



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

JANET T. MILLS  
GOVERNOR

AMANDA E. BEAL  
COMMISSIONER

**BOARD OF PESTICIDES CONTROL**

**January 20, 2021**

**1:00-2:00 PM Board Meeting**  
**2:00-2:30 PM Public Forum**  
**2:30-4:00 PM Board Meeting Continued**

**MINUTES**

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

1. Introductions of Board and Staff

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

2. Minutes of the November 6, 2020 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or approve

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

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

Since 1995 the Board has supported the Migrant and Seasonal Farmworker Safety Education program. The Maine Mobile Health Program (MMHP) and the Eastern Maine Development Corporation (EMDC provided training to 123 migrant agricultural workers during the 2020 season). Funding to support the effort in 2021 is being requested in the amount of \$6,432, which is 20% increase over the funding amount the Board provided in 2020. The funding has been accounted for in the Board's FY 21 budget.

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

MEGAN PATTERSON, DIRECTOR  
90 BLOSSOM LANE, DEERING BUILDING



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

Action Needed: Discussion and determination if the Board wishes to fund this request

- McGough stated that monies from the program last year were used to train and hire two multi-lingual employees who could speak English, Spanish, and Haitian Creole. They also conducted EPA Worker Protection Standard training and Personal Protection Equipment protocols to keep farmworkers safe. She added that there were fewer farmworkers overall due to quarantines and reduced size of crews in 2020. Maine Mobile Health Program, MMHP, prepared to offer an online option for virtual WPS training if growers preferred. MMHP was available, in its capacity as a health organization, to offer COVID-19 tests and intend to be available to offer vaccines to workers when available.
- Morrill thanked McGough and Huh. Flewelling inquired about vaccine availability for farmworkers.
- McGough responded that farmworkers are an essential workforce and MMHP is partnering with Maine CDC to make sure farm workers have access to the vaccine during phase 1B.
  - **Jemison/Flewelling: Moved and seconded to approve a grant in the amount of \$6432.00**
  - **In Favor: Unanimous**

4. Continuation of the BPC Budget Review with a Focus on the Cost of MePERLS Support, Maintenance, Hosting, and Licensing

During the September 18, 2020 Board review of the its projected 2023 budget, the increasing cost of MePERLS was discussed. Following a robust discussion of MePERLS and the projected costs, staff was asked to invite representatives from Pegasystems and Stratosphere to a future Board meeting. The State of Maine Office of Information Technology serves an essential role in negotiating contracts with both PegaSystems and Stratosphere and can provide a comprehensive overview of the technology and the relative costs. The Maine Office of Information Technology will now provide an overview of the proposed ongoing costs of MePERLS.

Presentation By: Bill Mason, Applications Director, Maine Office of Information Technology

Action Needed: Determine next steps

- Patterson explained that Bill Mason, Applications Director, Maine Office of Information Technology would discuss costs of support and maintenance, including platform costs, as he had been critical to negotiation of those contracts.
- Mason told the Board the current contract ends September 30, 2022. PegaSystems hosts the application and the environment, while Stratosphere employees the developers and addresses bugs and coding. Mason explained that there are currently six State of Maine

applications written within the PegaSystems platform and after the current contract expires the new contract would cover four applications.

- Mason stated that Maine IT had been subsidizing the six contracts substantially but would stop all subsidy after June 2023 and the additional costs will be assessed against the remaining agencies.
- MePERLS current annual cost is \$99,144 and the estimated future annual cost will become \$272,194 after Maine IT stops subsidizing after June 2023. There will also be a fee of \$22,000 for minor enhancements if BPC continues forward with that arrangement, but inclusion of it in the next contract is optional.
- Morrill asked about the two applications who would not be renewing their contracts.
- Mason responded that they found it was not worth the value they were getting out of the application and Maine IT was working on building them something in house that would be less expensive. He added that the Procurement application is leaving because they found a less expensive solution, and LEEDS, a similar application, is also leaving. Mason stated those applications were much less complicated and took months, rather than years to produce, unlike MePERLS.
- Patterson explained that with the recent roll-out of the inspection flows, product registration, and annual summary submission—a significant portion of BPC’s work is managed within MePERLS.
- Morrill asked Patterson to bring the budget to the next meeting to review a comparison for the next seven years.
- Mason noted that the costs projected were estimated and still needed to go through approval, so they could change.
- Adams asked if staff liked the system more than some outside users.
- Patterson replied that staff have received a range of responses regarding the system. Many people like the convenience of obtaining Board related information on demand.
- Tomlinson added that the majority of product registrants, about 90%, were very pleased with how easy it is to submit product registration and renewals.
- Patterson stated that people preferred being able to pay online, check recertification credits, renew employees’ licenses, and check credits for employees.
- Morrill would like to have further discussion about the initial program proposal and the ultimate system cost.

- **Adams/Granger: Moved and seconded to adjourn meeting at 1:54pm**

- **In Favor: Unanimous**

2:00pm Enter public comment session

- There was public comment on the interpretation of the recent Executive Order regarding the use of powered application for disinfection in ambulances. There were questions about training, recordkeeping and posting.
- There were comments from the Maine Organic Farmers and Growers Association regarding their priorities for future legislation.

Board meeting reconvened at 2:19pm

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

In September 2008, the Board first approved a Section 24(c) registration for DuPont Express® Herbicide with TotalSol (EPA Reg. No. 352-632). The 24(c) was renewed in 2010, 2013 and 2019, but the registration expired December 31, 2020. In 2019, a two-year extension for this SLN was approved with the stipulation that University of Maine Cooperative Extension conduct groundwater testing. This 24(c) allows for spot applications to control labeled weeds during the prune year and applications in the fall after harvest and in the spring of the non-crop year to control bunchberry.

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

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

- Tomlinson explained to the Board that in 2019 they voted to extend the SLN registration under the condition that UMCE conducted a series of groundwater tests in blueberry barrens. She added that three wells were tested by University of Maine Cooperative Extension, UMCE, over a period of several months the active ingredient was not detected. Tomlinson stated that UMCE was requesting extension of the SLN.
- Lily Calderwood, Extension Wild Blueberry Specialist and Assistant Professor of Horticulture for UMaine, stated the product is utilized to manage bunchberry in wild blueberry barrens. She added that bunchberry is a low growing plant that is difficult to manage using other means because it is below the blueberry canopy. Lowering soil pH was not an option because bunchberry prefers low pH as well.
- Calderwood explained that the water testing done found no detection of the active ingredient and the results were included in the Board packet. There was further discussion about other available studies, how the product was applied, and the need to deter applications before significant rain events.
- Jemison asked Calderwood if they would continue to look at groundwater contamination.
- Calderwood replied that the product was only used as a spot application and there was interest to conduct testing on what other weeds it may control and hopefully do a trial study of the product near a well to continue testing the well for contamination.
  - **Flewelling/Jemison: Moved and seconded to approve the SLN request for five years**
  - **In Favor: Unanimous**

6. Interpretation of CMR 01-01A, Chapter 26, Section 3(B) in the Context of Powered Application of General Use Antimicrobial Pesticides for Routine Cleaning

On December 31, 2021 Executive Order 7-A FY 20/21 was signed and expanded exemptions from commercial pesticide licensure to certain institutions implementing routine cleaning for SARS-CoV-2. Staff at hospitals, colleges, universities, municipal and county facilities are now exempted from commercial licensure for the powered application of general use antimicrobial pesticides. The Executive Order did not provide exemptions from any other regulatory requirements—such as posting and record keeping. The staff are asking the Board to interpret the applicability of existing posting requirements for facilities making multiple applications, to multiple locations, daily.

Presentation By: Megan Patterson, Director

Action Needed: Discuss and approve/disapprove the development of a policy

- Patterson explained the expansion of exemptions related to the revised Executive Order addressing powered application of disinfectants by staff at hospitals, municipal and county government, colleges and universities.
- There was discussion regarding additional chapters of rule this would encompass. Exempted facilities would be required to post after every application. Staff suggested that continual posting seemed unreasonable and that there may be a better way to accomplish the same goal without demanding new posting for every individual application.. Patterson stated that staff would like guidance to provide to applicators and to include in the training applicators will be required to take.
- There was discussion amongst the Board regarding recordkeeping and who this would encompass. Adams noted that the Board should be most concerned with the training.
- Adams suggested posting on a door that an area was disinfected and if anyone wanted more information they could also access that. He added that he would rather the Board discuss training and the ongoing effort about getting licensed.
- Patterson suggested posting in a central location in buildings stating that they planned to use products in specific locations and vehicles. She added that the idea was something similar to what was required in schools—posting for a set amount of time, possibly a week.
- Randlett proposed making this policy active for the duration of the Executive Order and if the BPC choose to continue that could be considered later but this would cover the immediate need.
- Morrill asked if staff could come up with draft policy for the March 5 meeting.
- Patterson responded that staff would do that.
- Randlett noted that there was no motion needed since the Board was not adopting anything formally, but it would be helpful to provide staff guidance on how they should handle enforcement actions regarding notification and posting.
- Morrill noted concern that we keep in the spirit of the notification process that someone should be pre-warned if they may come in contact with a product.

7. Consideration of a Consent Agreement with Daley Green Services DBA Green Home Solutions, Belfast, 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 unlicensed applications, use inconsistent with the pesticide label, and record keeping.

Presentation By: Raymond Connors, Manager of Compliance

Action Needed: Approve/disapprove the consent agreement negotiated by staff

- Connors stated he received a complaint December 2019 from a homeowner stating that their home was uninhabitable after unlicensed applicators they hired from Green Home Solutions made applications for mold remediation. At the time the complainants called Board staff it had been two months since they had been able to reside in their home The complainants stated that pesticide residue remained on the walls, inside of cabinets, food and dishes. The rug had also been treated and remained wet for a prolonged period of time. The basement was also treated.
- Connors told the Board that a BPC inspector determined the application was conducted by an unlicensed, unsupervised applicator, and records were minimal. Label directions were not followed, and powered application equipment was used.
- Connors stated that the business acknowledged they were spraying the air to kill spores, but the label stated application was supposed to be non-powered and applied 8-10 inches above the surface.
- Patterson noted that the unlicensed applicator also treated porous surfaces when this product was only labelled for non-porous surfaces.
- Morrill asked that that the product label be included in the meeting packet. He added that Connors did a fantastic job with the details.
  - **Jemison/Flewelling: Moved and seconded to accept consent agreement**
  - **In Favor: Unanimous**

## 8. Other Old and New Business

- a. Executive Order Update—M. Patterson
- b. Exam Administration Update—J. Pietroski
  - Pietroski told the Board that exams for up to 45 people per session were scheduled to be held at the Augusta Armory on February 17, March 3, April 17. He added that Master’s written and oral exams will be held every Thursday in the Deering building.
  - Pietroski explained that County Extension Offices would be closed to the public for the foreseeable future. In response, BPC inspectors will continue to proctor drive up private pesticide applicator and agricultural basic applicator exams. This is a continuation of work inspectors have been doing for several months.
  - Pietroski informed the Board of staff plans to partner with DOL Career Centers to host in person exams for the BPC.
- c. Legislative Update—M. Patterson
  - Patterson reviewed relevant legislative titles with the Board. Two bills had language published at the time of the Board meeting.
- d. 2021 Agricultural Trades Show agenda
- e. Environmental Specialist III direct hire bulletin
- f. Recent Activity Related to Aerial Application in Massachusetts—M. Patterson
  - Patterson explained fluorination of plastic containers and the recent news regarding a mosquito insecticide in Massachusetts that tested positive for PFAS. She added that there are a number of bills proposed for this legislative session that address PFAS in the environment.

- Flewelling asked if this would this apply to other products.
- Patterson stated that according to the Agricultural Container Recycling Council as many as 20-30% of agricultural containers (pesticides, adjuvants, fertilizers, etc.) may have received this fluorine barrier treatment.

9. Schedule of Future Meetings

March 5, April 16, and June 4, 2021 are tentative Board meeting dates.

10. Adjourn

- **Morrill/Jemison: Moved and seconded to adjourn meeting at 3:55pm**
- **In Favor: Unanimous**