazethapyr	0.0040
Imidacloprid	0.0018
Indaziflam	0.0020
Isoxaben	0.0030
Isoxaflutole	0.13
Malathion	0.028
Malathion oxon	0.0024
MCPA	0.0046
MCPP	0.0044
Metalaxyl	0.0035
Methomyl	0.0063
Methoxyfenozide	0.010
Metolachlor	0.024
Metolachlor ESA	0.0050
Metolachlor OA	0.042
Metsulfuron methyl	0.010
Nicosulfuron	0.011
NOA 407854	0.0052
NOA 447204	0.020
Norflurazon	0.020
Norflurazon desmethyl	0.020
Oxamyl	0.0098
Parathion methyl oxon	0.012
Phorate sulfone	0.024
Phorate sulfoxide	0.0030
Picloram	0.28
Picoxystrobin	0.0075
Prometon	0.0010

Compound	Reporting Limit ppb (ng/mL)
Propiconazole	0.010
Prosulfuron	0.0050
Pyrasulfotole	0.020
Pyroxsulam	0.013
Saflufenacil	0.010
Simazine	0.0026
Sulfentrazone	0.035
Sulfometuron methyl	0.0025
Sulfosulfuron	0.0054
Tebuconazole	0.014
Tebuthiuron	0.0011
Tembotrione	0.073
Terbacil	0.0048
Terbufos sulfone	0.011
Tetraconazole	0.0039
Thiamethoxam	0.020
Thiencarbazone methyl	0.040
Thifensulfuron	0.022
Tralkoxydim	0.0051
Tralkoxydim acid	0.0050
Triallate	0.30
Triasulfuron	0.0055
Triclopyr	0.0220
Trifloxystrobin	0.020

MONTANA PYRETHROID ANALYTE LIST (SEDIMENT)
JUNE 2018

Compound	Reporting Limit ppb (ng/g)
Allethrin	0.2
Bifenthrin	0.045
Cyfluthrin	0.20
Cyhalothrin, Total	0.27
Cypermethrin	0.20
Deltamethrin	0.40
Fenpropathrin	0.20
Fenvalerate	0.13
cis-Permethrin	0.20
trans-Permethrin	0.20
Phenothrin	2.0
Piperonyl butoxide	2.0
Prallethrin	0.20
Resmethrin	2.0
Tetramethrin	0.14



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 643

H.P. 464

House of Representatives, February 7, 2019

An Act To Provide Funding to Municipalities Severely Affected by Pest Infestations

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative TEPLER of Topsham.
Cosponsored by Senator BREEN of Cumberland and
Representatives: BERRY of Bowdoinham, DAUGHTRY of Brunswick, HEPLER of
Woolwich, McCREIGHT of Harpswell, O'NEIL of Saco, PIERCE of Falmouth, TUCKER of
Brunswick.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 7 MRSA c. 6-B** is enacted to read:

3 **CHAPTER 6-B**

4 **MANAGEMENT OF HARMFUL PESTS**

5 **§181. Harmful pest management; identification**

6 **1. Harmful pest identification.** The commissioner, in consultation with the State
7 Entomologist, shall identify pests, such as insects and arachnids, including, but not
8 limited to, browntail moths and ticks, that are prevalent in this State and pose a risk of
9 significant harm to human health, referred to in this chapter as "harmful pests."

10 **2. Harmful pest management.** The commissioner, in consultation with the State
11 Entomologist, may undertake measures determined appropriate by the commissioner to
12 manage harmful pests, including the prevention of breeding of harmful pests. In
13 undertaking management of harmful pests pursuant to this section, the commissioner may
14 contract with an entity outside the department for these services but any activities must be
15 conducted using a combination of the lowest-risk, most effective, science-based
16 management techniques and technology.

17 **§182. Maine Harmful Pest Management Fund**

18 **1. Fund established.** The Maine Harmful Pest Management Fund, referred to in this
19 section as "the fund," is established to carry out the purposes of this chapter. The fund
20 consists of any money received as contributions, grants or appropriations from private
21 and public sources.

22 **2. Purposes.** The department may expend the money available in the fund to
23 municipalities designated by the State Entomologist as being severely infested with
24 harmful pests. A municipality may not receive more than \$50,000 from the fund. A
25 municipality provided funds under this subsection shall use:

26 **A.** Seventy-five percent of the funding to mitigate infestation of residential
27 properties in the municipality where persons with health conditions that can be
28 exacerbated by the infestation reside and who are unable to pay for treatment of the
29 infestation; and

30 **B.** Twenty-five percent of the funding to mitigate infestation of publicly owned
31 properties in the municipality.

32 **3. Administration.** The fund, to be accounted for within the department, must be
33 held separate and apart from all other money, funds and accounts. Any balance
34 remaining in the fund at the end of a fiscal year does not lapse but must be carried
35 forward to the next fiscal year. The State Entomologist shall administer the fund
36 allocations.

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§183. Rules

The department shall adopt routine technical rules pursuant to Title 5, chapter 375, subchapter 2-A necessary to administer and enforce this chapter.

Sec. 2. Appropriations and allocations. The following appropriations and allocations are made.

**AGRICULTURE, CONSERVATION AND FORESTRY, DEPARTMENT OF
Maine Harmful Pest Management Fund N236**

Initiative: Provides one-time funding to the Maine Harmful Pest Management Fund within the Department of Agriculture, Conservation and Forestry to be used in mitigating infestations of harmful pests, such as browntail moth caterpillars and ticks.

GENERAL FUND	2018-19	2019-20
All Other	\$500,000	\$0
GENERAL FUND TOTAL	<u>\$500,000</u>	<u>\$0</u>

SUMMARY

This bill authorizes the Commissioner of Health and Human Services, in consultation with the State Entomologist, to identify pests, such as browntail moths and ticks, in this State that pose a risk of significant harm to human health, and to undertake measures to manage those pests.

The bill also establishes the Maine Harmful Pest Management Fund to provide funds to municipalities severely infested with harmful pests, to be used in mitigating the infestations. It also provides \$500,000 to the fund.



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 785

S.P. 229

In Senate, February 12, 2019

Resolve, Directing the Board of Pesticides Control To Educate the Public on the Proper Use of Pesticides and To Promote Integrated Pest Management

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BLACK of Franklin.

Cosponsored by Representative DUNPHY of Old Town and

Senators: DAVIS of Piscataquis, TIMBERLAKE of Androscoggin, Representatives: HALL of Wilton, KINNEY of Knox, PLUECKER of Warren, SKOLFIELD of Weld.



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 796

H.P. 584

House of Representatives, February 12, 2019

**An Act To Reestablish the Department of Agriculture, Food and
Rural Resources and the Department of Conservation**

(EMERGENCY)

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "R. B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative HICKMAN of Winthrop.
Cosponsored by Senator BLACK of Franklin and
Representative: DUNPHY of Old Town.



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 889

S.P. 255

In Senate, February 19, 2019

**An Act To Require the Labeling of Foods Made with
Nanotechnology**

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator CHIPMAN of Cumberland. (BY REQUEST)
Cosponsored by Senator: DESCHAMBAULT of York, Representatives: FOLEY of Biddeford,
MAXMIN of Nobleboro, McCREA of Fort Fairfield, O'NEIL of Saco, PLUECKER of
Warren, ROBERTS-LOVELL of South Berwick.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 7 MRSA c. 101, sub-c. 8** is enacted to read:

3 **SUBCHAPTER 8**

4 **LABELS FOR FOOD OR FOOD PRODUCTS MADE WITH**
5 **NANOTECHNOLOGY**

6 **§530-B. Labels for food or food products made with nanotechnology**

7 **1. Definitions.** As used in this section, unless the context otherwise indicates, the
8 following terms have the following meanings.

9 A. "Nanotechnology" means technology to control matter with dimensions of less
10 than 100 nanometers, especially the manipulation of individual atoms and molecules.

11 **2. Labeling required.** A label must be placed on any food or food product offered
12 for sale in the State made with the use of nanotechnology. The label must:

13 A. Contain a clear and concise statement that discloses the use of nanotechnology in
14 production of the food or food product; and

15 B. Be conspicuously and prominently placed in order to be easily seen by the
16 consumer.

17 **3. Enforcement.** If inspection personnel of the department find that food or a food
18 product is not properly labeled as required by this section, the commissioner shall issue a
19 stop order for the food or food product until it is labeled in accordance with this section.

20 The department shall adopt rules implementing this section. Rules adopted pursuant
21 to this paragraph are routine technical rules as defined in Title 5, chapter 375, subchapter
22 2-A.

23 **SUMMARY**

24 This bill requires that a label be placed on any food or food product offered for sale in
25 the State made with the use of nanotechnology. Nanotechnology is the branch of
26 technology concerned with the control of matter with dimensions of less than 100
27 nanometers, especially the manipulation of individual atoms and molecules.



129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 908

H.P. 672

House of Representatives, February 19, 2019

**An Act To Require Schools To Submit Pest Management Activity
Logs and Inspection Results to the Board of Pesticides Control for
the Purpose of Providing Information to the Public**

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

A handwritten signature in cursive script that reads "R B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative DAUGHTRY of Brunswick.
Cosponsored by Senator MILLETT of Cumberland and
Representatives: BEEBE-CENTER of Rockland, BERRY of Bowdoinham, DUNPHY of Old
Town, HICKMAN of Winthrop, McCREIGHT of Harpswell, O'NEIL of Saco, TEPLER of
Topsham, TIPPING of Orono.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 22 MRSA §1471-CC** is enacted to read:

3 **§1471-CC. School pesticide data collection; public posting**

4 A school shall maintain and provide to the board by January 15th of each year a pest
5 management activity log for the previous calendar year that includes a list of pesticide
6 applications on school property. The log must include the date and location of each
7 application, the species of pest being managed, the trade name of the pesticide applied,
8 the United States Environmental Protection Agency registration number if the pesticide is
9 subject to registration, the name and license or certification number of the applicator and
10 other pertinent information required by the board by rule to be included in the log.

11 The board shall post on its publicly accessible website all information provided by
12 each school under this section. The board shall also post and maintain on its publicly
13 accessible website a current list of all board inspections of pesticide use by each school
14 and the results of those inspections.

15 For purposes of this section, "school" means a public, private or tribally funded
16 kindergarten, elementary school, secondary school or nursery school that is part of an
17 elementary or secondary school.

18 **SUMMARY**

19 This bill establishes in law certain requirements of the Department of Agriculture,
20 Conservation and Forestry, Board of Pesticides Control related to pest management on
21 school property. It requires a school to maintain a pest management activity log related
22 to the application of pesticides. It requires this information to be provided annually to the
23 board and requires the board to post the information on its publicly accessible website. It
24 also requires that the board post on its publicly accessible website a list of all board
25 inspections of a school's use of pesticides and the results of those inspections.