



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER E. WHITCOMB
COMMISSIONER
HENRY JENNINGS
DIRECTOR

January 25, 2015

One Hundred and Twenty-seventh Legislature
Committee on Agriculture, Conservation and Forestry
Sen. Peter E. Edgecomb, Senate Chair
Rep. Craig V. Hickman, House Chair

RE: Pesticide use in public parks and playground facilities

Dear Senator Edgecomb and Representative Hickman:

In its letter dated July 27, 2015, the Joint Standing Committee on Agriculture, Conservation and Forestry formally requested that the Maine Board of Pesticides Control (Board) review its rules to determine whether the standards for pesticide application and public notification for public parks and playgrounds should be consistent with the standards established in school buildings and on school grounds pursuant to CMR 01-026, Chapter 27, Standards for Pesticide Application and Public Notification in Schools .

The Board's staff conducted an initial analysis of the request and then reviewed the July 16 letter together with Chapter 27 with the Board at its August 28, 2015 meeting. The Board offers the following observations based on that review:

1. The Board applauds the Committee for recognizing that providing additional protections for children against exposure to environmental toxins is both sound policy and well supported in science. Chapter 27 of the Board's rules is an acknowledgment that the Board and the Committee are aligned in this understanding.
2. Careful analysis of Chapter 27 reveals that this rule is predicated on three fundamental conditions that universally exist at schools but do not exist for most parks and playgrounds:
 - a. There is a well-established institutional infrastructure in place that is capable of administering the provisions;
 - b. The population likely to be present is both well-known and well documented, thereby facilitating any notice that may become necessary; and
 - c. It is known when the population will not be present and necessary applications can be scheduled accordingly.
3. Due to the institutional infrastructure that is present at schools, but not at public parks and playgrounds, Chapter 27 is not a logical fit for parks and playgrounds.

4. Many elements of state and federal pesticide law provide protections to children using public parks and playgrounds, including:
 - a. Only licensed (and therefore trained) pesticide applicators may legally apply pesticides at public parks and playgrounds.
 - b. Pesticide applications to parks and playgrounds must be posted in advance of an application and the posting must remain in place for 48 hours. Additional information, such as product labels and safety data sheets must be supplied upon request.
 - c. Pesticide applicators must adhere to the instructions on the product labeling which is reviewed and approved by the federal Environmental Protection Agency (EPA). EPA may not approve a product label without first assessing the risks to the public, and additional safety factors are required to protect children.
 - d. Applicators must adhere to state laws aimed at minimizing exposure to humans, reducing pesticide drift, and protecting water quality.

The Board commends the Committee for its insight with the respect to the importance of protecting children from exposure to environmental toxins. However, based on the rationale detailed above, it does not believe there is any reasonable way to extend the requirements contained in CMR 01-026, Chapter 27 to public parks and playgrounds. Moreover, a number of protective measures are already in place for these sites. Finally, the Board has directed the staff to continue emphasizing the importance of exercising additional caution when licensed applicators are treating sites where children are likely to be present.

The Board thanks the Committee for its diligence with respect to protecting children and looks forward to any additional feedback or insight the Committee may have.

Sincerely,

Deven Morrill, Chair
Maine Board of Pesticides Control