



PAUL R. LEPAGE  
GOVERNOR

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

WALTER E. WHITCOMB  
COMMISSIONER

**BOARD OF PESTICIDES CONTROL**

**July 13, 2018  
9:00 AM**

Room 118 Marquardt Building  
32 Blossom Lane, Augusta, Maine

**AGENDA**

1. Introductions of Board and Staff
2. Minutes of the April 6, 2018, May 18, 2018, and June 1, 2018 Board Meetings

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

3. Review of Pesticide Sign for Self-Service Areas

BPC Chapter 26 Section 7 requires that pesticide self-service sales areas include a “Board approved sign informing the public where to obtain additional information.” At the May 18, 2018 meeting the Board discussed some draft versions of an updated sign and asked the staff to provide additional drafts. The Board will now discuss and provide guidance to the staff on the revisions.

Presentation by: Amanda Couture, Certification and Licensing Specialist

Action Needed: Approve and/or Amend Proposed Sign

4. State Plan with EPA

Since 1974, the Maine Department of Agriculture has been receiving funds from EPA in the form of a program partnership grant. This money supports the regulation of pesticide use in the state. Upon origination of this partnership, a “Plan for Certification of Pesticide Applicators” was developed. It is now necessary to revisit and revise this document, in part

to incorporate federal changes to the section of FIFRA pertaining to certification and training rules. The most recent version of the plan is provided for consideration.

Presentation By: Megan Patterson, Director

Action Needed: None, Informational Only

5. Review of Website

The Board's website contains a lot of very helpful information, but it can be difficult to navigate. The Board will now be given an overview of the website and some of the information available thereon.

Presentation by: Anne Chamberlain, Policy and Regulations Specialist

Action Needed: None, Informational Only

6. Annual Report to the Eastern Plant Board

The Division of Plant Health provides an annual report to the Eastern Plant Board. This report summarizes program-wide outreach, education, licensing, enforcement, and regulatory development. A portion of pesticide registration fees are used to support these efforts. The most recent report is provided for review.

Presentation By: Ann Gibbs, Director, Animal and Plant Health

Action Needed: None, Informational Only

7. Consideration of Consent Agreement with Roof Cleaning Solutions of Oakland

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involves the application of a pesticide by an unlicensed individual and in a manner inconsistent with the product labeling.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

8. Consideration of Consent Agreement with Witherly's Green House & Garden Center of Hermon

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a

willingness to pay a fine to resolve the matter. This case involves the sale of unregistered pesticides.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

9. Correspondence

- a. Email from Melissa Gugliotti re South Portland Pesticide Ordinance
- b. Letter from Mark Aranson, MD to Willian Shane, Town Manager, Cumberland re Brown Tail Moth Infestation

10. Other Items of Interest

- a. Variance permit issued to Ron Lemin, Jr. for control of Japan.se barberry and honeysuckle on Nautilus Island in Castine Harbor.
- b. Variance permit issued to Acadia National Park for control of several invasive plants at multiple locations within the park.
- c. Variance permit issued to Andrew Powers for control of invasive plants in Cape Elizabeth.
- d. Variance permit issued to the Town of Newport for control of poison ivy along the Durham Bridge.
- e. FAA Presentation at Pre-SIFREG Meeting May 15, 2018

11. Schedule of Future Meetings

Wednesday, August 15, 2018 the Board will meet at Laudholm Farm in Wells. The Board will hear presentations on tick management and invasive plant control beginning at 9:00 am. These will take place outdoors, so dress appropriately. The Board meeting will begin at 2:00 pm. Directions and details about lunch will be sent via email.

The Board also indicated an interest in having a Public Information Gathering Session in the fall but a date was not determined. The Board will decide whether to change and/or add 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](http://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](mailto: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**

**April 6, 2018**

Room 118 Marquardt Building  
32 Blossom Lane  
Augusta, Maine

**DRAFT MINUTES**

**9:00 AM**

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

1. Introductions of Board and Staff

- The Board, Staff, and Assistant Attorney General Mark Randlett introduced themselves.
- Staff: Bryer, Chamberlain, Connors, Couture, Gibbs

2. Minutes of the February 23, 2018, Board Meeting

Presentation By: Ann Gibbs, Director, Animal and Plant Health

Action Needed: Amend and/or Approve

- Jemison has a couple suggestions he will leave with Gibbs
- Bohlen stated that in the minutes it mentions the Freedom of Information Act on page two. It should have referenced the Freedom of Access Act.
  - **Flewelling/Morrill: Moved and seconded approval of minutes as amended**
  - **In Favor: Unanimous**
- Gibbs updated the Board that Cam Lay resigned and the department is in the process of filling the position with an interim director. Flewelling asked if it would be someone on staff. Gibbs replied yes, she had already asked interested employees to apply and received two applications. Gibbs added that they are going to conduct an informal

interview and asked if Morrill would serve as the Board's representative for that process. Gibbs asked if the Board would grant Morrill authorization to approve someone for the position of interim director.

- Morrill asked if the Department would still actively place ads for a new director. Gibbs said they would but because of the hiring freeze they must first receive permission from the governor to advertise the position.
- There was discussion about the previous hiring process and that the Board gave the final approval for that hiring. Morrill stated that this time the Board would like to be involved in that process from the start. Morrill stated he would be fine representing the Board but he would like to extend an invitation to all Board members. Granger asked if it was appropriate to talk with Morrill during this process if he is the only member involved. Randlett replied if the Board is discussing a decision then it should be done in a public meeting. Other representatives from the Board could be involved in the process, and the Board could authorize them in advance to act on behalf of the Board. Or the representatives could bring information to a meeting and the entire Board could decide together.
- Morrill stated he would like other members involved if they wished to be. Jemison stated he felt involvement in the interim was less important than being involved in the hiring for the permanent position.
- Morrill stated the goal will be to have an acting director in place before next Board meeting.
- Granger stated he would like to be involved and suggested they have three Board members involved. Gibbs stated that one of the interviews for the interim position was happening today.
- Jemison volunteered to be the third Board member to participate in the process.
  - **Morrill/Flewelling: Moved and seconded to nominate himself, Granger, and Jemison to be on the hiring committee for the interim director and be authorized to approve the hiring on behalf of the Board.**
  - **In Favor: Unanimous**

### 3. Continuing Discussion Around Unmanned Aerial Systems (UAS)

At the February 23, 2018 meeting the Board had a brief discussion about UASs and directed the staff to research the topic and provide more information. Enclosed are several documents for the Board to study. The Board will now discuss what steps it wishes to take next in regards to regulating UASs for pesticide applications.

Presentation by: Anne Chamberlain, Policy and Regulations Specialist

Action Needed: Determine Next Steps to be Taken

- Chamberlain told the Board that the State of Wisconsin had chosen to amend their aerial manual to include info about UASs instead of doing rulemaking and that a copy of Wisconsin's manual was in the Board members' folders.
- Chamberlain gave the Board an excerpt from chapter 10 which defines aerial applicator. She deferred to Randlett who agreed that according to the BPC definition, an aircraft is not required to be manned. As the regulations are written an individual would be able to

operate a UAS with a commercial aerial license if they had met all FAA requirements. Any applicator would also need to have the category for the site they are applying to.

- Chamberlain also provided the Board with an article from Harvard that explained the regulatory hurdles on a federal level.
- Chamberlain told the Board that Chapters 22, 29, and 51 relate to aerial applications, and referenced a flow chart for the Board detailing pertinent items from those chapters. Notes of the discussions around UAS from previous board meetings was also included in the board materials.
- Chamberlain explained any potential applicators would need to meet all requirements detailed in Chapter 22, including creating a site plan, a site-specific application checklist, and 1000' buffer zones for sensitive areas likely to be occupied. Some requirements must be completed the day of the application and some beforehand. Drone operators would be required to comply with all regulations that an aerial applicator would need to do.
- Chamberlain told the Board that Chapter 51 includes requirements for notification, posting notification for aerial applications. They are specific depending on the target site.
- Adams asked Chamberlain if the aerial applicator would still be required to notify individuals on the registry when planning to make an application. Chamberlain responded that they are not required to if they are doing aerial applications.
- Chamberlain told the Board all Chapter 29 requirements, including regulations surrounding water quality and the portion regarding browntail moth, must also be complied with by drone applicators. An inquiry had been sent to all the state pesticide agencies; none replied that they have done any rulemaking around drones.
- Bohlen stated drones might be beneficial in making more precise applications of small amounts and therefore reducing overall use. He added that he did not view the existing rules as a problem in regards to putting individuals at risk, but they may become too prohibitive in the future.
- There was discussion about whether the notification requirements would really fit the precision drone applications.
- Bohlen would like more information regarding a drone's risk profile before discussing the best way to protect public safety.
- Flewelling stated he has been employing drones for observation. Morrill stated he also has a drone and is working out the insurance piece currently.
- Morrill stated the board maybe went into this thinking the rules weren't adequate or appropriate, but after Chamberlain's presentation they agree the rules currently in place are comprehensive.
- Randlett stated the Board often holds public info gathering meetings on topics. He added that the Board could advertise this to the public to come to the meeting to voice their concerns.
- Bohlen stated that from a risk management perspective he would like more information on the track record of drones, and on how carrying small amounts of product change the risk profile. He always would like to know if they are using higher concentrations, and any other pertinent information. Bohlen asked if staff could find more information. Chamberlain responded that the staff would continue to research and would share anything found.
- Morrill suggested revisiting this at the August meeting and put out a call to have an informational gathering session in the fall.

- Adams stated he is not aware of enough public information out there about the regulations we do have in place. He has concerns people may be making drone applications and have no idea it is illegal.
- Bohlen stated this is a good point because there is potential for someone to walk through all the rules and not know they are doing anything wrong.
- The board requested there also be included a statement in the solicitation for public comment ensuring the public understands that using drones for spraying is not legal without proper certificates, exemptions and licensure.
- Heather Spalding commented that she appreciated Adams suggesting that and that it is a solid deliverable to the public.

4. Consideration of Consent Agreement with Black Kettle Farm of Lyman, Maine

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involves the application of a pesticide at a rate exceeding the maximum labeled application rate; lack of personal protective equipment; and failure to maintain OSHA safety data sheets at a central information display.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors told the Board that during a routine inspection with an organic farm in Lyman it was determined there were three issues that lead to a consent agreement. There were no Safety Data Sheets, there was a lack of proper label-required gloves, and the use exceeded the maximum allowable label rate. A \$150 consent agreement was paid.
- The Board discussed the maximum allowable label rate of the product.
  - **Flewelling/Bohlen: Moved and seconded approval of the consent agreement.**
  - **In Favor: Unanimous**

5. Consideration of Consent Agreement with Penquis, Bangor, Maine

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involves the application of an herbicide to a school playground by an unlicensed person and without authorization by the school's IPM Coordinator.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff



- Connors told the Board that in the town of Milo, Penquis oversees a pre-kindergarden class at the Milo Elementary School and they own playground equipment. A Penquis employee sprayed herbicide in the pre-kindergarden area. The individual was not licensed and the IPM Coordinator did not authorize the application. The consent agreement is for \$250.
- Morrill asked if there was educational outreach to Penquis to ensure this does not occur again. Connors responded that he spoke with the applicator and a Penquis individual. He will include informational content when he sends the consent agreement back.
- Jemison asked why they did not just use a weed-wacker.
- Bohlen wondered if this happens often in situations where a group is running a program within a school. He added that Murray may want to let IPM Coordinators know that if they have any subleased areas on school property the IPM Coordinator should contact those individuals and let them know about the regulations around pesticide applications.
- Morrill stated it is also important to let groups using school grounds throughout the summer know this, and agreed that Murray should discuss this with IPM Coordinators.
- Bohlen asked that staff make sure Kathy Murray is informed this has happened.
  - **Adams/Flewelling: Moved and seconded approval of the consent agreement.**
  - **In Favor: Unanimous**

6. Consideration of Consent Agreement with Riverview Psychiatric Center, Augusta, Maine

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involves the application of an herbicide by an unlicensed person on the grounds of the Center.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors told the Board that a BPC staff member noticed an employee spraying ornamentals at the Riverview Psychiatric Center. They signed and paid a \$200 consent agreement.
  - **Bohlen/Granger: Moved and seconded approval of the consent agreement.**
  - **In Favor: Unanimous**

7. Consideration of Consent Agreement with White's Weed Control of Palmyra, Maine

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a

willingness to pay a fine to resolve the matter. This case involves a broadcast application of an herbicide within 25 feet of water without a variance.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

- Connors told the Board the Town of Newport had contracted with White's Weed Control to treat for poison ivy along a causeway that crossed Sebasticook Lake. A BPC Inspector met with officials from the town. There was no buffer around the water and Pat White stated he did spray the area of dead vegetation from the waterline to tar. White thought the town had applied for a variance to spray within the 25' buffer. The consent agreement was for \$250.
- There was discussion about whether a variance would have been approved. The Board would not have approved it with powered equipment and the toxicologist would have had to review the pesticides being used.
  - **Adams/Jemison: Moved and seconded approval of the consent agreement.**
  - **In Favor: Unanimous**

#### 8. Other Old or New Business

- Letter from Lauchlin and request from Jesse O'Brien to be on the agenda.
  - Jesse O'Brien addressed the Board. He owns Downeast Turf farms and sells grass, seed, fertilizers, and some hardscapes. He stated that they have grown turf without pesticides or from seed to grass with little to no pesticides, but they cannot grow all their turf in all fields without pesticides.
  - O'Brien was asked to be on the task force for the South Portland Pest Management Advisory Committee (PMAC). He stated that the new ordinance will be going in effect beginning May 1, including regulation of pesticide use on private property. O'Brien added that even though he was against the ordinance they asked him to participate in the PMAC.
  - The ordinance should be posted on the South Portland website within a week. O'Brien stated that one of the problem he has is that is that they do not use BPC and UMaine as resources for the website, and he thinks that is unfortunate.
  - O'Brien told the Board he finds there is a lack of leadership in the state on this issue from both the BPC and Cooperative Extension.
  - Flewelling asked O'Brien if individuals feel we are not doing our job or they do not like the job we are doing. He added that he thinks this is a sovereignty issue, not a pesticide issue, and the Board is tasked with making policy for the state, not municipalities.
  - Jemison added that citizens are not aware of the inspections and the safeguards in place, and it is frustrating that individuals are trying to do this correctly but not knowing the full extent of what is already in law and what is available.
  - Granger stated the BPC supports several ancillary positions, and there are a lot of sources of good info that could be addressed to help with issues of the town. Granger continued that when providing money to support these other positions the Board should be more detailed about what they expect be done with that money.

- Bohlen added that there is a relevance for the Board to decide how they are allocating resources. Bohlen asked that the Board remember these conversations when they begin discussing the Budget in the coming months.
  - Morrill stated the Board had seen a lot of turmoil in the last few years and it is his hope that they can return to some sort of normalcy with the next hire
  - Riley Titus, of Responsible Industry for a Sound Environment (RISE), was present to represent pesticide distributors and producers. He stated that the group has been following this issue as several towns have been discussing it.
  - Titus stated that pesticide registration fees provide a good deal of money for the pesticide program and some of these local issues seem to be in contradiction to the state policies. IPM is recognized in statute, and the definition includes cultural, mechanical, and chemical controls and he is seeing prohibition on those. He asked the Board how that plays into the state's authority, and if the towns have been reaching out to them for education. Titus commented that it appears municipalities are regulating further a product that is already highly regulated. He asked what the direction or guidance to these municipalities from Cooperative Extension looked like. Titus also stated that from what he has heard today it sounds like many people are looking for some information.
  - Titus told the Board that from the point of a registrant that pays a lot of money into the program, he would be happy to follow-up with any of his information.
  - Morrill said the BPC does have some wonderful resources and that the Board needs to figure out how to use these resources to their best use.
  - Jemison said part of the problem is that when people distrust science and government it will not make that much difference what the Board does. He added that the information is out there and available if people want it.
  - Adams asked if the consensus in the PMAC group was that organic pesticides are safer. O'Brien replied yes; these products still kill things and it concerns him when he hears they are always safer.
  - Morrill stated he is concerned. There have been several town ordinances for years, but the newer ordinances are much more widespread and affect people on their private property.
  - Morrill suggested having a public forum to hear what the public would like the Board to do. The Board discussed Jim Dill's grant and how that may be an avenue where they can get some measurable results. Morrill said the Board needs to revisit this topic at the next Board meeting. Jemison suggested sending a request to the towns asking them to let the Board know what is and is not working.
  - Adams asked if the question was addressed. Is the perception that the Board is not responsive or effective? If this is not the primary issue, then what is? Should the Board request different deliverables in return for Extension funding. Alternatively, should the funding be differently allocated—possibly to the IPM Council, etc.? What are the Board's expectations?
  - Morrill stated that the Board may find something towns are doing at the municipal level that may work, and should be instituted at the state level.
- Legislative Update – LD 1853
    - Spalding mentioned a letter Joint Standing Committee on Agriculture, Conservation and Forestry had received from the Joint Standing Committee on State and Local Government asking them to think carefully about the BPC and

how it is working. There were concerns raised regarding statutory changes in membership structure, related shifts in the balance of the Board, and lack of availability or interest to assist constituents by Board and staff.

9. Schedule of Future Meetings

May 18, 2018 and July 13, 2018 are proposed Board meeting dates in Augusta. August 24, 2018 has been proposed for a tour of Green Thumb Farm in Fryeburg and Weston's Christmas Tree Farm in Fryeburg followed by a Board meeting locally. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

10. Adjourn

- **Bohlen/Flewelling: Moved and seconded to adjourn at 11:25 am**
- **In Favor: Unanimous**



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WALTER E. WHITCOMB  
COMMISSIONER

**BOARD OF PESTICIDES CONTROL**

**May 18, 2018  
9:00 AM**

Room 118 Marquardt Building  
32 Blossom Lane, Augusta, Maine

**MINUTES**

Present: Granger, Morrill, Waterman

1. Introductions of Board and Staff

- The Board, Staff, and AAG Mark Randlett introduced themselves
- Staff Present: Bryer, Connors, Couture, Patterson

Minutes of the April 6, 2018, Board Meeting

Presentation By: Megan Patterson, Manager of Pesticide Programs

Action Needed: Amend and/or Approve

- The Board will approve minutes at the next regular meeting due to lack of a forum.
- Morrill commented that application acceptance for the director position closed on May 10. The initial round of interviews will begin next week. Morrill and Jemison will sit in on interviews, and the selected candidate will be brought before the Board for final consideration. Morrill added the Board would really prefer a candidate in place as soon as possible and the Board will hold a special meeting, if necessary, before the next regular Board meeting.

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

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

Presentation By: Kathy Murray, IPM Specialist

Action Needed: Approve or Deny Request

- Murray told the Board that a few years ago the state legislature directed the DACF to create an emergency response plan in case of a vector borne disease emergency involving mosquitoes. She added that the triggering event for this were two Eastern Equine Encephalitis (EEE) deaths in Vermont in an area the state had not been monitoring. She added that Maine is also not well prepared for area-wide applications to control EEE vectoring mosquitoes.
- Murray explained that she has been running a small monitoring program related to West Nile Virus (WNV) since 2009. However, EEE is the vector-borne disease of the greatest concern. There were two human cases in Maine in 2013. One case was fatal and the other person survived, but with complications. In 2015 another individual died from EEE in Maine.
- Murray stated that there are about 30-40 sites, mostly in southern Maine, that are currently being monitored. Some are monitored under contract by Maine Medical Research Institute with federal funding through Center for Disease Control (CDC). Murray posed the question of what would happen if the only monitoring capability was through contract and the contracted lab closed. Another issue is that the federal funding has also been questionable, and last year did not arrive in time to support the monitoring. She continued that if there is any federal funding available this year it will not arrive until August, which is too late.
- Murray stated she has been monitoring 10 sites in central Maine in the Unity area. She has been monitoring this area for the last three years. Murray explained to the Board that she had received funding the last two years from a couple small grants that allowed her to set traps, capture mosquitoes, keep the mosquitoes on ice, and bring the mosquitoes to the lab for testing. She was able to employ an intern to assist with this. If funding was available this year she would like to hire this individual back, especially since he just finished an extra semester studying GIS. This is important because they have been looking at GIS ability to map mosquito habitat throughout the state in order to find the areas of most vulnerability in the state to help detect the most advantageous areas to monitor. Board staff has assisted with the mosquito response plan, mosquito habitat model and to help make some of the equipment for the monitoring.
- Murray concluded that some spots will not be monitored this summer if the funding is not made available. Last year she could not get federal funding in time and had to borrow money from the DACF.
- Granger asked Murray what amount she was asking for. Murray responded they would need \$6,762 in funding to cover the current monitoring sites.
- Waterman commented in support of this request. He added that with diseases such as EEE and WNV people experience symptoms similar to the flu or common cold so correct clinical diagnosis can be difficult. Waterman concluded that he saw the value of continuing this advance surveillance program because it can be used to alert the public and physicians to areas of concern.
- Morrill asked about funding for monitoring the BPC had given to the Maine CDC, what was the current funding status for this year, and will the Board be funding that as well. Patterson stated that the BPC is able to fund the MOU with Maine CDC and added that if Murray needs this type of funding it should come directly from the Board instead of requesting the money from CDC after CDC bills the BPC.

- Morrill asked if there were funds to do this. Patterson responded that there were funds available.
- Granger stated he would like to go on record in favor of this. Morrill stated he was also in favor.
- The Board members will table this for next meeting when they have a quorum from the Board.

#### 4. Review of Pesticide Sign for Self-Service Areas

BPC Chapter 26 Section 7 requires that pesticide self-service sales areas include a “Board approved sign informing the public where to obtain additional information”. The staff has drafted a new version of the sign. The Board will now discuss and provide guidance to the staff.

Presentation by: Amanda Couture, Certification & Licensing Specialist

Action Needed: Approve and/or Amend Proposed Sign

- Dill stated that when individuals do call it is of like a double-edged sword because they not only want to know the product, but they often want toxicology info as well so they are then directed to the Board.
- Patterson stated that the National Pesticide Information Center, NPIC, is a resource that is underutilized. She explained to the Board that NPIC’s whose whole mission is to communicate complicated pesticide info to consumers. Their funding has been cut so they are only open a few hours a day but their purpose and specialty is answering these types of questions and phone calls.
- Morrill questioned whether the Quick Response, QR code was needed on the self-service sign. There was discussion about whether anyone utilized QR codes. Morrill added he would like to mandate that the signs must be posted in color.
- Morrill stated that staff need to pick one phone number and put it on the sign.
- Heather Spaulding from the audience commented that she really liked the concept of think first spray last and that should be the takeaway from the sign, as well as ‘Always read the label’.
- Granger suggested “Always read the label’ should be on there should be on there but maybe not in huge letters.
- The Board asked staff to come to the next meeting with a couple drafts.
- Morrill stated that the cooperative extension number should be on the sign.

#### 5. Continuing Discussion of the Board’s Role in Public Education

At the April 6, 2018 meeting Jesse O’Brien spoke about municipal ordinances which led to a general discussion by the Board about public outreach. It was stated that the discussion should be continued at the next meeting.

Presentation By: Megan Patterson, Manager of Pesticide Programs

Action Needed: Provide Guidance to Staff

- There was much discussion about what other Board roles and responsibilities were and what their shortcomings may be.
- There was discussion about providing leave-behind cards to retailers. Dill has the Green Bug series and its 16 colored cards. Megan detailed what could be included on these cards. Morrill stated that could move into the public education realm easily.
- Granger stated the Board does a lot of public education through all the programs and positions they fund.
- Granger asked if there was a sense among municipalities that they made requests and we did not honor them.
- Morrill responded that if the request was made from a Town regarding gathering information about existing regulations and denied then that is something the Board should look into.
- Patterson stated that most requests came not from the town but other intetrested entites asking staff to attend the meeting. If the town themselves directly asked staff to be there they did attend.
- Morrill stated the Board can certainly be a resource to the towns but it is not in the business of writing ordinances or enforcing them.
- Dill suggested that staff and cooperative extension work together to produce a tri-fold card. There have been many discussions regarding how to get information to the general public in a way that is useful to them.
- Patterson suggested creating special space on website designed for municipalities and the general public that would house a summary of our rules based on topic areas.
- Bryer submitted an article and stated education is important to people to feel a sense of control.
- Granger responded he was intrigued by the article, said it was great Bryer provided it, and he looked forward to reading the article.
- Waterman responded that in context of what happened in the past with attempts to silence Rachel Carson, and the deception by the tobacco industry, with that background a lot of peoples' first thought is to distrust anyone in authority. It will be an uphill battle and he doe not know what the Board could do to counteract that besides just keep giving accurate information.

6. Discussion about Use of Unmanned Aircraft Systems (UAS) for Agricultural Purposes

Following the April 6, 2018 meeting, the staff had a further discussion about the use of Unmanned Aircraft Systems (UAS) for agricultural purposes. We realized there is a gap caused by the BPC rules. The definition of “aerial applicator” in Chapter 10 states that all aerial applicators shall be considered commercial applicators. The definition of commercial applicator does not allow for applications to lands owned or leased by the applicator for the purposes of producing an agricultural commodity. Therefore, it appears that UAS applications to agricultural crops could be done by hiring a commercial applicator, but could not be done by the owner/lessee. The Board should consider whether to pursue creating a policy (if possible) or amending its rules.

Presentation By: Anne Chamberlain, Policy & Regulations Specialist



Action Needed: Provide Guidance to Staff

- Chamberlain explained to the Board that at last meeting it was said an agricultural producer could get a commercial license and apply to their own property. That was incorrect. After further review of rule, they would not be able to use their commercial license for agricultural production.
- There was discussion about what aerial applications are currently being made in Maine. Patterson responded it is mostly used in forestry.
- Morrill stated that this is a good thing to put on the hit list for rulemaking but until they have a specific ask for this he does not see it as an eminent issue.
- The Board would like to see more info about the physics of applications using UASs and what happens to the spray deposition. However, there is not much information currently available.

7. Election of Officers

The Board's statute requires an annual election of officers. The members will choose a chair and vice-chair to serve for the coming year.

Presentation By: Megan Patterson, Manager of Pesticide Programs

Action Needed: Nominations and Election of Officers

Table until next meeting.

8. Other Old or New Business

- a. Is *Bt* toxic to lobsters? Staff response to question raised at April 8 meeting
- b. Letter from B.K. Keller, Northport, Maine
- c. Portland Flower Show brief
- d. Unmanned Aircraft Systems for Aerial Applications-Presentation from South Carolina
- e. Variance permit for control of invasive species in Biddeford to Vegetation Management Services, Inc.
- f. Variance permit for control of invasive species in Great Pond to Vegetation Management Services, Inc.
- g. Variance permit for control of weeds in rights-of-way to Department of Transportation
- h. Variance permit for control of weeds on the Fort Kent levee along the St. John and Fish Rivers to Dubois Contracting
- i. Job Posting: Pesticide Safety Education Program Professional, PSEP
  - There was discussion about the new job posting for a PSEP individual. The PSEP person would be liaising with staff and EPA and the duties they will be doing dovetail nicely with the work staff is doing. Morrill stated he liked the new job posting and that it is more comprehensive than before.
  - The Board plans to hold a special meeting to bring the selected director candidate before Board and also vote on money for Kathy Murray mosquito monitoring as soon as possible.

7. Schedule of Future Meetings

- July 13, 2018 is a proposed Board meeting date in Augusta. August 24, 2018 has been proposed for a tour of Green Thumb Farm in Fryeburg and Weston's Christmas Tree Farm in Fryeburg followed by a Board meeting locally. The Board also indicated an interest in having a Public Information Gathering Session in the fall but a date was not determined. The Board will decide whether to change and/or add dates.
- Paterson has contacted Weston's but they were not interested at this busy time of year. Patterson asked the Board if they would like to entertain other topics or venues.
- It was proposed to visit a land trust or conservation land to see how they are dealing with invasive species. Wells Estuarine Reserve has issues with invasive species and ticks. The relationship between invasive species and ticks is currently being studied at the Wells Reserve by MMCRI.
- Morrill stated he is fine with whatever the Board decides, and there is always something useful that comes out of all the field trips.
- Morrill gave Patterson permission to select a location and be in charge of the field trip.

Adjustments and/or Additional Dates?

8. Adjourn

- **Morrill/Granger: Moved and seconded to adjourn at 10:14 am**
- **In Favor: Unanimous**



PAUL R. LEPAGE  
GOVERNOR

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

WALTER E. WHITCOMB  
COMMISSIONER

BOARD OF PESTICIDES CONTROL

June 1, 2018  
9:00 AM

Room 118 Marquardt Building  
32 Blossom Lane, Augusta, Maine

MINUTES

Present: Bohlen, Granger, Jemison, Morrill

1. Introductions of Board and Staff

- The Board, Staff, and Assistant Attorney General Mark Randlett introduced themselves.
- Staff present: Bryer, Connors, Couture, Patterson

2. Board Director Appointment

Presentation By: Ann Gibbs, Director of Animal and Plant Health

Action Needed: Discussion

- Gibbs stated there has been a vacancy for the director position.
- Randlett stated the board has two options. They can vote the candidate up or down or move into executive session to discuss further.
- The Board was provided the candidate's resume in advance of the meeting.
- Gibbs stated the candidates were all very qualified. Morrill represented the Board on the hiring team. They made a unanimous decision to select Megan Patterson as the new Director of the Board of Pesticides Control.
- Gibbs added that Patterson has a passion for this position and the program and it really came through in her responses. She also had a lot of forward thinking ideas and ways to move the program forward.
- Morrill and the Board congratulated Patterson.
- **Granger/Jemison: Moved and seconded to appoint Megan Patterson as the new Director of the Board of Pesticides Control.**

- **In Favor: Unanimous**

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

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

Presentation By: Kathy Murray, IPM Specialist

Action Needed: Approve or Deny Request

- This topic was added to the agenda because of the timeliness of the funding. Murray provided a presentation on the project at the last meeting.
- Bohlen stated that the Board wants clear deliverables.
- Patterson stated that eventually with this research they would be able to create a model so that we would not need to respond in a reactive fashion if there was an outbreak. She added that they are trying to refine the model so it is more predictive of what will be upcoming.
- Patterson stated the Board has responsibilities to indicate where spraying is not to happen. The BPC needs to map those areas and have maps based on a strategic monitoring program.
- Jemison asked if this is a bad mosquito year. Murray indicated that monitoring does not begin until July.
- Jim Dill stated that he has not seen as many mosquitoes in some areas and that this has been a relatively dry year.
- Bohlen motioned to provide funding
  - **Granger/Jemison: Moved and seconded to provide funding**
  - **In Favor: Unanimous**

Granger requested to add election of officers to the agenda.

- **Granger/Jemison: Moved and seconded for Morrill to continue for one year as Chair of the Board**
- **In Favor: Unanimous**
- **Morrill/Jemison: Moved and seconded for Bohlen to continue for one year as Vice Chair of the Board**
- **In Favor: Unanimous**

4. Adjourn

- **Granger/Morrill: Moved and seconded to adjourn at 9:20 am**
- **In Favor: Unanimous**

Pesticide Sales Area

More Information

# Got Pests? Using Pesticides?

Whether it's insects, weeds, or critters, arm yourself with knowledge to find the best low-risk solution.

## INFO ANYTIME:

Maine IPM Council: [www.gotpests.org](http://www.gotpests.org)

UMaine Extension: [www.extension.umaine.edu/ipm](http://www.extension.umaine.edu/ipm)

Pesticide Info Center: [www.npic.orst.edu](http://www.npic.orst.edu)

*Think first...Spray last!*



Pest I.D. & Control:

THE UNIVERSITY OF  
**MAINE**  
Cooperative Extension

800-287-0279

Labels, Toxicity, & Maine  
Regulations:



207-287-2731

Risks & General Info:

**npic**

NATIONAL  
PESTICIDE INFORMATION  
CENTER

800-858-7378

PLAN FOR CERTIFICATION OF PESTICIDE APPLICATORS

STATE OF MAINE

I. STATE AGENCY RESPONSIBILITY

A. Lead Agency

1. Maine Department of Agriculture (MDA), State Office Building, Augusta, Maine, 04333
2. Joseph N. Williams, Commissioner -- 207-289-3871

Commissioner Williams has the primary responsibility for administering the state plan and will devote five percent of his time to this project.

- a. John R. Stevens, Supervisor of Feeds, Fertilizers, Seeds and Pesticides -- 207-289-3841

Mr. Stevens has been delegated responsibility for coordinating state plan activities and is responsible for registration of pesticides and the corresponding inspections program. He will devote twenty-five percent of his time to these activities.

- b. Donald F. Mairs, Supervisor of Board of Pesticides Control -- 207-289-2215

Mr. Mairs has responsibility for regulating pesticide usage and coordinates MDA and University of Maine Extension Activities. He will devote twenty-five percent of his time to these activities.

B. Cooperating Agencies

The Maine Board of Pesticides Control was established in 1965 for the purpose of assuring to the public the benefits to be derived from the safe, scientific and proper use of chemical pesticides while protecting the public interest in the soils, water, forests, wildlife, agricultural and other natural resources of the state. Authority was granted the Board to regulate both the sale of pesticides and all aspects of their usage including application, storage, transportation and disposal. The Board is composed of commissioners or directors of the eight state agencies having

responsibilities for using or regulating pesticides. These agencies should be considered as cooperating agencies since the Board's regulations will be the primary mechanism of requiring application certification. The eight agencies' responsible individuals, primary interests and telephone numbers are listed below. All correspondence should be routed via the state office address given in I. A. 1.

1. Department of Agriculture

See above (I. A. 2)

2. Department of Conservation - Richard E. Barringer, Commissioner - 207-289-2212

In addition to representation on the Board, the Department of Conservation's Bureau of Forestry administers the Arborist's law, which provides for licensing of individuals spraying shade or ornamental trees and shrubs. A memorandum of agreement (Appendix A) between MDA and the Bureau of Forestry stipulates that the Bureau will continue to have responsibility for licensing Arborists.

3. Department of Inland Fisheries and Wildlife - Maynard F. Marsh, Commissioner - 207-289-3371

This agency is involved with fish kills caused by pollutants, including pesticides. The Department has 140 wardens who also act as enforcement agents for the Board in prosecuting cases involving misuse of pesticides in ways that damage, or might damage the environment.

4. Department of Marine Resources - Vinal O. Look, Commissioner - 207-289-2291

Environmental contamination as it affects public health and economic value of marine life would be some of the primary pesticide concerns of this department.

5. Department of Transportation - Roger L. Mallar, Commissioner - 207-289-2551

This agency has extensive roadside vegetation control programs. Also, a "crop-dusting waiver" from Transportation is required before a spray pilot can apply agricultural chemicals in Maine.

6. Department of Human Services - David E. Smith, Commissioner - 207-289-2736

This department is concerned with public health aspects of pesticide usage. The Maine Pesticides Program, currently operating on federal funds and dedicated revenue, provides educational, epidemiological and analytical services in the areas of pesticide poisoning, safety and environmental contamination.

7. Department of Environmental Protection - William R. Adams, Jr., Commissioner - 207-289-2811

This department is concerned with all environmental pollutants. It works especially closely with the Board on aquatic concerns, since the Board's aquatic pesticide application permits must be accompanied by discharge licenses from DEP.

8. Public Utilities Commission - Leslie H. Stanley, Chairman - 207-289-2424

This commission regulates utilities, many of which carry on large scale brush control operations.

Although not a member of the Board, the Cooperative Extension Services (CES) at the University of Maine, Orono, Maine, 04473, will be the agency responsible for planning and carrying out the educational activities for training pesticide applicators who may wish to participate in such training before applying to MDA for certification. The director, Mr. Edwin H. Bates, 101 Winslow Hall, telephone 207-581-2211, and former Commissioner Dolloff of MDA signed a memorandum of agreement (Appendix B) to this effect.

#### C. Coordination of Agencies

The Board of Pesticides Control (BPC) as the use-regulation unit of the MDA meets at irregular intervals, usually eight to twelve times per year. Commissioner Marsh of Inland Fisheries and Wildlife serves as chairman of the Board and calls the meetings whenever there is business to be conducted or at the request of any Board member. Decisions are reached by a majority vote of the members.



The Board, through its statutory authority to promulgate regulations following public hearing, will develop the standards to be met in a program of applicator certification. All major policy decisions on applicator certification will be made by the Commissioner of MDA, with other departmental inputs assured through the hearings and meetings of the BPC. Information concerning the standards and other decisions by the Board will be disseminated by public media and special mechanisms, such as Extension Service mailing lists and current licensee lists. The proposed standards for applicator certification presented in Sections V.B. and V.C. of this plan have been endorsed by the entire membership of the Board as evidenced by their signed statement in Appendix C. As previously noted in Section I. A. 2. b., Mr. Mairs coordinates the training efforts conducted by CES, and their responsibilities for training programs are outlined under the memorandum of agreement in Appendix B.

## II. LEGAL AUTHORITY AND QUALIFIED PERSONNEL

### A. Legal Statement

A memorandum (appendix D) dated Aug. 4, 1975 from Sarah Redfield, Department of Attorney General, states that the MDA does have the basic statutory authority necessary to certify applicators of pesticides. This opinion was based on State of Maine Revised Statutes, Title 22, Chapter 258-A, Board of Pesticides Control, Section 1471 enacted in 1975. A copy of this document is found in Appendix G.

### B. Current State Laws

1. Maine Pesticide Control Act of 1975 (Appendix E) Title 7 Maine Revised Statutes Amended Chapter 103, Subchapter II-A.
2. Board of Pesticides Control (Appendix F) Title 22 Maine Revised Statutes Amended Chapter 258.

3. Board of Pesticides Control (Appendix G) Title 22 Maine Revised States Ammended Chapter 258-A.

This new law repeals the current Board of Pesticides Control Law and contains all provisions required by Section 4 of the Federal Environmental Pesticide Control Act of 1972. The effective date is October 1, 1976, except for Section 1471-M which becomes effective October 1, 1975.

#### C. Specific References

References are cited below to sections from the recently enacted Board of Pesticides Control Law specifying legal authority to provide proper enforcement of a pesticide applicator certification system in Maine. The references are as follows:

1. Board of Pesticides Control Law (new) - Section 1471-D, Subsections 7 and 8.
2. Board of Pesticides Control Law (new) - Section 1471-D, Subsection 8-H.
3. Board of Pesticides Control Law (new) - Section 1471-H.
4. Board of Pesticides Control Law (new) - Section 1471-D, Subsection 1 and 2.
5. Board of Pesticides Control Law (new) - Section 1471-G.

#### D. Personnel

The following is a detailed listing by department of personnel that will be actively involved in administering the pesticide applicator certification program.

##### 1. Maine Department of Agriculture

- a. Joseph N. Williams, Commissioner - 207-289-3871. See I. A. 2.
- b. John R. Stevens, Supervisor of Feeds, Fertilizers, Seeds and Pesticides - 207-289-3841. See I. A. 2. a.
- c. Donald F. Mairs, Supervisor, Board of Pesticides Control - 207-289-2215. See I. A. 2. b.

- d. Wesley C. Smith, Inspector - 207-289-3841

Mr. Smith is currently employed full time on the Maine Cooperative Pesticide Enforcement Program which is funded by a contract with EPA. His duties include inspection of pesticides, usage sites and pesticide producing establishments, collection of pesticide samples, and observation of pesticide application methods.

- e. James W. Bartlett, Inspector of Feeds, Fertilizer, Seeds and Pesticides - 207-289-3841

Mr. Bartlett will devote twenty-five percent of his time to inspecting pesticide products, pesticide producing establishments and pesticide sales outlets.

- f. F. Wayne Turner, Inspector of Feeds, Fertilizer, Seeds and Pesticides - 207-289-3841

Mr. Turner will devote twenty-five percent of his time to inspecting pesticide products, pesticide producing establishments and pesticide sales outlets.

- g. Joyce B. Beaulieu, Clerk-Typist - 207-289-2215

Mrs. Beaulieu will devote twenty-five percent of her time handling correspondence and filing state registrations for pesticides.

- h. Lorraine M. Gingrow, Clerk-Typist - 207-289-2215

Mrs. Gingrow will devote fifty percent of her time handling correspondence and filing records of certified pesticide applicators.

## 2. Department of Conservation

- a. Richard E. Barringer, Commissioner - 207-289-2212

Dr. Barringer will devote one percent of his time by serving on the Board.

- b. Fred E. Holt, Director, Bureau of Forestry - 207-289-2791

Director Holt will devote one percent of his time administering Bureau activities associated with certifying arborists.

c. Robley W. Nash, State Entomologist - 207-289-2791

Mr. Nash will devote two percent of his time in certification activities pertaining to arborists.

d. John H. Chadwick, Entomologist - 207-289-2791

Mr. Chadwick will devote three percent of his time by providing informational material to arborists and administering tests for certification.

e. Louis J. Lipovsky, Arborist - 207-289-2791

Mr. Lipovsky will devote three percent of his time by providing informational material to arborists and administering tests for certification.

f. Sara A. Walsh, Secretary - 207-289-2791

Mrs. Walsh will devote three percent of her time by handling correspondence and filing records of certified arborists.

3. Department of Inland Fisheries and Game

a. Maynard F. Marsh, Commissioner - 207-289-2741

Commissioner Marsh will devote one percent of his time by serving on the Board.

b. Lyndon H. Bond, Chief of Fisheries - 207-289-3651

Mr. Bond will devote less than one percent of his time by cooperating on any investigations of fish kills allegedly caused by pesticide contamination.

c. Charles S. Allen, Jr., Chief Warden - 207-289-3371

Mr. Allen will devote less than one percent of his time coordinating the activities of his Department's Game Wardens in enforcing regulations of the Board.

4. Department of Marine Resources

a. Vinal O. Look, Commissioner - 207-289-2291

Commissioner Look will devote one percent of his time by serving on the Board.

- b. Robert B. Dow, Director of Marine Research - 207-289-2291

Mr. Dow will devote one percent of his time by cooperating on any investigations of alleged pesticide contamination of marine life.

5. Department of Transportation

- a. Roger L. Mallar, Commissioner - 207-289-2551

Commissioner Mallar will devote one percent of his time by serving on the Board.

- b. Philip W. Simpson, Chief Aeronautics Inspector - 207-289-3185

Mr. Simpson will devote two percent of his time issuing crop dusting permits and investigating aeronautical violations or incidents.

- c. Theodore M. Stone, Chief Landscape Architect - 207-289-2151

Mr. Stone will devote twenty-five percent of his time directing his Department's highway vegetation management program.

6. Department of Human Services

- a. David E. Smith, Commissioner - 207-289-2736

Commissioner Smith will devote one percent of his time by serving on the Board.

- b. Robert I. Batteese, Jr., Pesticide Project Coordinator - 207-289-2727

Mr. Batteese will devote fifty percent of his time by cooperating with MDA personnel on activities associated with applicator certification. He has assisted in the preparation of new pesticide legislation and this plan, and will continue to assist in writing regulations and a dealer licensing system. He will also be available for helping to prepare state plans for experimental use permits and local use pesticide registrations.

- c. Ernest M. Richardson, Pesticide Residue Analyst - 207-289-2727

Mr. Richardson will devote fifteen percent of his time by operating a pesticide laboratory which will be available to handle enforcement samples

associated with applicator certification. He will also be available to assist in field and epidemiologic investigations that might be required in episodes involving certified applicators.

d. Thomas S. Crosby III, Pesticide Chemist - 207-289-2727

Mr. Crosby is currently employed full time on the Maine Cooperative Pesticide Enforcement Program which is funded by a contract with EPA. His duties include analyzing pesticide formulation and spray tank samples. His services will be available whenever analyses are required for determining if restricted use pesticides were being applied.

7. Department of Environmental Protection

a. William R. Adams, Jr., Commissioner -- 207-289-2811

Commissioner Adams will devote one percent of his time by serving on the Board.

b. Matthew Scott, Chief Aquatic Biologist - 207-289-3527

Mr. Scott will devote five percent of his time considering environmental aspects of aquatic pesticide permit requests and studying the effects of any approved aquatic applications.

8. Public Utilities Commission

a. Leslie H. Stanley, Chairman - 207-289-2424

Chairman Stanley will devote one percent of his time by serving on the Board.

9. Cooperative Extension Service, University of Maine

a. Edwin H. Bates, Director, Winslow Hall, Orono - 207-581-7200

Director Bates will devote less than one percent of his time administering the training activity.

b. Dr. John B. Dimond, Chairman, Entomology Department, Deering Hall, Orono, 207-581-7703

Dr. Dimond will devote one percent of his time administering the training activity.

- c. Arthur Gall, Extension Entomologist, Deering Hall, Orono, 207-581-7703  
Mr. Gall will devote fifty percent of his time in planning and presenting the training program. He will be responsible for coordinating the efforts of the various extension crop specialists who will be assisting in training private applicators to become certified to purchase and apply restricted use pesticides.

### III. Assurance of Funding

A. Salaries for the majority of personnel to be involved with pesticide applicator certification programs have been funded by the Maine legislature for the 1975-77 biennium. Due to severe economic conditions and a desire not to increase taxes, the legislature never considered the requests for additional positions and state funding for personnel currently hired on federal contracts. The status of these contracts and the associated personnel is as follows:

1. Maine Cooperative Pesticide Enforcement Program

- a. EPA \$65,000            Contract with MDA
- b. Time Period:        July 1, 1974 - June 30, 1976
- c. Personnel Funded: Wesley C. Smith, MDA and Thomas S. Crosby, Department of Human Services.

Activities conducted to date have demonstrated the need for continuing this enforcement program in Maine. Upon initiation of our pesticide applicator certification system, these activities will be of even greater importance for determining if restricted use pesticides are being sold or used illegally. Beginning January 1, 1976, a new pesticide registration fee account will be implemented providing partial financing for this work. Funds will again be requested from EPA and the next special session of the Maine legislature to supplement the monies available in the dedicated revenue account.

2. Maine Pesticides Program

- a. EPA \$25,995                      Contract with Department of Human Services
- b. Time Period:                      July 1, 1974 - June 30, 1975, with no-cost extension approved to December 29, 1975, approval of funds pending for one additional year.
- c. Personnel Funded: Robert I. Batteese, Jr. and Ernest M. Richardson.

This program was initiated in 1969 with federal funding which has been renewed annually up to this present time. State monies were used originally for equipping the pesticide laboratory and other small amounts have been provided during the past three years to pay up to one half of the residue analyst's salary. Funds for supplies and equipment have been generated through fees charged to users of the laboratory. Hopefully, the federal funding will be renewed for fiscal year 1976, and during this period, the Maine legislature will recognize the benefits of the Program and assume financial responsibility for it.

IV. Reports

The Commissioner will prepare and submit to the Administrator an annual report by January 30th detailing the activities of the previous calendar year. The report will contain the following information:

- A. Total number of applicators, private and commercial, by category, currently certified; number of applicators, private and commercial, by category, certified during the previous twelve months.
- B. Any changes in commercial applicator subcategories.
- C. A summary of enforcement actions related to use of restricted use pesticides during the last reporting period, showing number and types of actions taken.



- D. Any significant proposed changes in required standards of competency.
- E. Proposed changes in plans and procedures for enforcement activities related to use of restricted use pesticides for the next reporting period.
- F. Any other proposed changes from the State Plan that would significantly affect the state certification program.

The Commissioner will also furnish other reports during the year if requested by the Administrator of EPA.

V. Conformity to Standards - Commercial Applicators

All commercial applicators <sup>operating in Maine</sup> are required to be certified in one or more of the eleven categories outlined below which are applicable to their business operations. Successful completion of certification requirements will qualify an applicator to use or supervise use of any pesticides, including those classified by EPA as "restricted use".

Maine will use all 10 major categories described for commercial applicators in 40 C.F.R. 171.3 (b). In addition, Maine requests permission to add an eleventh category to be designated Aerial Pest Control. Maine feels this category is necessary after careful consideration of the potential large scale economic, environmental and health related problems that could result from misuse or other calamity involving aerial application of pesticides. Requiring knowledge of such subjects as nozzle selection, aircraft calibration, droplet size considerations, flagging methods and effects of weather and drift should insure that potential problems associated with aerial application will be minimized. The subcategories listed under both Aerial Pest Control and Agricultural Pest Control are designed to take into account the vastly differing requirements for proper pest control in the specific commodity or environmental situation encountered.

A. Categories of Commercial Applicators

1. Aerial Pest Control

a. Agricultural by Commodity

This category includes aerial applicators using or supervising the use

of pesticides for potato, apple, blueberry, vegetable and grain crops, as well as on non-food crop areas.

b. Forest

This category includes aerial applicators using or supervising the use of pesticides in the management and protection of forests, forest nurseries, and forest seed producing areas.

c. Right-of-Way

This category includes aerial applicators using or supervising the use of pesticides in the management of rights-of-way for public roads, electric power lines, pipelines, railroads or other similar areas.

d. Public Health

This category includes aerial applicators using or supervising the use of pesticides for the management and control of potential disease vectors or other pests having medical and public health importance.

2. Agricultural Pest Control

a. Animal

This category includes commercial applicators using or supervising the use of pesticides on animals and to places on or in which animals are confined. Doctors of Veterinary Medicine applying pesticides as pesticide applicators or in large scale use of pesticides are included in this category; however, these persons applying pesticides as drugs or medication during the course of their normal practice are not included.

b. Potatoes

This category includes commercial applicators using or supervising the use of pesticides in the production of a potato crop.

c. Apples

This category includes commercial applicators using or supervising the use of pesticides in the production of an apple crop.

d. Blueberries

This category includes commercial applicators using or supervising the use of pesticides in the production of a blueberry crop.

e. Vegetables

This category includes commercial applicators using or supervising the use of pesticides in the production of vegetable crops.

f. Grain

This category includes commercial applicators using or supervising the use of pesticides in the production of grain crops.

g. Non-Food Crops

This category includes commercial applicators using or supervising the use of pesticides in the production of forage and industrial crops, and for the management of pastures and other non-food crop areas.

3. Forest Pest Control

a. General

This category includes all commercial applicators practicing forest pest control except for those involved with timber stand improvement by selective use of herbicides.

b. Timber Stand Improvement

This category includes commercial pesticide applicators who selectively treat forest lands with herbicides in such a way as to improve growth conditions for the species being managed.

4. Ornamental and Turf Pest Control

a. Arborists

This category includes commercial applicators using or supervising the use of pesticides on control pests in the maintenance and production of shade and ornamental trees and shrubs.

b. Floral and Turf Specialists

This category includes commercial applicators using or supervising the use of pesticides to control pests in the maintenance and production of ornamental flowers and turf.

5. Seed Treatment

This category includes commercial applicators using or supervising the use of pesticides on seeds.

6. Aquatic Pest Control

This category includes commercial applicators using or supervising the use of pesticides purposefully applied to standing or running water, excluding applicators engaged in public health related activities included in category 9 below.

7. Right-of-Way Pest Control

This category includes commercial applicators using or supervising the use of pesticides in the management of rights-of-way for public roads, electric power lines, pipelines, railroads or similar areas.

8. Structural and Health Related Pest Control

a. Structural Control

This category includes commercial and governmental applicators using or supervising the use of pesticides in, on, or around food handling establishments, human dwellings, institutions such as schools and hospitals, industrial establishments including warehouses and grain elevators and any other structures, vehicles, ships, aircraft, and adjacent areas; and for the protection of stored, processed, or manufactured products.

b. Outdoor Rodent Control

This category includes commercial and governmental applicators using or supervising the use of pesticides to control rodents on refuse disposal areas.

9. Public Health Pest Control

a. Biting Fly Pests

This category includes governmental employees using or supervising the use of pesticides in management and control of potential disease vectors or other pests having medical and public health importance, including, but not limited to, mosquitoes, blackflies, midges, and members of the horsefly family.

b. Other Pests

This category includes governmental employees using or supervising the use of pesticides in programs for controlling other pests of concern to public health and safety, including but not limited to ticks, and bird and mammal vectors of human disease. The wide variety of pests which could be included in this subcategory will probably necessitate some restriction of certification based on the species to be controlled.

10. Regulatory Pest Control

This category includes state, federal and other governmental employees who use or supervise the use of pesticides in the control of regulated pests.

11. Demonstration and Research Pest Control

This category includes all individuals who (1) demonstrate to the public the proper use and techniques of application of pesticides or supervise such demonstration, and (2) conduct field research with pesticides, and in doing so, use or supervise the use of restricted use pesticides. Individuals who conduct only laboratory type pesticide research are not included.

Appendix H contains a table outlining the eleven categories for commercial applicators, the subcategories where designated, the number of companies and

agencies currently licensed and an estimate of the number of people who will be requesting certification.

## B. Standards of Competency

All commercial applicators will be required as a condition of certification to demonstrate by written examination in their appropriate language competence in the general standards and those specialty categories for which application is made.

### 1. General Standards of Competency for All Categories of Commercial Applicators

All commercial applicators will demonstrate practical knowledge of the principles and practices of pest control and safe use of pesticides. Testing will be based on examples of problems and situations applicable to all categories and subcategories, and will include the following areas of competency:

#### a. Label and Labeling Comprehension

- (1) The general format and terminology of pesticide labels and labeling.
- (2) The understanding of instructions, warnings, terms, symbols, and other information commonly appearing on pesticide labels.
- (3) Classification of the product, general or restricted.
- (4) Necessity for use consistent with the label.

#### b. Safety

- (1) Factors including pesticide toxicity and hazard to man and common exposure routes.
- (2) Common types and causes of pesticide accidents.
- (3) Precautions necessary to guard against injury to applicators and other individuals in or near treated areas.
- (4) Need for, use and care of protective clothing and equipment, including respirators.

- (5) Signs and symptoms of pesticide poisoning.
- (6) First aid and other procedures to be followed in case of a pesticide accident, including spills.
- (7) Proper identification, storage, transport, handling, mixing procedures and disposal methods for pesticides and used pesticide containers, including precautions to be taken to prevent children from having access to pesticides and pesticide containers.

c. Environment

The potential environmental consequences of the use and misuse of pesticides as may be influenced by such factors as:

- (1) Weather and other climatic conditions.
- (2) Types of terrain, soil or other substrate.
- (3) Presence of nontarget organisms, including fish and wildlife.
- (4) Drainage patterns.

d. Pests

Factors such as:

- (1) Common features of pest organisms and characteristics of damage needed for pest recognition.
- (2) Recognition of relevant pests.
- (3) Pest development and biology as it may be relevant to problem identification and control.

e. Pesticides

Factors such as:

- (1) Types of pesticides.
- (2) Types of formulations.
- (3) Compatibility, synergism, persistence and animal and plant toxicity of the formulations.

- (4) Hazards and residues associated with use.
- (5) Factors which influence effectiveness or lead to such problems as resistance to pesticides.
- (6) Dilution procedures.

f. Equipment

Factors including:

- (1) Types of equipment and advantages and limitations of each type.
- (2) Uses, maintenance and calibration.

g. Application techniques

Factors including:

- (1) Methods of procedure used to apply various formulations of pesticides, such as dusts, wettable powders, emulsions, solutions, and gases, together with a knowledge of which technique of application to use in a given situation.
- (2) Relationship of discharge and placement of pesticides to proper use, unnecessary use, and misuse.
- (3) Prevention of drift and pesticide loss into the environment.

h. Laws and Regulations

- (1) Understanding of the state and federal laws concerning pesticide use.
- (2) Understanding of BPC regulations concerning pesticide use.

2. Specific Standards of Competency for Each Category of Commercial Applicator

In addition to the general standards, referenced above, commercial applicators in each category shall be particularly qualified with respect to the practical knowledge standards elaborated below:

a. Aerial Pest Control

The MDA will depend upon the Federal Aviation Agency to determine the aeronautical competence of spray pilots and the airworthiness of their ships. Applicators will be required to demonstrate knowledge of



problems which are of special significance in aerial application of pesticides. Among the subjects involved will be weather and drift, chemical dispersal equipment, tank, pump and plumbing arrangements, nozzle selection and location, and ultra-low volume systems. In addition, aerial applicators will need a practical working knowledge of aircraft calibration, field flight patterns, droplet size considerations, flagging methods, and loading procedures.

Above and beyond these category requirements, the aerial applicator will be responsible for information on the specialty categories in which he proposes to work, such as agricultural, forestry, etc.; this information is described in the sections immediately following.

b. Agricultural Pest Control by Commodity

(1) Animals

Applicators applying pesticides directly to animals must demonstrate practical knowledge of such animals and their associated pests. A practical knowledge is also required concerning specific pesticide toxicity and residue potential since host animals will frequently be used for food. The applicator must know the relative hazards associated with such factors as formulation, application techniques, age of animals, stress and extent of treatment.

(2) Crops

Applicators must demonstrate practical knowledge of the crops grown and the specific pests of those crops on which they may be using restricted use pesticides. The importance of such competency is amplified by the extensive areas involved, the quantities of

pesticides needed, and the ultimate use of many commodities as food and feed. Practical knowledge is required concerning soil and water problems, preharvest intervals, reentry intervals, phytotoxicity, and potential for environmental contamination, nontarget injury and community problems resulting from the use of restricted use pesticides in agricultural areas. Further, they should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods.

c. Forest Pest Control

(1) General

Applicators shall demonstrate practical knowledge of the types of forest, forest nurseries, and seed production areas and the pests involved. They should possess practical knowledge of the occurrences of certain pests and their population dynamics as a basis for programming pesticide applications. They should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other control methods. Because forests may be large and frequently include aquatic habitats and harbor wildlife, the consequences of pesticide use may be difficult to assess. The applicator must therefore demonstrate practical knowledge of control methods which will minimize the possibility of secondary problems such as unintended effects on nontarget organisms. Proper use of specialized equipment must be demonstrated, especially as it may relate to meteorological factors and adjacent land use.

(2) Timber Stand Improvement

Applicators shall demonstrate practical knowledge of forest types and of the rationale behind timber stand improvement (TSI). They should demonstrate an understanding of the methods of TSI, and the reason for selecting one control method over another (e.g. chemical versus mechanical). Because forests contain many and diverse habitats, TSI workers must demonstrate knowledge of the effects of their work upon wildlife species and the general aesthetics of wooded areas.

d. Ornamental and Turf Pest Control

(1) Arborists

Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of ornamental trees and shrubs, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

(2) Floral and Turf

Applicators shall demonstrate practical knowledge of pesticide problems associated with the production and maintenance of plantings and turf, including cognizance of potential phytotoxicity due to a wide variety of plant material, drift, and persistence beyond the intended period of pest control. Because of the frequent proximity of human habitations to application activities, applicators in this category must demonstrate practical knowledge of

application methods which will minimize or prevent hazards to humans, pets and other domestic animals.

e. Seed Treatment

Applicators shall demonstrate practical knowledge of types of seeds that require chemical protection against pests and factors such as seed coloration, carriers, and surface active agents which influence pesticide binding and may affect germination. They must demonstrate practical knowledge of hazards associated with handling, sorting and mixing, and misuse of treated seed such as introduction of treated seed into food and feed channels, as well as proper disposal of unused treated seeds.

f. Aquatic Pest Control

Applicators shall demonstrate practical knowledge of proper methods of application and a recognition of the effects which can be caused by improper application rates, incorrect formulations, and faulty application of restricted use pesticides used in this category. They shall demonstrate practical knowledge of various water use situations and the potential of downstream effects. Further, they must have practical knowledge concerning the causes of oxygen depletion and concerning potential pesticide effects on plants, fish, birds, beneficial insects and other organisms which may be present in or dependent on the aquatic environment. These applicators shall demonstrate practical knowledge of the principles of limited area application.

g. Right-of-Way Pest Control

Applicators shall demonstrate practical knowledge of a wide variety of environments since rights-of-way can traverse many different terrains, including waterways. They shall demonstrate practical knowledge of problems of runoff, drift, and excessive foliage destruction and ability to recognize target organisms. They shall also demonstrate practical knowledge of the nature of herbicides and the need for containment of these pesticides within the right-of-way area, and the impact of their application activities on the adjacent areas and communities.

h. Structural and Health Related Pest Control

(1) Structural

Applicators must demonstrate a practical knowledge of a wide variety of pests including their life cycles, as well as types of formulations appropriate for their control and methods of application that avoid contamination of food, damage and contamination of habitat, and exposure of people and pets. Since human exposure, including babies, children, pregnant women and elderly people, is frequently a potential problem, applicators must demonstrate practical knowledge of the specific factors which may lead to a hazardous condition, including continuous exposure in the various situations encountered in this category. Because health related pest control may involve outdoor applications, applicators must also demonstrate practical knowledge of environmental conditions particularly related to this activity.

(2) Outdoor Rodent Control

Applicators must demonstrate some basic knowledge of the habits and biology of rodents living on or in the immediate vicinity of refuse disposal areas. Knowledge of the chemicals used for control of these animals will also be required, as well as an understanding of proper application methods and special precautions required in order to minimize exposure on the part of humans, pets, and nontarget wildlife.

(3) Biting Fly

Commercial applicators shall demonstrate practical knowledge of nuisance species and of vector-disease transmission and disease reservoirs as they relate to and influence the use of pesticides. Since a wide variety of pests and reservoir hosts are involved, it is essential that they be known and recognized, and appropriate life cycles and habitat be understood as a basis for control strategy. These applicators shall have practical knowledge of the great variety of habitats in which nuisance species and reservoir hosts of public health importance are found. They shall also have practical knowledge of the importance and employment of such nonchemical control methods (e.g., dredging, drainage, etc.) as are appropriate to particular situations.

(4) Other

Commercial applicators shall demonstrate practical knowledge of nuisance species and of vector-disease transmission and disease reservoirs as they relate to and influence the use of pesticides. Since a wide variety of pests and reservoir hosts are involved, it is essential that they be known and recognized, and appropriate life cycles and habitat

be understood as a basis for control strategy. These applicators shall have practical knowledge of the great variety of habitats in which nuisance species and reservoir hosts of public health importance are found. They shall also have practical knowledge of the importance and employment of such nonchemical control methods (e.g., exclusion, trapping, shooting) as are appropriate to particular situations; this will be of particular importance to those involved in the control of vertebrate nests.

i. Public Health Pest Control

(1) Biting Fly

Governmental employees in this category shall demonstrate practical knowledge of nuisance species and of vector-disease transmission and disease reservoirs as they relate to and influence the use of pesticides. Since a wide variety of pests and reservoir hosts are involved, it is essential that they be known and recognized, and appropriate life cycles and habitat be understood as a basis for control strategy. These applicators shall have practical knowledge of the great variety of habitats in which nuisance species and reservoir hosts of public health importance are found. They shall also have practical knowledge of the importance and employment of such nonchemical control methods (e.g., dredging, drainage, etc.) as are appropriate to particular situations.

(2) Other

Governmental employees in this category shall demonstrate practical knowledge of nuisance species and of vector-disease transmission and disease reservoirs as they relate to and influence the use of

pesticides. Since a wide variety of pests and reservoir hosts are involved, it is essential that they be known and recognized, and appropriate life cycles and habitat be understood as a basis for control strategy. These applicators shall have practical knowledge of the great variety of habitats in which nuisance species and reservoir hosts of public health importance are found. They shall also have practical knowledge of the importance and employment of such non-chemical control methods (e.g., exclusion, trapping, shooting) as are appropriate to particular situations; this will be of particular importance to those involved in the control of vertebrate pests.

j. Regulatory Pest Control

Applicators shall demonstrate practical knowledge of regulated pests, applicable laws relating to quarantine and other regulation of pests, and the potential impact on the environment of restricted use pesticides used in suppression and eradication programs. They shall demonstrate knowledge of factors influencing introduction, spread, and population dynamics of relevant pests.

k. Demonstration and Research Pest Control

Individuals demonstrating the safe and effective use of pesticides to other applicators and the public will be expected to meet comprehensive standards reflecting a broad spectrum of pesticide uses. Many different pest problem situations will be encountered in the course of activities associated with demonstration, and practical knowledge of problems, pests, and population levels occurring in each demonstration situation is required. Further, they should demonstrate an understanding of pesticide-organism interactions and the importance of integrating pesticide use with other



control methods. In general, it will be expected that applicators doing demonstration pest control work possess a practical knowledge of pesticides and pesticide safety at the "core" level detailed in the "General Standards" section. In addition, they shall meet the specific standards required for the categories of this section as may be applicable to their particular activity.

Persons conducting field research or method improvement work with restricted use pesticides should be expected to know the general standards detailed above. In addition, they shall be expected to know the specific standards required for categories of this section applicable to their particular activity, or alternatively, to meet the more inclusive requirements listed under "Demonstration".

### 3. Standards for Supervisor of Non-Certified Applicators

Individuals who are certified applicators and whose activities indicate a supervisory role must demonstrate a practical knowledge of federal and state supervisory requirements, including labeling, regarding the application of restricted use pesticides by non-certified applicators. The availability of the certified applicator will be directly related to the hazard of the situation. In many situations where the certified applicator is not required to be physically present "direct supervisor" will include verifiable instruction to the competent person, such instruction to include detailed guidance for applying the pesticide properly, and provisions for contacting the certified applicator in the event he is needed. In other situations, or as required by the label, the actual physical presence of a certified applicator will be required when application is made by a non-certified applicator.

#### 4. Examinations and Procedures for Certifying Commercial Applicators

Upon implementation of the pesticide applicator certification system, all commercial applicators will be notified that they must become certified if they plan to continue operations in Maine. Individuals wishing to be certified must register by mail or in person with the BPC in Augusta and at that time indicate categories for which they wish to be certified. If they desire, they will be provided with a copy of the Northeastern Regional Pesticide Coordinators Core Manual to be used as a home study guide in preparing for the General Standards Test. They will also be supplied with home study manuals (as yet undeveloped) for the specialty categories in which they wish to be qualified.

The examinations will be given in Augusta on two or three dates to be specified. A minimum of three weeks study time will be available between the last day of the registration period and the first date for testing. The General Standards Test will be a closed book exam while the Specialty Categories Tests will be open book exams. These examinations have not been completely prepared but sample questions of the true and false and multiple choice types are provided in Appendices I and J. EPA will be notified when the questions have been prepared and a copy or a sample equivalent to 20 percent of the questions covering major areas of knowledge will be submitted for inclusion with Maine's State Plan. Personnel from the Pesticides Control Board, MDA, will administer all the examinations, with the exception that the Bureau of Forestry will handle both the General Standards and Specialty categories examinations for arborists. Persons failing to attain a yet to be determined passing grade on the examinations will be required to wait thirty days before reapplying to take the test. No one will be allowed to retake a given examination more than three times in a calendar year. If many are found to fail the General Standards Test, the MDA will arrange with CES to present a one day class on the material contained in the Core Manual.

5. Description of Current Licensing Program

The State of Maine, through the BPC, has operated a licensing system for custom (commercial) pesticide applicators since 1966. This system requires that each firm have at least one licensed individual, such individual to be responsible for any pesticide use within the state. In addition, the Board may require that additional members of a firm be licensed, as it deems necessary. For licensing, the Board requires that a written examination be taken, a fee of \$10.00 per firm be paid, and the company is required to show evidence of financial responsibility (liability insurance). If an individual holds a current license in another state with requirements equal to or more stringent than Maine's, the examination may be waived. A copy of any agreement for reciprocity with another state will be forwarded to EPA within 30 days after execution and will be incorporated into the State Plan.

VI. Conformity to Standards - Private Applicators

A. Number

An estimated 2,275 private applicators may need certification in this state. The exact number will depend upon which pesticides are included on the restricted use list, and could be much larger.

B. Competency Standards

A private applicator wishing to be certified must possess a practical knowledge of pest problems and control practices associated with his agricultural operations, proper storage, use, handling and disposal of pesticides and containers, and an understanding of laws and regulations relating to his use of pesticides. This knowledge should include the ability to:

1. Recognize common pests and their damage.
2. Read and understand labels and labeling information including the commonly used name of pesticides he has applied, pests controlled, timing and methods of

- application, safety precautions, any pre-harvest or re-entry restrictions, any specific disposal directions, and any specific hazards to the environment.
3. Apply pesticides as directed in labeling, including preparation of the proper concentration, and taking into consideration such factors as area to be treated, speed equipment will be driven, and quantity dispersed per unit of time.
  4. Recognize local environmental situations to be considered to avoid contamination of adjacent crops, water, wildlife, or other features.
  5. Recognize poisoning symptoms and to follow proper procedures in case of a pesticide accident.

#### C. Certification

All private applicators wishing to become certified to use restricted use pesticides will be required to either complete an approved training course, such completion to be verified by an agent of the MDA, or to pass an examination demonstrating satisfactory knowledge of the requirements described in Section V-C-2 above. The planned, small group training sessions should provide for a meaningful exchange of information between instructors and participants. For example, there should be ample opportunity through the question and answer process to determine the student's grasp of basic concepts and to correct erroneous impressions.

The CES will begin holding training sessions after December 1, 1975, to help prepare growers for certification. These sessions will be held in communities throughout the state so that educational assistance will be readily available to anyone desiring it. The Northeast Regional Pesticide Coordinators Core Manual will be utilized in this training effort along with CES Information Sheets for specific crops and pests. Training formats may vary from group to group, but classes will be conducted approximately as follows. A meeting will be held on the first day

of training when growers will register, receive their manuals, listen to a description of the objectives of the session, and view a film on pesticide safety. This meeting is anticipated to last up to two hours. A period of several weeks will then be provided for people to study their educational materials prior to the next meeting. The second session will include slide sets, films and lectures for the purpose of reviewing information contained in the manuals, and will take up to 6 hours. This would be followed by a question and answer period for both purposes of review and assessment and for answering questions of a specialized nature. In some situations, CES may deem it desirable to present the entire course in one day. In either case, a verifiable list of participants in attendance will be provided to the MDA by CES, or will be developed by MDA agents present at the course.

Persons feeling knowledgeable about pesticide laws and safety may elect not to attend the training sessions, but take a written examination covering the topics described above in Section V-C-2. All testing will be administered by agents of MDA. Individuals who fail under these circumstances will be required to attend a training session.

D. Certification of Private Applicators Unable to Read

Estimates indicate that there will be relatively few applicants for certification who cannot read in this state. Thus, MDA personnel will be able to provide individual attention to such people.

Certification will, however, be limited to the use and handling of a particular pesticide or class of chemicals in which the person can demonstrate competence. The person will have to be able to identify the container stored among other pesticides and will have to demonstrate that he knows the information contained on the label. This means he must know the common name of the chemical, the pests

to be controlled, the timing and methods of application, safety precautions, any pre-harvest or re-entry restrictions, any specific disposal procedures and any specific hazards to the environment. The person must also identify another qualified individual from whom he can seek advice and guidance necessary for the safe and proper use of each pesticide related to his certification.

E. Current Programs for Private Applicators

Under existing laws, private applicators are specifically exempt from licensing requirements.

VII. Conformity to Standards - Miscellaneous Considerations

A. At present no special state standards are anticipated. As certification procedures are implemented, the necessity for special standards may become apparent. Special state standards would be reported to the Administrator, EPA, by the Commissioner. Certified applicators subject to these new special standards would be required to have additional training.

B. Credentials

A sample of the credentials to be issued to all certified private and commercial applicators is included in Appendix K. These credentials will have to be presented to licensed pesticide dealers in order to purchase restricted use pesticides. Essential information will include, but not be limited to the following: name, signature, address, certificate number, category(s) or subcategory(s) covered by certification, any limitations on right to purchase, possess or apply restricted use pesticides, and expiration date of the certificate.

C. Government Agency Plan (GAP)

Federal applicators qualifying in accordance with the Government Agency Plan will be considered certified with respect to Maine Department of Agriculture requirements.

D. Applicators on Indian Reservations

Not applicable in Maine .

E. Reciprocity with Other States

In Section 1471-D (10) of the new Board of Pesticides Control Law (Appendix G), the Board is given authority to waive state certification requirements for applicators certified by other states with substantially the same standards, and to establish regulations and procedures for formalizing such arrangements on a reciprocal basis. Since state standards for certification must conform and be at least equal to those established by EPA, reciprocity agreements should not be difficult unless more restrictive or special standards are included in the plans of some states. Reciprocal agreements will be reported to EPA by the Commissioner as they become available.

F. Other Pesticide Regulatory Activities

The legislation (Appendix G) enacted in support of this plan authorizes the Board to promulgate regulations to control the distribution and use of restricted use pesticides, including the certification of commercial and private applicators. This legislation also gives the Board authority to prosecute violators in court and to suspend or revoke certifications. It should perhaps be noted that in the special case of arborists, who will be licensed under the terms of a cooperative agreement with the Bureau of Forestry (Appendix A), suspension or revocation of a certificate or license issued by either the BPC or the Bureau of Forestry would void any spray license issued by the other agency. An arborist who had lost his license to spray would not, however, be barred from continuing other arboricultural activities, such as pruning or tree cavity work.

VIII. Pesticide Accident Reporting

While not ready for full implementation, the importance of this phase of pesticide control is recognized. As progress is made in this area, the authority provided in the new Board of Pesticides Control Law, Section 1471-M, 1. E. (Appendix G) may be

invoked and a plan for reporting pesticide episodes to the Pesticide Episode Review System (PERS) could then be developed.

IX. Maintenance of State Plan

The BPC has authorization to promulgate whatever regulations might be necessary to maintain this state plan. Inspectors from MDA and BPC will be making spot checks of pesticide usage in the field and sales at dealers' premises to ensure compliance with the regulations. Wardens of the Department of Inland Fisheries and Wildlife will also continue to investigate misuses of pesticides having environmental significance. As in the past, the CES on its own and in cooperation with the many organizations whose membership includes both commercial and private applicators will continue its leadership role in providing new information. Conferences, lectures, lecture-demonstrations at meetings, films, slide sets, printed pest control guides, and other printed material will be used in a continuing effort to keep pesticide users abreast of the latest developments concerning pesticides and their uses. Commercial pesticide applicators will be required to renew their license annually by registering with the BPC and paying a fee. Re-examinations may be required at some later date when and if the BPC decides that advances in technology or some other circumstance necessitates such a course of action. In the meantime, commercial applicators will be required to attend trade meetings of the type conducted by the National Pest Control Association or the Northeast Aerial Applicators Association. If there are groups of commercial applicators in the state who do not belong to a professional organization having such meetings, the BPC and/or CES could organize and present seminars at appropriate intervals where these persons would be exposed to the latest technical information concerning pesticides in their respective fields. All private applicators will be required to renew their certification every two years. The BPC will notify growers six months in



advance of their expiration date: so they may make arrangements to attend appropriate sessions. These applicators will then be recertified upon presentation of proof that they have attended an approved training session, grower meeting or other approved educational program.

Once the applicator certification system is functioning, new entries into the commercial field of pesticide application will be required to register with the BPC and take the appropriate examinations. Home study manuals will be available to those desiring them. Persons wishing to become certified as private applicators will follow the procedures outlined above since certification courses will be offered each year by CES.

As the certification system is implemented, the BPC may recognize the need for changes in the procedures outlined in this plan. In this event, the Commissioner of MDA will so advise the EPA Administrator, and will request his approval for any substantial modifications which may be contemplated.

A P P E N D I C E S

- A - Memorandum of Agreement - Bureau of Forestry and MDA
- B - Memorandum of Agreement - MDA and CES
- C - Intrastate Agreement - Board Signatures
- D - Legal Opinion
- E - Maine Pesticide Registration Statute
- F - Maine Pesticide Use Statute (Current)
- G - Maine Pesticide Use Statute (Newly Passed)
- H - Commercial Applicator Categories
- I - Sample Examination Questions - General Standards Test
- J - Sample Examination Questions - Commercial Applicators - Specialty Categories
- K - Sample Examination Questions - Arborists' Test
- L - Credentials for Certified Applicators
- M - Regulations of the Pesticides Control Board

## BPC Regulations

10	Definitions and Terms	These definitions and terms are defined as they specifically relate to the use of pesticides, the certification and licensing of pesticide applicators and dealers, and other areas as regulated by the Board in succeeding chapters.
20	Special Provisions	Regulates the use, storage and disposal of pesticides with specific emphasis on registered pesticides, right of way and aquatic applications and employer/employee requirements.
22	Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition	Establishes procedures and standards for the outdoor application of pesticides by powered equipment in order to minimize spray drift and other unconsented exposure to pesticides. The primary purpose of these regulations is to implement the legislative mandate of the Board, as expressed by 7 M.R.S.A. § 606(2)(G), to design rules which "minimize pesticide drift to the maximum extent practicable under currently available technology."
24	Pesticide Storage Facility Standards/Pesticide Distributors	Provides minimum criteria for the siting, construction and operation of facilities and businesses which store pesticides for wholesale or retail purposes. They are intended to protect the public health of employees and persons who live near these facilities and to minimize adverse environmental impacts that might result from emergencies caused by fires or spills. This chapter divides storage facilities into three groups and imposes requirements commensurate with their potential threat to public health and the environment. These regulations also describe display requirements for retail businesses which offer pesticides for sale in self-service areas.
26	Standards for Indoor Pesticide Applications and Notification for All Occupied Buildings Except K-12 Schools	Establishes procedures and standards for applicators applying pesticides inside occupied private and public buildings other than K-12 schools that are covered by Chapter 27. This chapter also sets forth the requirements for notification about pending pesticide applications to residents of rented space, employees of agencies, businesses and institutions, and parents or guardians of children in licensed child care facilities and nursery schools.
27	Standards for Pesticide Application and Public Notification in Schools	Establishes procedures and standards for applying pesticides in school buildings and on school grounds. This chapter also sets forth the requirements for notifying school staff, students, visitors and parents about pending pesticide applications.
28	Notification Provisions for Outdoor Pesticide Applications	Establishes procedures and standards for informing interested members of the public about outdoor pesticide applications in their vicinity. This chapter sets forth the requirements for requesting notification about pesticide applications, for posting property on which certain commercial pesticide applications have occurred and also establishes the Maine Pesticide Notification Registry structure and fees.
29	Standards for Water Quality Protection	Establishes standards for protecting surface water. This chapter establishes a fifty-foot setback from surface water for mixing and loading of pesticides, sets forth requirements for securing containers on sprayers and cleaning up spills occurring within the setback zone, establishes restrictions on pesticide applications to control browntail moths near marine waters and requires an untreated 25-foot buffer

		zone for outdoor terrestrial broadcast pesticide applications near waters of the State.
31	Certification and Licensing Provisions/Commercial Applicators	Describes the requirements for certification and licensing of commercial applicators.
32	Certification and Licensing Provisions/Private Applicator	Describes the requirements for certification and licensing of private applicators.
33	Certification & Licensing Provisions/Private Applicators of General Use Pesticides (Agricultural Basic License)	Describes the requirements for certification and licensing of private applicators using general-use pesticides to produce plants or plant products intended for human consumption as food, where the person applying the pesticides or the employer of the person applying the pesticides derives \$1,000 or more in annual gross income from the sale of those commodities.
34	Certification and Licensing Provisions/Dealers	Describes the requirements for certification and licensing of pesticide dealers.
35	Certification and Licensing Provisions/Spray Contracting Firms	Describes the requirements for certification and licensing of spray contracting firms.
36	Certification and Licensing Provisions/Monitors and Spotters for Forest Insect Aerial Spray Program	Describes the requirements for certification and licensing of monitors and spotters for major forest insect aerial spray programs.
40	Restricted and Limited-Use Pesticides	Lists the pesticides classified by the Board as restricted use or limited use and describes procedures governing their sale and use.
41	Special Restrictions on Pesticide Use	Describes special limitations placed upon the use of (1) aldicarb (Temik 15G) in proximity to potable water bodies; (2) trichlorfon (Dylox, Proxol); (3) hexazinone (Velpar, Pronone), (4) aquatic herbicides in the State of Maine and (5) plant-incorporated protectants.
50	Record Keeping and Reporting Requirements	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.
51	Notice of Aerial Pesticide Applications	Describes the notification requirements for persons contracting aerial pesticide applications to control forest, ornamental plant, right-of-way, biting fly and public health pests.
60	Designation of Critical Pesticide Control Areas	Establishes criteria which the Board will use in deciding if an area should be designated as a critical pesticide control area. In addition, these regulations specify the procedures parties must follow in requesting such a designation. These regulations also define the locations that have been designated as critical areas by the Board.
70	Adjudicatory Proceedings	Describes procedures the Board must follow in conducting hearings concerned with pesticide certification, licenses and permits.
80	Advisory Rulings	Describes the procedures any interested person must follow in requesting an advisory ruling to determine if the Board's Statute and rules apply to his situation.
90	Complaints	Describes the procedure a person must follow in bringing a complaint to the Board and outlines the steps the Board may take in response.

## BPC Policies

<b>BOARD OPERATIONS</b>	
Board Review of Plant Incorporated Protectants (5/14/2010)	Details under what circumstances a Board review will be required for Plant Incorporated Protectants.
Criteria for Considering Pesticide Products for State Restricted Use Status (amended 12/12/1997)	Describes the criteria used by the Board for considering placement of pesticides on the state restricted use list.
Environmental Risk Advisory Committee (amended 3/28/2014)	The ERAC is convened to provide expert advice to the Board. This policy outlines the function, membership and other aspects of the Committee.
Medical Advisory Committee (8/1/2008)	The MAC is convened to provide expert advice to the Board. This policy outlines the function, membership and other aspects of the Committee.
Receipt of Public Comment (7/30/1998)	Outlines guidelines for the public to submit comments to the Board and for how the Board should treat public comments.
Submission and Review of Special Local Needs (24c) Applications (10/17/2008)	Details the process for submitting applications for consideration for Special Local Needs status.
Submission of Comments and Information (11/16/2007)	Details formats of acceptable content, and the procedure and deadline for submission of comments and information to the Board.
Plant Incorporated Protectant Technical Committee (5/14/2010)	Describes the membership and purpose of the Ad Hoc PIP Committee.
<b>RULE INTERPRETATIONS/CLARIFICATIONS</b>	
<b>CHAPTER 10</b>	
Application of Pesticides to Unoccupied Hotel Rooms and Apartments (April 24, 2015)	States that in the case of lodging places and apartment buildings, the entire building must be closed to the public for seven days in order to be treated by non-licensed applicators, rather than just a single room or apartment.
Application of Pesticides in Areas "Open to Use by the Public" if Access to the Public is Denied for Seven Days (July 10, 2015)	States that in the case of recreational areas, trails, and parks, only the area treated needs to be closed to the public for seven days in order to be treated by non-licensed applicators, rather than the entire property.
Commercial Applicators - Application of Restricted or Limited Use Pesticides on Their Own Property (5/12/1992)	Clarifies the requirement for applicators using restricted or limited use pesticides on their own property for agricultural commodities to have a Private Applicator license.
Definition of Distribute (6/13/2003)	States that giving samples of pesticides constitutes distribution and requires a license.
<b>CHAPTER 20</b>	
Policy on Exclusion Areas Relative to Chapter 20, Section 6 Rulemaking Amendments (9/6/2013)	Concerns the definition and mapping of areas to be excluded from aerial spraying in the event of a mosquito-borne public-health emergency.

Verifiable Authorization of Commercial Pesticide Application Services (11/16/2007)	States what methods of verifiable authorizations the Board has approved and provides a path for applicators to petition for other methods to be approved.
Positive Identification of Proper Treatment Site by Commercial Applicators (amended December 5, 2014)	Details methods of positively identifying application sites which have been approved by the Board as required by Chapter 20.
Easements and Rights of Ways (10/3/2002)	Assistant Attorney General's explanation of easements and rights of way, as they relate to pesticide applications.
<b>CHAPTER 26</b>	
Board Designated Public Health Pests (11/17/2006)	Defines what pests are designated public health pests under CMR 01-026 Chapter 26 Section 4(C)(2).
Interim Interpretative Policy on the Applicability of CMR 01-026 Chapter 26 (8/27/2009)	Interprets "occupied buildings" to mean fully enclosed indoor spaces inside buildings and does not roofed areas of retail store that are otherwise open to the outdoors
<b>CHAPTER 28</b>	
Appropriate Methods for Notifying the Public About Commercial Applications to Sidewalks and Trails (December 5, 2014)	As required by CMR 01-026 Chapter 28 Notification Provisions for Outdoor Pesticide Applications as of May 25, 2015
<b>CHAPTER 29</b>	
Determining Allowable Pesticide Applications Pursuant to CMR 01-026, Chapter 29, Section 6 (3/5/2010)	Clarifies what types of applications are "not broadcast application" and therefore are not prohibited in the 25-foot-buffer area.
Interim Policy Regarding Interpretation of "Dominated by Emergent or Aquatic Plants" as Used in Chapter 29 Section 6A(B) (Adopted 6-23-17)	Clarifies that small areas which do not contain standing water do not require buffering even if they contain plant communities normally associated with wetlands, and that manmade depressions, such as skidder ruts and road ditches, do not require buffering even if they contain standing water.
Definition of Biological Pesticide as it Relates to Chapter 29 Section 5 (amended 3/31/2017)	Lists the products allowed for use for control of browntail moth adjacent to marine waters.
Allowable Pesticides for the Control of Browntail Moth Within 250 Feet of Marine Waters (1/11/2017)	Lists the products allowed for use for control of browntail moth between 50 and 250 feet of the high water mark of marine waters.
<b>CHAPTER 31</b>	
Private vs. Commercial Applicators (10/29/2002)	Details circumstances in which a commercial applicator's license is required in an agricultural setting.
Certification Exams from Other States (6/26/1992)	States that the Board will no longer recognize other states' certification standards for issuing Maine licenses; applicators must pass Maine exams.
<b>CHAPTER 32</b>	
Sales of Restricted/Limited Use Pesticides to Unlicensed Corporate Farm Employees or	Clarifies that restricted/limited use pesticides may be billed to an unlicensed corporate farm employee or a public or private lender as long as the pesticides are delivered to a farm where a documented licensed private applicator will have on-site supervision over the application, storage and

Public or Private Lenders (amended 7/26/2002)	disposal of those products. Also includes the form which must be used to verify the responsible licensed private applicator.
Commercial Applicators - Application of Restricted or Limited Use Pesticides on Their Own Property (5/12/1992)	Clarifies the requirement for applicators using restricted or limited use pesticides on their own property for agricultural commodities to have a Private Applicator license.
<b>CHAPTER 33</b>	
Food Production— Interpretation as it relates to Agricultural Basic License (8/8/2014)	Clarifies that the term “food production” includes treatments beginning with the growing media and ending when the plant or plant product is transferred out of the grower’s control.
<b>CHAPTER 35</b>	
Spray Contracting Firm License Requirements (7/22/2004)	Clarifies the requirements set forth in 22MRSA 1471-C, 23-B and CMR 01-026 Chapter 10, Section 2 EEE regarding spray contracting firms when one company subcontracts with another company.
<b>CHAPTER 50</b>	
Applicator Records (6/13/2003)	Specifies that applicators must record information on the same day the application is performed.
<b>ENFORCEMENT</b>	
Production of Pesticides for Personal Use (12/10/2010)	Clarifies that a person may lawfully produce a pesticide for his own use without registering it, but may not do so as a licensed applicator.
Enforcement Protocol (amended December 2013)	Details enforcement protocol to be utilized in routine enforcement matters arising under the Board's statutes and regulations.
What Pesticide Products May be Distributed by a Landlord to a Tenant for use in the Tenant's Own Apartment (8/28/2009)	Defines “low risk” pesticide in the context of landlords/tenants and states that landlords may distribute low risk pesticides to tenants.
<b>VARIANCES</b>	
Repeat Variances of CMR 01-026 Chapter 22 and Chapter 29 (9/8/1995)	Delegates the approval of repeat variances to staff in certain circumstances
Interim Policy to Delegate Authority to the Staff to Approve Requests for Variance from CMR 01-026 Chapter 29 for Control of Plants that Pose a Dermal Toxicity Hazard (11/18/2011)	Delegates authority to staff for variance from the 25-foot untreated buffer zone required by Chapter 29 for control of plants that pose a dermal toxicity hazard.
Interim Policy to Delegate Authority to the Staff to Approve Requests for Variance from CMR 01-026 Chapter 29 for Control of Invasive Plants (12/13/2013)	Delegates authority to staff for variance from the 25-foot untreated buffer zone required by Chapter 29 for control of certain invasive plants.



**PAUL R. LePAGE**  
GOVERNOR

**STATE OF MAINE**  
**DEPARTMENT OF AGRICULTURE, CONSERVATION & FORESTRY**  
DIVISION OF ANIMAL AND PLANT HEALTH  
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**WALTER E. WHITCOMB**  
COMMISSIONER

**MAINE REPORT TO THE EASTERN PLANT BOARD**  
**APRIL 2018 – MYSTIC, CONNECTICUT**  
**SUMMARY OF 2017 ACTIVITIES**

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**INTRODUCTION**

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The Division of Animal and Plant Health within the Department of Agriculture, Conservation and Forestry (ACF) includes Maine's plant regulatory programs, responsible for protecting the state's plant resources from the introduction and spread of regulated insects and diseases. The Division provides technical information and support to agricultural producers and issues a number of licenses and permits for individuals to conduct certain business. The Division carries out its mission through the work of various programs including: nursery program, integrated pest management program, apiary program, arborist program, cooperative agricultural pest survey (CAPS), seed potato certification and the Board of Pesticides Control. The Division also works closely with the Division of Forest Health and Monitoring which is charged with protecting Maine's forest, shade and ornamental tree resources from significant insect and disease damage.

**NURSERY PROGRAM**

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**LICENSING AND INSPECTION**

All businesses or individuals selling nursery stock in Maine must have a license. Nursery stock is defined as: woody plants, including ornamental and fruiting trees, shrubs, vines and all viable parts of these plants; herbaceous plants, including florist stock plants, annuals, perennials, vegetable seedlings, herbs, potted plants and all viable parts of these plants; and any other plant or plant part designated by the commissioner. 1366 nursery stock licenses were issued in 2017. A list of businesses with Maine nursery stock licenses can be found at: [www.maine.gov/hort](http://www.maine.gov/hort). Inspectors performed 956 inspections at nurseries, greenhouses and plant dealers. A variety of pests were observed during inspections, but most were minor or common pests.

**PHYTOSANITARY INSPECTION AND SHIPPING CERTIFICATION**

584 lots of plant materials were inspected and certified for shipment using phytosanitary certificate forms. 8 federal certificates and 4 state certificates were for nursery/forest materials, 22 federal certificates and 1 state certificate were for seeds, 4 federal certificates were for a processed peat products and 545 federal certificates were for potatoes and grain (barley, rye and wheat). 29 businesses operated under compliance agreements and were approved to ship nursery stock to other states. 4 businesses had firewood kilns certified to produce heat-treated firewood and other forest products for shipment out-of-state.

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## INVASIVE PLANTS

In January 2017, the Division adopted rules that prohibit the sale and distribution of thirty-three invasive terrestrial plant species starting January 1, 2018. The plants were evaluated using a previously established list of invasive plant criteria and then reviewed by a specially-convened committee of horticulture professionals, land managers, foresters, wildlife biologists and other scientists. The full invasive terrestrial plant rule and list of plants is available at [www.maine.gov/dacf/php/horticulture/invasiveplants.shtml](http://www.maine.gov/dacf/php/horticulture/invasiveplants.shtml)

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## INDUSTRIAL HEMP

### LICENSING AND THC TESTING

2017 was a strange growing season, wet in the spring and dry the rest of the year. Despite the weather-related challenges, Maine's industrial hemp industry continued to grow. In 2017 there were 34 licensed growers of Industrial Hemp in the state with 36 planted growing sites. Thirteen licensed sites were not planted. Although there were 150 acres licensed only about 30 acres of industrial hemp were planted. Industrial hemp rules require the Department to take growing season samples to test for Delta 9 THC. Test results ranged from 0.0007% to 0.167%, all results were well below the 0.3% threshold.

While no major program changes are anticipated for 2018, the Department will be making small adjustments. Licensees in 2018 will be asked to fill out a mid-season progress report that will include information on how many acres were planted and estimated harvest dates. This information should help Department personnel better plan sampling schedules to ensure all crops are sampled and tested for delta 9 THC at the appropriate time. Other changes include: allowing growers to start seedlings indoors if plants are moved outside by June 1 and allowing planting of industrial hemp from tissue culture or clones, if the same THC testing that is required for production from seed is provided for the tissue culture or clone parent plants.

### LEGISLATION

There were two industrial hemp related bills in the Legislature in 2017. The bills were LD 742 An Act to Allow Hemp Growers to Grow Hemp from Clones and Indoors and LD 1611 An Act to Protect Persons Who Cultivate, Process, Buy and Sell Hemp. Both bills were voted ought not to pass by the Legislature's Agriculture, Conservation and Forestry Committee, effectively killing the bills.

In November 2016 Maine voters passed a referendum allowing the adult use of recreational marijuana. The legislature has delayed implementation of the referendum while they work on details of licensing, taxation and other regulatory details of retail marijuana sales. It remains unclear how Maine's recreational adult use marijuana law may impact the industrial hemp program or other programs within the Division of Animal and Plant Health.

### OUTREACH

The Department received inquiries from 5 callers asking if licensed industrial hemp growing sites were legal. Two calls were from law enforcement, two calls were from the Department of Health and Human Services, which oversees Maine's medical marijuana program and one call was from a concerned neighbor. Fortunately, all the growers were licensed.

In addition to licensing industrial hemp producers the Division supports *Cannabis* growers through the IPM program with pest problem solving, education and outreach to promote IPM methods, especially biological control.

More information on Maine's industrial hemp program can be found at [www.maine.gov/dacf/php/hemp](http://www.maine.gov/dacf/php/hemp)

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## **GINSENG PROGRAM**

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Maine's ginseng certification program facilitates the export of American ginseng while meeting the requirements of the Convention for International Trade of Endangered Species of Flora and Fauna. In Maine, American ginseng is considered state endangered and the Department does not certify wild-harvested ginseng for sale. A license is required to grow cultivated ginseng for sale to out-of-state markets; harvested ginseng must be weighed and certified before sale. In 2017 there were 15 licenses issued for ginseng growers and 1 for a ginseng dealer. Ginseng can be a difficult crop to grow in Maine and no cultivated ginseng has been harvested and certified for sale since 2001.

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## **INTEGRATED PEST MANAGEMENT PROGRAM**

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### **SCHOOL IPM**

The Maine School IPM Program continued to support compliance with state pesticide regulations requiring all K-12 schools to utilize IPM methods aimed at minimizing risks of exposure to pests and pesticides. In 2017 the School IPM Program provided training for over 200 public and private school maintenance and custodial staff at six workshops, including a turf IPM workshop for schools and parks. In addition, the Maine School IPM Program gave presentations to other school officials, teachers and nurses. In 2016, a new project was initiated to provide support and IPM training to school nurses throughout the Northeast region, with grant funding from the Northeastern IPM Center. This two-year project seeks to empower school nurses to support adoption of least-risk strategies for preventing and managing health-impacting pests such as ticks, mosquitoes and bed bugs. On-line self-paced training modules have been developed. Outreach efforts via school nurse associations, exhibits and presentations are underway. In addition, IPM literacy among teachers and youth audiences was supported through teacher workshops and statewide youth education events. In 2017 we trained 60 pre-service teachers at the University of Maine, Farmington and engaged over 3000 young learners and educators at various educational events across the state.

### **GREENHOUSE IPM**

The Maine IPM Program supports Maine's green industry through education and outreach aimed at minimizing pest problems and production costs and growing healthy plants. The IPM program collaborates with partners to offer workshops and share informational resources. In 2017, we offered two day-long workshops attended by about 150 greenhouse growers, and we gave several presentations on IPM to growers and gardeners at state-wide conferences and local garden club meetings.

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## **APIARY PROGRAM**

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### **REGISTRATION AND INTERSTATE MOVEMENT**

In 2017, there were 1147 resident beekeepers that registered 9853 hives. Entry permits were issued for approximately 27,500 hives managed by 21 commercial beekeeping operations contracted for blueberry, apple and cranberry pollination. This was a 46.7% decrease from 2016 when approximately 58,833 were imported for pollination. The reduction in the number of hives being used for blueberry pollination is due to a decline in blueberry prices and reluctance by producers to add to production costs. Since 2011, growers have seen a steady decrease the average price per lb value of the crop. In 2016 growers averaged \$0.27 per pound, down \$0.19 from 2015 and \$0.64 lower than 2011. The average price growers received for berries is expected to be around \$0.27 per pound again in 2017. Not surprisingly, Maine blueberry growers produced a smaller crop in 2017, estimated to be around 65 million pounds. This is a 36.2% reduction from the 2016 yield of 101.8 million pounds.

In 2017, 6228 hives were issued Maine health certificates for interstate movement to NY, MA, VI, PA, FL and GA for crop pollination and wintering. After blueberry pollination, most hives return to their states of origin under certification previously issued by that state. In recent years, beekeepers have made far fewer requests for Health Certificates for interstate movement.

### BEEKEEPER REPORTED LOSSES AND CAUSES

In April 2017, the Maine Apiary Program offered an online survey to beekeepers to assess hive loss and beekeeper management practices across the state. Respondents reported losing 53% of their hives between April 2016 and April 2017 (summer: 5.9%, winter: 47.1%). The most common reported cause of summer losses were queen loss/failure (11.6%), unknown (8.7%), environmental factors (7.6%) and Varroa mites (7.3%). Most (71.5%) respondents reported no summer losses. The most commonly reported causes of winter losses were Varroa mites (29.7%), environmental factors (24.4%), starvation (22.1%), unknown (16.9%) and queen loss/failure (15.7%). A quarter (26.7%) of respondents reported no winter losses.

### INSPECTION AND DISEASE DETECTION

Throughout the year 2861 colonies were inspected for disease and parasites. All migratory operations (21) in Maine for pollination and many (152) of the resident beekeepers were inspected. Sixteen nucleus hive distributors and 4 package dealers were also inspected. Early spring inspections focused on hives that died during late winter and early spring. Of those hives inspected one third of the inspected hives perished due to starvation, poor weather, moisture, and queen issues. The remaining two thirds of hive mortality was due to Varroa and its associated viral complex.

Colony buildup for surviving hives started strong in 2017 but was halted during an extended stretch of cold rainy weather in late May/early June. Several incidences of European Foulbrood (*Melissococcus plutonius*) occurred in hives that were not provided adequate supplemental forage. Swarming was slightly delayed and minimal in 2017. Two of six hives in an abandoned apiary located in Sagadahoc County tested positive for American foulbrood (*Paenibacillus larvae*). No other colonies in the area showed signs or tested positive for AFB infection.

There was a particularly virulent incidence of chalkbrood (*Ascosphaera apis*) infection in Oxford County that was possibly traced back to queen stock out of Canada. South African small hive beetles (*Aethina tumida*) popped up again this year following the evacuation of the migratory hives in Midcoast, Downeast, and Central Maine. Two hives with heavy infestations were destroyed, the rest were saved following intervention.

Varroa continues to be the biggest problem facing beekeepers in Maine. Nearly all (93%) hives that were sampled for varroa tested positive. As usual, Varroa populations increased to damaging levels during late summer/early fall in 2017 and viral infections associated with Varroa were widespread. Early fall losses

were higher than previous years due to an unseasonably warm fall that allowed brood production and mite reproduction in hives later than normal. The long warm fall also increased incidences of bee and wasp robbing of weak colonies.

In 2017, the Maine Apiary Program received several nuisance complaints and stinging incidents associated with urban/suburban beekeeping and hives used for blueberry pollination. Like previous years, some of the hives inspected during pollination exhibit extreme defensive behavior. The state apiarist responded to calls from the Maine Turnpike Authority, local law enforcement, private businesses, and the public about bees that escape from semis at truck stops, toll booths, and fuel stations as well as several nuisance bee calls regarding bees drinking from pools and hot tubs. The state apiarist made recommendations to town code enforcement and the public regarding nuisance situations involving bees and wasps and helped two municipalities in Cumberland and Kennebec counties remove and dispose of abandoned bee equipment.

### OUTREACH

In 2017 the state apiarist presented 49 lectures and workshops on a variety of beekeeping topics to blueberry growers, ME Board of Pesticide Control inspectors, schools, conservation organizations, beekeeping associations, and at beekeeping short courses offered via County Extension and Adult Education programs. An estimated 2146 people attended these talks.

The Veterinary Feed Directive (VFD) was implemented in January 2017. The state apiarist talked at the State Veterinarian Spring Education meeting and held three in-hive trainings specifically designed for veterinarians on the basics of beekeeping and disease identification.

### MISCELLANEOUS

USDA EAP Assistance: 13 beekeepers applied for assistance for 2017. This number is higher than previous years and is mostly attributed to an extended drought in southern Maine.

Review Committees: Sat on the Farm Bill Bee Project review committee, chaired the Eastern Apicultural Society Research Grant Committee.

Grants Submitted: Northeast IPM Center Grant “A Varroa Mite IPM Program for New England Honey Beekeepers” and USDA Farm Bill Project “National Honeybee Survey”

### COOPERATIVE AGRICULTURAL PEST SURVEY (CAPS)

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The Division administered the Cooperative Agricultural Pest Survey (CAPS) Program, a cooperative survey effort between the USDA APHIS PPQ, state departments of agriculture and state universities. The CAPS program supports the position of the state survey coordinator (SSC).

The Maine CAPS Program allowed for survey work of the following in 2017:

- Nursery Commodity Survey; conducted by the Division. Visual inspections of host trees were conducted at 36 nurseries in 13 counties for the following targets: *Aeolesthes sarta*, *Anoplophora glabripennis*, *Agilus spp.*, and *Monochamus spp.* Trapping surveys were conducted at 15 nurseries in 8 counties for the following targets *Monochamus alternatus*, *M. urussovii*, *Hyllobius abietis*, *Archips xylosteanus*, *Tortrix viridana* and *Lymantria mathura*. Five nurseries were inspected for snails and slugs. All samples were processed in-house and all beetle and moth specimens identified. No target specimens were found.

- Exotic Woodborer/Bark Beetle Survey in Conifers; conducted by the Bureau of Forestry, Division of Forest Health and Monitoring. Traps were deployed for *Ips typographus*, *I. sexdentatus*, and *Orthotomicus erosus* at five sites; *Monochamus urussovii*, *M. alternatus*, and *Hylobius abietis* at five sites; *Tetropium castaneum* and *T. fuscum* at five sites; and *Dendroctonus frontalis* at 10 sites in Cumberland Co. Most collections were sent to the Carnegie Museum of Natural History who screened the samples and found no targets. The *D. frontalis* samples were screened in house and no targets were found.

In addition, the CAPS program administered five projects with funding from the Farm Bill:

- Small Fruit Commodity Survey; conducted by the Division and the University of Maine Cooperative Extension. Traps were deployed at 8 vineyards in 5 counties for seven target pests: *Autographa gamma*, *Epiphyas postvittana*, *Eupoecilia ambiguella*, *Lobesia botrana*, *Spodoptera littoralis*, *S. litura*, and *Thaumatotibia leucotreta*, and visually inspected for *Lycorma delicatula*. Additional traps were deployed in various berry plots at 10 sites in 6 counties for *E. postvittana*, *E. ambiguella*, *L. botrana*, and *S. litura*. All samples were screened in house and no target species were found.
- Vegetable Pest Survey; conducted by the Division and the University of Maine Cooperative Extension. Traps were deployed in tomato at 10 sites in 6 counties for *Helicoverpa armigera*, *Neoleucinodes elegantalis*, *Spodoptera litura*, *Tuta absoluta*; and in mixed alliums at 15 sites in 8 counties for *Acrolepiopsis assectella*. Visual surveys were conducted at the allium sites (15) for *Phytomyza gymnostoma*. All samples were screened in house. Multiple specimens of *A. assectella* were found at one site. No other targets were found.
- Solanaceous Survey (PCN/Blackleg); conducted by the Division's Seed Potato Inspection staff. Discussed elsewhere in report.
- Forest Pest Outreach and Survey Project; conducted by the Division, with subcontracts to Saco River Recreational Council (SRRC) and the Maine Association of Conservation Districts. Staff conducted 47 outreach events in 14 (out of 16) counties. SRRC's outreach is difficult to quantify as a large part of its efforts involves one-on-one conversations with river campers bringing in firewood.
- Firewood Outreach Campaign; conducted by the Division and the Bureau of Forestry. The Division administered a contract with Firewood Scout, an online resource for the public to locate local sources of firewood. Approximately 195 firewood vendors in Maine agreed to have their location and contact information entered into the network. To advertise and promote the use of Firewood Scout to more vendors and Maine campground visitors, the Division produced a brochure to help vendors sign up, advertised twice in the Maine Campground guide, ran four Facebook promotions, and distributed information when conducting outreach events. The Bureau of Forestry intends to conduct on-the-ground outreach at a number of campgrounds during peak camping weekends. The project was extended another year to accomplish this outreach.

Data was entered into NAPIS for 50 pests. New positive records were entered for *Acrolepiopsis assectella* (leek moth) and *Halyomorpha halys* (brown marmorated stink bug).

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## SEED POTATO CERTIFICATION

Seed potatoes are certified to control the level of pests in Maine's potato industry. Certification is a three-step process: inspection of seed potatoes during the summer, post-harvest disease evaluation of samples

submitted for testing and inspection during shipping to ensure the potatoes meet grade standards. Only lots that have been found to meet, field, post-harvest testing and shipping point inspection can be tagged as certified seed.

### SUMMER FIELD INSPECTION

In 2017, 9625 acres met disease tolerances for regulated diseases and pests during the summer field inspection program. A directory of producers whose seed lots passed the summer inspection program is compiled after the field inspection season and posted at [www.maine.gov/dacf/php/seed\\_potato](http://www.maine.gov/dacf/php/seed_potato).

### POST-HARVEST TESTING

Maine statutes require a sample be submitted for post-harvest disease evaluation at a state operated farm in Homestead, Florida in order for a seed lot to receive certification. Due to a recent rule change in May of 2016, Field Year 1, Field Year 2 and 7 Latent varieties; (varieties that do not exhibit typical Potato Virus Y (PVY) symptoms) were tested at the Department Disease Testing Laboratory utilizing the ELISA testing method. This change was put into effect as a transition to full laboratory testing in the future for all post-harvest testing for the Maine certified seed program. From November 2017 to January 2018, 989 samples, representing approximately 9363 acres of potatoes were evaluated for disease in Presque Isle and Homestead Florida. 64% met the certification requirements for foundation seed (total virus <0.55%), 30% met the requirements of certified seed (total virus 0.56-5%) and 6% did not meet the seed certification standards (>5% total virus). Post-Harvest testing results are posted at [www.maine.gov/dacf/php/seed\\_potato/index.shtml](http://www.maine.gov/dacf/php/seed_potato/index.shtml)

For the 2018 crop year the Department, based on industry input, has decided to fully transition to Elisa laboratory testing for all post-harvest PVY samples starting in November 2018. This represents a three year process to test the feasibility of ending the Florida grow-out and fully process all samples at the certification laboratory in Presque Isle, Maine. With this step Maine will be the first state in the country to fully transition to laboratory post-harvest testing for seed potatoes.

### BLACK LEG AND DICKEYA

In recent years, blackleg and Dickeya have contributed to crop losses in Maine and other potato producing states resulting in severe economic losses for several potato growers. The Seed Potato Certification Program developed new standards in cooperation with industry stakeholders and university researchers to better inspect and identify Maine seed lots that may contain pectolytic bacteria and Dickeya by adding visual field tolerances for blackleg as part of the summer field inspection. These tolerances were approved and went into effect in May 2016.

For the 2017 crop year, the seed certification program decertified only one lot based on field readings. Two other lots were voluntarily withdrawn by the grower. Field staff did not see much in the way of symptomatic plants due to an extended dry period from July onwards.

### POTATO CYST NEMATODE NATIONAL SURVEY

The Seed Potato Certification Program participated in the Potato Cyst Nematode (PCN) National Survey for the ninth year in a row. No seed potatoes could be shipped out of Maine unless they came from fields that have been sampled and tested for PCN (*Globodera pallida*) and Golden nematode (GN) (*Globodera rostochiensis*). Division staff used either soil probes or specialized mechanical samplers to survey choice seed potato fields in Aroostook County that grow seed for export. Each acre was sampled according to protocol to collect a 5 lb sample, resulting in 3195 samples. All soil samples were shipped to the USDA APHIS Nematode Laboratory in Avoca, NY. No PCN or GN was found.

## **BOARD OF PESTICIDES CONTROL**

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### **PESTICIDE USE AND APPLICATOR LICENSING**

The Board of Pesticides Control (BPC) licenses pesticide applicators (Agricultural Basic, Private and Commercial) and pesticide dealers (limited/restricted and general use products). As of March 31, 2018, there are 410 active agricultural basic licensees, 885 active private licensees, 1580 active commercial licensees, 233 spray contracting firm (business) licenses, 62 limited/restricted use dealers, and 716 general use dealers.

### **LEGISLATION AND REGULATION**

The first regular session of the 128<sup>th</sup> Maine Legislature entertained five pesticide related bills. LD 174 An Act to Limit the Use of Pesticides on School Grounds was amended to An Act to Require Schools To Submit Pest Management Activity Logs and Inspection Results to the Board of Pesticides Control for the Purposes of Providing Information to the Public—it was held over to the next session. LD 418 An Act to Educate the Public on the Proper Use of Pesticides and To Promote Integrated Pest Management Using Existing Resources; LD 993 An Act to Protect Pollinators from Neonicotinoid Pesticides; and LD 699 An Act to Enact the Toxic Chemicals in the Workplace Act were “Placed in Legislative Files (DEAD). LD 594 An Act to Modify the Definition of “General Use Pesticide” was signed by the Governor on 5/11/2017 (PL 59).

The Board did not amend any rules in 2017.

### **ARBORIST PROGRAM**

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All individuals performing arborist work in Maine must have a license. According to Maine Arborist Licensing Law (7MRSA Section 2173-2191) an arborist is anyone who, for compensation, takes down or fells, diagnoses or evaluates, recommends or supervises treatment, or in any manner or for any purpose treats or cares for shade or ornamental trees. In order to become a Maine licensed arborist, individuals must pass an exam demonstrating proficiency in arborist techniques, safe use of arborist tools and equipment, tree identification and pest identification. Licenses and exams are offered in two categories, landscape and utility. In 2017 the Department was pressured to require continuing education units for licensees, but this was found to be unfeasible due to limited resources. 115 people took and 108 passed the arborist exam in 2017. A total of 1035 arborist licenses were issued by the Division in 2017.

### **FOREST INSECT AND DISEASE CONDITIONS**

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*Courtesy of the Division of Forest Health & Monitoring. Growing season conditions reports as well as information about the pests below can be found at [www.maine.gov/dacf/mfs/forest\\_health](http://www.maine.gov/dacf/mfs/forest_health)*

#### **GYPSY MOTH**

Maine maintains a town by town quarantine for gypsy moth. The Maine forest service surveys yearly for gypsy moth presence in the non-quarantined part of the state through both pheromone trapping and winter egg mass surveys. Every year more towns are added to the quarantine area as the gypsy moth infested portion of Maine creeps ever northward. The Department has begun to collect feedback from stakeholders to determine if the state should continue to maintain a town by town quarantine or if it is time to quarantine the entire state.

## SPRUCE BUDWORM

The Maine Forest Service (MFS) and its cooperators are closely watching spruce budworm in Maine to monitor and prepare for another epidemic of this native defoliator of fir and spruce. Outbreaks occur on a roughly 40-year cycle in response to maturing forest stands and reduced pressure from parasites; the last time budworm was a problem in Maine was in the 1970's and 80's. This is an insect whose epidemics cover vast regions and flights of moths from heavily infested areas can migrate to new areas. The Maine Forest Service, cooperators within and outside the state, and Canadian provinces are working together to monitor and predict the growth of the spruce budworm population and its potential impact on the regions forests. Monitoring takes place using pheromone traps, light traps, overwintering larval samples, ground and aerial surveys.

As in the last several years, the cooperative pheromone trap effort for spruce budworm included participation from over 20 organizations. The spruce budworm pheromone survey shows spruce budworm is widespread but still at low numbers across the trapping range. Trapping effort was heaviest in the northern third of the state, light across the middle of the state, with no trapping in the south where budworm is not expected to have a direct impact. Across most counties trapped, the average number of moths caught was stable compared to 2016 with an average catch of 7 moths/trap. No defoliation was detected during aerial survey. Feeding needs to be approaching a moderate level of damage before it is visible from the air. All population measures indicate that numbers are too low everywhere in Maine to expect that level of feeding yet. Updates about the spruce budworm situation in Maine can be found at [www.sprucebudwormmaine.org/](http://www.sprucebudwormmaine.org/)

## BROWNTAIL MOTH

The browntail moth (*Euproctis chrysorrhoea*), an insect of forest and human health concern, has increased in population over the last several years. The larval stage of this insect feeds on the foliage of hardwood trees and shrubs including: oak, shadbush, apple, cherry, beach plum, and rugosa rose. Larval feeding causes reduction of growth and occasional mortality of valued trees and shrubs but, the primary concern is the impact on human health. Contact with the hairs found on the caterpillars of browntail moth causes a rash similar to poison ivy that can be severe on some individuals.

In 2017, there were over 54,000 acres of defoliation observed during aerial surveys in the core infested area (coastal Sagadahoc and Cumberland Counties) as well as other scattered patches of defoliation. There is some evidence that browntail moth populations may be decreasing in previously hard-hit communities, however, populations seem to be increasing in outlying areas. While populations are expected to be lower in 2018 than 2017, browntail moth will still be affecting a lot of people in a wide area, probably including new places not affected in past years.

## DROUGHT STRESS

Drought stress impacted trees in the southern half of Maine for much of the 2017 summer season, essentially a repeat of 2016's very dry months of July and August. The drought has been especially tough on trees along the coast and on the islands, leading to dieback and mortality. Drought stress in back-to-back growing seasons could potentially have negative short and long-term impacts on tree health. Reduced vigor due to drought stress may lead to future outbreaks of damaging forest pests, such as bark- and wood-boring beetles and some trees may develop higher susceptibility to spider mite, aphid and scale infestation, further reducing tree vigor.

## HEMLOCK WOOLLY ADELGID



The detection of hemlock woolly adelgid (HWA) in three counties of southwest Nova Scotia is an important reminder that this hard-to-detect insect could be, undetected, in forests of interior and Downeast coastal Maine. To date, any HWA found east of Camden has been thought to be associated with artificial spread, and populations have not been found in forest trees in that area. The Maine Forest Service continues to regularly look at hemlocks outside the known infested area in Maine for the tell-tale white, wispy material covering adelgid on the twigs of hemlock trees. More information on Maine's HWA quarantine is posted online at [www.maine.gov/dacf/php/horticulture/importinghemlocks.shtml](http://www.maine.gov/dacf/php/horticulture/importinghemlocks.shtml)

# Proposed Administrative Consent Agreement

## Background Summary

**Subject:** Roof Cleaning Solutions  
141 Mayflower Heights Drive  
Oakland, Maine 04963

**Date of Incident(s):** April of 2016; October 31, 2016

**Background Narrative:** The Board received a call that Roof Cleaning Solutions was advertising an ecofriendly product for power washing house roofs. The caller from Cumberland County hired the company only to realize that ZeroTol 2.0 was going to be applied. A board inspector later met with the company owner at an agreed upon site where the owner was spraying a customer's roof. The owner was applying ZeroTol 2.0 to the roof of a home in Raymond to control mold. No one from the Roof Cleaning Solutions company was a licensed applicator and ZeroTol 2.0 is not labeled for roofs.

**Summary of Violation(s):** 22 M.R.S. § 1471-D(1)(A) No commercial applicator may use or supervise the use of any pesticide within the State without prior certification from the board, provided that a competent person who is not certified may use such a pesticide under the direct supervision of a certified applicator.

CMR 01-026 Chapter 31 Section 1(A) III. An unlicensed commercial applicator must be supervised on-site by either a licensed commercial applicator/master or a licensed commercial applicator/operator who is physically present on the property of the client the entire time it takes to complete an application conducted by an unlicensed applicator.

7 U.S.C. § 136j (a)(2)(G), UNLAWFUL ACTS: to use any registered pesticide in a manner inconsistent with its labeling.

7 M.R.S. § 606 (2)(B): A person may not: Use or cause to be used any pesticide in a manner inconsistent with its labeling or with rules of the board, if those rules further restrict the uses provided on the labeling

22 M.R.S. § 1471-D(8)(F) Has made a pesticide recommendation, use or application, or has supervised such use or application, inconsistent with the labeling or other restrictions imposed by the board.

**Rationale for Settlement:** Compared the settlement to similar case settlements in the past.

**Attachments:** Proposed Consent Agreement





11. That the Company did not employ a master applicator, and no one from the Company had a commercial pesticide applicator's license at the time the applications described in paragraphs three, four, five, and eight were made.
12. That the circumstances described in paragraphs one through eleven constitute violations of 22 M.R.S. § 1471-D (1) (A) and CMR 01-026 Chapter 31 Section 1(A) III.
13. That the Board has regulatory authority over the activities described herein.
14. That the Company expressly waives:
  - a. Notice of or opportunity for hearing;
  - b. Any and all further procedural steps before the Board; and
  - c. The making of any further findings of fact before the Board.
15. That this Agreement shall not become effective unless and until the Board accepts it.
16. That, in consideration for the release by the Board of the causes of action which the Board has against the Company resulting from the violations referred to in paragraphs seven and twelve, the Company agrees to pay to the State of Maine the sum of \$500. (Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

ROOF CLEANING SOLUTIONS

By: \_\_\_\_\_ Date: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_

APPROVED

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mark Randlett, Assistant Attorney General

## **Proposed Administrative Consent Agreement Background Summary**

**Subject:** Witherly's Green House & Garden Center  
901 Cold Brook Road  
Hermon, Maine 04401

**Date of Incident(s):** May 31, 2016; June 27, 2017; and July 13, 2017

**Background Narrative:** Witherley's Green House is a licensed general use pesticide dealer. A Board inspector conducted a marketplace inspection at this facility in May of 2016. At that time the inspector documented thirteen unregistered pesticides the facility was offering for sale. The inspector issued a stop sale/use/removal order that explained the reason for the order and the conditions to resolve the problems. The reasons included expired registrations or products that were never registered. The directive to resolve these registration issues including: removal from shelves and dispose of properly.

**Summary of Violation(s):** 7 M.R.S § 606(1)(A) makes it unlawful for a person to distribute a pesticide in this state that has not been registered pursuant to the provisions of this subchapter.

7 M.R.S. § 606(2)(F) makes it unlawful for a person to refuse or otherwise fail to comply with any lawful order of the Board.

**Rationale for Settlement:** Witherly's Green House & Garden Center disregarded a Stop Sale User Removal Order by the Board.

**Attachments:** Proposed Consent Agreement



**STATE OF MAINE  
DEPARTMENT OF AGRICULTURE, CONSERVATION, AND FORESTRY  
BOARD OF PESTICIDES CONTROL**

In the Matter of:	)	
Witherly's Green House & Garden Center	)	ADMINISTRATIVE CONSENT
c/o Galen Witherly	)	AGREEMENT
901 Cold Brook Road	)	AND
Hermon, Maine 04401	)	FINDINGS OF FACT

This Agreement by and between Witherly's Green House & Garden Center, (hereinafter called the "Seller") and the State of Maine Board of Pesticides Control (hereinafter called the "Board") is entered into pursuant to 22 M.R.S. §1471-M (2)(D) and in accordance with the Enforcement Protocol amended by the Board on December 13, 2013.

The parties to this Agreement agree as follows:

1. That the seller owns a greenhouse and garden center located at 901 Cold Brook Road in Hermon.
2. That the seller sells general use pesticides and under 22 M.R.S. Chapter 258-A has been issued general use pesticide dealer license number GPD-4882.
3. That a Board inspector conducted a marketplace inspection at the seller's business on May 31, 2016.
4. That during that inspection stop sale orders were placed on thirteen unregistered pesticide products. For ten unregistered products totaling 55 containers the stop sale orders instructed the seller to remove the products from the shelves and dispose of them properly. For three products totaling 23 containers the stop sale orders instructed the seller to remove the products from the shelves and hold them until further instructions were received from the Board. The seller signed both stop-sale-use-removal-orders acknowledging the basis for and conditions of the stop-sale-use-removal-orders.
5. That on June 27, 2017, a Board inspector conducted another marketplace inspection at the seller's business. The inspector limited the scope of her inspection once she documented that four pesticide products under the May 31, 2016 stop sale order were displayed for sale. These products were not registered for sale in Maine at the time of this inspection.
6. That on July 13, 2017, two Board inspectors conducted a thorough inspection of the pesticide products offered for sale in the self-service sales area. Twelve of the thirteen unregistered pesticide products (61 of 78 containers) that were placed under a stop-sale-use-removal-order at the time of the 2016 inspection remained unregistered and were displayed for sale at the time of this inspection.
7. That 7 M.R.S § 606(1)(A) makes it unlawful for a person to distribute a pesticide in this state that has not been registered pursuant to the provisions of this subchapter.
8. That the circumstances described in paragraphs one through seven constitute multiple violations of 7 M.R.S § 606(1)(A).



9. That 7 M.R.S. § 606(2)(F) makes it unlawful for a person to refuse or otherwise fail to comply with any lawful order of the Board.
10. That the circumstances described in paragraphs one through nine constitute violations of 7 M.R.S. § 606(2)(F).
11. That the Board has regulatory authority over the activities described herein.
12. That the seller expressly waives:
  - a. Notice of or opportunity for hearing;
  - b. Any and all further procedural steps before the Board; and
  - c. The making of any further findings of fact before the Board.
13. That this Agreement shall not become effective unless and until the Board accepts it.
14. That in consideration for the release by the Board of the causes of action which the Board has against the seller resulting from the violations referred to in paragraphs eight and ten, the seller agrees to pay to the State of Maine the sum of \$500. (Please make checks payable to Treasurer, State of Maine).

IN WITNESS WHEREOF, the parties have executed this Agreement of two pages.

WITHERLY'S GREEN HOUSE & GARDEN CENTER

By: \_\_\_\_\_ Date: \_\_\_\_\_

Type or Print Name: \_\_\_\_\_

BOARD OF PESTICIDES CONTROL

By: \_\_\_\_\_ Date: \_\_\_\_\_

Director, Board of Pesticides Control

APPROVED:

By: \_\_\_\_\_ Date: \_\_\_\_\_

Mark Randlett, Assistant Attorney General

**From:** Gugliotti Melissa USGR  
**Sent:** Friday, June 01, 2018 6:23 PM  
**To:** Pesticides <Pesticides@maine.gov>  
**Subject:** South Portland Pesticide Ordinance

Dear Maine Board of Pesticides Control,

I am writing to you today to express my continued distress and concern over the recent pesticide ban that has gone into effect in South Portland. While I can appreciate the desire to cater to the vocal minority who supported this ban, I believe that the majority of Mainers – the hard-working responsible property owners, lawn care professionals, and golf course operators to name a few – are being seriously underrepresented. While a few outspoken individuals have expressed concern around pesticide use in the state and have made it their mission to get their agenda pushed through, most of us proud Maine tax payers are working tirelessly to earn a living and cannot afford to attend every local hearing or meeting. We deserve the right, just as much as anyone else, to make responsible decisions about our own lives and properties.

It is extremely frustrating that the state is allowing our freedom to choose how we protect our properties, pets and families to be taken away. Millions of dollars and countless man-hours are spent every year at both the state and federal levels to provide residents and professionals with a vetted selection of effective state approved and EPA registered products. All of these products should be available to us to provide the proper solution to any pest problem at the correct time.

I find it extremely aggravating and somewhat disappointing that someone should need to apply for a waiver to treat their own property. What this suggests to me is that there may be a lack of knowledge and understanding of how and why pesticide products are being used. It is the job of the Board of Pesticides Control and Department of Agriculture to communicate with residents and support understanding about pesticides and the board's role in their regulation and safe use.

Firstly, a waiver process acknowledges there is a real need for pesticides, but, someone else should be allowed to decide the value of my private property and what is and is not a harmful pest. Secondly, a waiver process does not allow me to protect my property preventatively. What that means is that when a problem does occur, it could very well require larger quantities of stronger and more costly pesticides to treat the problem. It also means that I must expose my family to harmful conditions, such as disease-carrying ticks, before anything can be done to mitigate a harmful situation.

I understand that, as human beings, we tend to fear the unfamiliar. I know very little about boating and quite honestly ocean going crafts scare the heck out of me, but I can still enjoy a trip with a knowing captain. Many

pesticides are derivatives of products that are used every day in the pharmaceutical industry and no one bats an eye at those products. Anything can be toxic at high thresholds, including every day substances such as coffee and chlorine.

I urge the Maine Board of Pesticides fulfill its remit and bring a balanced and common sense approach to educating residents and elected officials about the regulation and use of pesticides in our state. Educate and advocate for the quiet majority. Help everyone get on the same page of understanding what exactly we are talking about and what the ultimate goal is. Let's highlight all the resources and educational information already out there on the Board's website. If we are trying to protect Mainers and the environment, then let's not forget pesticides are important in those efforts. Simply banning all pesticides and allowing each town to make their own rules is counterproductive. There has got to be a better way forward.

Respectfully Submitted,

Melissa Hyner Gugliotti  
Kennebunk, ME

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*This message may contain confidential information. If you are not the designated recipient, please notify the sender immediately, and delete the original and any copies. Any use of the message by you is prohibited.*

Mark Aranson, M.D.  
86 Rock Ridge Run  
Cumberland, Me 04021

June 22, 2018

William Shane, Town Manager, Cumberland, Me  
Cumberland Town Hall  
Tuttle Rd  
Cumberland, Me 04021

Re: Brown Tail Moth Infestation

Hi Bill,

I am contacting you concerning this season's horrible Brown Tail Moth (BTM) infestation. All members of my family living here in Cumberland, as well as many neighbors and friends in the surrounding towns are suffering severely with prolonged itching and some with respiratory problems from exposure to the caterpillar's effects. Local pharmacies which compound the medication for the treatment of the BTM itching, have been working overtime trying to fill the Rx's. Supposedly, spraying for the BTM in the past nearly eradicated the problem; however, follow-up spraying wasn't done, so this year, there has been an explosion of affected individuals with symptoms.

Because this is a public health nuisance adversely affecting the public health, I am requesting that you, as our local authority, petition the State of Maine CDC, pursuant to the Maine State Statute #1444, the COO of the Maine CDC, to declare an infestation of BTM as a public health nuisance. I will be cc'ing other town managers as well as the State Reps and Senators from the surrounding affected towns of Cumberland, Freeport, Falmouth, North Yarmouth, and Yarmouth, hoping that they will do the same. The following is needed: (1) completion of a BTM Public Health Nuisance request form on a Town letterhead, (2) a letter from the Maine Forestry Service documenting the infestation, and (3) a letter from a local health officer documenting that Town citizens are being affected. #2 and #3 must be included with #1. These documents need to be submitted to: Infectious Disease, Div. of Disease Control, Maine CDC, 11 State House Station, 286 Water St., Augusta, Me. 04333-0011, or fax to #207-287-6865, or E-mail to [disease.reporting@maine.gov](mailto:disease.reporting@maine.gov)

Thank you for your assistance with this scourge. We need to get rid of this invasive insect once and for all.

Mark Aranson



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

PAUL R. LEPAGE  
GOVERNOR

WALTER E. WHITCOMB  
COMMISSIONER

Ron C. Lemin, Jr.  
RCL Services, Inc.  
291 Lincoln St  
Bangor, Maine 04401

RE: Variance permit for CMR 01-026 Chapter 29, Nautilus Island

Dear Mr. Lemin:

In 2013 the board adopted a policy allowing for the issuance of multi-year variances for the control of invasive species. In determining this policy the Board emphasized the need for a long-term plan for re-vegetation of the site, and demonstration of knowledge of efficacy and appropriate practices—the goal being to ensure that the site is reverted to native species, and not made available for another invasive species.

This letter will serve as your Chapter 29 variance permit until December 31, 2020 for the treatment of invasive Japanese barberry and honeysuckle on Nautilus Island in Castine Harbor.

Please bear in mind that your permit is based upon adherence to the precautions listed in Section X of your variance application. Also, if it is determined that different products than those listed in Section V are needed, you must contact the Board first and get a new variance.

If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

Anne Chamberlain, Policy & Regulations Specialist



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

PAUL R. LEPAGE  
GOVERNOR

WALTER E. WHITCOMB  
COMMISSIONER

June 6, 2018

Jesse Wheeler  
Acadia National Park  
PO Box 177  
Bar Harbor, Maine 04609

RE: Variance permit for CMR 01-026 Chapter 29, Acadia National Park

Dear Ms. Wheeler:

In 2013 the board adopted a policy allowing for the issuance of multi-year variances for the control of invasive species. In determining this policy, the Board emphasized the need for a long-term plan for re-vegetation of the site, and demonstration of knowledge of efficacy and appropriate practices—the goal being to ensure that the site is reverted to native species, and not made available for another invasive species.

This letter will serve as your Chapter 29 variance permit until December 31, 2020 for the treatment of invasive glossy buckthorn, bush honeysuckle, Asiatic bittersweet, and purple loosestrife at several locations within the boundary of Acadia National Park lands.

Please bear in mind that your permit is based upon adherence to the precautions listed in Section X of your variance application. Also, if it is determined that different products than those listed in Section V are needed, you must contact the Board first and get a new variance.

If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

Amanda Couture, Certification & Licensing Specialist



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

PAUL R. LEPAGE  
GOVERNOR

WALTER E. WHITCOMB  
COMMISSIONER

June 4, 2018

Andrew Powers  
Vegetation Control Services Inc.  
2342 Main St  
Athol, MA. 01331

RE: Variance permit for CMR 01-026 Chapter 29, McGinn Property

Dear Mr. Powers:

In 2013 the board adopted a policy allowing for the issuance of multi-year variances for the control of invasive species. In determining this policy, the Board emphasized the need for a long-term plan for re-vegetation of the site, and demonstration of knowledge of efficacy and appropriate practices—the goal being to ensure that the site is reverted to native species, and not made available for another invasive species.

This letter will serve as your Chapter 29 variance permit until December 31, 2020 for the treatment of invasive black swallowwort, morrow's honeysuckle, oriental bittersweet, multiflora rose, Japanese barberry, and Japanese knotweed at several locations within the boundary of the McGinn property.

Please bear in mind that your permit is based upon adherence to the precautions listed in Section X of your variance application. Also, if it is determined that different products than those listed in Section V are needed, you must contact the Board first and get a new variance.

If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

Amanda Couture, Certification & Licensing Specialist



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

PAUL R. LEPAGE  
GOVERNOR

WALTER E. WHITCOMB  
COMMISSIONER

June 15, 2018

James Ricker  
Town of Newport  
1178 Main St  
Newport, Maine 04965

RE: Variance permit for CMR 01-026 Chapter 29 Section 6, Town of Newport- Durham Bridge

Dear Mr. Ricker:

This letter will serve as your variance permit for Section 6 of Chapter 29 for vegetation control for poison ivy along the Durham Bridge in the town of Newport..

The Board recently authorized the issuance of two-year permits for Chapter 29, therefore this permit is valid until December 31, 2019, as long as applications are consistent with the information provided on the variance request. Please notify the Board in advance of significant changes, particularly if you plan to use a different product from those listed.

Please bear in mind that your permit is based upon your company adhering to the precautions listed in Section X of your Chapter 29 variance request.

I will alert the Board at its July 13, 2018 meeting that the variance permit has been issued.

If you have any questions concerning this matter, please feel free to contact me at 287-2731.

Sincerely,

Amanda Couture, Environmental Specialist III



# UAS Agricultural Operations

**Presented to:** State FIFRA Issues Research and Evaluation Group Webinar

**Presented by:** Jim Malecha, Aviation Safety Inspector, Flight Standards Office

**Date:** May 15, 2018



## Overview

Operating Rules

Regulatory Relief Required

Part 137 Certification Requirements

Public Aircraft Operations

State FIFRA Issues Research and Evaluation Group Webinar  
May 15, 2018



Federal Aviation  
Administration  
www.faa.gov/uas

## Operating Rules

- **Part 61, *Certification: Pilots, Flight Instructors, and Ground Instructors***
- **Part 91, *General Operating and Flight Rules***
- **Part 107, *Small Unmanned Aircraft Systems***
- **Part 137, *Agricultural Aircraft Operations***



## Regulatory Relief Required

- **Exemptions to Parts 61 and 91 if the aircraft is 55 pounds or greater**
- **Section 333 if the aircraft does not have any other certification basis**
- **Part 107 – You will most likely need an exemption from 107.36, Carriage of Hazardous Materials**
- **Part 137 – Several sections of this part must be exempted**



## Part 137 Certification Requirements

- **Certification Service Oversight Procedure (CSOP)**
- **5 Phases of the Certification Process**
  - Pre-application Phase
  - Formal Application Phase – the petition for exemption must be submitted and accepted to the Federal Register prior to beginning this phase
  - Document Compliance Phase
  - Demonstration and Inspection Phase – The exemption must be granted prior to the completion of this phase
  - Certification Phase



## Public Aircraft Operations

- **Assuming the public safety entity meets the statutory requirements to fly under the public legal framework as a public aircraft operator, they must obtain a Certificate of Waiver/Authorization (COA) issued by the FAA to fly PAO missions.**
- **Types of COA**
  - Blanket Area Public Safety (BAPS) COA
  - Jurisdictional COA
  - Special Governmental Interest (Emergency COA)
- **A Federal, state, or local government conducting agricultural aircraft operations with public aircraft need not comply with the certification rules of part 137, but must comply with certain operating rules of subpart C of part 137.**



# UAS Integration Pilot Program



Develop and test innovative UAS concepts

Inform future guidelines and regulations

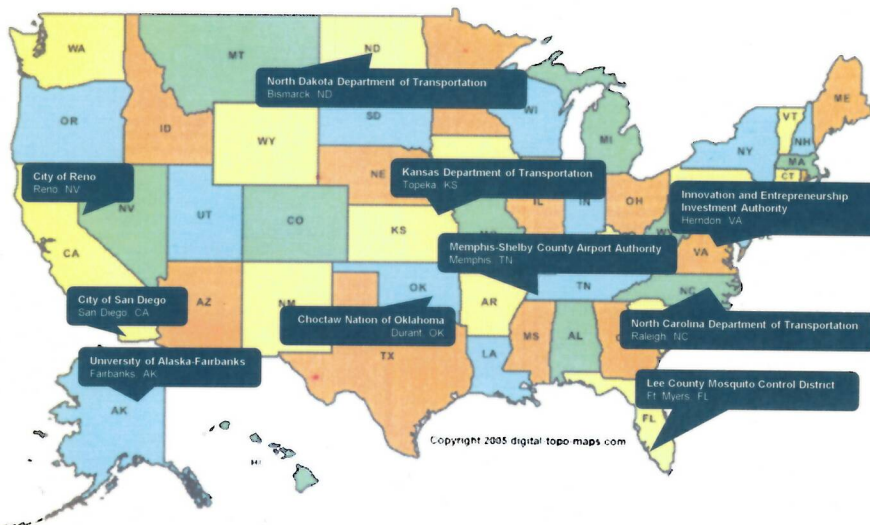
Evaluate involvement of state, local, tribal governments

State FIFRA Issues Research and Evaluation Group Webinar  
May 15, 2018



Federal Aviation Administration  
www.faa.gov/uas

# UAS IPP Participants



State FIFRA Issues Research and Evaluation Group Webinar  
May 15, 2018



Federal Aviation Administration  
www.faa.gov/uas