



JANET T. MILLS
GOVERNOR

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

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

**July 24, 2020
9:00 AM**

Video conference hosted in Zoom
To join the meeting:

Web link for the Zoom meeting: <https://zoom.us/j/94976628725?pwd=b2crWGRpSTR0bXA4cmd4TkhhkbUhXdz09>
Meeting ID: 949 7662 8725
Password: 105419
Dial in phone number: 1 (312) 626-6799

MINUTES

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

1. Introductions of Board and Staff

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

2. Minutes of the June 5, 2020 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

- **Bohlen/Jemison: Moved and seconded to accept minutes as amended**
- **In Favor: Unanimous**

3. Report on Annual Funding to Maine CDC for Mosquito Monitoring

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. At the March 8, 2019 meeting Sara Robinson of the Maine CDC provided an overview of the trends and the state's monitoring program. At the April 19, 2019 meeting, the Board voted to approve funding in the amount of \$100,000 for Maine CDC's mosquito monitoring efforts. The Board will now review a report on work accomplished in the previous year and work projected for the current year.

Presentation By: Representative from Maine CDC or Maine Medical Research Institute

Action Needed: Review Work Accomplished and Approve/Disapprove Future Funding to CDC for Environmental Monitoring of Mosquitoes

- Sarah Robinson, of Maine CDC, sent a report to the Board pertaining to mosquito pools, traps, and the locations. She added that they tested 1,500 pools in 2019, which was the highest numbers in recent memory. In York County two mosquito pools were positive for Eastern Equine Encephalitis (EEE). There were no human detections of EEE.
- Robinson stated that they had to close the mosquito insectary because of the current pandemic but they were hoping to reopen in August.
- Morrill inquired whether there was an ask funding.
- Patterson stated that the Memorandum of Understanding provides \$25,000 as a minimum. She added that CDC federal funding had remained flat from last year, and the BPC had sufficient funding to support provision of additional funding for Maine CDC.
- Morrill asked if the Board was projecting decreases in funding due to COVID-19.
- Patterson replied we do not expect funding to decrease but there may be an increase in requests for funds from the department.
- Morrill asked Robinson about funding sources and where their program needed funding.
- Robinson replied that the majority of funding is from the federal CDC and with the \$25,000 grant from BPC Maine CDC could maintain the bare minimum of mosquito testing. She added that any additional monies would be used to get the insectary running and conducting pesticide resistance testing.
- Morrill stated that mosquitoes are a threat to public health and our mission as a Board coincides with this.
 - **Morrill/Granger: Moved and seconded to approve \$50,000 grant to the Maine CDC**
 - **In Favor: Unanimous**

4. Request to Extend Special Local Need [24(c)] Registration for Milestone Herbicide (Corteva Agrisciences) for Herbaceous Broadleaf Weeds and Woody Plants for Forest Site Preparation

This SLN has been requested on behalf of the Maine forest industry. Milestone Herbicide reduces competition by controlling herbaceous broadleaf weeds and woody plants, including native conifers. The industry is seeking to replace the use of glyphosate with aminopyralid. This SLN has already been approved in eleven states indicating this is no longer a local need, but rather interregional or national in scope.

Presentation By: Mary Tomlinson, Pesticides Registrar and Water Quality Specialist
Action Needed: Approve/Disapprove 24(c) Registration Request

- Ron Lemin, pesticide dealer and forest management consultant, submitted a request for control of broadleaf weeds and woody undergrowth for forest site preparation which is not on the original Milestone Herbicide label. He added that in terms of groundwater concerns they had not detected it in Maine since 2014 and that the product is approved for conifer stands in other states.
- Jemison asked how much would be applied via air versus ground applications. He added that there have been issues with items treated with Milestone Herbicide that ended up in compost that went into vegetable operations which resulted in quite a bit of damage in broadleaf vegetables.
- Lemin replied that has been the biggest concern with these pass-through products. He added that he did not know of any forest sites that are also used to graze cattle or for hay or compost production. Lemin stated he did not see a danger with the site preparation application in Maine. He added that this SLN request was strictly for site preparation, not release, so there would not be significant biomass on site.
- Jemison asked how much total acreage would be treated with Milestone.
- Lemin responded that total acreage would likely be between 4,000-5,000 if every landowner used this product instead of glyphosate. He noted that most landowners will continue to use glyphosate because it gives better control of brush and it is less expensive. Lemin added that he was just looking at it as an alternative option.
- Morrill asked if this request was to provide an alternative to use other than glyphosate largely due to public pressure.
- Lemin responded that it was.
- Morrill asked why the manufacturers left this use off the label and if there were intentions to add forestry preparation as a labelled site in the future.
- Lemin responded that he spoke with Corteva and they did not add it to the label because they felt at that point not enough testing had been done. He added that it was his understanding that Milestone was going under re-registration next year and hoped the new label would have the site on label.
 - **Morrill/Granger: Moved and seconded to approve the 24(c) registration request for two years, through until the end of the 2022 growing season**
 - **In Favor: Unanimous**

5. Review of Biological Pesticides for Treatment of Browntail Moth Near Marine Waters

On January 25, 2008, the Board adopted Section 5 of Chapter 29 which regulates the use of insecticides used to control browntail moth within 250 feet of marine waters. Section 5 limits insecticide active ingredients to those approved by the Board. At the April 19, 2019 meeting of the Board inquiries were received about active ingredients for removal from and addition to the list.

Subsequently, the staff was directed to update the list of approved active ingredients for browntail moth control. Due to the differences in performing the risk assessments biological pesticides were assess separately from conventional products. This submission provides the remainder of the active ingredients to be reviewed and focuses solely on biological pesticides. The Board will now consider the list.

Presentation By: Pam Bryer, Toxicologist

Action Needed: Review and Approve/Disapprove the Draft Policy

- Bryer stated that this was a continuation of the assessment of active ingredients allowed for the management of browntail moth near the ocean. She added that in January the Board updated the active ingredients allowed in the 50'-250' zone, and today they will be discussing allowable products in the 25'-50' zone. Bryer noted that tree injections, which are a popular application method, are always allowed in this area.
- Bryer explained to the board that the purpose of the risk assessment was to figure out the concentration of active ingredient that would be in the environment from legal use and how that would affect or cause harm to the most sensitive aquatic organisms. She looked at a total of eight potential active ingredients for use in this area and seven actives were proposed for inclusion in the revised policy. Azadirachtin was not included due to its high acute toxicity to marine organisms.
- Morrill stated that he appreciated Bryer's accurate and accessible summary.
 - **Waterman/Flewelling: Moved and seconded to revise the current policy to include the two new active ingredients**
 - **In Favor: Unanimous**

6. Proposed Minimum Standards for Live and Pre-recorded Online Recertification Courses

Due to the ongoing pandemic, in person recertification training meetings have become difficult to both host and attend. Applicators are seeking, and will likely continue to seek, alternatives to in person, live events. Board staff have developed minimum standards for online courses.

Presentation By: John Pietroski, Manager of Pesticide Programs

Action Needed: Review and Approve/Disapprove the Draft Policy

- Pietroski stated the purpose of the proposed minimum standards was to help clarify what applicators can take for online options, while also providing a method to demonstrate that attendees are engaged.
- Jemison asked if Pietroski would want visual verification of all participants if he was doing a webinar on pest management. He added that was a difficult ask and would require a second and possibly even third person monitoring these people, who are already required to pass a quiz at the end showing they paid attention to what was presented.

- Morrill agreed with Jemison regarding the visual verification and stated that he was not sure if it was realistic in a remote setting. He added that visual verification takes a lot of bandwidth on a virtual meeting. Morrill stated that we could already record entire meetings and pull a log of participants at the end, including how long they were logged in for, and asked who would be responsible for sending and correcting the quiz. He added that he did not want to make this process a hindrance during this time.
- Granger agreed with Morrill and added that in areas where internet connection is spotty the idea of a quiz seemed silly. He added that these applicators had already been licensed and therefore deemed competent, and it seemed like a quiz was overkill and superfluous.
- Patterson told the Board that this policy matched the standards set in other New England states and was created to help protect our reciprocity with these other states; not meeting this level could put our reciprocity at risk.
- There was further discussion amongst the Board regarding whether this was holding people to a higher standard than in-person recertification meetings, whether certification and licensure already deemed a person competent, and the possibility of grandfathering applicators' whose licenses were expiring this year.
- Morrill commented that he would approve additional policies but strike out section 1 subsection B and section 2 subsection C. He also recommended striking out the requirement for an email address because it is a dual entry.
- Jemison stated he would not support the policy as is because there are plenty of opportunities available for online credits. He asked who would be responsible for administering the test and that his biggest complaint was the visual verification.
- Granger commented that there are a lot of people who do not use technology and the internet connectivity in this state is nothing like it is in Massachusetts and some other New England states. He added that these changes could put his own license in jeopardy and that there are likely others in this same boat.
- Patterson stated that staff is sensitive to internet issues outside the I-95 corridor but noted that there is a strong trend toward hosting trainings online—particularly given the current pandemic.
- Bohlen stated that he does a lot of online training on many topics and was not sure there was any way to force someone to pay attention. He added that this should be about steering people towards paying attention.
- Morrill suggested and Board members agreed that this topic be tabled for now and brought back at the next Board meeting.

7. Updating the Notification Process to Facilitate Improved Communication

At the February 28, 2020 meeting of the Board, staff was directed to follow up on approaches to identifying the party responsible for notification. Staff have identified numerous ways in which the notification process could be streamlined. These approaches have been divided into two groups, those best addressed through policy and those that may

be accomplished through routine staff efforts. Two documents detailing this information have been provided for the Board's consideration.

Presentation By: Megan Patterson, Director

Action Needed: Approve/Disapprove the Proposed Policy and Approaches

- Patterson explained to the Board that she reached out to Pluecker about what other regulations could have been in place for him to have had better notification about applications being made around his property.
- Patterson added that suggestions discussed included the following:
 - waving the fee for the urban notification registry,
 - making optional the inclusion of names for adjacent landowners; just identify addresses since owners can often change,
 - producing public assistance doorhangers that could be used by applicators or those seeking notification, as well as fillable postcards that could be mailed to help facilitate notification,
 - developing web hosted fillable form for notification on our website,
 - sending email rather than a letter regarding notification so they would not have to mail anything back to us,
 - develop and deliver notification specific training to applicators.
- Jemison commented that this was a good approach and especially liked the idea that folks could sign up online.
- Flewelling asked how this would apply to agriculture.
- Patterson responded that this was for the urban notification registry and did not apply to agriculture. She added that the door hangers and the post cards could apply to agriculture to help facilitate communication between farmers and their neighbors.
- Randlett suggested staff come back with an actual policy including language that is voted on at next meeting. He also recommended that rule change be done at some point to make clear the Board was removing the fee.

8. Review of Budget

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

Presentation By: Megan Patterson, Director

Action Needed: Provide Guidance to the Staff on Board Budget Priorities

- Patterson told the Board that this reflected all expenditures of the state fiscal year 2020, which runs from July 1 to June 30. She added that they were now on state fiscal year 2021.
- Patterson reviewed available revenue with Board members.
- Morrill asked if the board could provide grants to improve educational recertification opportunities.
- Patterson replied that one consideration for recertification meetings might include public access—Board supported meetings are typically open to the public. She added that this type of grant had not occurred before, but she did not see any barrier to it.
- Morrill stated that a culmination of six to seven years’ work from Megan and Henry has allow the budget to be opened up to include the Board in decisions and opens eyes on what the overhead is at the state level.
- Morrill asked if Patterson could come back next meeting with projections.
- Patterson responded that she would bring back projections for next year as well additional expenses not budgeted for in FY 2021.

9. Water Quality Monitoring Proposal

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. Due to multiple staff vacancies, ground water monitoring work planned for 2019 was scheduled for 2020. In 2020, this work was underway and unexpectedly terminated by issues related to the ongoing pandemic. Staff will now provide a review of the work completed in 2020 and a proposal and budget for ground water monitoring work tentatively planned for 2021.

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

Action Needed: Approve/Disapprove Funding the Proposed Water Quality Projects

- Tomlinson stated that they began water sampling at the beginning of February but encountered several hurdles, the largest being COVID-19, resulting in only about 30% of samples being collected. Staff decided the best option would be to resample wells sampled this year and recontinue from there next year. Tomlinson stated that resampling would provide us with an opportunity to compare wells over two consecutive years, which we have not been able to do before.
- Tomlinson told the board that study objectives would remain the same as this year, but would also add sites associated with blueberry fields, and staff would ask residents to collect samples rather than entering the homes themselves. She added that there would be no increase in the cost for groundwater analysis, but they were anticipating and extra \$20,000 for duplicate testing.

- Tomlinson stated that the total cost would be approximately \$114,210 for approval of both projects.
 - **Jemison/Bohlen: Moved and seconded to approve both sampling projects as presented.**
 - **In Favor: Unanimous**

10. Other Old and New Business

a. Variance Permit for Taylor's Invasive Plant Control

b. Future Format for Board Meetings

- Patterson explained to the Board Microsoft Teams has been adopted by the Department for online meetings and the Board would be using it for the next meeting. Staff would be happy to help folks become familiar with the new platform.
- Morrill thanked staff for their operation during the pandemic.

11. Schedule of Future Meetings

September 18, 2020 and November 6, 2020 are proposed meeting dates.

Adjustments and/or Additional Dates?

12. Adjourn

- **Granger/Adams: Moved and seconded to adjourn at 11:55pm**
- **In Favor: Unanimous**



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BOARD OF PESTICIDES CONTROL
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JANET T. MILLS
 GOVERNOR

AMANDA E. BEAL
 COMMISSIONER

BOARD OF PESTICIDES CONTROL

Emergency Meeting

August 17, 2020
7:45 AM

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

Web link for the Microsoft Teams meeting:

[Join Microsoft Teams Meeting](#)

Dial in phone number: 1 (207) 209-4724

Conference ID: 119 200 904#

MINUTES

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: Brown, Bryer, Connors, Couture, Nelson, Patterson, Pietroski, Tomlinson, Tourtelotte

2. Proposed Limited Duration Exemption from Commercial Certification/Licensure Requirements for School Custodial Staff Applying General Use Antimicrobials with Powered Application Equipment for the Purposes of Routine Cleaning in Schools

Board staff have received numerous inquiries from concerned school custodial staff regarding the use of powered application equipment for the application of disinfectants in schools. Under current rule, these applications require a commercial applicator license. On August 6, Facilities and Transportation Directors of over forty schools convened a meeting to discuss the issue and subsequently submitted a letter to the Board requesting an exemption from the certification and licensing requirements. Due to the timing of this request, should the Board support this request, there are limited options by which exemptions could be provided. The Board will now discuss those options, possible approaches to an exemption and next steps.

Presentation By: Megan Patterson, Director

MEGAN PATTERSON, DIRECTOR
 90 BLOSSOM LANE, DEERING BUILDING



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

Action Needed: Discussion and determination on how the Board wishes to proceed with the requested exemption

- Morrill thanked everyone for joining the meeting on such short notice and asked Patterson for an overview of the situation.
- Patterson stated that the reason for the Emergency Board Meeting was to discuss an exemption for school custodial staff that were planning to apply disinfectants with powered equipment. She added that beginning a couple of weeks ago staff started receiving inquiries from the schools about using powered application equipment to apply sanitizers and disinfectants.
- Patterson explained to the Board that this type of application would require a commercial pesticide applicator license under Chapter 10, and that Chapter 27, Section 5 mandated implementing Integrated Pest Management, IPM, as well as five days notification, and posting. The IPM requirement would mean that school employees would have to monitor, identify a specific pest, and make record of it in the IPM logbook before any application could be made. Patterson stated that documentation of the IPM process seemed superfluous since the applications made pertain to the ongoing pandemic and IPM measures taken include mask wearing, hand washing, social distancing, etc. Patterson added that without exemption from Section 5 of Chapter 27, the schools would also be required to notify parents daily and postings would have to remain in place continuously.
- Patterson stated that staff would need to provide exams to issue approximately 500 commercial applicator licenses across all schools, which is not feasible as schools are already scrambling to do more with the staff they have in place. She added that the schools felt that powered application of disinfectants was an essential component of keeping students and staff safe.
- Patterson told the Board that, in an effort to provide certification training to school staff, Kathy Murray and Board staff assembled a four-hour training that was conducted live and recorded August 13. The training was meant to assist with preparation for the core and microbial management exams.
- Patterson explained to the Board that the Department had tentatively agreed to support a request to the Governor's office for an order, which appeared to be the only way to facilitate an immediate exemption.
- Randlett commented that the Board's power to create an exemption for this seemed limited by statute to only applications involving non-powered equipment. He added that the Governor's order was the safest way to go.
- Morrill asked if school employees would be required to maintain an applicator log for these applications.
- Patterson stated that they would be required to because the applications were made with powered equipment.
- Randlett counseled the Board to, if they wished, approve the concepts of the requirements and that the language could be worked out prior to submission of the request.
- Morrill asked if staff could shorten, or make more specific, the four-hour training.
- Patterson replied that she thought staff could, and added that the training would focus on topics relevant to efficacy and risk reduction such as dwell time, application equipment, restricted entry intervals, the caustic nature of the pesticides, respiratory hazards, etc. Patterson stated that the exemption would not allow applications to be made when people were present.

- Jemison asked how many products they could use and the possible adverse reactions, especially between bleach and ammonia products.
- Patterson responded that that piece of the training was very important and added that she thought most schools were adopting one product to use. She added that EPA was now evaluating products for use with powered application equipment.
- Patterson told the Board that a restriction was added to the proposed exemption for Board consideration. She stated that it limited school employees to only using products registered by both EPA and Maine, and also only products labelled for use with powered application equipment.
- Waterman commented that this made sense and advocated that the Board not let the perfect be the enemy of the good. He added with time and resources of course we would want everyone to be licensed but that it is not feasible at this point in time.
- Granger stated that he was in total support of what had been discussed so far.
- Adams asked about Chapter 27, Section 5 and if school employees would be required to identify the pest and prove it was there before making an application.
- Patterson responded that was a piece she was proposing to exempt for this virus since it presented a demonstrated public health risk.
- Patterson asked the Board how long the duration of the exemption should be.
- Randlett recommended that the exemption end date should be made consistent with the Governor's emergency order for COVID-19.

- **Morrill/Jemison: Moved and seconded to authorize staff to put forward a request to the Governor's office for an emergency order to create an exemption for unlicensed school staff to use powered equipment and an exemption from Chapter 27, Section 5**
- **In Favor: Unanimous**

3. Adjourn

- **Jemison/Granger: Moved and seconded to adjourn at 8:12am**
- **In Favor: Unanimous**