



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

**August 15, 2018
1:00 PM**

Mather Auditorium, Wells Reserve at Laudholm
342 Laudholm Farm Rd, Wells, Maine

AGENDA

1. Introductions of Board and Staff
2. Minutes of the July 13, 2018 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

3. Consideration of Consent Agreement with Mainely Ticks, Windham

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 an unauthorized application.

Presentation By: Raymond Connors, Manager of Compliance

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

4. Correspondence

- a. Email and attachments from Riley Titus, Responsible Industry for a Sound Environment (RISE) received July 10, 2018
- b. Email and attachments from Riley Titus, RISE, received August 2, 2018
- c. Email and attachments from Karen Snyder, Portland

5. Other Items of Interest

- a. Central Maine Power Co. v. Town of Lebanon, 1990 (submitted by Mark Randlett, Assistant Attorney General)
- b. Staff memo re pesticide self-service sign
- c. Worker Protection Standard updated brochures
- d. Variance permit issued to Mark Eaton for control of invasive phragmites in York
- e. Variance permit issued to Piscataqua Landscaping and Tree Service for control of invasive buckthorn, honeysuckle, and bittersweet in Shepard's Cove, Kittery

6. Schedule of Future Meetings

October 5, 2018, November 16, 2018 and January 16, 2019 are proposed meeting dates. The January meeting will be at the Agricultural Trades Show and will include a Public Listening Session.

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?

7. Adjourn

NOTES

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

Proposed Administrative Consent Agreement Background Summary

Subject: Mainely Ticks Inc.
48 William Knight Road
Windham, Maine 04062

Date of Incident(s): May 15, 2018

Background Narrative: An applicator from Mainely Ticks Inc.(MTI) applied Tempo EC Ultra to the lawn and perimeter of the residential yard at 39 Great Works Drive in Sanford to control ticks. However, the MTI customer from last year at this location sold the property and the 2018 application was made to the property of the new owners at this address. The owner of Mainely Ticks Inc. said his standard practice is to call customers before the season starts to let them know he will continue their service the following year. If no one is home, he leaves a voice message. The MTI owner thought he did this with his customer of two years at 39 Great Works Drive. The MTI owner, hearing no reply, had his employee make the unauthorized pesticide application. To his credit, the MTI owner self-reported the misapplication to the Board shortly before the new owner of the house called the Board to lodge a complaint.

Summary of Violation(s): CMR 01-026 Chapter 20 Section 6(D)2 No person may apply a pesticide to a property of another unless prior authorization for the pesticide application has been obtained from the owner, manager or legal occupant of that property.

Rationale for Settlement: Mainely Ticks Inc. did not have the property owner's authorization to apply a pesticide to property and did not take the necessary steps to get that authorization.

Attachments: Proposed Consent Agreement

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

In the Matter of:)
Mainely Ticks Inc.) ADMINISTRATIVE CONSENT AGREEMENT
48 William Knight Road) AND
Windham, Maine 04062) FINDINGS OF FACT

This Agreement by and between Mainely Ticks Inc. (hereinafter called the "Company") 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 Company provides tick/mosquito services and has the firm license number SCF 2032 issued by the Board pursuant to 22 M.R.S. § 1471-D(1)(B).
2. That on May 16, 2018, Ed Maurais, the Company owner called the Board to self-report that the Company made an unauthorized outdoor insecticide application to the lawn and lawn perimeter at 39 Greatworks Drive in Sanford.
3. That Maurais reported that his practice is to call customers before the season starts to let them know he will continue their service the following year. If no one is home, he leaves a voice message. Maurais said he thought he did this with Matt Tardiff, his customer of two years at 39 Greatworks Drive. Maurais did not hear back from Tardiff.
4. That Maurais reported that he left a voice mail message about the pending application on Matt Tardiff's phone two days in advance of May 15, 2018, application. Tardiff did not respond
5. That Maurais said he received a call from Zachery Boston later the same day of the application. Boston informed Maurais that he and his wife had purchased the home at 39 Greatworks Drive and did not authorize the pesticide application and was not aware of it until his wife returned home to see their property posted and the Company's job invoice hanging on their door.
6. That Boston then called the Board to report the unauthorized pesticide application.
7. That in response to the unauthorized pesticide application, a Board inspector met with Maurais on May 18, 2018, to conduct an inspection.
8. That from the inspection described in paragraph seven, the inspector determined that a Company applicator applied Tempo EC Ultra insecticide to Zachery and Emily Boston's property at 39 Greatworks Drive in Sanford on May 15, 2018.
9. That CMR 01-026 Chapter 20 Section 6(D)2 requires prior authorization from the property owner before a person can apply pesticides to their property.
10. That the Company did not have the Boston's authorization for the May 15, 2018, application of pesticide to their property.

11. That the circumstances described in paragraphs one through ten constitute a violation of CMR 01-026 Chapter 20 Section 6(D)2.

12. That the Board has regulatory authority over the activities described herein.

13. 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.

14. That this Agreement shall not become effective unless and until the Board accepts it.

That in consideration for the release by the Board of the cause of action which the Board has against the Company resulting from the violation referred to in paragraph eleven, the Company agrees to pay a penalty to the State of Maine in 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.

MAINELY TICKS INC.

By: _____ Date: _____

Type or Print Name: _____

BOARD OF PESTICIDES CONTROL

By: _____ Date: _____

Megan Patterson, Director

APPROVED:

By: _____ Date: _____

Mark Randlett, Assistant Attorney General

From: Riley Titus
Sent: Tuesday, July 10, 2018 10:02 AM
To: Pesticides <Pesticides@maine.gov>
Subject: Intention to attend and speak at the July 13, Board meeting

To whom it may concern,

I am writing to express my intention to attend and speak at the Friday, July 13, Board meeting.

I'd like to present and discuss the attached document (resolution/proclamation proposal) to the Board. I spoke at the Boards April meeting when discussion arose on the matter of municipal pesticide ordinances, and had expressed my intention to follow up with something to this extent. I noticed something on this matter is on the agenda under item 9.

RISE represents pesticide registrants whose registration funds contribute to the Board's budget and funding.

I look forward to the meeting.

Thanks,

Riley Titus

Manager, State Public Affairs
Responsible Industry for a Sound Environment
1156 15th Street, N.W., Suite 400
Washington, DC 20005

www.debugthemyths.com
www.pestfacts.org

Maine Board of Pesticides Control

RESOLUTION NO.

Whereas, vested by the State of Maine and subsequent laws and regulations, the Maine Board of Pesticides Control (Board) is Maine's lead agency for pesticide oversight, rule-making and policy decisions. It is the purpose and policy of the Board to assure to the public the benefits to be derived from the safe, scientific and proper use of chemical pesticides while safeguarding the public health, safety and welfare, and for the further purpose of protecting natural resources of the State.

Integrated Pest Management (IPM) is the policy of the state. IPM is an environmentally sound approach to managing pests such as insects, weeds, plant pathogens, and wildlife on farms and forests, in our communities and in our homes. IPM means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences including selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression.

Now, therefore, be it resolved by the Maine Board of Pesticides Control that, it is the Board's duty to both uphold the policy of the state and secure uniformity of regulations. It is declared to be the policy of the State of Maine to regulate the sale and application of chemical insecticides, fungicides, herbicides and other chemical pesticides. The board may cooperate with, receive grants-in-aid from and enter into cooperative agreements with any agency of the Federal Government or of this State or its subdivisions, or with any agency of another state to ensure the IPM policy of the state.

ADOPTED: DATE

ATTEST: SIGNATURE

From: Riley Titus

Sent: Thursday, August 02, 2018 10:08 AM

To: Pesticides <Pesticides@maine.gov>

Subject: July 13 BPC meeting follow up information on BPC Resolution request and IPM

Dear Maine Board of Pesticides Control,

As a follow up to your July 13 meeting and discussion on support for a Board of Pesticides Control (Board) Resolution and the state Integrated Pest Management (IPM) policy, please see the following information to support this request and highlight our concerns around IPM. I have provided the aforementioned resolution in an earlier email to the Board. I urge the Board to review this information as they consider the Resolution and upholding IPM as the policy of the state, as it exists in current statute.

Maine State IPM Statutes:

- §2401. (IPM) Definitions
 - <http://www.mainelegislature.org/legis/statutes/7/title7sec2401.html>
- §2405. Integrated Pest Management Fund
 - <http://www.mainelegislature.org/legis/statutes/7/title7sec2405.html>
- §2406. University of Maine Cooperative Extension IPM programs
 - <http://www.mainelegislature.org/legis/statutes/7/title7sec2406.html>
- §2404. Integrated Pest Management Council
 - <http://www.mainelegislature.org/legis/statutes/7/title7sec2404.html>
- §607. Registration
 - 6. Registration fee; programs funded.
 - <http://www.mainelegislature.org/legis/statutes/7/title7sec607.html>

EPA IPM Information and Resources:

- <https://www.epa.gov/safepestcontrol/integrated-pest-management-ipm-principles>

Example of the erosion of IPM:

Portland, Pesticide Ordinance (link to ordinance for reference to the below:

<http://portlandmaine.gov/DocumentCenter/View/18696/Order-110-1718?bidId=>)

The last municipal pesticide ordinance to pass was in Portland, Maine, and does not recognize IPM.

Sec. 34-3. Definitions

Instead, reflected in the definitions of this ordinance is Organic Pest Management. Defined as: Organic pest management means the act of managing or controlling pests through the use of mechanical, cultural, or, biological processes, or through the use of natural, organic, or non-synthetic substances.

Sec. 34-5. Permitted, Prohibited, and Exempt pesticides

This definition and concept is then used to prohibit the use of any “synthetic,” or “non-organic” pesticide, as detailed in *Sec. 34-5. Permitted, prohibited, and exempt pesticides, (a) & (b)* of the law, therein removing any users ability to choose how they maintain their land or treat a pest problem following nationally and state recognized IPM protocols and methodology.

Sec. 34-6. Pest Management Advisory Committee

Under subsection (a) of this section, the Pest Management Advisory Committee members, are all required to have experience in organic land care, or be licensed by the Northeast Organic Farming Association, a special-interest group.

Sec. 34-11. Outreach and Education

Under this section, the city disregards any recognition or education of the IPM policy of the state, and seeks to promote organic pest management and its principles.

This is all notwithstanding that Section 34-8, Reporting by State of Maine Licensed Applicators, and 34-10, Public Notification, go beyond what is required by the State of Maine.

Again, I would urge the Board to reaffirm its duties and responsibilities as the pesticide authority of Maine, upholding the IPM policy of the state through the approval of the resolution provided on July 10, and by reviewing the appropriations and programs set forth by the state IPM statutes above, to strengthen, promote, expand and enhance IPM in the state.

Thank you,

Riley Titus
RISE

Maine Revised Statutes
Title 7: AGRICULTURE AND ANIMALS
Chapter 413: INTEGRATED PEST MANAGEMENT

§2401. DEFINITIONS

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings. [1991, c. 609, §2 (NEW).]

1. Integrated pest management. "Integrated pest management" means the selection, integration and implementation of pest damage prevention and control based on predicted socioeconomic and ecological consequences, including:

- A. Understanding the system in which the pest exists; [1991, c. 609, §2 (NEW).]
- B. Establishing dynamic economic or aesthetic injury thresholds and determining whether the organism or organism complex warrants control; [1991, c. 609, §2 (NEW).]
- C. Monitoring pests and natural enemies; [1991, c. 609, §2 (NEW).]
- D. When needed, selecting the appropriate system of cultural, mechanical, genetic, including resistant cultivars, biological or chemical prevention techniques or controls for desired suppression; and [1991, c. 609, §2 (NEW).]
- E. Systematically evaluating the pest management approaches utilized. [1991, c. 609, §2 (NEW).]

[1991, c. 609, §2 (NEW) .]

SECTION HISTORY

1991, c. 609, §2 (NEW).

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Maine Revised Statutes
Title 7: AGRICULTURE AND ANIMALS
Chapter 413: INTEGRATED PEST MANAGEMENT

§2405. INTEGRATED PEST MANAGEMENT FUND

There is created a dedicated, nonlapsing Integrated Pest Management Fund. The commissioner shall credit funds from any source to the Integrated Pest Management Fund for the purpose of developing and implementing integrated pest management programs. Appropriations from the General Fund may not be credited to the Integrated Pest Management Fund. [2001, c. 497, §3 (NEW).]

SECTION HISTORY

2001, c. 497, §3 (NEW).

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Maine Revised Statutes
Title 7: AGRICULTURE AND ANIMALS
Chapter 413: INTEGRATED PEST MANAGEMENT

§2406. UNIVERSITY OF MAINE COOPERATIVE EXTENSION INTEGRATED PEST MANAGEMENT PROGRAMS

The University of Maine Cooperative Extension shall develop and implement integrated pest management programs. The extension may seek the advice of the Integrated Pest Management Council established in section 2404 in establishing the programs. The extension shall use the funds deposited pursuant to section 607 for the purposes of this section. The extension shall administer the grant pursuant to section 607, subsection 6, paragraph A. [2013, c. 290, §2 (NEW); 2013, c. 290, §4 (AFF).]

SECTION HISTORY

2013, c. 290, §2 (NEW). 2013, c. 290, §4 (AFF).

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Maine Revised Statutes
Title 7: AGRICULTURE AND ANIMALS
Chapter 413: INTEGRATED PEST MANAGEMENT

§2404. INTEGRATED PEST MANAGEMENT COUNCIL

1. Establishment; meetings. The Integrated Pest Management Council, referred to in this section as the "council," as established in Title 5, section 12004-G, subsection 3-C, is created within the department and is administered jointly by the department and the University of Maine Cooperative Extension Pest Management Office. Members of the council must be jointly appointed by the commissioner and the Director of the University of Maine Cooperative Extension. The council must meet at least 2 times a year. Members are entitled to reimbursement for expenses only in accordance with Title 5, chapter 379.

[2001, c. 667, Pt. B, §4 (AMD); 2001, c. 667, Pt. B, §5 (AFF) .]

2. Membership. The council consists of the following 11 members:

A. Three members representing agricultural pest management; [2001, c. 497, §3 (NEW) .]

B. One member representing a citizen interest organization; [2001, c. 497, §3 (NEW) .]

C. One member representing the interest of forestry; [2001, c. 497, §3 (NEW) .]

D. One member representing organic growers and producers; [2001, c. 497, §3 (NEW) .]

E. One member representing structural pest management; [2001, c. 497, §3 (NEW) .]

F. One member representing rights-of-way vegetation management; [2001, c. 497, §3 (NEW) .]

G. One member representing turf or landscape management; [2001, c. 497, §3 (NEW) .]

H. One member representing a nonprofit environmental organization; and [2001, c. 497, §3 (NEW) .]

I. One member representing integrated pest management research. [2001, c. 497, §3 (NEW) .]

[2001, c. 497, §3 (NEW) .]

3. Term of office. The term of office for members is 3 years except that, of the original members appointed, the appointing authority shall appoint members to serve one-year, 2-year and 3-year terms to establish staggered terms.

[2001, c. 497, §3 (NEW) .]

4. Coordinators. The commissioner and the Director of the University of Maine Cooperative Extension shall each appoint one member of the council to serve as a cocoordinator of the council.

[2001, c. 497, §3 (NEW) .]

5. Duties; responsibilities. The council shall facilitate, promote, expand and enhance integrated pest management adoption in all sectors of pesticide use and pest management within the State. Specifically, the council shall:

A. Identify long-term and short-term priorities for integrated pest management research, education, demonstration and implementation; [2001, c. 497, §3 (NEW) .]

B. Serve as a communication link for the development of coordinated multidisciplinary partnerships among researchers, educators, regulators, policymakers and integrated pest management users; [2001 , c. 497, §3 (NEW) .]

C. Identify funding sources and cooperate on obtaining new funding for on-site trials, education and training programs and other efforts to meet identified goals for expanding, advancing and implementing integrated pest management; [2001, c. 497, §3 (NEW) .]

D. Establish measurable goals for expansion of integrated pest management into new sectors and advancing the level of integrated pest management adoption in sectors where integrated pest management is already practiced; and [2001, c. 497, §3 (NEW) .]

E. Cooperate with appropriate organizations to establish protocols for measuring and documenting integrated pest management adoption in the State. [2001, c. 497, §3 (NEW) .]

[2001, c. 497, §3 (NEW) .]

6. Report. The council shall report to the joint standing committee of the Legislature having jurisdiction over agricultural matters annually on all of the council's activities during the year.

[2001, c. 497, §3 (NEW) .]

SECTION HISTORY

2001, c. 497, §3 (NEW). 2001, c. 667, §B4 (AMD). 2001, c. 667, §B5 (AFF) .

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Maine Revised Statutes
Title 7: AGRICULTURE AND ANIMALS
Chapter 103: PRODUCTS CONTROLLED

§607. REGISTRATION

1. Conditions requiring registration. A pesticide may not be distributed in this State unless it is registered with the board in accordance with the provisions of this subchapter, except that registration is not required if:

A. A pesticide is shipped from one plant or warehouse to another plant or warehouse operated by the same person and is used solely at that plant or warehouse as a constituent part to make a pesticide that is registered under the provisions of this subchapter; or [2005, c. 620, §6 (NEW).]

B. A pesticide is distributed under the provisions of an experimental use permit issued by EPA. [2005, c. 620, §6 (NEW).]

[2005, c. 620, §6 (AMD) .]

2. Contents of statement made by applicant. The applicant for registration shall file a statement with the board, which must include:

A. The name and address of the applicant and the name and address of the person whose name will appear on the label, if other than applicant's; [1975, c. 382, §3 (NEW).]

B. The name of the pesticide; [1975, c. 382, §3 (NEW).]

C. Other necessary information required by the board; and [2005, c. 620, §6 (AMD).]

D. A complete copy of the labeling accompanying the pesticide and a statement of all claims to be made for it, including the directions for use and the use classification as provided for in FIFRA. [1975, c. 382, §3 (NEW).]

[2005, c. 620, §6 (AMD) .]

3. Submission of formula. The board, when it determines it necessary in the administration of this subchapter, may require the submission of the complete formula of any pesticide, including the active and inert ingredients.

[2005, c. 620, §6 (AMD) .]

4. Test results. The board may require a full description of all tests made and the results of those tests on any pesticide not registered pursuant to FIFRA, Section 3 or on any pesticide on which restrictions are being considered by the board. In the case of renewal of registration, the board may require a statement only with respect to test result information that is different from that furnished when the pesticide was registered or last reregistered.

[2005, c. 620, §6 (AMD) .]

5. Power to require other information. The board may by rules adopted under section 610 require the submission of other necessary information.

[2005, c. 620, §6 (AMD) .]

5-A. Confidentiality. Notwithstanding Title 1, section 402, data submitted pursuant to subsections 3, 4 and 5 that have been determined confidential by the Administrator of the United States Environmental Protection Agency in accordance with 7 United States Code, Section 136h (2007) are confidential and may not be available for public inspection.

[2007, c. 597, §8 (AMD) .]

6. Registration fee; programs funded. The applicant desiring to register a pesticide must pay an annual registration fee of \$160 for each pesticide registered for that applicant. Annual registration periods expire on December 31st or in a manner consistent with Title 5, section 10002, whichever is later.

The board shall monitor fee revenue and expenditures under this subsection to ensure that adequate funds are available to fund board and related department programs and, to the extent funds are available, to provide grants to support stewardship programs. The board shall use funds received under this subsection to provide:

A. An annual grant of no less than \$135,000 to the University of Maine Cooperative Extension, on or about April 1st, for development and implementation of integrated pest management programs. The University of Maine may not charge overhead costs against this grant; and [2013, c. 290, §1 (NEW); 2013, c. 290, §4 (AFF) .]

B. Funding for public health-related mosquito monitoring programs or other pesticide stewardship and integrated pest management programs, if designated at the discretion of the board, as funds allow after expenditures under paragraph A. The board shall seek the advice of the Integrated Pest Management Council established in section 2404 in determining the most beneficial use of the funds, if available, under this subsection. [2013, c. 290, §1 (NEW); 2013, c. 290, §4 (AFF) .]

By February 15th annually, the board shall submit a report to the joint standing committee of the Legislature having jurisdiction over agriculture, conservation and forestry matters detailing the grants funded by the fee under this subsection. The annual report must include a recommendation by the board as to whether the amount of the fee is adequate to fund the programs described in this subsection. The joint standing committee may report out a bill to the Legislature based on the board's recommendations.

[2013, c. 290, §1 (AMD); 2013, c. 290, §4 (AFF) .]

7. Renewal of registration. Registrations must be renewed annually prior to January 1st. The board shall mail forms for reregistration to registrants at least 30 days prior to the due date.

[2005, c. 620, §6 (AMD) .]

8. Approval of application for registration.

[2005, c. 620, §6 (RP) .]

8-A. Approval of application for registration. The processing of an application for registration is governed by this subsection.

A. The board shall consider the required information set forth under subsections 2, 3, 4 and 5 and shall register a pesticide if it determines that:

- (1) Its composition warrants the proposed claims for it;
- (2) Its labeling and other material required to be submitted comply with the requirements of this subchapter;
- (3) It will perform its intended function without unreasonable adverse effects on the environment;
- (4) When used in accordance with widespread and commonly recognized practice, it will not generally cause unreasonable adverse effects on the environment; and
- (5) A need for the pesticide exists. [2005, c. 620, §6 (NEW) .]

B. If, within 180 days from the date the completed application for registration is submitted, the board fails to act upon an application for registration of a pesticide that has been certified by EPA, the pesticide is deemed registered under this chapter unless the board issues a written statement containing the reasons for the failure to act upon the application. The statement of the board is deemed a refusal to register pursuant to section 609. [2005, c. 620, §6 (NEW).]

C. Paragraphs A and B do not apply if the registrant fails to provide any information required to be submitted under this subchapter or does not provide other information requested by the board in order to determine whether the pesticide should be registered.

Nothing in this paragraph affects the rights of the board to make further inquiry regarding the registration of a pesticide or to refuse reregistration, to suspend or revoke registration or to otherwise restrict or condition the use of pesticides in order to protect public health and the environment. [2005, c. 620, §6 (NEW).]

D. Prior to registering a pesticide for a special local need, the board shall classify the uses of the pesticide for general or restricted use in conformity with FIFRA, Section 3(d). The board may not make any lack of essentiality a criterion for denying registration of any pesticide. When 2 pesticides meet the requirements of this paragraph, the board may not register one in preference to the other. [2005, c. 620, §6 (NEW).]

E. The board may establish such other requirements by rule in accordance with section 610 as are necessary to carry out the provisions of this subsection. [2005, c. 620, §6 (NEW).]

[2005, c. 620, §6 (NEW).]

9. Adverse environmental effects. If, at any time after the registration of a pesticide, the registrant has additional factual information regarding unreasonable adverse effects of a pesticide on the environment, the registrant shall submit that information to the board.

[2005, c. 620, §6 (AMD).]

SECTION HISTORY

1975, c. 382, §3 (NEW). 1977, c. 694, §§52-55 (AMD). 1979, c. 644, §1 (AMD). 1981, c. 9, (AMD). 1983, c. 568, §1 (AMD). 1985, c. 592, (AMD). 1985, c. 627, §1 (AMD). 1987, c. 310, §1 (AMD). 1987, c. 723, §1 (AMD). 1989, c. 878, §E5 (AMD). 1993, c. 410, §S1 (AMD). 2001, c. 498, §1 (AMD). 2003, c. 282, §1 (AMD). 2005, c. 585, §1 (AMD). 2005, c. 620, §6 (AMD). 2007, c. 466, Pt. A, §25 (AMD). 2007, c. 597, §8 (AMD). 2013, c. 290, §1 (AMD). 2013, c. 290, §4 (AFF).

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Close



Integrated Pest Management (IPM) Principles

On this page:

- [What is IPM?](#)
- [How do IPM programs work?](#)
- [Do most growers use IPM?](#)
- [How do you know if the food you buy is grown using IPM?](#)
- [If I grow my own fruits and vegetables, can I practice IPM in my garden?](#)
- [For more information](#)

What is IPM?

Integrated Pest Management (IPM) is an effective and environmentally sensitive approach to pest management that relies on a combination of common-sense practices. IPM programs use current, comprehensive information on the life cycles of pests and their interaction with the environment. This information, in combination with available pest control methods, is used to manage pest damage by the most economical means, and with the least possible hazard to people, property, and the environment.

The IPM approach can be applied to both agricultural and non-agricultural settings, such as the home, garden, and workplace. IPM takes advantage of all appropriate pest management options including, but not limited to, the judicious use of pesticides. In contrast, *organic* food production applies many of the same concepts as IPM but limits the use of pesticides to those that are produced from natural sources, as opposed to synthetic chemicals.

How do IPM programs work?

IPM is not a single pest control method but, rather, a series of pest management evaluations, decisions and controls. In practicing IPM, growers who are aware of the potential for pest infestation follow a four-tiered approach. The four steps include:

- **Set Action Thresholds**
Before taking any pest control action, IPM first sets an action threshold, a point at which pest populations or environmental conditions indicate that pest control action must be taken. Sighting a single pest does not always mean control is needed. The level at which pests will either become an economic threat is critical to guide future pest control decisions.

- **Monitor and Identify Pests**

Not all insects, weeds, and other living organisms require control. Many organisms are innocuous, and some are even beneficial. IPM programs work to monitor for pests and identify them accurately, so that appropriate control decisions can be made in conjunction with action thresholds. This monitoring and identification removes the possibility that pesticides will be used when they are not really needed or that the wrong kind of pesticide will be used.

- **Prevention**

As a first line of pest control, IPM programs work to manage the crop, lawn, or indoor space to prevent pests from becoming a threat. In an agricultural crop, this may mean using cultural methods, such as rotating between different crops, selecting pest-resistant varieties, and planting pest-free rootstock. These control methods can be very effective and cost-efficient and present little to no risk to people or the environment.

- **Control**

Once monitoring, identification, and action thresholds indicate that pest control is required, and preventive methods are no longer effective or available, IPM programs then evaluate the proper control method both for effectiveness and risk. Effective, less risky pest controls are chosen first, including highly targeted chemicals, such as pheromones to disrupt pest mating, or mechanical control, such as trapping or weeding. If further monitoring, identifications and action thresholds indicate that less *risky* controls are not working, then additional pest control methods would be employed, such as targeted spraying of pesticides. Broadcast spraying of non-specific pesticides is a last resort.

Do most growers use IPM?

With these steps, IPM is best described as a continuum. Many, if not most, agricultural growers identify their pests before spraying. A smaller subset of growers use less risky pesticides such as pheromones. All of these growers are on the IPM continuum. The goal is to move growers further along the continuum to using all appropriate IPM techniques.

How do you know if the food you buy is grown using IPM?

In most cases, food grown using IPM practices is not identified in the marketplace like *organic* food. There is no national certification for growers using IPM, as the United States Department of Agriculture has developed for organic foods. Since IPM is a complex pest control process, not merely a series of practices, it is impossible to use one IPM definition for all foods and all areas of the country. Many individual commodity growers, for such crop as potatoes and strawberries, are working to define what IPM means for their crop and region, and IPM-labeled foods are available in limited areas. With definitions, growers could begin to market more of their products as *IPM-Grown*, giving consumers another choice in their food purchases.

If I grow my own fruits and vegetables, can I practice IPM in my garden?

Yes, the same principles used by large farms can be applied to your own garden by following the four-tiered approach outlined above. For more specific information on practicing IPM in your garden, you can contact your state Extension Services for the services of a Master Gardener.

For More Information on IPM

- [Pesticides and Food: What "Integrated Pest Management" Means](#)
- EPA is encouraging the innovation of biological pesticides, also known as biopesticides.
- Find [your state's Extension Service](#)
- Pesticide Environmental Stewardship Program (PESP)
- Radcliffe's [IPM World Textbook](#) EXIT
- [IPMNet](#) EXIT

LAST UPDATED ON JUNE 27, 2017

Order 110-17/18

Motion to postpone to December 18, 2017: 8-0 on 11/20/2017

Motion to postpone to January 3, 2018: 9-0 on 12/18/2017

Motion to amend Section 34-16 to make July 1, 2018 the start date for city-owned property except for athletic fields and golf courses: 8-1 (Strimling) on 1/3/2018

Motion to amend to add invasive plant applications as an exemption in Section 34-5(d): 8-1 (Batson) on 1/3/2018

Passage as amended: 9-0 on 1/3/2018

Effective 2/2/2018

ETHAN K. STRIMLING (MAYOR)
BELINDA S. RAY (1)
SPENCER R. THIBODEAU (2)
BRIAN E. BATSON (3)
JUSTIN COSTA (4)

CITY OF PORTLAND
IN THE CITY COUNCIL

DAVID H. BRENERMAN (5)
JILL C. DUSON (A/L)
PIOUS ALI (A/L)
NICHOLAS M. MAVODONES, JR (A/L)

AMENDMENT TO PORTLAND CITY CODE
NEW CHAPTER 34 PESTICIDE USE

WHEREAS, the City of Portland wishes to protect the quality of Casco Bay and other waterways that support the economic vitality of local fisheries and the working waterfront; and

WHEREAS, the City of Portland recognizes that healthy soils serve as the foundation for vibrant ecosystems and pest-resistant plant life; and

WHEREAS, the City of Portland wishes to promote land care practices that promote the development of healthy soils to minimize the need to apply pesticides to control unwanted pests; and

WHEREAS, the City of Portland also recognizes that there may still be a need to manage pests to protect public health and safety, wildlife, our environment and City assets; and

WHEREAS, many synthetic pesticides are harmful to humans, pets, wildlife, including threatened and endangered species, soil microbiology, plants, and natural ecosystems; and

WHEREAS, many citizens desire to be protected from exposure to pesticides in the air, water or soil that may result from chemical drift and contaminated runoff; and

WHEREAS, the use of pesticides has been known or suspected to cause serious health problems is not necessary to grow and maintain green lawns and ornamental landscapes,

given the availability of viable alternative practices and products; and

WHEREAS, a growing number of communities and municipalities including the City of Portland are embracing a precautionary approach to the use of pesticides in order to adequately protect people and the environment from their harmful effects; and

WHEREAS, the State of Maine allows municipalities, through their home rule authority, to enact ordinances dealing with municipal affairs pursuant to 30-A M.R.S. §3001;

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORTLAND *That the Portland City Code is hereby amended by adding a Chapter, to be numbered Chapter 34, Sections 34-1 to 34-16, which said Sections read as follows:*

Chapter 34

PESTICIDE USE

Sec. 34-1. Title.

This chapter shall be known as the City of Portland Pesticide Use Ordinance (hereinafter, the "Ordinance").

Sec. 34-2. Purpose.

The purpose of this ordinance is to safeguard the health, safety and welfare of the residents of the City and to conserve and protect the City's waterways and natural resources by curtailing the use of pesticides for turf, landscape and outdoor pest management.

Sec. 34-3. Definitions.

The following words, terms and phrases, when used in this ordinance, shall have the following meaning:

Aggrieved party means an individual or entity that applies for but is denied a waiver from provisions of this ordinance as described in Section 34-6.

Broadcast application means the spreading of pesticides over an entire area.

Commercial Agriculture means the production of crops for sale, including crops intended for widespread distribution to wholesalers or retail outlets and any non-food crops.

Emergency means a serious, unexpected, and often dangerous situation requiring immediate action.

EPA means the United States Environmental Protection Agency.

FIFRA means the Federal Insecticide, Fungicide, and Rodenticide Act, 7 U.S.C. § 136 et seq.

Golf course means an area of land laid out for playing the game of golf with a series of 9, 18 or more holes. Mini-golf and disc golf courses are not considered golf courses.

High Use Athletic Facilities means the following playing fields located in the following parks as listed in Chapter 18, section 18-11: Fox Field, Quinn Field and Deering Oaks Baseball Field at Deering Oaks Park; Back Cove Park; and Payson A Field in Payson Park. It shall also include Presumpscot Field at Deering High School.

Repellant means a substance that deters insects or other pests from approaching or settling.

Invasive Species means a plant or insect that is not native to a particular ecosystem, and whose introduction does or is likely to cause economic or environmental harm or harm to human health. Invasive species include those plants listed under the Maine Department of Agriculture, Conservation and Forestry's Natural Areas Program as currently invasive, potentially or probably invasive, and highly likely but not currently invasive, as well as those insects listed by the Maine Forest Service as threats to Maine's forests and trees.

Natural, organic or "non-synthetic" means a substance that is derived from mineral, plant, or animal matter and does not undergo a "synthetic" process as defined in the Organic Foods Production Act, 7 U.S.C. § 6502(21), as the same may be amended from time to time.

Organic pest management means the act of managing or controlling pests through the use of mechanical, cultural, or, biological processes, or through the use of natural, organic, or non-synthetic substances.

Person means any individual natural person, partnership, joint venture, society, association, company, club, trustee, trust or corporation; or any officer, agent, employee, or personal representative of any thereof, in any capacity acting either for her or himself or for any other person under either personal appointment or pursuant to law.

Pest shall have the same meaning as the term set forth in 40 C.F.R. § 152.5, as the same may be amended from time to time.

Pest Management means the act of managing or controlling pests through the use of chemical, mechanical, cultural, biological, or genetic measures.

Pesticide means any substance or mixture of substances intended for preventing, destroying, repelling or mitigating any pest; any substance or mixture of substances intended for use as a plant regulator, defoliant or desiccant. It does not include multicellular biological controls such as mites, nematodes, parasitic wasps, snails or other biological agents not regulated as pesticides by the EPA. Herbicides, fungicides, insecticides and rodenticides are considered pesticides.

Pests of significant public health importance means the pests listed by the EPA, in conjunction with the U.S. Department of Health and Human Services and the U.S. Department of Agriculture, as pests of significant public health importance.

Preemptive application means the application of pesticides as a measure against something possible, anticipated or feared, i.e., as a preventive or deterrent measure.

Public utility means any transmission and distribution utility, telephone utility, water utility, gas utility, or natural gas pipeline utility that is subject to the jurisdiction of the Maine Public Utilities Commission.

Restricted Entry Interval, also known as the re-entry interval or re-entry time, means the minimum amount of time that must pass after a pesticide is applied to an area before people or pets can safely go into that area. The labels on pesticides provide information about an individual pesticide's REI.

Synthetic means a substance that is formulated or manufactured by a chemical process or by a process that chemically changes a substance extracted from naturally occurring sources, except that such term shall not apply to substances created by naturally occurring biological processes.

Water body means any great pond, river, stream or tidal area as those terms are defined in Chapter 14 of the Portland Code of Ordinances.

Wetland means a coastal or shoreland freshwater wetland as those terms are defined in the City's Zoning Ordinance, Chapter 14 of the Code of Ordinances.

Sec. 34-4. Applicability

The following provisions shall apply to all outdoor pest management activities conducted within the boundaries of the City of Portland (hereinafter, the "City"), on both public and private land.

Sec. 34-5 Permitted, prohibited, and exempt pesticides

Subject to the applicability dates set forth in Sec. 34-14 herein, the following provisions shall apply to all outdoor pest management activities in the City.

(a) Permitted Pest Management Activities and/or Materials, except as provided in (b) (3) below:

1. Organic Pest Management, except as provided in (b)2 below;
2. Use or application of Synthetic substances specifically listed as "allowed" on the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (the "National List"); and/or
3. Use or application of Pesticides determined to be "minimum risk pesticides" pursuant to the FIFRA and listed in 40 C.F.R. § 152.25(f)(1) or (2), as may be amended from time to time.

(b) Prohibited Pest Management Activities and/or Materials:

1. Use or application of Synthetic substances other than those described in (a)(2) above;
2. Use or application of Non-synthetic substances specifically listed as "prohibited" on the National List; and/or
3. The use or application of pesticides (whether natural, organic, "non-synthetic," synthetic or otherwise) within seventy five feet of a water body or wetland.

(c) Exempt Pest Management Activities and/or Materials. The following are exempt from the provisions of this ordinance (and therefore are allowed):

1. Use or application of Pest Management Activities and/or Materials in connection with Commercial agriculture;
2. Pet supplies, such as shampoos and tick and flea treatments, when used in the manner specified by the manufacturer;
3. Disinfectants, germicides, bactericides, miticides and virucides, when used in the manner specified by the manufacturer;
4. Insect repellents when used in the manner specified by the manufacturer;
5. Rat and rodent control supplies when used in the manner specified by the manufacturer;
6. Swimming pool supplies when used in the manner specified by the manufacturer; and/or
7. General use paints, stains, and wood preservatives, and sealants when used in the manner recommended by the manufacturer.

(d) Exempt Applications. The following applications are exempt from the provisions of this ordinance (and therefore are allowed):

1. Specific health and safety applications. Prohibited pesticides may be used to control plants that are poisonous to the touch, such as poison ivy, pests of significant health importance such as ticks and mosquitoes, and animals or insects that may cause damage to a structure, such as carpenter ants or termites;

2. Golf course applications. Prohibited pesticides may be used on golf courses provided that the course is designated through Audubon International as a Certified Audubon Cooperative Sanctuary;
3. Hadlock Field applications;
4. Treatments for Heritage Elms;
5. Applications on fields at High Use Athletic facilities (until January, 2021, unless this date is extended by the City Council);
6. Prohibited pesticides may be used to control the Emerald Ash Borer, Asian Longhorned Beetle, Hemlock Woolly Adelgid, Browntail Moth and other insects identified as invasive by the Maine Forest Service;
7. Right-of-way applications. Prohibited pesticides may be used by a public utility that maintains a right-of-way through the City; and/or
8. Invasive plant applications on city property. Applications to control plants categorized as currently considered invasive in Maine by the Maine Department of Agriculture, Conservation, and Forestry.

For any exempt applications by the City, disclosure shall be made in the annual report described in Section 34-9 of this ordinance.

(e) Exempt Uses. The following uses are exempt from the provisions of this ordinance (and therefore are allowed):

1. Any use of pesticides mandated by state or federal law or required by an order or decision from a court or state or federal board or agency.

Sec. 34-6. Pest Management Advisory Committee.

(a) The Pest Management Advisory Committee ("PMAC") is hereby established. The PMAC shall consist of seven (7) members as follows:

1. One (1) member of city staff, designated by the City Manager, who shall be accredited by the Northeast Organic Farming Association in Organic Land Care or shall receive such accreditation within a reasonable time frame;

2. One (1) practicing agronomist appointed by the City Council;
3. Two (2) Maine Board of Pesticides Control-licensed landscape professionals, at least one (1) of whom has experience in organic land care management and is accredited by the Northeast Organic Farming Association in Organic Land Care, each appointed by the City Council; and
4. Three resident or taxpayer representatives appointed by the City Council at least one of whom has experience in organic land care management.

(b) The terms of office of the six (6) PMAC members appointed by the City Council shall be three-year terms, except that the initial appointments after the establishment of the PMAC shall be such that the terms of office of no more than two (2) members shall expire in any single year. The term of office for the City employee PMAC member shall be for as long as the employee holds said employment position.

(c) The PMAC shall advise the City Council and the City's Sustainability Coordinator with respect to the following:

1. Advising the Sustainability and Transportation Committee and the City's Sustainability Coordinator of any problems encountered or amendments that may be required to achieve the full and successful implementation of this ordinance;
2. Reviewing and acting upon waiver applications when applicable;
3. Developing and implementing outreach and education as specified in Sec. 34-11 of this ordinance (in coordination with the Sustainability Coordinator);
4. Seeking the participation, advice and counsel of experts in the fields of organic turf and landscape management, maintenance of trees and shrubs, and organic pest protocol;
5. Encouraging broad community participation, from parents, schools, advocates, and local arboriculture and landscaping businesses, in the activities of the PMAC;
6. Reviewing annual data and issuing a summary report annually by March 31 to the Sustainability and Transportation Committee, or whatever committee is

assigned an oversight role by the City Council, which includes, among other things, a summary of its educational outreach; recommendations on any necessary amendments to this chapter; the number of waivers granted in the past year; and comprehensive data taken from the written documents provided by Applicators and/or Licensed Applicators about the use of pesticides within the City of Portland including, but not limited to:

- a. The amount of pesticides used on privately or publicly owned land in the City of Portland;
- b. The reasoning for such use of pesticides; and
- c. The specific pesticides that were used.

7. Any additional responsibilities as may be assigned and deemed necessary by the City Council.

(d) PMAC Officers, meetings and records.

1. The members shall annually elect a chair and a secretary from their membership;
2. All meetings of the PMAC shall be noticed and open to the public in accordance with the City's notice policies and Maine's Freedom of Access Act;
3. A quorum shall consist of four members;
4. The PMAC shall meet at least five (5) times annually;
5. Minutes shall be kept of all meetings and posted on the City web page; and
6. An annual report of the PMAC's activities shall be submitted to the Sustainability and Transportation Committee by March 31 of each year.

(e) Waiver Subcommittee:

1. A subcommittee of the PMAC shall be established annually and consist of the designated City staff member and one (1) other member of the PMAC designated by the Chair;
2. This subcommittee shall be authorized to review and decide waiver applications as described in section 34-7; and
3. The PMAC shall schedule meetings of the Waiver Subcommittee frequently enough to be responsive to

waiver requests. All meeting dates shall be posted in advance on the City calendar.

Sec. 34-7. Waivers.

(a) In situations that are an emergency, threaten the public health, safety or welfare, or for the control of invasive species that pose a threat to the environment, persons shall apply to the PMAC Waiver Committee for a waiver from the provisions of this ordinance prior to the use/application of a prohibited pesticide or prior to the conduct of a prohibited application.

(b) The waiver application shall be filed with the PMAC Waiver Committee, on a form prescribed by the Committee and shall include the following information: the reason for requesting the use/application of a prohibited pesticide; the proposed location(s) of the proposed application(s); details on the timing(s) of use, substance(s) and amounts to be applied; date(s) of application; management plan that excludes broadcast and preemptive applications; and a pest identification and threshold report. In order to approve a waiver application, the PMAC Waiver Committee must find that all of the following criteria are met:

1. A situation exists that: is an emergency; threatens the public health, safety and/or welfare; involves an invasive species;— that poses a threat to the environment; or requires a non-permitted pest management activity and/or material to protect buildings or structures from damage;
2. The applicant has carefully evaluated all alternative methods and materials including, but not limited to, non-pesticide management tactics, minimum risk pesticides, non-synthetic pesticides, and is choosing to use the minimum amount of the least toxic, most effective pesticide necessary;
3. The applicant will, to the greatest extent practical, minimize the impact of the application on abutting properties; and
4. To the maximum extent possible the grant of the waiver will not be detrimental to the public's health, safety or welfare.

(c) The Waiver Committee shall conduct a hearing on all complete waiver applications received within ten (10) business days of receipt of the complete application and shall seek to issue a written decision on the application within three (3) business days of reviewing an application.

(d) In approving any waiver application, the Waiver Committee may also prescribe conditions and safeguards as are appropriate to further the purposes of this ordinance. The waiver decision of the Waiver Committee shall be in writing, with copies provided to the applicant, the PMAC, and the Sustainability Coordinator, and the City Clerk.

(e) An Aggrieved Party may appeal a written decision of the PMAC Waiver Committee to the City Manager or his or her designee within five (5) business days of the issuance of the committee's decision. The appeal shall be in writing and shall state the basis for the appeal. The City Manager or his or her designee (who shall not be a member of the PMAC) shall act upon the appeal within five (5) business days of receipt of the appeal. The decision of the City Manager or designee shall be in writing, with copies provided to the aggrieved party, the PMAC Waiver Committee, and the Sustainability Coordinator. The decision of the City Manager or his or her designee shall be final.

Sec. 34-8. Reporting by State of Maine Licensed Applicators.

In addition to complying with the Maine Board of Pesticides Control rules regarding record keeping and reporting requirements as outlined in 01-026 C.M.R. Ch. 50, as amended from time to time, all State of Maine licensed applicators are required to submit to the PMAC an annual summary report on or before February 1st of each calendar year relating to the preceding calendar year. This report shall contain the following information for applications performed in the City in the prior calendar year: target site, pesticide brand name, EPA registration number, total undiluted formulation (in pounds or gallons), and total area treated as listed and as amended on the Commercial Applicator Annual Summary Report required by the Maine Board of Pesticides Control.

Sec. 34-9. Management plan and annual reporting for publicly owned parks and open spaces.

The City shall maintain a management plan for public open spaces that shall be posted on the City website. The City Manager or

his or her designee shall provide an annual report to the PMAC describing efforts to reduce the use of synthetic pesticides, a description of synthetic pesticides used during the previous year, the reason for their use, and the cost of such pesticide usage.

34-10. Public Notification.

Any person shall comply with the following posting requirements. For all prohibited pesticide uses or applications:

(a) A warning sign shall be posted on the privately or publicly owned land. These signs must be posted before application activities commence on the land and be left in place for at least forty-eight (48) hours after actual application or until expiration of the restricted entry interval indicated by the pesticide label, whichever is longer;

(b) All signs shall be at least five (5) inches high and four (4) inches wide in size. Signs shall be attached to the upper portion of a dowel or other supporting device so that the bottom of the sign is not less than 12" and the top of the sign is not more than 48" above the ground. The signs shall be of rigid, weather resistant material substantial enough to be easily read for the duration of the placement;

(c) All signs must be light colored (white, beige, yellow or pink) with dark, bold letters (black, blue or green). They shall have lettering that is conspicuous and clearly legible;

(d) The sign must include the following:

1. The word "CAUTION" in 72-point type;
2. The words "PESTICIDE APPLICATION" in 30-point type or larger;
3. The Maine Board of Pesticides Control designated symbol;
4. Any reentry precautions from the pesticide labeling;
5. The name and telephone number of the entity making the pesticide application;
6. The date and time of the application;
7. A date and/or time to remove the sign;
8. the chemical and trade name of the pesticide; and
9. the length of time to remain off the treated area as indicated by the pesticide label; and

(f) For licensed applicators, the requirements above are in addition to any requirements that may also apply to State of Maine licensed applicators subject to the Maine Board of Pesticides Control rules, as may be amended from time to time, regarding public notification.

Sec. 34-11. Outreach and Education.

(a) The Sustainability Coordinator or his or her designee shall publish notice of this ordinance in a newspaper of general circulation in the City upon adoption and shall attempt to provide information about it to identified retailers and lawn, garden, and tree-care providers serving the City of Portland, as well as to churches, schools, and other institutions in Portland.

(b) The PMAC shall prepare and publish materials designed to educate the community about the role of pesticides in the local environment and the benefits of organic pest management. This outreach may include: a community-based social marketing campaign targeting City households and businesses; promotion of professional education and training for State of Maine licensed applicators; distribution of information and news about City practices through Portland internet and web-based resources; public service announcements; news releases and news events; tax bill inserts; posters and brochures made available at City events and applicable locations that serve the public; workshops, trainings, and demonstration projects; targeted outreach to schools; and/or any additional methods deemed appropriate by the PMAC.

(c) The PMAC shall also develop a program to work directly with retailers that sell pesticides in the City of Portland to:

1. Provide educational training for all retail store employees who recommend and sell pesticides for use in the home and garden, highlighting the following:
 - a. federal, state, and local pesticide regulations;
 - b. principles of organic pest management;
 - c. pesticide toxicity and health and environmental concerns;
 - d. proper pesticide display and storage; and

- e. the role of personal protective equipment, pesticide poisoning symptoms, and emergency procedures in case of spills; and
2. Implement a toolkit consisting of educational materials and signage (i.e., posters, signs, stickers) that can be customized, printed, and placed in stores to help consumers understand this ordinance and alternatives to prohibited pesticides.

Sec. 34-12. Violations.

Any person violating any of the provisions of this ordinance or failing, neglecting or refusing to obey any order or notice of the City Manager or his or her designee issued hereunder shall be subject to enforcement action as provided in §34-13.

Sec. 34-13. Enforcement and Remedies.

(a) This ordinance may be enforced by the City Manager or his or her designee;

(b) The City Manager or his or her designee shall have the authority to enact rules and regulations in order to implement the provisions of this ordinance; and

(c) Any violation of this chapter shall constitute a civil violation subject to the penalties contained in Portland City Code, Chapter 1, § 1-15.

Sec. 34-14. Severability.

If any section, paragraph, sentence, word or phrase of this ordinance is for any reason held to be invalid or unenforceable by any court, such decision shall not affect the validity of the remaining provisions of this ordinance.

Sec. 34-15. Conflicts with Other Ordinances.

Whenever a provision of this ordinance conflicts with or is inconsistent with another provision of this ordinance or of any other ordinance, regulation or statute, the more restrictive chapter, article or ordinance of the Portland City Code shall control.

Sec. 34-16. Effective date; Applicability dates.

In order to allow time for residents and businesses to become familiar with the requirements of this ordinance, the prohibitions on the use of certain products and/or applications (and the related public notification, signage and reporting requirements) shall be effective as follows:

(a) Phase One: Commencing no later than July 1, 2018, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to City-owned property (but not to high use athletic fields or golf courses);

(b) Phase Two: Commencing no later than January 1, 2019, the provisions set forth in Sec. 34-5 on outdoor pest management activities shall apply to private property (but not high use athletic fields or golf courses); and

(c) Phase Three: Commencing no later than January 1, 2021, the provisions set forth in Sec. 34-5 on outdoor pest management activities with respect to high use athletic fields shall apply to public or private property, except that the City Manager or his or her designee may request that the City Council extend this applicability date if he or she determines more time is necessary to transition to organic management practices for these properties and facilities.

From: Karen Snyder

Sent: Monday, July 23, 2018 11:06 AM

To: Pesticides <Pesticides@maine.gov>

Subject: Please Protect Local Pesticide Ordinances - Don't be Persuaded by Agribusiness and RISE Lobbyist

Dear Maine Pesticide Control Board Members,

I live in Portland and I am a small time beekeeper on Munjoy Hill.

I am also an organic perennial and vegetable farmer.

I find it very easy to NOT use pesticides or chemicals of any kind to maintain my properties. Property owners that use chemicals still to maintain their lawns or gardens obviously haven't done their research to understand how damaging chemically treating their properties are to the environment and their future health... especially since Monsanto now has a huge amount of lawsuits against them. The property owners that are complaining about getting a waiver for treating their property chemically, shame on them for not taking the initiative to find organic ways to treat their property.

I continue to be concerned about how corporations in the agribusiness/landscapers and lobbyist from Washington DC such as RISE who continually try to undermine any protections that Americans want against pesticide or neonicotinoids spraying of all sorts that have now basically infiltrated American food and water sources through the entire country besides the damaging effects of this planet's eco systems.

This latest attack is about re-introducing chemical spraying for BTM is just another example of RISE lobbyist efforts to try to re-instate BTM chemical spraying for profiteering motivation rather than considering long term environmental damage effects chemical spraying can cause to the health of people and biodiversity.

Isn't it worth a little more effort to remove BTM mechanically rather than chemical spraying if it saves the environment and biodiversity? When will US federal, state, local governments stop being persuaded by businesses who only want to poison the environment for their short term profit greed and think of protecting the environment as their first priority instead? The rest of the other 1st worlds think this latter way....

As such, please consider the health of this planet and future generations to NOT be persuaded by agribusiness/landscapers and lobbyist groups like RISE.

If Europe can ban all pesticides, let Maine Pesticide Control Board NOT be persuaded by agribusiness/landscapers and RISE lobbyist and think of the environmental impacts instead. Below are some articles that should scare the Maine Pesticide Control Board what pesticides have done to the environment and to do the right thing...

https://www.washingtonpost.com/news/speaking-of-science/wp/2017/04/05/iowa-scientists-find-first-evidence-of-popular-farm-pesticides-in-drinking-water/?utm_term=.2234408bf2f2

<https://www.theguardian.com/us-news/2015/aug/23/hawaii-birth-defects-pesticides-gmo>

<https://www.theguardian.com/environment/2018/apr/27/eu-agrees-total-ban-on-bee-harming-pesticides>

<https://www.theguardian.com/world/2018/mar/21/catastrophe-as-frances-bird-population-collapses-due-to-pesticides>

<https://www.theguardian.com/environment/2018/mar/21/europe-faces-biodiversity-oblivion-after-collapse-in-french-bird-populations>

<https://ento.psu.edu/publications/are-neonicotinoids-killing-bees>

https://www.momsacrossamerica.com/glyphosate_contamination_in_wine

Regards,
Karen Snyder
Portland, ME



Speaking of Science

First evidence found of popular farm pesticides in drinking water

By [Ben Guarino](#) April 5, 2017 [✉Email the author](#)

Of the many pesticides that American farmers have embraced in their war on bugs, neonicotinoids are among the most popular. One of them, called imidacloprid, is among the world's best-selling insecticides, boasting sales of over [\\$1 billion a year](#). But with their widespread use comes a notorious reputation — that neonics, as they are nicknamed, are a bee killer. A 2016 study suggested a link between neonicotinoid use and [local pollinator extinctions](#), though other agricultural researchers contested the pesticides' bad rap.

As the bee debate raged, scientists studying the country's waterways started to detect neonicotinoid pollutants. In 2015, the U.S. Geological Survey collected water samples from streams [throughout the United States](#) and discovered neonicotinoids in more than half of the samples.

And on Wednesday, a team of chemists and engineers at the USGS and University of Iowa reported that they found neonicotinoids in treated drinking water. It marks the first time that anyone has identified this class of pesticide in tap water, the researchers write in [Environmental Science & Technology Letters](#).

[Gregory LeFevre](#), a study author and U of Iowa environmental engineer, told The Washington Post that the find was important but not immediate cause for alarm.

"Having these types of compounds present in water does have the potential to be concerning," he said, "but we don't really know, at this point, what these levels might be."

If the dose makes the poison, the doses of insect neurotoxin reported in the new study were quite small. The scientists collected samples last year from taps in Iowa City as well as on the university campus and found neonicotinoid concentrations ranging from 0.24 to 57.3 nanograms per liter — that is, on a scale of parts per trillion. "Parts per trillion is a really, really small concentration," LeFevre said, roughly equal to a single drop of water plopped into 20 Olympic-size swimming pools.

The Environmental Protection Agency has not defined safe levels of neonicotinoids in drinking water, in part because the chemicals are relative newcomers to the pesticide pantheon. "There is no EPA standard for drinking water," LeFevre said. The pesticides, most of which were released in the 1990s, were designed to be more environmentally friendly than other chemicals on the market. The compounds work their way into plant tissue rather than just coating the leaves and stems, requiring fewer sprays. And though the pesticides wreak havoc on insect nervous systems, neonicotinoids do not easily cross from a mammal's bloodstream into a mammalian brain.

In 2015, environmental health scientists at George Washington University and the National Institutes of Health published a review of human health risks from neonic [pesticide exposure](#). Acute exposure — to high concentrations over a brief period — resulted in "low rates of adverse health effects." Reports of chronic, low-level exposure had "suggestive but methodologically weak findings," with a Japanese study associating neonicotinoids with memory loss.

[Melissa Perry](#), a public health researcher at George Washington University who was involved in that review, said via email that the new study "provides further evidence that neonicotinoid pesticides are present in our daily environments. From a public health standpoint, this issue clearly needs better attention."

The Iowa scientists tracked neonicotinoid concentrations in the local drinking supply from May to July, the seven-week span after the region's farmers planted maize and soy crops. Every sample contained three types of neonicotinoids: clothianidin, imidacloprid and thiamethoxam.

"Everything in the watershed is connected," LeFevre said. "This is one of many types of trace pollutants that might be present in rivers." (The USGS released an interactive map of the nation's water quality on Tuesday, where those inclined can track trends in [common pollutants](#).)

Most water filtration systems target clay, dirt or other particles, as well as pathogenic contaminants like bacteria. They're not designed to eliminate chemical pesticides — and the properties of neonicotinoids make these compounds unusually challenging to remove. Other types of pesticides stick to soil particles, which are then filtered out. But neonicotinoids can slip past sand filters because they are polar chemicals. “They dissolve very readily in water,” LeFevre said. He invoked a chemistry aphorism: “Like dissolves like.”

This proved out as the research team looked at how effectively the university's sand filtration system and Iowa City's different water treatment technique blocked the three neonicotinoids studied. The university's sand filter removed 1 percent of the clothianidin, 8 percent of imidacloprid and 44 percent of thiamethoxam. By contrast, the city's activated carbon filter blocked 100 percent of clothianidin, 94 percent of imidacloprid and 85 percent of thiamethoxam. That finding was “quite a pleasant surprise,” LeFevre said. “It's definitely not all bad news.”

The activated carbon filters are relatively economical, he said. In fact, after the research was completed, the university installed a similar system on its campus.

Given the study's small sample size and geographical span, Perry said more comprehensive assessments of water supplies are needed “to determine how ubiquitous neonics are in water supplies in other parts of the country.” The chance of that happening is unclear. “There is currently no national effort to measure to what extent neonicotinoids are making it into our bodies, be it through water or food,” she noted.

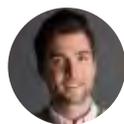
Read more:

[New studies find that bees actually want to eat the pesticides that hurt them](#)

[Norway is creating a 'bee highway' to protect pollinators](#)

[Plastic microbeads from face wash are polluting river sediment](#)

 **77 Comments**



Ben Guarino

Ben Guarino is a reporter for The Washington Post's Speaking of Science section. Before joining The Post in 2016, he worked as a freelance science journalist, an associate editor at the Dodo and a medical reporter at the McMahon Group. He also has a background in bioengineering. [Follow](#) 

The Guardian



Pesticides in paradise: Hawaii's spike in birth defects puts focus on GM crops

Local doctors are in the eye of a storm swirling for the past three years over whether corn that's been genetically modified to resist pesticides is a source of prosperity, as companies claim, or of birth defects and illnesses

Christopher Pala in Waimea

Sun 23 Aug 2015 07:00 EDT

Pediatrician Carla Nelson remembers catching sight of the unusually pale newborn, then hearing an abnormal heartbeat through the stethoscope and thinking that something was terribly wrong.

The baby was born minutes before with a severe heart malformation that would require complex surgery. What worried her as she waited for the ambulance plane to take the infant from Waimea, on the island of Kauai, to the main children's hospital in Honolulu, on another Hawaiian island, was that it was the fourth one she had seen in three years.

In all of Waimea, there have been at least nine in five years, she says, shaking her head. That's more than 10 times the national rate, according to analysis by local doctors.

Nelson, a Californian, and other local doctors find themselves in the eye of a storm swirling for the past three years around the Hawaiian archipelago over whether a major cash crop on four of the six main islands, corn that's been genetically modified to resist pesticides, is a source of prosperity, as the companies claim - or of birth defects and illnesses, as the doctors and many others suspect.

After four separate attempts to rein in the companies over the past two years all failed, an estimated 10,000 people marched on 9 August through Honolulu's Waikiki tourist district. Some held signs like, "We Deserve the Right to Know: Stop Poisoning Paradise" and "Save Hawaii - Stop GMOs" (Genetically Modified Organisms), while others protested different issues.

"The turnout and the number of groups marching showed how many people are very frustrated with the situation," says native Hawaiian activist Walter Ritte of the island of Molokai.

Seventeen times more restricted-use insecticides



Waimea and the GMO fields. The two orange-roof buildings at bottom left are the Middle School. The one to its right is the hospital. Photograph: Christopher Pala for the Guardian

Waimea, a small town of low, pastel wood houses built in south-west Kauai for plantation workers in the 19th century, now sustains its economy mostly from a trickle of tourists on their way to a spectacular canyon. Perhaps 200 people work full-time for the four giant chemical companies that grow the corn - all of it exported - on some 12,000 acres leased mostly from the state.

In Kauai, chemical companies Dow, BASF, Syngenta and DuPont spray 17 times more restricted-use insecticides per acre than on ordinary cornfields in the US mainland, according to the most detailed study of the sector, by the Center for Food Safety.

Just in Kauai, 18 tons - including atrazine, paraquat (both banned in Europe) and chlorpyrifos - were applied in 2012. The World Health Organization this year announced that glyphosate, sold as Roundup, the most common of the non-restricted herbicides, is "probably carcinogenic in humans".

The cornfields lie above Waimea as the land, developed in the 1870s for the Kekaha Sugar Company plantation, slopes gently up toward arid, craggy hilltops. Most fields are reddish-brown and perfectly furrowed. Some parts are bright green: that's when the corn is actually grown.

Both parts are sprayed frequently, sometimes every couple of days. Most of the fields lie fallow at any given time as they await the next crop, but they are still sprayed with pesticides to keep

anything from growing. "To grow either seed crops or test crops, you need soil that's essentially sterile," says professor Hector Valenzuela of the University of Hawaii department of tropical plant and soil science.

When the spraying is underway and the wind blows downhill from the fields to the town - a time no spraying should occur - residents complain of stinging eyes, headaches and vomiting.

"Your eyes and lungs hurt, you feel dizzy and nauseous. It's awful," says middle school special education teacher Howard Hurst, who was present at two evacuations. "Here, 10% of the students get special-ed services, but the state average is 6.3%," he says. "It's hard to think the pesticides don't play a role."

At these times, many crowd the waiting rooms of the town's main hospital, which was run until recently by Dow AgroSciences' former chief lobbyist in Honolulu. It lies beside the middle school, both 1,700ft from Syngenta fields. The hospital, built by the old sugar plantation, has never studied the effects of the pesticides on its patients.

The chemical companies that grow the corn in land previously used for sugar refuse to disclose with any precision which chemicals they use, where and in what amounts, but they insist the pesticides are safe, and most state and local politicians concur. "The Hawai'i legislature has never given the slightest indication that it intended to regulate genetically engineered crops," wrote lawyer Paul Achitoff of Earthjustice in a recent court case.

As for the birth defects spike, "We have not seen any credible source of statistical health information to support the claims," said Bennette Misalucha, executive director of Hawaii Crop Improvement Association, the chemical companies trade association, in a written statement distributed by a publicist. She declined to be interviewed.

Nelson, the pediatrician, points out that American Academy of Pediatrics' report, Pesticide Exposure in Children, found "an association between pesticides and adverse birth outcomes, including physical birth defects". Noting that local schools have been evacuated twice and children sent to hospital because of pesticide drift, Nelson says doctors need prior disclosure of sprayings: "It's hard to treat a child when you don't know which chemical he's been exposed to."

Her concerns and those of most of her colleagues have grown as the chemical companies doubled to 25,000 acres in a decade the area in Hawaii they devote to growing new varieties of herbicide-resistant corn.

Today, about 90% of industrial GMO corn grown in the US was originally developed in Hawaii, with the island of Kauai hosting the biggest area. The balmy weather yields three crops a year instead of one, allowing the companies to bring a new strain to market in a third of the time.

Once it's ready, the same fields are used to raise seed corn, which is sent to contract farms on the mainland. It is their output, called by critics a pesticide delivery system, that is sold to the US farmers, along with the pesticides manufactured by the breeder that each strain has been modified to tolerate.

Corn's uses are as industrial as its cultivation: less than 1% is eaten. About 40% is turned into ethanol for cars, 36% becomes cattle feed, 10% is used by the food industry and the rest is exported.

'We just want to gather information'



A march against pesticides in Hawaii. Photograph: Christopher Pala for the Guardian

At a Starbucks just outside Honolulu, Sidney Johnson, a pediatric surgeon at the Kapiolani Medical Center for Women and Children who oversees all children born in Hawaii with major birth defects and operates on many, says he's been thinking about pesticides a lot lately. The reason: he's noticed that the number of babies born here with their abdominal organs outside, a rare condition known as gastroschisis, has grown from three a year in the 1980s to about a dozen now.

"We have cleanest water and air in the world," he says. So he's working with a medical student on a study of his hospital's records to determine whether the parents of the gastroschisis infants were living near fields that were being sprayed around the time of conception and early pregnancy. He plans to extend the study to parents of babies suffering from heart defects.

"You kind of wonder why this wasn't done before," he says. "Data from other states show there might be a link, and Hawaii might be the best place to prove it."

Unbeknownst to Johnson, another two physicians have been heading in the same direction, but with some constraints. They're members of a state-county commission appointed this year to "determine if there are human harms coming from these pesticides", as its chairman, a professional facilitator named Peter Adler, tells a meeting of angry local residents in Waimea earlier this month. Several express skepticism that the panel is anything but another exercise in obfuscation.

The panel of nine part-time volunteers also includes two scientists from the chemical companies and several of their critics. "We just want to gather information and make some recommendations," Adler tells the crowd of about 60 people. "We won't be doing any original research."

But one of the two doctors, a retired pediatrician named Lee Evslin, plans to do just that. "I want see if any health trends stand out among people that might have been exposed to pesticides," he says in an interview. "It won't be a full epidemiological study, but it will probably be more complete than anything that's been done before."

The panel itself, called the Joint Fact-Finding Study Group on Genetically Modified Crops and Pesticides on Kaua'i, is the only achievement of three years of failed attempts to force the

companies to disclose in advance what they spray and to create buffer zones - which they do in 11 other states, where food crops receive much less pesticides per acre.

The pushback from the expansion of the GMO acreage first emerged when Gary Hooser of Kauai, a former state senate majority leader who failed in a bid for lieutenant governor in 2010, ran for his old seat on the Kauai County council in 2012.

“Everywhere I went, people were concerned about GMOs and pesticides. They were saying, ‘Gary, we gotta do something’,” he recounts over coffee at the trendy Ha Coffee Bar in Lihue, the island’s capital. “Some were worried about the GMO process itself and others by the threats of the pesticides, and it became one of the dominant political issues.”

Once elected, Hooser, who has a ruddy complexion, piercing blue eyes and arrived in Hawaii as a teenager from California, approached the companies for information about exactly what they were spraying and in what amounts. He was rebuffed.

In the process of what he called “doing my homework”, he discovered that the companies, unlike regular farmers, were operating under a decades-old Environmental Protection Agency permit to discharge toxic chemicals in water that had been grandfathered from the days of the sugar plantation, when the amounts and toxicities of pesticides were much lower. The state has asked for a federal exemption for the companies so they can avoid modern standards of compliance.

He also found that the companies, unlike regular farmers, don’t pay the 4% state excise tax. Some weren’t even asked to pay property taxes, worth \$125,000 a year. After pressure from Hooser and the county tax office, the companies paid two years’ worth of back taxes.

So with the backing of three other members of the seven-member Kauai council, he drafted a law requiring the companies to disclose yearly what they had grown and where, and to announce in advance which pesticides they proposed to spray, where and when. The law initially also imposed a moratorium on the chemical companies expanding their acreage while their environmental impact was assessed.

After a series of hearings packed by company employees and their families wearing blue and opponents wearing red, the bill was watered down by eliminating the moratorium and reducing the scope of the environmental study. The ordinance then passed, but the companies sued in federal court, where a judge ruled that the state’s law on pesticides precluded the counties from regulating them. After the ruling, the state and the county created the joint fact-finding panel officially committed to conducting no new research.

Hooser is confident the ruling will be overturned on appeal: the Hawaii constitution “specifically requires” the state and the counties to protect the communities and their environment.

In his appeal, Achitoff of Earthjustice argued that Hawaii’s general pesticide law does not “demonstrate that the legislature intended to force the county to sit and watch while its schoolchildren are being sent to the hospital so long as state agencies do not remedy the problem.”

In the Big Island, which is called Hawaii and hosts no GMO corn, a similar process unfolded later in 2013: the county council passed a law that effectively banned the chemical companies from moving in, and it was struck down in federal court for the same reasons. A ban on genetically modified taro, a food root deemed sacred in Hawaiian mythology, was allowed to stand.

In Maui County, which includes the islands of Maui and Molokai, both with large GMO corn fields, a group of residents calling themselves the Shaka Movement sidestepped the company-friendly council and launched a ballot initiative that called for a moratorium on all GMO farming until a full environmental impact statement is completed there.

The companies, primarily Monsanto, spent \$7.2m on the campaign (\$327.95 per “no” vote, reported to be the most expensive political campaign in Hawaii history) and still lost.

Again, they sued in federal court, and, a judge found that the Maui County initiative was preempted by federal law. Those rulings are also being appealed.

In the state legislature in Honolulu, Senator Josh Green, a Democrat who then chaired the health committee, earlier this year attempted a fourth effort at curbing the pesticide spraying.

In the legislature, he said, it's an open secret that most heads of the agriculture committee have had “a closer relationship with the agro-chemical companies than with the environmental groups”.

Green, an emergency room doctor who was raised in Pennsylvania, drafted legislation to mandate some prior disclosure and some buffer zones. “I thought that was a reasonable compromise,” he says. Still, he also drafted a weaker bill as a failsafe. “If even that one doesn't pass, it's going to be obvious that the state doesn't have the political will to stand up to the chemical companies,” he said in a phone interview at the time. “That would be terrible.”

The chairman of the senate agricultural committee, Cliff Tsuji, didn't even bring the weaker bill to a vote, even though Hawaii's governor had pledged to sign any bill that created buffer zones.

Asked by email what he would do now, Green replied with a quip: “Drink scotch.”

This article was amended on 12 October 2015. An earlier version stated that a Center for Food Safety report found pesticides were used in Kauai at 17 times the US mainland average for cornfields. It was restricted-use insecticides, not all pesticides. Also, atrazine and paraquat are among the chemicals sprayed in Kauai but don't constitute a majority. This has been corrected. *This report was supported by a grant from the Fund for Investigative Journalism.*

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EU agrees total ban on bee-harming pesticides

The world's most widely used insecticides will be banned from all fields within six months, to protect both wild and honeybees that are vital to crop pollination

Damian Carrington *Environment editor*

Fri 27 Apr 2018 05.47 EDT

The European Union will ban the world's most widely used insecticides from all fields due to the serious danger they pose to bees.

The ban on neonicotinoids, approved by member nations on Friday, is expected to come into force by the end of 2018 and will mean they can only be used in closed greenhouses.

Bees and other insects are vital for global food production as they pollinate three-quarters of all crops. The plummeting numbers of pollinators in recent years has been blamed, in part, on the widespread use of pesticides. The EU banned the use of neonicotinoids on flowering crops that attract bees, such as oil seed rape, in 2013.

But in February, a major report from the European Union's scientific risk assessors (Efsa) concluded that the high risk to both honeybees and wild bees resulted from any outdoor use,

because the pesticides contaminate soil and water. This leads to the pesticides appearing in wildflowers or succeeding crops. A recent study of honey samples revealed global contamination by neonicotinoids.

Vytenis Andriukaitis, European commissioner for Health and Food Safety, welcomed Friday's vote: "The commission had proposed these measures months ago, on the basis of the scientific advice from Efsa. Bee health remains of paramount importance for me since it concerns biodiversity, food production and the environment."

The ban on the three main neonicotinoids has widespread public support, with almost 5 million people signing a petition from campaign group Avaaz. "Banning these toxic pesticides is a beacon of hope for bees," said Antonia Staats at Avaaz. "Finally, our governments are listening to their citizens, the scientific evidence and farmers who know that bees can't live with these chemicals and we can't live without bees."

Martin Dermine, at Pesticide Action Network Europe, said: "Authorising neonicotinoids a quarter of a century ago was a mistake and led to an environmental disaster. Today's vote is historic."

However, the pesticide manufacturers and some farming groups have accused the EU of being overly cautious and suggested crop yields could fall, a claim rejected by others. "European agriculture will suffer as a result of this decision," said Graeme Taylor, at the European Crop Protection Association. "Perhaps not today, perhaps not tomorrow, but in time decision makers will see the clear impact of removing a vital tool for farmers."

The UK's National Farmers' Union (NFU) said the ban was regrettable and not justified by the evidence. Guy Smith, NFU deputy president, said: "The pest problems that neonicotinoids helped farmers tackle have not gone away. There is a real risk that these restrictions will do nothing measurable to improve bee health, while compromising the effectiveness of crop protection."

A spokesman for the UK Department of Environment, Food and Rural Affairs welcomed the ban, but added: "We recognise the impact a ban will have on farmers and will continue to work with them to explore alternative approaches." In November, UK environment secretary Michael Gove overturned the UK's previous opposition to a full outdoor ban.

Neonicotinoids, which are nerve agents, have been shown to cause a wide range of harm to individual bees, such as damaging memory and reducing queen numbers.

But this evidence has strengthened recently to show damage to colonies of bees. Other research has also revealed that 75% of all flying insects have disappeared in Germany and probably much further afield, prompting warnings of "ecological armageddon".

Prof Dave Goulson, at the University of Sussex, said the EU ban was logical given the weight of evidence but that disease and lack of flowery habitats were also harming bees. "Also, if these neonicotinoids are simply replaced by other similar compounds, then we will simply be going round in circles. What is needed is a move towards truly sustainable farming," he said.

Some experts are worried that the exemption for greenhouses means neonicotinoids will be washed out into water courses, where they can severely harm aquatic life.

Prof Jeroen van der Sluijs, at the University of Bergen, Norway, said neonicotinoids will also continue to be used in flea treatments for pets and in stables and animal transport vehicles, which

account for about a third of all uses: “Environmental pollution will continue.”

The EU decision could have global ramifications, according to Prof Nigel Raine, at the University of Guelph in Canada: “Policy makers in other jurisdictions will be paying close attention to these decisions. We rely on both farmers and pollinators for the food we eat. Pesticide regulation is a balancing act between unintended consequences of their use for non-target organisms, including pollinators, and giving farmers the tools they need to control crop pests.”

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'Catastrophe' as France's bird population collapses due to pesticides

Dozens of species have seen their numbers decline, in some cases by two-thirds, because insects they feed on have disappeared

Agence France-Presse

Tue 20 Mar 2018 20.50 EDT

Bird populations across the French countryside have fallen by a third over the last decade and a half, researchers have said.

Dozens of species have seen their numbers decline, in some cases by two-thirds, the scientists said in a pair of studies - one national in scope and the other covering a large agricultural region in central France.

“The situation is catastrophic,” said Benoit Fontaine, a conservation biologist at France’s National Museum of Natural History and co-author of one of the studies.

“Our countryside is in the process of becoming a veritable desert,” he said in a communique released by the National Centre for Scientific Research (CNRS), which also contributed to the

findings.

The common white throat, the ortolan bunting, the Eurasian skylark and other once-ubiquitous species have all fallen off by at least a third, according a detailed, annual census initiated at the start of the century.

A migratory song bird, the meadow pipit, has declined by nearly 70%.

The museum described the pace and extent of the wipe-out as “a level approaching an ecological catastrophe”.

The primary culprit, researchers speculate, is the intensive use of pesticides on vast tracts of monoculture crops, especially wheat and corn.

The problem is not that birds are being poisoned, but that the insects on which they depend for food have disappeared.

“There are hardly any insects left, that’s the number one problem,” said Vincent Bretagnolle, a CNRS ecologist at the Centre for Biological Studies in Chize.

Recent research, he noted, has uncovered similar trends across Europe, estimating that flying insects have declined by 80%, and bird populations has dropped by more than 400m in 30 years.

Despite a government plan to cut pesticide use in half by 2020, sales in France have climbed steadily, reaching more than 75,000 tonnes of active ingredient in 2014, according to European Union figures.

“What is really alarming, is that all the birds in an agricultural setting are declining at the same speed, even ‘generalist’ birds,” which also thrive in other settings such as wooded areas, said Bretagnolle.

“That shows that the overall quality of the agricultural eco-system is deteriorating.”

Figures from the national survey - which relies on a network of hundreds of volunteer ornithologists - indicate the die-off gathered pace in 2016 and 2017.

Drivers of the drop in bird populations extend beyond the depletion of their main food source, the scientists said.

Shrinking woodlands, the absence of the once common practice of letting fields lie fallow and especially rapidly expanding expanses of mono-crops have each played a role.

“If the situation is not yet irreversible, all the actors in the agriculture sector must work together to change their practices,” Fontaine said.

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Europe faces 'biodiversity oblivion' after collapse in French birds, experts warn

Authors of report on bird declines say intensive farming and pesticides could turn Europe's farmland into a desert that ultimately imperils all humans

Patrick Barkham

Wed 21 Mar 2018 11.31 EDT

The “catastrophic” decline in French farmland birds signals a wider biodiversity crisis in Europe which ultimately imperils all humans, leading scientists have told the Guardian.

A dramatic fall in farmland birds such as skylarks, whitethroats and ortolan bunting in France was revealed by two studies this week, with the spread of neonicotinoid pesticides - and decimation of insect life - coming under particular scrutiny.

With intensive crop production encouraged by the EU's common agricultural policy apparently driving the bird declines, conservationists are warning that many European countries are facing a second “silent spring” - a term coined by the ecologist Rachel Carson to describe the slump in bird populations in the 1960s caused by pesticides.

“We’ve lost a quarter of skylarks in 15 years. It’s huge, it’s really, really huge. If this was the human population, it would be a major thing,” said Dr Benoit Fontaine of France’s National Museum of Natural History and co-author of one of the new studies, a national survey of France’s common birds. “We are turning our farmland into a desert. We are losing everything and we need that nature, that biodiversity - the agriculture needs pollinators and the soil fauna. Without that, ultimately, we will die.”

Farmland makes up 45% of the EU’s land area, but farmland bird populations in France have fallen by an average of a third over the past 15 years. In some cases, the declines are worse: seven out of 10 meadow pipits have disappeared from French fields over that period, while eight in 10 partridges have vanished over 23 years, according to a second French study which examined 160 areas of typical arable plains in central France.



A meadow pipit. Photograph: Stephane Bouilland/Biosphoto/Alamy

According to the survey, the disappearance of farmland species intensified in the last decade, and again over the last two summers.

Thriving generalist species such as wood pigeons, blackbirds and chaffinches - which also breed in urban areas and woodlands - are increasing nationally but even they are decreasing on farmland, which has led researchers to identify changing farming practices as the cause of big declines.

Scientists point to the correlation between bird declines and the drastic reduction in insect life - such as the 76% fall in abundance of flying insects on German nature reserves over 27 years - which are linked to increasing pesticides and neonicotinoids in particular.

Despite the French government aspiring to halve pesticide use by 2020, sales have climbed, reaching more than 75,000 tonnes of active ingredient in 2014, according to EU figures.

“All birds are dependant on insects in one way or another,” said Fontaine. “Even granivorous birds feed their chicks insects and birds of prey eat birds that eat insects. If you lose 80% of what you eat you cannot sustain a stable population.”

Fontaine said that EU agri-environment were “obviously not” reversing bird declines but he said farmers were not to blame and it was possible to farm to produce food and preserve wildlife.

“Farmers are really willing to do that,” said Fontaine. “They live with a system which is based on large firms that make pesticides and they have to cope with that. They are not the bad guys. The

problem is not agriculture, but the solution is really the farmers.”

The declines in France mirror falls across Europe: the abundance of farmland birds in 28 European countries has fallen by 55% in the past three decades, according to figures collated by the European Bird Census Council.

Among 39 species commonly found on European farmland, 24 have declined and only six have increased. The white stork is one of the few success stories, with its revival linked to an increase in artificial nesting sites being provided in towns.

Iván Ramírez, head of conservation for BirdLife Europe & Central Asia, warned that Europe is facing “biodiversity oblivion” on its farmland, with scientific studies attributing the loss of birds to EU farming subsidies. According to Ramírez, countries which have recently joined the EU show declines in farmland birds, while populations have fared better in non-EU states in eastern Europe, where agricultural practices became less intensive after the collapse of the Soviet Union.

Martin Harper, director of conservation for the RSPB in the UK, said: “In the UK the situation is just as concerning. Our beleaguered farmland birds have declined by 56% between 1970 and 2015 along with declines in other wildlife linked to changes in agricultural practices, including the use of pesticides. We urgently need action on both sides of the Channel, and this is something we hope to see from the governments of the UK as we prepare to leave the EU.”

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Widespread Glyphosate Contamination in Wine

POSTED BY ZEN HONEYCUTT 2675.40GS ON MARCH 24, 2016

100% of Wine Tested Showed Positive Results



Los Angeles - Today, Moms Across America released new results revealing that ten major California wines contained the chemical glyphosate, the declared “active” ingredient in Roundup weedkiller and 700 other glyphosate-based herbicides. Glyphosate, deemed a probable carcinogen by the World Health Organization in 2015, was found in all three categories of wine. This includes conventional (chemically grown), organic and biodynamic wine. The methodology used for the testing was the same as the beer tests in Germany, where all 14 beers tested positive for glyphosate. The highest conventional wine test result for glyphosate was 28 times higher than the glyphosate levels found in the organic and biodynamic wines.

View the report

here: [https://d3n8a8pro7vhmx.cloudfront.net/yesmaam/pages/680/attachments/original/1458848651/3-24-16_GlyphosateContaminationinWineReport_\(1\).pdf?1458848651](https://d3n8a8pro7vhmx.cloudfront.net/yesmaam/pages/680/attachments/original/1458848651/3-24-16_GlyphosateContaminationinWineReport_(1).pdf?1458848651)

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Because Roundup/glyphosate is not permitted on organic or biodynamic vineyards, the results are unexpected and can only be explained by the drift of chemical sprays from neighboring vineyards. This could mean legal ramifications for the contamination and devaluation of another company's product.

Zen Honeycutt, Director of Moms Across America, states "We have recently learned that the detection of glyphosate is an indicator of the presence of many other co-formulants in glyphosate-based herbicides which, combined, are 1000 times more toxic than glyphosate alone. French scientist Gilles-Éric Seralini (https://en.wikipedia.org/wiki/Gilles-%C3%89ric_S%C3%A9ralini) and his team have also discovered that these co-formulants are also endocrine hormone disruptors, which can lead to breast cancer, miscarriages, birth defects and many other health issues. There should be zero glyphosate and related chemicals in our wine, food or personal products."

Consumers may wonder how Roundup/glyphosate is getting into their wine. Roundup/glyphosate is sprayed every year in conventional vineyards. A 1-2 ft strip is sprayed on either side of the grape vines which are planted in rows, to kill weeds when the vines are dormant in late winter or early spring. According to plant pathologist, Don Huber from Purdue University, the vine stems are inevitably sprayed in this process and the Roundup is likely absorbed through the roots and bark of the vines from where it is translocated into the leaves and grapes.

All the wines tested were from the Napa Valley, Sonoma and Mendocino County areas. According to the CA Dept of Health, breast cancer rates in the Sonoma, Napa and Mendocino counties is 10 to 20 percent higher than the national average. 700 lawsuits are currently pending against Monsanto for the connection between non-Hodgkin's lymphoma and Roundup.

Currently the FDA does not require end product testing or labeling for pesticides. Therefore the public is unable to know the type or amount of any pesticides that are present in the wines.

Moms Across America and other groups call for the protection of organic and biodynamic brands, farm workers and consumers by requesting that all food producers STOP spraying toxic chemicals on their crops.

Contact:

Blair Fitzgibbon 202-503-6141

Zen Honeycutt zenhoneycutt@gmail.com (<mailto:zenhoneycutt@gmail.com>)

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Eddie Warne commented

[1 month ago \(2018-06-21T20:09:09Z\)](#)

I wrote a new blog on glyphosate with emphasis on the tech companies who have worked so hard to invent technologies that will prevent spray drift and only spray the weeds,

<http://mostpopularhashtags.com/2018/05/30/glyphosate-hashtags/>
(<http://mostpopularhashtags.com/2018/05/30/glyphosate-hashtags/>)



Ruth followed this page

[1 year ago \(2016-08-19T20:24:21Z\)](#)



Garry Cohen commented

[2 years ago \(2016-03-28T02:26:14Z\)](#)

I am a rarity in the wine business in that I do not use glyphosate in my vineyard. We spend twice as much time per vine as "typical" vineyards because of the need to hand trim the cover crops around the base of each of the vines. Yet, I still worry as neighboring farmers continue to spray their crops with glyphosate with impunity. www.mazzarothvineyard.com



Ellie Kirchner commented

[2 years ago \(2016-03-26T02:28:37Z\)](#)

Glyphosate should be banned. Hopefully the wine drinkers of the world will urge the winemakers of the world to stop using glyphosate and work to ban this

poisonous herbicide from being used. Here are other crops that are sprayed with glyphosate, as recommended by Monsanto.



Zen Honeycutt commented

2 years ago (2016-03-24T20:21:41Z)

Please note that many have asked for the names of the brands. Our response: The supporter who gave us the results of the wine testing has not agreed to release brand information at this time. However, the issue is not the brand, it is the impact of chemical farming and the widespread contamination of consumer products. These results show that any vineyard using these toxic chemicals can expect that their wines and their neighbors' wines will be contaminated with glyphosate based herbicides.

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 KeyCite Yellow Flag - Negative Treatment
Declined to Follow by [Professional Lawn Care Ass'n v. Village of Milford](#), 6th Cir.(Mich.), August 1, 1990
571 A.2d 1189
Supreme Judicial Court of Maine.

CENTRAL MAINE POWER COMPANY
v.
TOWN OF LEBANON.

Argued Feb. 1, 1990.

Decided March 6, 1990.

Synopsis

Power company sought declaration that town could not prohibit it from spraying herbicides on land under transmission lines. The Superior Court, Kennebec County, [Alexander, J.](#), entered summary judgment in favor of town. Power company appealed. The Supreme Judicial Court, [Collins, J.](#), held that neither federal nor state law preempted town's regulation of commercial spraying of herbicides for nonagricultural uses.

Affirmed.

West Headnotes (5)

- [1] **Environmental Law**
 Federal Preemption
Municipal Corporations
 Political Status and Relations

Federal statute permitting states to regulate federally registered **pesticide**, if regulation does not permit sale or use prohibited by federal law, did not preclude town from enacting more stringent herbicide regulation, and, thus, federal law did not preempt local regulation of herbicide use. Federal Insecticide, Fungicide and Rodenticide Act, § 24(a, b), as amended, 7 U.S.C.A. § 136v(a, b); U.S.C.A. Const. Art. 6, cl. 2.

[8 Cases that cite this headnote](#)

- [2] **Constitutional Law**

 To State and Local Authorities

State is free to delegate any power it possesses to its political subdivisions. [M.R.S.A. Const. Art. 8, Pt. 2, § 1](#); [30-A M.R.S.A. § 3001](#).

[1 Cases that cite this headnote](#)

- [3] **Towns**

 Governmental Powers in General

Pesticide Control Act and **Pesticide** Board Act did not explicitly or implicitly preempt town's regulation of commercial spraying of herbicides for nonagricultural uses. [M.R.S.A. Const. Art. 8, Pt. 2, § 1](#); [7 M.R.S.A. §§ 603, 625](#); [22 M.R.S.A. §§ 1471-A, 1471-F, 1471-M](#), subd. 4, [1471-R, 1471-U, 1471-U](#), subds. 1-4; [30-A M.R.S.A. §§ 3001, 3001](#), subds. 1-3.

[Cases that cite this headnote](#)

- [4] **Towns**

 Governmental Powers in General

Town's regulation of commercial spraying of herbicides for nonagricultural uses did not delegate any power and was not improper delegation of powers.

[Cases that cite this headnote](#)

- [5] **Appeal and Error**

 Nature and Scope of Decision

Issue dismissed without prejudice by stipulation of parties was not part of final judgment and was not before Supreme Judicial Court. [Rules](#)

Civ.Proc., Rules 54(b), 73(a).

2 Cases that cite this headnote

Attorneys and Law Firms

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Karen Tilberg, Maine Audubon Soc., Falmouth, amicus curiae, for Maine Audubon Soc.

Alan E. Shepard (orally), Shepard & Read, Kennebunkport, for defendants.

Before WATHEN, GLASSMAN, CLIFFORD, HORNBY and COLLINS, JJ.

Opinion

COLLINS, Justice.

Central Maine Power Company (“CMP”) appeals from a summary judgment granted by the Superior Court (Kennebec County, *Alexander, J.*) in favor of three selectmen and the Town of Lebanon (hereinafter collectively “Lebanon”). CMP had brought a declaratory judgment action against Lebanon seeking, *inter alia*, a declaration that a Lebanon ordinance prohibiting non-agricultural use of pesticides without prior town approval was (1) invalid as an improper delegation of power and (2) preempted by the Federal Insecticide, Fungicide and Rodenticide Act of 1975 (“FIFRA”)¹ and by both the Maine Pesticide Control Act (“Pesticide Control Act”)² and the Maine Board of Pesticides Control Act (“Pesticide Board Act”).³ We affirm the summary judgment order.

I.

The facts are largely undisputed. CMP owns in fee a corridor of land in the Town of Lebanon on which high

voltage transmission lines are located. To prevent interference with the transmission lines and to allow access to the lines for maintenance and repair, CMP must control the growth of vegetation along the corridor. CMP controls vegetation growth by cutting and through the application of chemical herbicides. CMP’s utility lines lie in close proximity to residences, farmland, wells, roads, and one elementary school, as well as environmentally sensitive areas such as ponds, streams, wetlands, and aquifers.

On March 12, 1983, to protect the health and welfare of its citizens, Lebanon enacted the ordinance in dispute. This ordinance prohibits any commercial spraying of herbicides for non-agricultural uses unless this *1191 spraying is first approved by a Town Meeting vote. In 1986, CMP requested approval for spraying herbicides along its transmission line corridor in Lebanon. On August 26, 1986, pursuant to the ordinance, the following Town Meeting article was presented for a vote:

Should the Town of Lebanon, Maine, allow Central Maine Power to use herbicides to control brush growth along their power and/or transmission lines located in the Town of Lebanon, Maine.

The Town Meeting voted “no” on this article.

The next day CMP filed a declaratory action in Kennebec County Superior Court to determine the validity of the ordinance. CMP alleged that the ordinance is preempted by both state and federal laws regulating herbicides, that the ordinance is an improper delegation of powers, that the ordinance violates CMP’s constitutional rights to due process and equal protection of the law, and that the ordinance amounts to unconstitutional special legislation.

On June 19, 1988, CMP moved for summary judgment on all counts. The Superior Court granted partial summary judgment against CMP on the issues of preemption and improper delegation. The court first determined that neither federal nor state law preempts the Lebanon ordinance. The court then denied CMP’s claim of improper delegation because there was no delegation here; rather, the court found that “the town legislative body has reserved to itself authority to decide exceptions to its prohibition on non-agricultural commercial spraying.” The court denied the summary judgment motion as to the remaining issues of due process, equal protection, and special legislation, finding that factual questions remained with respect to these issues.

The parties subsequently agreed to a settlement of the case, and on June 19, 1989, pursuant to M.R.Civ.P. 41(a)(1), both parties signed a stipulation of dismissal without prejudice of the remaining equal protection, due process, and special legislation claims. CMP then asked the Superior Court to enter final judgment, pursuant to M.R.Civ.P. 54(b), on the claims of improper delegation of authority and state and federal preemption that were the subject matter of the summary judgment order. The Superior Court (Kennebec County, *Alexander, J.*) ordered entry of final judgment on these issues.

II.

^[1] CMP first argues that the Lebanon ordinance is invalid because FIFRA preempts local regulation of herbicide use. We find this argument unpersuasive.

The Supremacy Clause of the United States Constitution provides that the law of the United States “shall be the supreme Law of the Land...” U.S. Const. art. VI, cl. 2. We have recognized that “[i]t is through operation of the supremacy clause of the United States Constitution that federal law preempts conflicting state law.” *Director of Bureau of Labor Standards v. Fort Halifax Packing Company*, 510 A.2d 1054, 1057 (Me.1986) (hereinafter “*Fort Halifax Packing*”).

Pre-emption occurs when Congress, in enacting a federal statute, expresses a clear intent to preempt state law, when there is an outright or actual conflict between federal and state law, where compliance with both federal and state law is in effect physically impossible, where there is implicit in federal law a barrier to state regulation, where Congress has legislated comprehensively, thus occupying an entire field of regulation and leaving no room for the States to supplement federal law, or where the state law stands as an obstacle to the accomplishment and execution of the full objectives of Congress.

Louisiana Public Service Commission v. F.C.C., 476 U.S. 355, 368–369, 106 S.Ct. 1890, 1898, 90 L.Ed.2d 369 (1986) (citations omitted).

Nevertheless, the United States Supreme Court has determined that the “exercise of federal supremacy is not lightly to be presumed.” *Alessi v. Raybestos–Manhattan, Inc.*, 451 U.S. 504, 522, 101 S.Ct. 1895, 1905, 68 L.Ed.2d 402, 416 (1981). In *Fort Halifax Packing*, we stated:

*1192 Preemption, however, is not a favored concept, and federal regulation will be deemed to be preemptive of state regulatory powers only if grounded in “persuasive reasons—either the nature of the regulated subject matter permits no other conclusion or that Congress has unmistakably ‘so ordained.’”

Id. at 1057–58 (quoting *Alessi*, 451 U.S. at 522, 101 S.Ct. at 1905 (quoting *Florida Lime & Avocado Growers, Inc. v. Paul*, 373 U.S. 132, 142, 83 S.Ct. 1210, 1217, 10 L.Ed.2d 248 (1963))).

FIFRA comprehensively regulates both the interstate and the intrastate sale and use of pesticides. However, Congress did not intend the federal statute to preclude state regulation of the use of pesticides when such regulation is more stringent than the minimum federal standards established by the federal act. Specifically, 7 U.S.C. § 136v(a) provides:

A State may regulate the sale or use of any federally registered pesticide or device in the State, but only if and to the extent the regulation does not permit any sale or use prohibited by this chapter.

In fact, the only language that FIFRA does contain precluding state regulation of pesticides concerns the area of labeling and packaging of pesticide products. See 7 U.S.C. § 136v(b). Clearly, the Lebanon ordinance involves the use of pesticides, not the packaging or labeling of pesticides.

Nevertheless, CMP argues that section 136v(a)’s express grant of state authority to regulate pesticides without an explicit reference to local governments evinces a congressional intent to exclude municipal governments from the field of pesticide control. This argument is without merit.

^[2] First, as a general principle, a state is free to delegate any power it possesses to its political subdivisions. See 62 C.J.S. § 107 (“subject to constitutional limitations, the legislature may confer on municipal corporations such powers as it sees fit; it is a matter of discretion”). The Maine Constitution, art. VIII, pt. 2, § 1, grants “Home Rule” to municipalities, and the Maine Legislature has defined this Home Rule as a delegation to the

municipalities of authority to exercise any power or function that the Legislature has power to confer upon them, and that “is not denied either expressly or by clear implication.” 30–A M.R.S.A. § 3001 (Supp.1988). As discussed below, the Legislature has not expressly or by clear implication denied municipalities the power to regulate pesticide use more stringently than FIFRA. Second, the United States Supreme Court has determined that “for the purposes of the Supremacy Clause, the constitutionality of local ordinances is analyzed in the same way as the statewide laws.” *Hillsborough County, Florida v. Automated Medical Laboratories, Inc.*, 471 U.S. 707, 713, 105 S.Ct. 2371, 2375, 85 L.Ed.2d 714 (1985). Clearly, a statewide law regulating pesticide use in keeping with the parameters established by section 136v(a) of the federal act would be constitutional. Third, a presumption exists that “state or local regulation of matters related to health and safety is not invalidated under the Supremacy Clause.” *Hillsborough*, 471 U.S. at 715, 105 S.Ct. at 2376. See also *Jones v. Rath Packing Co.*, 430 U.S. 519, 525, 97 S.Ct. 1305, 1309, 51 L.Ed.2d 604, 614 (1977) (“we start with the assumption that the historic police powers of the States were not to be superseded by [federal law] unless that was the clear and manifest purpose of Congress”) (quoting *Rice v. Santa Fe Elevator Corp.*, 331 U.S. 218, 230, 67 S.Ct. 1146, 1152, 91 L.Ed. 1447, 1459 (1947)). Therefore, to argue that the absence of mention of local governments in the section of FIFRA that expressly delegates regulatory power to the states demonstrates congressional intent to preclude a state’s political subdivisions from enacting its own more stringent regulations disregards traditional notions of state sovereignty.

CMP next contends that the legislative history of FIFRA demonstrates that Congress intended to exclude local pesticide regulation. CMP does not direct our attention to specific portions of the federal statute’s legislative history to bolster this argument; rather CMP supports its contention with a single federal district court *1193 decision, *Maryland Pest Control Association v. Montgomery County*, 646 F.Supp. 109 (D.Md.1986), *aff’d without opinion*, 822 F.2d 55 (4th Cir.1987) (hereinafter “*Montgomery County*”). The district court in *Montgomery County* examined the legislative history of FIFRA and determined that “the evidence is clear that Congress ... concluded that only States and not their subdivisions should be authorized to regulate the sale and use of pesticides.” *Id.* at 111.

Other courts, however, have examined the same legislative history and reached the opposite conclusion. First, the California Supreme Court in *People ex rel. Deukmejian v. Mendocino County*, 36 Cal.3d 476, 204

Cal.Rptr. 897, 683 P.2d 1150 (1984) read the legislative history as establishing a compromise position that neither authorizes nor prohibits local regulation. *Id.*, 204 Cal.Rptr. at 907, 683 P.2d at 1160. The California court stated that “the legislative history [of § 136v] does not demonstrate a clear congressional intention to preempt traditional local police powers to regulate the use of pesticides or to preempt state power to distribute its regulatory authority between itself and its political subdivisions.” *Id.* Accordingly, the California Court reasoned that each state is left to determine whether its own political subdivisions shall exercise regulatory power over pesticides. *Id.* Second, a Colorado federal district court in *Coparr, Ltd. v. City of Boulder*, Civil Action No. 87–m–1965, slip op. (D.Colo. Oct. 3, 1989) (hereinafter “*City of Boulder*”), reviewed the legislative history and the decisions in both *Montgomery County* and *Mendocino County*, and determined that the legislative history is “not conclusive of Congressional intent.” *Id.* slip op at 4. Acknowledging the presumption that the supremacy clause does not invalidate local regulation of safety and health matters, the Colorado court concluded that pesticide regulation is a local health concern within the legislative power of municipal home rule under Colorado law. *Id.* slip op at 5.

Upon examining the legislative history ourselves, we find the decisions in *Mendocino County* and *City of Boulder* more persuasive than that in *Montgomery County* because the approach of the first two is, as the court in *City of Boulder* expressed it, “consistent with the historical view of state sovereignty and the state’s freedom to distribute regulatory power between itself and its political subdivisions.” *City of Boulder*, slip op at 5.

III.

[3] CMP next argues that by enacting the Pesticide Control Act and the Pesticide Board Act the Maine Legislature intended to preempt the field of pesticide regulation. We find this argument unpersuasive as well.

As noted above, the Maine Constitution grants municipalities “Home Rule,” Me. Const. art VIII, pt. 2, § 1, and the Legislature has defined this Home Rule as a delegation to the municipalities of authority to exercise any power or function that the Legislature has power to confer upon them, and that “is not denied either expressly or by clear implication.” 30–A M.R.S.A. § 3001 (Supp.1988). Moreover, because local authority is “necessary for the welfare of the municipalities and their inhabitants,” the Legislature has mandated that section

3001 “shall be liberally construed.” *Id.* at § 3001(1), and has created a rebuttable presumption that any ordinances enacted by municipalities are valid. *Id.* at § 3001(2). Finally, section 3001(3) provides that “[t]he Legislature shall not be held to have implicitly denied any power granted to municipalities under this section unless the municipal ordinance in question would frustrate the purpose of any state law.” *Id.* at § 3001(3). In light of this broad delegation of authority to municipalities under Home Rule, only where the “legislature intend[s] to create a comprehensive and exclusive regulatory scheme [shall] a municipal ordinance [at odds with the regulatory scheme] ... fail as a violation of the Home Rule statute.” *Midcoast Disposal, Inc. v. Town of Union*, 537 A.2d 1149, 1159 (Me.1988) (quoting *Tisei v. Town of Ogunquit*, 491 A.2d 564, 570 (Me.1985)). *Accord Camden and Rockland Water Co. v. Town of Hope*, 543 A.2d 827, 830 (Me.1988). The *1194 Lebanon ordinance is neither explicitly preempted by any Maine statute nor implicitly preempted by a comprehensive and exclusive regulatory scheme.

We address the question of express preemption first. Neither the Pesticide Control Act nor the Pesticide Board Act contains any provision explicitly preempting local regulation of the use of pesticides. To the contrary, where reference is made to municipal authority in either act, each statute expressly states that these sections shall not affect municipal authority to enact ordinances. See 22 M.R.S.A. § 1471–U(4); 7 M.R.S.A. § 625. Moreover, the Pesticide Board Act contains a specific provision governing procedures used to maintain, “for informational purposes,” a centralized catalog of municipal ordinances that “specifically apply to pesticide storage, distribution or use.” 22 M.R.S.A. § 1471–U(1) (emphasis added). This provision establishes regulations for the listing of both existing ordinances and future ordinances, and states that the only intent of this section is “to provide information on municipal ordinances, ... not [to] affect municipal authority to enact ordinances.” *Id.* at (2)–(4). It would have been senseless for the Legislature to have established a mechanism to create a centralized listing of municipal ordinances that govern the use of pesticides if the Legislature had intended to deprive municipalities of the power to enact such ordinances. “[W]henver possible, courts will construe a legislative scheme so as to render no portion of it useless or unnecessary.” *Ullis v. Town of Boothbay Harbor*, 459 A.2d 153, 159 (Me.1983) (citing *Labbe v. Nissen Corp.*, 404 A.2d 564, 567 (Me.1979)).

We now turn our attention to the question of implicit preemption. CMP argues that the statutory scheme created by both the Pesticide Board Act and the Pesticide

Control Act is so comprehensive in scope that one must conclude that the legislative intent was to occupy the field of pesticide regulation. We disagree. Section 1471–U of the Pesticide Board Act’s provision, which requires the centralized listing of municipal ordinances, and which we have just examined, clearly anticipates the existence of municipal ordinances governing pesticide use. CMP’s implicit preemption argument is inconsistent with the expectation created by section 1471–U that municipalities will enact ordinances related to pesticide storage, distribution, or use.

CMP also argues that the provisions of the Pesticide Control Act concerning critical areas “encompass[] a broad range of concerns, leaving no room for municipalities to act further.” See 22 M.R.S.A. §§ 1471–F (1980), 1471–M(4) (Supp.1988) (amended by P.L.1989, ch. 502, § 67). However, since both the critical areas language and the language retaining existing local authority in § 1471–U were enacted as part of the same law, P.L.1987, Chapter 702, there is no basis for the argument that the critical areas language displaced municipal authority.

Moreover, the statutory scheme created by the Pesticide Control Act and the Pesticide Board Act is not so pervasive that we are compelled to conclude that this scheme was intended to occupy the field of pesticide regulation. To the contrary, the Maine acts have left open areas that provide room for potential, appropriate regulation by municipalities. For example, although the Pesticide Control Act prohibits the introduction of a pesticide into waters of the State without first obtaining a proper waste discharge license, 22 M.R.S.A. § 1471–F, neither act requires setback distances between pesticide applications and surface water, groundwater, wetlands, or other ecologically sensitive areas. For further example, the Pesticide Control Act expressly requires specific public notification for forest insect aerial spray applications, 22 M.R.S.A. § 1471–R, and provides that additional notification requirements may be established by the board. Notification requirements for other types of pesticide applications that may create a risk to public health are not expressly provided for by either act. We conclude that local regulation within these and other areas not addressed in the statutory scheme created by the two acts could be appropriate.

Finally, and of greatest importance, the Lebanon ordinance does not frustrate the *1195 purposes of the two Maine pesticide acts. The Pesticide Board Act’s purpose is to assure:

to the public the benefits to be

derived from the safe, scientific and proper use of chemical pesticides while safeguarding the public health, safety and welfare, and ... [to protect the] natural resources of the State....

22 M.R.S.A. § 1471–A. The purpose of the Pesticide Control Act also is to protect public health by regulating “the labeling, distribution, storage, transportation, use and disposal of pesticides...” 7 M.R.S.A. § 603. By requiring a more stringent review process for certain types of pesticide use than that found in the two Maine pesticide acts, the Lebanon ordinance shares and advances these same purposes.

IV.

[4] Finally, CMP argues that the Lebanon ordinance constitutes an improper delegation of powers. We disagree. As the Superior Court noted, there is no delegation of any power here at all. Through the ordinance in question, the town legislative body reserved to itself authority to decide exceptions to its prohibition on non-agricultural commercial spraying.

[5] Under the guise of its “improper delegation” argument, CMP also attempts to raise before us a due-process claim. CMP contends that the Lebanon ordinance is

constitutionally unviable because it fails to spell out its standards in sufficient detail to furnish a guide that will enable a non-agricultural pesticide user reasonably to determine what it needs to do to obtain permission to spray. We do not consider this issue because it is not properly before us. This due-process issue was one of the issues dismissed without prejudice by stipulation of the parties, not one of the issues on which the court granted summary judgment and on which the 54(b) judgment was subsequently entered. Because the court did not dispose of this issue in such a way as to leave no further questions for future consideration, there has been no final judgment on this issue from which an appeal can be taken pursuant to M.R.Civ.P. 73(a).⁴

The entry is:

Judgment affirmed.

All concurring.

All Citations

571 A.2d 1189, 112 P.U.R.4th 544, 31 ERC 1391, 58 USLW 2563

Footnotes

1 7 U.S.C. § 136 *et seq.* (1975).

2 7 M.R.S.A. § 601 *et seq.* (1979).

3 22 M.R.S.A. § 1471–A *et seq.* (1980).

4 *Cf. Northeast Investment Co., Inc. v. Leisure Living Communities, Inc.*, 351 A.2d 845, 848 (Me.1976) (although neither 4 M.R.S.A. § 57 nor M.R.Civ.P. 73 “talk in terms of appealability from final judgments,” the Law Court has adopted as a matter of sound judicial policy the general rule that “cases are not ripe for appellate review unless appeal is from a ‘final’ judgment, except when otherwise specifically authorized”); *Martel v. Town of Old Orchard*, 404 A.2d 994, 995 (Me.1979) (judgment becomes final when it disposes of the action and leaves no further questions for the future consideration of the court).



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

To: Board Members
From: Staff
Re: Estimates for graphic design work on pesticide self-service sign
Date: August 6, 2018

At the July 13, 2018 meeting the Board discussed the possibility of hiring a graphic designer to assist with the pesticide self service area sign. Staff contacted individuals within the Department in an attempt to find someone with graphic design experience on staff, but were unsuccessful. Board staff then obtained the following estimates from three local graphic designers.

Graphic design company	Scope of work	Estimated cost
Christina Noonan Designs	sign design: <ul style="list-style-type: none">• 2-3 options for client consideration• 2 rounds of edits/feedback• delivery of final PDF and native files (Adobe InDesign) to client	\$400-\$500 8-10 hours @ \$50/hour
dp design (Darren Popovich)	Layout and design	\$200.00
At Sea Graphic Design (Brian Ayotte)	Layout and design (including revisions)	\$250-\$300 5-6 hours @ \$50/hour

MEGAN PATTERSON, DIRECTOR
32 BLOSSOM LANE, MARQUARDT BUILDING



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

ADDITIONAL DUTIES FOR WORKER EMPLOYERS

Notice for Applications

Orally warn workers **and** post treated areas if required by the product label. If not required by the product label warning signs must be posted if the REI is **greater than**:

- ◆ 48 hours for outdoor production, or
- ◆ 4 hours for enclosed space production (p42)

Posted Warning Signs

Post legible WPS-approved warning signs no more than 24 hours prior to an application; keep posted during REI; remove/cover before workers enter and within 3 days after REI expires.



Signs must be posted visibly from all reasonable expected entrances to the treated area. (p44-47)

Verbal Warnings

Before each application, tell workers on the establishment (in a manner they can understand):

- ◆ location & description of treated area
- ◆ date & times entry is restricted
- ◆ application exclusion zone, REI, and not to enter during REI (p43-44)

ADDITIONAL DUTIES FOR HANDLER EMPLOYERS

Personal Protective Equipment Handlers Must Use

Provide handlers with all PPE required by the pesticide labeling, and be sure it is:

- ◆ clean and in operating condition
- ◆ worn, used, and cleaned according to manufacturer's instructions
- ◆ cleaned, inspected, and repaired or replaced before each use (p62-64)



Respirators

When a respirator is required by product labeling, employers must provide handlers with:

- ◆ a **medical evaluation** to ensure handler is physically able to safely wear the respirator
- ◆ **training in respirator use**
- ◆ a **fit test** to ensure the respirator fits properly

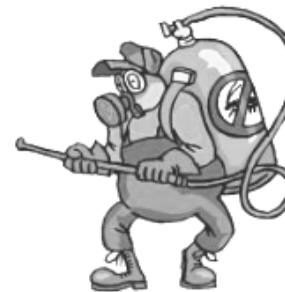
Records of these items must be kept on the establishment for 2 years.

(p68-73)

Cleaning and Disposal of PPE

Employers must ensure:

- ◆ PPE is washed and dried,
- ◆ stored separately from personal clothing, and
- ◆ away from pesticide-contaminated areas.



Handler employers must also:

- ◆ provide handlers with a **pesticide-free area** for:
 - storing personal clothing not in use
 - putting on PPE at start of task
 - taking off PPE at end of task
- ◆ take steps to **avoid heat-related illness** when labeling requires PPE for a handler activity.
- ◆ not allow used PPE to be taken home (p62-64)

For further information regarding WPS please contact us or visit our website for links to additional WPS training resources.

thinkfirstspraylast.org



Maine Board of Pesticides Control

Tel. 207-287-2731
28 State House Station,
Augusta, ME 04333-0028

Worker Protection Standard

DUTIES OF EMPLOYERS

Worker Protection Standards (WPS) is a federal regulation issued by the Environmental Protection Agency (EPA). The purpose of the WPS is to protect agricultural workers and pesticide handlers on farms, forests, nurseries, and greenhouses from occupational pesticide exposure.

This brochure explains your requirements as an employer under the WPS. Throughout are page numbers referencing where to find additional content in the **EPA's How To Comply Manual**, which can be found on the BPC website: thinkfirstspraylast.org

WPS covers:

- ◆ **pesticide handlers**—mix, load, or apply agricultural pesticides; clean or repair application equipment; act as flaggers, etc.
- ◆ **agricultural workers**—perform all other tasks involved in the production of agricultural plants.

Employers are responsible for ensuring that workers and handlers receive all protections required by the pesticide labeling and the WPS.

(p4)

Pesticide Safety Training



Worker and handler training must be conducted annually.

- ◆ Workers must be trained **before** performing tasks in an area which has had an REI in effect in the last 30 days. Handlers must be trained before performing any handler activity.
- ◆ Training must be performed with EPA-approved materials, which may be oral, written, or audio-visual.
- ◆ Trainers must:
 - be certified applicators,
 - have completed an EPA-approved train-the-trainer program, or
 - be designated by the State or Tribal pesticide enforcement agency.
- ◆ Training must be delivered in a manner the employees can understand, and the trainer must be present for the duration and able to respond to questions.
- ◆ All training records must be maintained on the establishment for 2 years from the training date.
- ◆ Employers must tell all workers and handlers where to find application information, SDS forms, EPA safety poster, and decontamination supplies.

(p27-29)

Some WPS protections that employers must provide are nearly the same for both workers and handlers.



Information Display Requirements

Information must be displayed in an easily accessible location that employees have unrestricted access to. Application info and SDS **must be displayed for 30 days after the REI expires**, and then kept in records for 2 years after REI expires. Information must include:

- ◆ **Facts about each pesticide application**- product name, EPA registration number, active ingredient, crop/site treated, location and description of treated area, date, start and end times of application, duration of restricted entry interval (REI).
- ◆ **Safety data sheets** (SDS) for each WPS-labeled pesticide applied
- ◆ **EPA WPS safety poster**, or equivalent info must be displayed at all permanent decontamination sites or where decontamination supplies are provided for 11 or more workers. (p21-23)

Employers must **provide application information and SDS** to a worker, handler, designated representative, or medical personnel, **within 15 days of their request.** (p25)

Information Exchange

Before making any pesticide application, contracted commercial pesticide handler employers must make sure the owner/operator of the agricultural establishment is aware of:

- ◆ location/description of area to be treated
- ◆ date and estimated start time and end time of the application
- ◆ product name, EPA registration number, active ingredient, and REI
- ◆ whether the product label requires both oral warnings and posting of treated area
- ◆ all other safety requirements on labeling (p31-32)

Owners/operators of agricultural establishments must ensure that commercial pesticide handler employers they hire are aware of:

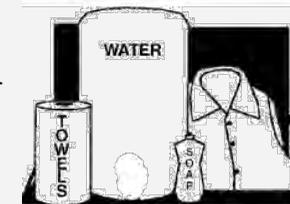
- ◆ location/description of any treated areas where an REI is in effect that the commercial handler may come within 1/4 mile of, and
- ◆ restrictions on entering those areas. (p31-32)

Minimum Age Requirements

Employers are responsible for ensuring **ALL** handlers and early-entry workers are at least 18 years old. (p49)

Decontamination Supplies

Provide accessible decontamination supplies located together within 1/4 mile of handlers and most workers:



- ◆ 1 gallon of water per worker and 3 gallons of water per handler at start of each work period.
- ◆ Plenty of soap and single use towels. Hand sanitizers and wet towelettes are **not** sufficient.
- ◆ A clean coverall or change of clothes for handlers.

(p26 &74)

Emergency Assistance

If a worker/handler may have been exposed to pesticides during or within 72 hours of employment, and needs emergency medical treatment, employers must:

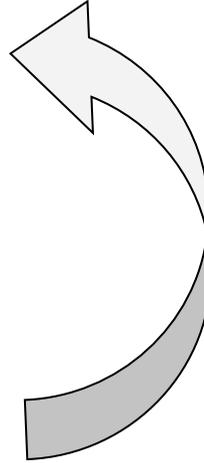
- ◆ promptly make transportation available to an appropriate medical facility;
- ◆ promptly provide treating medical personnel with information about all pesticide products the employee may have been exposed to, including:
 - SDS, product name, EPA registration number, active ingredient,
 - description of how pesticide was used
 - circumstances that could have resulted in exposure to pesticides.

(p26)



Posting & Notification Requirements for Pesticide Products without Double notification Requirements

Treated site	Restricted-Entry Interval (REI)	Post Warning Sign	Post Warning Sign or Oral Notification
Enclosed Space	≤ 4		X
Enclosed space	> 4	X	
Outdoors	≤ 48		X
Outdoors	> 48	X	



All handlers using a pesticide product that requires a respirator MUST:

- Receive a **medical evaluation** at no cost to them if they are an employee. No handler may use a respirator until they have received clearance from a physician or other licensed health care professional.
- Be **fit-tested** for each type of respirator they will be using.
- Receive annual training in the use of the respirator they will be using specified by the pesticide product labeling.

Medical evaluation, fit-testing, and training records must be kept for 2 years.

Additional Training Resources

Pesticide Educational Resources Collaborative:
PERC- <http://www.pesticideresources.org/>

EPA Pesticide Safety & Health:
<https://www.epa.gov/pesticide-worker-safety>

For more information, please contact:

Maine Board of Pesticides Control



28 State House Station
Augusta, ME 04333-0028
(207)-287-2731
pesticides@maine.gov

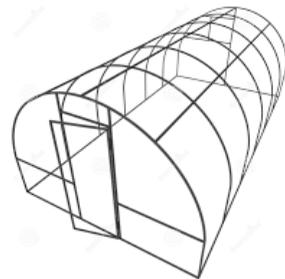
WORKER PROTECTION STANDARD (WPS)



ENCLOSED SPACE PRODUCTION

The WPS is a federal regulation issued by the Environmental Protection Agency (EPA). It is designed to protect agricultural workers and pesticide handlers on farms, forests, nurseries, and greenhouses from occupational pesticide exposure.

In the 2015 WPS revisions, the term “greenhouse” was replaced with “**enclosed space production**”.



This term includes: **greenhouses, mushroom houses, hoop houses, high tunnels, and grow houses.**

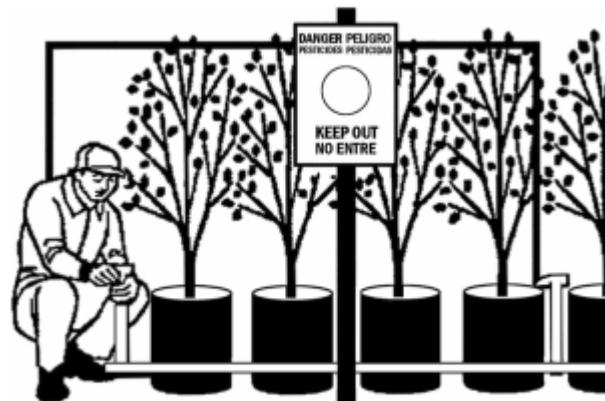
This brochure covers the additional WPS guide-lines pertaining specifically to pesticide applications made in enclosed spaces.



- When a product is applied in an enclosed space and the labeling requires an **REI less than or equal to 4 hours**, workers must be notified either **orally or by posted warning sign**.
- When a product labeling requires an **REI greater than 4 hours**, the workers must be notified **by posted warning sign**.

When is worker notification of entry restrictions not required?

If the agricultural employer can ensure that the worker will not enter any part of the entire closed structure or space from the beginning of the application until the end of any REI.

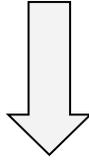


WPS - Enclosed Space Production Pesticide Applications

Posting warning signs in enclosed spaces:

When using the standard size sign (14"x16") post the signs so they are visible from all worker points of entry to the structure or space, or in any area that gives maximum visibility if there are no reasonably expected points of worker entry.

Entry restrictions that apply for enclosed space production are to ensure workers and other persons are not exposed to the pesticides being applied. Restrictions depend on the types of pesticides and application method used.



After the application of a WPS-labeled pesticide product to an enclosed space production area, the agricultural employer must keep any worker out of the area specified in column D of the Table. Entry is prohibited until:

- the REI specified on the pesticide product labeling has expired,
- all treated area warning signs have been removed or covered, and
- the pesticide application information and safety data sheet is displayed at the central location.

Fumigants in Enclosed Spaces:

When a handler is using a fumigant pesticide product, the agricultural employer must ensure the handler maintains continuous visual or voice contact with another handler stationed immediately outside of the enclosed space. That handler must have immediate access to, and be able to use the PPE required by the label in case there is a need to assist or rescue the handler making the application.

Entry Restrictions During Enclosed Space Production Pesticide Applications (ventilation criteria)

A. When a pesticide is applied:	B. Workers and other persons other than appropriately trained and equipped handlers are prohibited in:	C. Until:	D. After the expiration of time specified in column C, the area subject to the restricted-entry interval is:
(1) As a fumigant	Entire enclosed space plus any adjacent structure or area that cannot be sealed off from the treated area	*The ventilation criteria are met	No post-application entry restrictions required after criteria in column C are met
(2) As a smoke, mist, or fog, or as a spray using a spray quality of smaller than medium	Entire enclosed space	*The ventilation criteria are met	Entire enclosed space
(3) Not as in (1) or (2), and for which a respirator is required for application by the pesticide product	Entire enclosed space	*The ventilation criteria are met	Treated area
(4) Not as in (1), (2) or (3), and: <ul style="list-style-type: none"> • from a height of greater than 12 inches from the planting medium, or • as a spray using a spray droplet range of medium or larger. 	Treated area plus 25 feet in all directions of the treated area, but not outside the enclosed space	Application is complete	Treated area.
(5) Otherwise	Treated area	Application is complete	Treated area.

* When column C of the Table specifies that ventilation criteria must be met, ventilation must continue until the air concentration is measured to be equal to or less than the inhalation exposure level required by the labeling.



Agricultural Establishments that Qualify for the Exemption

The exemption allowed in the WPS applies only to the owners and their immediate family members, defined below, on any agricultural establishment where a majority of the establishment is owned by one or more members of the same family.

Majority of the establishments means that more than 50% of the equity in the establishment is owned by one or more members of the same immediate family.

If a majority of an agricultural establishment is owned by one or more members of the same family and the remaining portion of ownership is owned by members of another family, then the exemption applies to both families.

WPS Definition of Immediate Family

Includes only the following individuals: Spouse, parents, step parents, foster parents, father-in-law, mother-in-law, children, step-children, foster children, sons-in-law, daughters-in-law, brothers-in-law, sisters-in-law, aunts, uncles, nieces, nephews, and first cousins. 'First cousin' means the child of a parent's sibling.



Qualifying owners and immediate family members **MUST COMPLY WITH ALL** WPS respirator requirements.

Whenever a respirator is required to be worn by the product's labeling, the correct respirator specified by the label must be used. At no cost to the employee, the handler employer must also provide each handler employee with the following:

- **medical evaluation**—by a physician or other licensed health care professional
- **annual fit testing**, and
- **annual respirator training**

The handler employer must keep records of the medical proof of the medical evaluation, fit testing, and respirator training for two years from the date conducted for each handler.

For further information please contact the BPC or visit our website for links to additional WPS resources.

thinkfirstspraylast.org

Maine Board of Pesticides Control

Tel. 207-287-2731
Email: pesticides@maine.gov
28 State House Station,
Augusta, ME 04333
thinkfirstspraylast.org



Worker Protection Standard

WPS EXEMPTIONS FOR OWNERS OF AGRICULTURAL ESTABLISHMENTS & THEIR IMMEDIATE FAMILY

(aka 'family farm' exemptions)



The WPS is a federal regulation issued by the Environmental Protection Agency (EPA). It is designed to protect agricultural workers and pesticide handlers on farms, forests, nurseries, and greenhouses from occupational pesticide exposure.

The WPS exempts owners of agricultural establishments and members of their immediate family from certain requirements.

It is important to note that:
No agricultural establishments that use WPS-labeled pesticide products are completely exempt from the WPS requirements.



Owners and their immediate family members that qualify for the exemption must still comply with many WPS requirements.

Owners and Immediate family must comply with the following WPS requirements:

- Follow all requirements for respirator training, fit testing, medical evaluation, and recordkeeping when a respirator is required by the pesticide labeling.
- Ensure that any pesticide applied is used in a manner consistent with the product's labeling.
- Use all PPE listed on pesticide labeling.
- Ensure pesticide is applied so that it does not contact anyone, including immediate family members.
- Keep everyone, including members of the immediate family, away from the treated area and the application exclusion zone during an application.
- Any handler making an application on the establishment must suspend a pesticide application if a worker or other person is in the application exclusion zone during the application.
- Keep immediate family members out of a treated area until an REI expires.

Qualifying owners must provide the following WPS protections to all non-family worker/handlers:

- Ensure minimum age for handlers and early entry workers.
- Provide emergency assistance.
- Provide handler training prior to cleaning, repairing, or adjusting pesticide application equipment.
- Display maintain and provide access to pesticide safety and hazard information.
- Provide WPS training for workers and handlers.
- Maintain decontamination sites and supplies.
- Provide oral and posted notifications of worker entry restrictions.
- Provide instruction in the safe operation of equipment used for mixing, loading, transferring, or applying pesticides.
- Keep records of pesticide application and hazard information as required by the WPS.
- Ensure equipment used for mixing, loading, and applying pesticides are inspected for leaks, clogs, worn/damaged parts and make the needed repairs prior to use.
- Ensure knowledge of labeling, application-specific, and establishment-specific information.
- Provide instructions on the use of personal protective equipment (PPE); inspect, clean, store and maintain PPE.
- Provide continuous visual or voice contact during fumigant applications or applications with a skull and crossbones symbol on the front, unless directed to by product label directions.
- Provide instruction on how to prevent, recognize, and treat heat related illness.





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

July 30, 2018

Mark Eaton
4904 Chaney St
Pensacola, FL 32503

RE: Variance permit for CMR 01-026 Chapter 29, Mark Eaton

Dear Mr. Eaton:

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 phragmites in the area identified on the survey submitted with your application.

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

July 24, 2018

Chris Kemp
Piscataqua Landscaping and Tree Service
34 Crocket Neck Road
Kittery Point, ME 03905, Maine 04609

RE: Variance permit for CMR 01-026 Chapter 29, Piscataqua Landscaping and Tree Service

Dear Mr. Kemp:

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 buckthorn, honeysuckle, and bittersweet in the area designated in Shepard's Cove in Kittery.

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