PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER E. WHITCOMB
COMMISSIONER

HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

January 8, 2014

Augusta Civic Center, 76 Community Drive, Kennebec/Penobscot Room, Augusta, Maine

AGENDA

3:00 – 4:00 PM (BOARD MEETING)

4:00 – 5:00 PM OPEN FORUM (COSPONSORED BY THE IPM COUNCIL)

5:00 – 6:00 PM (BOARD MEETING CONTINUED IF NECESSARY)

1. Introductions of Board and Staff

2. Minutes of the December 13, 2013, Board Meeting

   Presentation By: Henry Jennings
   Director

   Action Needed: Amend and/or Approve

3. Request from Maine Migrant Health Program and Eastern Maine Development Corporation to Help Support a Worker Safety Training Program for Summer 2014

   Since 1995, the Board has supported a Migrant and Seasonal Farmworker Safety Education program. During 2013, 388 individuals received Worker Protection Standard training, 176 individuals received take-home exposure training and 260 received heat stress training. The Maine Migrant Health Program and Eastern Maine Development Corporation are proposing to provide one health and safety outreach worker during the 2014 agricultural season. Funding to support this effort is being requested in the same amount as last year, and funds have been budgeted in the Board's FY'14 work plan.

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

   Elizabeth Charles, Enabling Services Coordinator, Maine Migrant Health Program

   Action Needed: Discussion and determination if the members wish to fund this request

4. Continuing Discussion of Planning Session Topics

   The Board discussed a variety of topics during its annual planning session as part of the September 6, 2013 Board meeting. Several topics were also discussed at the October 18 and December 13 meetings, and some decisions were made at the December 13 meeting. The Board will now review the status of the planning session topics and determine whether additional discussion and/or action is appropriate.

Presentation By: Henry Jennings
Director

Action Needed: Provide Guidance to the Staff about Planning Session Topics

5. Water Quality Monitoring

The Board has a 20-plus year history of monitoring both ground and surface waters for pesticide residues. In 2005, the Maine Legislature reinforced the importance of the Board efforts by codifying the requirement for water residue surveys under 7 M.R.S. § 607-A (2-A). However, recently, sampling efforts have been curtailed due to difficulty contracting for competent laboratory services. The staff recently entered into an agreement with the Montana State Laboratory which utilizes cutting-edge pesticide analytical methodology. Consequently, plans are being made to resume water quality monitoring. The staff will update the Board on the laboratory issues and seek Board input on water quality priorities.

Presentation by: Mary Tomlinson
Water Quality Specialist

Action Needed: Provide Guidance to Staff on Water Quality Priorities

6. Review of Pesticide Bills Before the Legislature

There are three bills concerning pesticides under considerations by the Agriculture, Conservation and Forestry Committee of the Maine Legislature: LD 1587 An Act To Temporarily Ban the Use of Neonicotinoid Pesticides; LD 1678 An Act To Protect Maine's Lobster Fishery; and LD 1597 An Act To Clarify Provisions of the Maine Medical Use of Marijuana Act. The Board will discuss the bills and determine whether to take an official position and/or provide testimony on any of them.

Presentation By: Henry Jennings
Director

Action Needed: Determine Whether to Take a Position on any of the Three Bills

7. Other Old or New Business

a. Other?

8. Schedule of Future Meetings

February 21, March 28, May 9, and June 27, 2014, are tentative Board meeting dates. The June 27 meeting includes a tour of Backyard Farms in Madison in the morning, with a board meeting at Madison High School after lunch. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

9. 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 attention of Anne Bills, at the Board's office or anne.bills@maine.gov. In order for the Board to receive this information in time for distribution and consideration at its next meeting, all communications must be received by 8:00 AM, three days prior to the Board meeting date (e.g., if the meeting is on a Friday, the deadline would be Tuesday at 8:00 AM). Any information received after the deadline will be held over for the next meeting.
- During rulemaking, when proposing new or amending old regulations, the Board is subject to the requirements of the APA (Administrative Procedures Act), and comments must be taken according to the rules established by the Legislature.

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BOARD OF PESTICIDES CONTROL

December 13, 2013

AMHI Complex, 90 Blossom Lane, Deering Building, Room 319, Augusta, Maine

MINUTES

8:30 AM

Present: Morrill, Flewelling, Granger, Bohlen, Eckert, Stevenson

1. Introductions of Board and Staff

- The Board, Staff and Assistant Attorney General Mark Randlett introduced themselves
- Staff present: Jennings, Fish, Connors, Tomlinson, Bills

2. Minutes of the October 18, 2013, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

- **Flewelling/Eckert: Moved and seconded to accept the minutes as written**
- **In favor: Unanimous**

3. Request for Amendment to Chapter 22, Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition

Chapter 22 contains a requirement to identify and record sensitive areas, but exempts from this requirement commercial application categories 3B (turf), 3A (outdoor ornamental) and 7A (structural general pest control). A constituent has requested that the Board consider also exempting categories 7E (biting fly and other arthropod vectors) and 6B (industrial/commercial/municipal vegetation management).

Presentation By: Gary Fish
Manager of Pesticides Programs

Action Needed: Provide Guidance to the Staff about Whether/When to Initiate Rulemaking

- Fish referenced the staff memo, and explained that many companies are expanding into tick and mosquito control in urban areas and that for those and weed control, such as along sidewalks, fence lines for municipalities, it doesn't make sense to identify all sensitive areas within 500 feet. For other

categories the rule is to post instead of identifying sensitive areas; people who want to be notified can request it. Randlett indicated that this would have to be done through rulemaking, not a policy.

- Jennings explained that when the drift rule was written there was discussion around the idea that there was more public benefit to posting than to identifying sensitive areas when everything is a sensitive area, but when the rule was written a couple of categories were overlooked. There is confusion from people in the area who wonder why there is no posting, but they don't understand that if it's for mosquitoes or ticks, posting is not required.
- Bohlen noted that it's not so much the type of application as it is the characteristic of the location.
- Morrill stated that the majority of companies are doing both lawn care and mosquito control; they have to post for one, not the other, which is confusing to the public, so most companies are posting even though it's not required.
- Eckert noted that it is important for people to be aware of the sensitive areas. Morrill said that in urban areas, to go 500 feet you're trespassing on neighbor's lawns, so you would be drifting if the spray went there anyway.
- Granger said that it bothers him that they don't have to map the sensitive areas when farmers have to map on their own property.

    - **Consensus was reached to add to the rulemaking queue.**

4. <u>Streamlining the Applicator Licensing Process</u>

At the September 6, 2013, Planning Session, the Board discussed streamlining of the commercial applicator licensing process, which had been identified as the highest priority topic. The Board debated several ideas to improve the system. Companies are trying to get new and seasonal employees licensed quickly in the spring and summer. At the October 18, 2013, Board meeting, some of the ideas from the Planning Session were further discussed. The three ideas that seemed the most feasible were an optional combined application for exam and licensing, a temporary license/receipt and accepting credit card payments. The staff has done research and is prepared to discuss these options with the Board.

Presentation By: Gary Fish
Manager of Pesticides Programs

Action Needed: Provide Guidance to the Staff about Potential Changes

- Fish summarized the staff memo. Credit card payments can be done either by machine or on the internet; Jennings said the intent was to have this in place by the spring. Fish referenced the combination application which would allow applicants to pay up front and potentially lose the license fee if the exam was not passed within 12 months. He also pointed out the temporary license that could be given when an applicator paid the license fee and exams have been passed. He noted that the combination application was only for those who chose to use it; others could continue using the current system.
- Stevenson said he was concerned that the temporary license was good for only 30 days and suggested 60 days. Consensus was reached on 60 days for the temporary license.
- Fish explained that the Department is looking at a new business process management system called PegaSystems; if that were in place, we would have an online licensing system, people could look up their status; it would help the office staff as well as customers.

    - **Granger/Morrill: Moved and seconded to direct the staff to make changes to the licensing process**
    - **In favor: Unanimous**

5. Review of Variance Policy for Chapter 29

At the October 18, 2013, meeting, the Board discussed the process for issuing variances from Chapter 29 for the control of invasive plants and instructed the staff to draft a policy allowing multiyear variances, provided certain conditions are met in the application. The staff has drafted a policy for the Board's review and discussion.

Presentation by: Gary Fish
Manager of Pesticides Programs

Action Needed: Provide Guidance to the Staff about the Policy

- Fish referenced the staff memo and proposed policy, explaining that it attempted to incorporate the ideas suggested at the last meeting: long-term strategy, consistent with IPM; BMPs; multi-year because we want them to have a multi-year strategy. The biggest question was what to include as invasive plants, so the Invasive Plants Atlas of New England website was referenced; seemed like a good choice.
- Jennings added that there was some difficulty in framing the wording to capture what the board wanted regarding BMPs. The staff tried to frame it that they showed have some knowledge of BMPs, but didn't force them to use them. BMPs are kind of in the eye of the beholder, applicators choose which ones work for the particular situation.
- Randlett pointed out that in the first sentence it should state that authority is delegated to the staff.
- Eckert asked if the list was a good one. Bohlen replied that it is very broad; it has a lot of species that are not problematic, e.g. forget-me-nots, but since it is unlikely anyone would want to control them it's not a problem. Using the language "not limited to" is wise; there are some things on the list that shouldn't be, it's not perfect, but the best we have. Do not want to develop our own list?
- Fish stated that there is a new position in the Maine Natural Areas program dedicated to invasives. One of the first tasks for that person will be the list. He noted that just because a plant is on this list doesn't mean the staff has to approve a variance for it.
- Granger said that the second bullet the words "consideration and incorporation", should be one or the other, "consideration" alone is better; "incorporate implies that they are required to use them.
- Jennings replied that we are trying to ensure that they look at them, are aware of them; in the application they would say which they are going to use.
- Randlett pointed out that the background information is just a history of why the policy is before the board; the policy itself is just the last two paragraphs. If adopted as written, the language above does not control the variance, so changes should focus on the last two paragraphs.
- Bohlen stated that he likes "consideration of BMPs" in the top section; in the policy itself, "evidence of knowledge"-how would they show that?
- Eckert said there had been talk of a three-year variance and asked if there would be assessments along the way. Jennings replied that the Board had said they didn't want annual reports. Bohlen said that an annual report defeats the purpose of a multi-year variance.
- Stevenson said that if the application is thorough, the applicant promised to use these practices- low pressure, etc., even if it's in the third year, if they don't follow they would be in violation.
- Morrill noted that after the first year you won't know if a site is re-vegetated. Once the variance is issued, give the faith to the applicator that he is doing the right thing.
- Randlett pointed out that if they don't follow the terms of the variance it is a violation of the rule, punishable under pesticide statute. If the staff is concerned about not having a provision that allows for revocation the Board could add to the end of the policy statement: "provided that the applicator complies with the variance."
- Consensus was reached to amend the draft policy by:
    - Striking the words "and incorporation" from the sentence referencing BMPs;

- Specifying that the Board is delegating the authority to the staff;
- Substituting "demonstration" for "some evidence of" knowledge of efficacy; and
- Adding "conditioned upon compliance with all variance requirements" to the end of the last sentence.

- **Eckert/Stevenson: moved and seconded to adopt the policy as amended**
- **In favor: Unanimous**

6. Increasing the Availability of Online Continuing Education Options

At the September 6, 2013, Planning Session, the Board discussed increasing online continuing education options, which had been identified as its third highest priority topic. At the October 18, 2013, Board meeting, there was further discussion around the topic and the Board asked the staff to provide data on what topics are currently covered by available online training. The staff has prepared a summary and is prepared to further discuss the subject with the Board.

Presentation By: Gary Fish
Manager of Pesticide Programs

Action Needed: Provide Guidance to the Staff

- Fish summarized the staff memo, noting that this was one of the top priorities identified at the planning session. There are 11 providers offering over 170 credits and 150 courses. Some categories are not covered, those with less than 50 applicators. Fish talked to Steve Johnson, who is working on two more videos and is still working with administration to make sure they're okay with him doing them. Fish talked to Handley and Yarborough about doing videos for other crops, but he's not sure if they have the time. Staff has been working with the Forest Service about borrowing some equipment and sharing expertise. The first plan is to work on a Power Point presentation, adding narration. There's already a lot available, the staff might try to make it more visible on the website.
- Eckert said that she went on the website and didn't find it very difficult to find.
- Flewelling asked if a test were required after watching the video. Fish said that some do have a test; all of them have a system so they can't jump ahead. There's always going to be a concern that some people are going to cheat, but that's true of live presentations as well. Randomly he asks people if they get anything out of these courses; usually they say it's just as good as a live presentation, rarely does he get a negative report.
- Eckert asked if there are crops or situation so unique to Maine that they aren't covered. Fish replied that blueberries are the biggest. Some of the vegetable crops are also not covered well.
- Bohlen asked if there was any training available online for organic growers; there is a lot of IPM-related stuff, but doesn't seem to be much organic. Eckert suggested Eric Sideman and others could post some of their presentations. Katy Green remarked that they only recently started offering pesticide credits for meetings, so they haven't thought about online yet.
- Fish asked about webinars; Bohlen said he finds them less effective; conversation can drift away from what you're interest in. He noted that if someone has to click through an entire presentation they have to work pretty hard to NOT learn something. You can't force someone to learn, you can only force them to be there.
- Bohlen asked if there was any way to point out which are the best; there are a lot of offerings, not sure which one to go to. Fish said that most people seem to like PestNetwork.com. Cornell only came online a year ago but they are a lot more expensive.
- Stevenson said he thought this came up because applicators are not aware of the availability and suggested making it more noticeable on the website.

7. Review of the Board's Enforcement Protocol

At the September 6, 2013, Board meeting, concerns arose about the proposed fine imposed by a pending consent agreement. At the October 18, 2013, meeting, the Board reviewed the enforcement protocol, and discussed when enforcement cases should be presented to the Board prior to negotiating an agreement, as well as the Board's options regarding executive sessions. However, because the Assistant Attorney General was not present, it was agreed that discussion of this topic should be continued at the next meeting.

Presentation By: Henry Jennings
Director

Action Needed: Determine Whether Changes Should be Made to the Board's Enforcement Protocol and Provide Guidance to the Staff

- Jennings noted that when the medical marijuana case came up there was some difficulty in understanding how the numbers were arrived at and what are the Board's options if they are concerned with a penalty.
- Enforcement protocol: why hadn't the issue been brought to the Board in advance? Section 3 outlines two paths the staff can take to resolve a violation; first, if it's a routine matter and there is no disagreement between violator and staff around facts or law, Section 3A directs the staff attempt to negotiate an agreement before presenting the matter to the Board. The orchard situation is an example of when the staff cannot reach an agreement, so it came to the Board under Section 3B. The other way it comes before the Board first under Section 3B is if there is a substantial threat to the environment or public health. It's a judgment call. At the last meeting, the Board seemed to be narrowing in on a dollar threshold as an additional criterion to trigger the 3B option. Most fines are $1500 or less. The Board wanted to have this discussion when Randlett was present. The staff has already taken note that it needs to be mindful and pay attention to whether or not we should bring cases to the Board first. At the last meeting, Jennings described the pitfalls around bringing all to the Board-it takes a lot of time at Board meetings, etc.
- Randlett stated that it is the Board's determination on how it wants to address enforcement matters initially. It can be based on a dollar amount; the Board could include a criterion about "substantial public interest" instead or in addition to the criteria about the environment and health. It's up to the Board, it can set up any way it wants. Randlett noted that with any violation, no matter how serious, the maximum penalty for a first offence is $1500; larger amounts are allowed with multiple violations, either of the same rule, or spanning multiple rules, or over a period of time. The seriousness varies. To some extent it will most likely be based on the staff's initial determination; if you base the penalty on possible violations, the Board would see them all.
- Morrill said that the protocol is well written and captures the Board's sentiments. He is not comfortable assigning a dollar figure threshold; one guy goes out one day and treats 15 lawns, that's 15 potential violations. The staff gets the idea. In five years there were two that the Board would have liked to see. Paragraph 3B says it, the Board wants to see the unusual ones.
- Jennings commented that Randlett said that the Board can provide some direction to the staff on a dollar figure without changing the policy.
- Bohlen asked whether the Board could be alerted without bringing a consent agreement before the Board formally. The Board couldn't act at that point, but the frustration earlier was that by the time it came to the Board it was a done deal. The question is how do we do it without getting into the negotiation process, because once we get into the process, it's the Board's.
- Randlett stated that once it is brought to the Board's attention, it's public information. If an agreement hasn't been reached and it gets reported, that could interfere with the process. In the marijuana case the staff and Randlett were able to sit down with the attorney and responsible parties

from the facility and have an open and frank discussion about violations and what we were looking for; he's not sure that would have been possible if it had been brought in front of the Board and it became known that the fines could potentially reach $24,000.

- Eckert asked if the Board could have been told that it was a case involving marijuana and multiple violations. Randlett said they probably would not have been able to give the Board as much information as it would like. Jennings noted that if the violator is identified they would have to be invited to the meeting, so it would have to be very general terms.
- Granger said that he wasn't uncomfortable with the dollar amount in the marijuana case, but with the violations. Usually the rules are pretty clear; in this instance there was a pest problem and no licensed tools to deal with it. When something doesn't fit, there are extenuating circumstances, and there is no good clear legal path to deal with the problem, that should be taken into consideration.
- Jennings questioned what would happen if the Board just refused to ratify a consent agreement; it puts the staff in a difficult spot but it sends a clear message to the violator. Randlett stated that this would put the state in the position of having to return any monies collected and would seriously impact the ability of the staff to negotiate a settlement.
- Eckert and Morrill asked if the Board could review the consent agreement before the penalty was collected. Randlett said that accepting payment does lock the violator in. Legally there is no reason the consent agreement couldn't be negotiated initially and payments not collected until after the Board approves. At least if the Board rejects it, the state wouldn't have to return the money. It does present some difficulty; to what extent are conversations regarding penalty amount made public, and which can be made in executive session. Ultimately it's the AG's determination of what to do.
- Eckert noted that in the marijuana case there was some disagreement of whether this was a threat to public health and suggested the words "novel situation." Randlett suggested "or other extraordinary situations", would still be at the discretion of the Board.
- Granger said that he liked the idea of not collecting money first; when the violator has written a check it makes it more difficult for the Board to disagree with the consent agreement. He noted that he doesn't want the Board determining what the penalty should be, just that there should be a discussion with the Board. Randlett noted that any discussion with the Board prior to an agreement would have to be in the context of a public meeting, which might impact some negotiations.
- Jennings noted that if payment is not collected at time of signing, the staff is going to have to chase people down to collect.
- Morrill reiterated that the current protocol is fine; if it's covered under 3B it should come before the Board first.

  - **Morrill/Eckert: Moved and seconded to add the words "or other extraordinary circumstances" to section 3B of the enforcement protocol.**
  - **In favor: unanimous**

- Randlett broached the subject of executive sessions, noting that this discussion refers only to enforcement matters. Meetings are open to the public; there are limited reasons why the Board may go into executive session, which are spelled out in Subsection 6. paragraph E (M.R.S.A. 1 Section 405, included in Board packet) is the one that applies to the Board, with conversations with AG concerning legal rights and duties of Board regarding pending enforcement actions. The end is the relevant part: "when premature public knowledge would clearly place the State… at a substantial disadvantage" The AG would need to make a couple of determination, does it involve legal questions and would it clearly place the Board at a substantial disadvantage? It's tough to make those determinations. Having discussions involving the merits of the case, quality of the evidence, the type of penalty ranges that might be considered-those might place the Board at a disadvantage, difficult to say whether it "clearly" places the Board at a "substantial" disadvantage. There's also an impact on the individual; premature knowledge of the severity if disclosed might have an impact.

These laws are skewed in favor of having things done in a public forum, so there are few circumstances where Randlett would agree to go into executive session.

- Jennings referred to the staff memo and suggested the Board look at the fines/history and give guidance to the staff on which are of higher/lower importance.
    - **Consensus was reached that there is no interest in reviewing the fine structure.**

8. Review of the Board's Reciprocal License Policy

Since 1992, the Board has had a policy requiring all applicators to pass Maine exams for certification (no reciprocal licenses). However, the Board promulgated emergency rule amendments to allow for reciprocal licensing when potato fields were too wet for ground spraying two different times. In addition, if a mosquito-borne health threat arises, and the Maine CDC recommends aerial spraying for mosquito control, the urgency of this situation may not allow sufficient time to license aerial applicators through the normal, sometimes time-consuming, process. The staff is suggesting that the Board consider amending its policy to allow issuance of reciprocal licenses when the staff determines an urgent need exists in which out-of-state applicators are likely to be needed.

Presentation By: Henry Jennings
Director

Action Needed: Provide Guidance to the Staff about Potential Policy Changes

- Jennings explained that the statute says the state MAY accept a license from another state if it is "substantially equivalent." The Board adopted its policy in 1992 because Maine has unique laws, it's easier to get licensed in some states and we definitely want applicators to know Maine laws. The problem is that Chapter 31 is silent on reciprocity except under master standards where it clearly states that they have to take a closed book exam based on Maine regulations; the Board couldn't call another state's exams substantially equivalent because no other state will test on Maine laws. Twice in the last 25 years there has been emergency rulemaking to allow reciprocal licensing because of unusual wet situations where ground equipment couldn't get into fields (potatoes) to control fungi at regular intervals and we were trying to get aerial applicators into the state quickly to deal with an emergency situation. In the unlikely event that we get into a public health emergency around mosquitoes, we may be in the same situation. People from out of state invariably flunk the regulations exam and have to wait two weeks to take it again. We could end up in a situation where there is no one in the state who could spray for mosquitoes during a public health crisis; mosquito spraying requires specialized equipment, very few companies in the country capable of that type of work. In Vermont they sprayed within a week of making the decision. Should the Board amend the policy to allow for issuance of a reciprocal license in certain situations where there is an urgent need to control a pest? Master regulation exam would still be a problem and would require rulemaking.
- Eckert noted that it would still be a good idea for applicators to know Maine law. Jennings suggested a meeting with staff in lieu of an exam. Aerial applicators rarely make any key pest management decisions about what to apply, where, why, and how much to use. Many of the regulations are really not very applicable to aerial applicators.
- Flewelling asked if it could be a short-term license; Randlett said there is no provision in rule for that, and that we are actually talking about certification, which would be for six years.
- Morrill said that he thought it would be opening a can of worms to start issuing reciprocal licenses and suggested companies hire Maine applicators. Jennings replied that there are only two companies in the country that do this type of work. It's unlikely they would want to go to the trouble of getting licensed in Maine for something that's unlikely to happen.
    - **Consensus reached to consider amending Chapter 31.**

9. Consideration of a Consent Agreement with Barry Churchill of Fort Fairfield

On June 3, 1998, the Board amended its Enforcement Protocol to authorize 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 and resolve the matter. This case involved an application of a "weed & feed" product to an area open to the public by an unlicensed applicator.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors summarized the case; the violator admits that he applied a granular pesticide to islands in the parking lot at the Fort Fairfield IGA. It wasn't a broad expanse, the applicator used non-powered equipment, and there wasn't evidence that this was a big part of Churchill's business.
    - **Flewelling/Stevenson: moved and seconded to accept consent agreement as written**
    - **In favor: Unanimous**

10. Update on Persistent Herbicides

Persistent herbicides have been the cause of numerous plant injury incidents in recent years. During the summer of 2013, the staff received an anonymous complaint from an organic farmer whose crops had been diagnosed with damage caused by persistent herbicide contamination of his compost. The farmer had purchased hay from a local supplier, and the hay land had been treated with ForeFront (aminopyralid). The ForeFront label prohibits movement of treated hay from the farm where it originated. The staff will update the Board on its investigation.

Presentation By: Henry Jennings
Director

Action Needed: None—Information Only

- Jennings summarized the memo; hay land treated with aminopyralid can end up in compost, manure or hay. Another question is if there's a persistent herbicide causing damage after composting manure, is it also leaving a residue in produce? Who is at fault? A hands-off, landowner, hires someone to spray the pasture because it has bedstraw. Hires a commercial applicator. A third person harvests and sells the hay; hay comes from many fields and is mixed together in a barn. The staff asked the applicator if he made the landowner aware that the hay shouldn't be taken off-site, he says yes; landowner says he knew nothing about it. The hay broker doesn't know anything about the issue either. State and federal law state it is unlawful to apply pesticide contrary to label; our attorney says you can't apply that standard to persons who have not applied the pesticide, such as the landowner or the harvester. The staff doesn't feel we can go after the landowner or the harvester/broker for applying a pesticide inconsistent with the label. Not a lot of this product was applied in Maine. Dow is not happy about spending a lot of money paying for analysis of crops, the potential liability and public perception. They are trying to get the product out of the agricultural market in Maine; not sure how long that will take. Currently there are approximately 20 gallons in

the state at various suppliers. The staff will include information in our outreach. If Dow weren't trying to get this off the market, the Board might want to intervene. The idea now is to get the word out.

- Fish pointed out that the material breaks down by soil microbes, but not in compost.
- Bohlen noted that the people who need to know about this are not going to the BPC training; the people growing vegetables, those with the new Ag Basic license, might need to now. Jennings suggested a targeted mailing to the commercial applicators. We might suggest having landowners sign something, but it will difficult to enforce. Dave Bell noted that there are probably only a handful of people using the product. Morrill suggested talking to Cooperative Extension personnel about it. Rick Kersbergen is already planning to include in his talks.
- Staff will make a fact sheet that applicators can give landowners with a place to sign.

11. Other Old or New Business

a. Legislative Update—H. Jennings
   - Jennings briefly summarized the three pesticide-related bills that will be considered by the ACF committee this session, noting that it is unusual for there to be so many in a second session.

b. BPC Website Changes—Anne Bills
   - Bills briefly showed the new website to the Board and asked that they peruse it and give suggestions for improvements.

c. Other?

12. Schedule of Future Meetings

January 8, February 21, March 28, May 9, and June 27, 2014, are tentative Board meeting dates. The January 8 meeting will take place at the Maine Agricultural Trades Show, along with a Listening Session cohosted by the Maine IPM Council. The exact schedule for the Trades Show proceedings still needs to be finalized. The June 27 meeting is tentatively planned to be held in the Madison/Skowhegan area, following a tour of Backyard Farms. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

- The IPM Council requested that the Board meet from 3:00-4:00 and 5:00-6:00 with the listening session from 4:00-5:00; the Board agreed to the change.
- Tomlinson said that a tour of Backyard Farms has been scheduled for June 27. The Board meeting can be held at the Madison High School in the afternoon.

13. Adjourn

- **Flewelling/Eckert: moved and seconded to adjourn at 11:48**
- **In favor: Unanimous**

DEC 16 2013 DEC 16 2013

Barbara L. Ginley, MPH
Executive Director

Cheryl K. Seymour, M.D.
Medical Director

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December 12, 2013

Mr. Henry Jennings
Maine Board of Pesticides Control
28 State House Station
Augusta, ME 04333-0028

Dear Mr. Jennings,

The Maine Migrant Health Program (MMHP) and Eastern Maine Development Corporation (EMDC) would like to inform the Maine Board of Pesticides Control of a collaborative effort to deliver EPA Worker Protection Standard (WPS) education to Maine's farmworkers during the 2014 harvest season.

The outcomes of MMHP's outreach has been possible through language proficiency, notably in Spanish and Creole, in serving the migrant population in Maine. Staff members with bilingual skills have been key in educating farmworkers about pesticide safety.

In 2013, through support of the Maine Board of Pesticides Control, MMHP and EMDC collaborated to hire a staff person to deliver WPS trainings throughout the state. While this staffing plan differed from the previous model of two AmeriCorps members, it was largely successful. This individual offered WPS education to a total of 388 farmworkers across the state serving workers in Aroostook county, the Midcoast region, and DownEast, Maine. Through careful planning, this individual was able to fulfill trainings requested by all growers for whom we have historically provided services. The table below breaks down, by service category, important outcomes in 2013 completed by this staff person.

Worker Protection Standard Trainings	388
Take Home Exposure Trainings	176
Heat Stress Trainings	260
Total	**824**

For 2014, the Association of Farmworker Opportunity Programs (AFOP) has committed $3,010 to EMDC and MMHP in support of WPS training. EMDC and MMHP plan to use these funds to recruiting one summer temporary Pesticide Safety Training staff member who will provide direct services to farmworkers in Aroostook County, Midcoast, and DownEast areas of the state. To help support this position, we request from the Maine Board of Pesticides Control a contribution of $3,500 which we would leverage with the funds from AFOP. Total funds would be used to directly support hourly wage of the staff person, as well as travel required to reach farmworkers, growers and partners. We request that the funding be made directly to MMHP.

We thank the Board for its past support and for considering this current proposal. To contact the Maine Migrant Health Program, you are welcome to email Elizabeth (echarles@mainemigrant.org) or call at 207-441-1633. For more information regarding Eastern Maine Development Corporation or the AFOP Health and Safety program, please feel free to contact Chris by email (chuh@emdc.org) or phone (207-610-1521). We look forward to meeting with the Board on January 8, 2013 to discuss this opportunity.

Best Regards,

Elizabeth Charles
Enabling Services Coordinator
Maine Migrant Health Program

Christopher Huh, MPA
Program Manager
Farmworker Jobs Program
Eastern Maine Development Corporation

PAUL R. LEPAGE
GOVERNOR

STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER E. WHITCOMB
COMMISSIONER

HENRY JENNINGS
DIRECTOR

Date: December 27, 2013
To: Board
From: Henry Jennings
Subject: Update on Planning Session Topics

At the September 6, 2013 monthly meeting, the Board discussed a number of "planning session" topics. Follow-up discussions were held at both the October and December meetings. The chart below attempts to capture the current status of all the planning session topics so that the Board can decide which areas it wishes to discuss/pursue further.

Topic	Discussion from the September 6 Meeting	Subsequent Discussion/Action
Streamlining of the licensing process	• Maybe develop a combination Exam/License application that can be used, but specifically states that all fees are NOT refundable. • Maybe develop a system that includes a receipt that doubles as a temporary license for when Modern or Atlantic send someone with the application and fee. • Correct tests right away so they can pay while there if they pass. • Make a video and/or PowerPoint of Gary's initial training so more people pass on the first attempt. • Offer computerized on-line testing that provides immediate exam results and feedback. Set up on-line application system.	• Department is pursuing a BPM software solution that should provide an online transaction capability • Staff is developing a combined exam/license application as an option • Staff is pursuing credit card capability • Staff is developing a temporary license that can be issued with a quick turnaround
25' setback exemption	• Develop BMPs. • Fill in the gaps with simple training. • Make sure they have a long-term plan when trying to control invasive organisms. • Give staff more authority to issue variances for other than large projects or very sensitive sites which would still go to the Board. • Add a long-term plan requirement	• Board authorized the staff to issue 3-year repeat variances for Chapter 22 • Board adopted policy to authorize staff to issue 3-year variances from Chapter 29, Section 6, for invasive plant control, provided that the variance contains a long term plan, lists steps to protect

	to the variance application. • Approve multiyear variances with a long-term plan. • Create criteria by which staff can approve: list of conditions, criteria, guidelines. • Include in BMPs strategies for those who don't want to use pesticides. • Multiyear variance could require a report at the end of each year—a picture and a percent controlled. • Maybe create a different variance process for invasive organisms.	surface water, and considers appropriate BMPs
Staff Issuance of variances	• Develop a new policy on variances (*see above*).	• See above
Better online credit options	• Reach out to David Yarborough to see if he could do some online modules. • Maybe record a few of our live trainings as well. Specific to categories/commodities. • Talk to each crop specialist at Cooperative Extension to see if they want to do some videos.	• Staff summarized currently available online credit options • Staff will look for under-represented areas and work with extension on opportunities to fill the gaps
Collaboration with IPM Council	• IPM section on our exams? • Update *Got Pests?* website. • Try to get a grant for a school IPM conference? Maybe through Maine Community Foundation or Outdoor Heritage Fund? Work with EPMA. • IPM certification for schools through Tom Green is too expensive; Board could work with schools to offset cost? • Should the Board provide grants so schools can get IPM certified? • Help small farms comply with food safety, *et al*., certifications? • IPM session at Trades Show. • Separate license category for IPM (Rich stresses this must be voluntary); separate IPM CE credits. • Collaborate on a listening session at Trades Show, help small farmers understand "maze" of licensing and certification requirements for food safety, e.g., GAP.	• Board to hold joint listening session at the Agricultural Trades Show • Council will prioritize IPM needs and present to Board • No consensus on IPM certification

	• Need info for commercial applicators that shows benefits of IPM and the impact on short- and long-term pest management costs. • IPM Council will develop list of priorities for funding and bring to Board.	
Educational Outreach	• Get a Master's candidate to do a PSA on the need for licenses, mosquito control, proper use of pesticides, etc. Put on You Tube. • Maybe a community college project to do some sort of videos. Could cover landlord responsibilities for bed bug management and the need for licensing if they will use pesticides, etc. • Try to get more people on board to help with the training. • Need to reach out to homeowners. • PSA suggestions: how to prevent spread of bedbugs; landlord responsibilities; need to be licensed; how to control mosquitoes in backyard; how to protect yourselves from mosquito bites; proper use of pesticides—geared toward trying to change behavior; title properly so can be found on YouTube.	
Certification for those who make pesticide recommendations	(not covered)	• Yet to be discussed • Future rulemaking?
Policy on responding to complaints	• Come up with a process to make sure complainants and the subject of a complaint are kept up to date on lab results or lack thereof, etc. Especially if the case is dismissed, etc. The Board wished to cover this topic along with consent agreement fine structures (*see below*).	• Compliance staff has adopted new policy providing sample results to both parties when received
More exam training for growers	• Make a video and/or PowerPoint of Gary's initial training so more people pass the Core exam on the first attempt.	• Staff considering online options
Enforcement case turnaround	(not covered)	• Yet to be discussed

Reducing reliance on pesticides	• Board still supports these efforts. • YardScaping all the way. • Master Gardener training to your heart's content. • Find more trainers. • Do more train-the-trainer programs and consider videotaping programs.	
Enforceability of pesticide laws	(not covered)	• Yet to be discussed
Rulemaking/Licensing chapters	(not covered)	• Yet to be discussed
Awareness and operation of Chapter 28	(not covered)	• Yet to be discussed
Meeting @ Ag Trades Show	• Listening session in conjunction with the IPM Council? Board still wanted to make this happen.	• Meeting scheduled for January 8 • Joint listening session with the IPM Council
Consent agreement fine structure	• Go over enforcement protocol at next meeting. • Bigger issues should come before Board before a consent agreement is offered: e.g., health issues, major environmental issues, repeat violations, etc.	• Staff provided a list of recent fines • Board made minor amendment to Enforcement Protocol • Staff will be mindful of Section 3B of protocol
Policy on posting personal information	(not covered)	• Yet to be discussed
Update on GMOs	(not covered)	• Yet to be discussed

PAUL R. LEPAGE
GOVERNOR

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WALTER E. WHITCOMB
COMMISSIONER

HENRY JENNINGS
DIRECTOR

To: Board of Pesticides Control Members
From: Mary Tomlinson, Pesticides Registrar/Water Quality Specialist
RE: Water Quality Program Update for 2013-2014
Date: December 31, 2013

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Sediment Sampling

Sediment sampling will resume in 2014 now that a contract with the Montana Department of Agriculture (MTDA) laboratory is in effect. Historically, sediment sampling was conducted to determine presence or absence of a limited number of pyrethrins and pyrethroids, in sediment, downstream of residential run-off areas, in Portland and South Portland, including the Back Cove. The Montana laboratory has the ability to screen for 14 pyrethrins and pyrethroids and the synergist piperonyl butoxide with turn-around time of two to three weeks.

Due to recent concerns about the impact of pyrethroids and other pesticides on invertebrates in the Gulf of Maine, the staff suggests redirecting the sediment sampling program to screen for pyrethroids in sediment in the near-shore marine environment. An initial, inter-agency planning meeting has been set for late January.

2014 Ground Water Sampling Project

Ground water monitoring will resume in late winter of 2014, in accordance with the State of Maine *Generic State Management Plan for Pesticides and Ground Water*. Historically, due to cost and technical limitations of the laboratory, analysis was limited to approximately 30 pesticides and metabolites. The Montana laboratory employs its own universal method using LC/MS/MS, to screen water, for 90 plus pesticides and metabolites, including newer chemistries. Quantification is to parts per billion (ppb) and to sub-ppb for some analytes. Turn-around time for results is two to three weeks.

The BPC is currently collaborating with the Maine Health and Environmental Laboratory (HETL) to financially support that laboratory's training and technology acquisition. The BPC receives EPA grant monies dedicated for state laboratory training and the purchase of equipment. The ultimate goal is for all BPC samples to be analyzed by HETL in the future.

126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document **No. 1587**

H.P. 1158 House of Representatives, December 30, 2013

An Act To Temporarily Ban the Use of Neonicotinoid Pesticides

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Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 23, 2013. Referred to the Committee on Agriculture, Conservation and Forestry pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND
Clerk

Presented by Representative JONES of Freedom.
Cosponsored by Representatives: DEVIN of Newcastle, DORNEY of Norridgewock, KUSIAK of Fairfield, MORRISON of South Portland.

Printed on recycled paper

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 7 MRSA §606, sub-§3 is enacted to read:

3. Neonicotinoid pesticides; moratorium. During the period from July 15, 2014 to July 15, 2016, a person may not use, sell or distribute a neonicotinoid pesticide. As used in this subsection, "neonicotinoid pesticide" means a pesticide containing imidacloprid, clothianidin, thiamethoxam, dinotefuran, acetamiprid or thiacloprid.

This subsection is repealed July 16, 2016.

Sec. 2. Study. The joint standing committee of the Legislature having jurisdiction over agricultural matters shall review the use and effects of neonicotinoid pesticides and may report out a bill related to the subject matter of the review to the First Regular Session of the 127th Legislature.

SUMMARY

This bill bans the use, sale and distribution of neonicotinoid pesticides for 2 years. It also directs the joint standing committee of the Legislature having jurisdiction over agricultural matters to review the use and effects of neonicotinoid pesticides.

126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document **No. 1597**

H.P. 1168 House of Representatives, December 30, 2013

An Act To Clarify Provisions of the Maine Medical Use of Marijuana Act

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Received by the Clerk of the House on December 23, 2013. Referred to the Committee on Health and Human Services pursuant to Joint Rule 308.2 and ordered printed pursuant to Joint Rule 401.

Millicent M. MacFarland

MILLICENT M. MacFARLAND
Clerk

Presented by Representative GATTINE of Westbrook.
Cosponsored by Senator SAVIELLO of Franklin and
Representatives: CASAVANT of Biddeford, FARNSWORTH of Portland, HICKMAN of Winthrop, McCABE of Skowhegan, SANDERSON of Chelsea.

Printed on recycled paper

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, changes made during the First Regular Session of the 126th Legislature to the laws regarding access to facilities where medical marijuana is cultivated need to be clarified; and

Whereas, it is important to provide this clarification as soon as possible in order to ensure the proper administration of the Maine Medical Use of Marijuana Act; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §2423-A, sub-§3, ¶A, as amended by PL 2013, c. 374, §1, is further amended to read:

A. A patient who elects to cultivate marijuana plants must keep the plants in an enclosed, locked facility unless the plants are being transported because the patient is moving or taking the plants to the patient's own property in order to cultivate them. Access to the cultivation facility is limited to the patient, except that <u>government officials acting within the scope of their employment,</u> emergency services personnel or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to <u>perform those duties or</u> provide those professional services while under the direct supervision of the patient.

Sec. 2. 22 MRSA §2423-A, sub-§3, ¶B, as amended by PL 2013, c. 424, Pt. G, §1 and affected by §2, is further amended to read:

B. A primary caregiver who has been designated by a patient to cultivate marijuana for the patient's medical use must keep all plants in an enclosed, locked facility unless the plants are being transported because the primary caregiver is moving or taking the plants to the primary caregiver's own property in order to cultivate them. The primary caregiver shall use a numerical identification system to enable the primary caregiver to identify marijuana plants cultivated for a patient. Access to the cultivation facility is limited to the primary caregiver, except that <u>government officials acting within the scope of their employment,</u> emergency services personnel or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to <u>perform those duties or</u> provide those professional services while under the direct supervision of the primary caregiver.

Sec. 3. 22 MRSA §2428, sub-§6, ¶I, as amended by PL 2013, c. 374, §2, is further amended to read:

I. All cultivation of marijuana must take place in an enclosed, locked facility unless the marijuana plants are being transported between the dispensary and a location at which the dispensary cultivates the marijuana plants, as disclosed to the department in subsection 2, paragraph A, subparagraph (3). The dispensary shall use a numerical identification system to enable the dispensary to track marijuana plants from cultivation to sale and to track prepared marijuana obtained pursuant to section 2423-A, subsection 2, paragraph H from acquisition to sale. Access to the cultivation facility is limited to a cardholder who is a principal officer, board member or employee of the dispensary when acting in that cardholder's official capacity, except that government officials acting within the scope of their employment, emergency services personnel or a person who needs to gain access to the cultivation facility in order to perform repairs or maintenance or to do construction may access the cultivation facility to perform those duties or provide those professional services while under the direct supervision of a cardholder who is a principal officer, board member or employee of the dispensary.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill amends the Maine Medical Use of Marijuana Act to specify that access to a marijuana cultivation facility operated by a patient, a primary caregiver or a dispensary is open to government officials acting within the scope of their employment, under the direct supervision of the patient, the primary caregiver or a principal officer, board member or employee of the dispensary. Currently, a dispensary and any additional location at which the dispensary cultivates marijuana for medical use by a patient are subject to reasonable inspection by the Department of Health and Human Services.

126th MAINE LEGISLATURE

SECOND REGULAR SESSION-2014

Legislative Document **No. 1678**

H.P. 1201 House of Representatives, December 30, 2013

An Act To Protect Maine's Lobster Fishery

(EMERGENCY)

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 203.

Reference to the Committee on Agriculture, Conservation and Forestry suggested and ordered printed.

MILLICENT M. MacFARLAND
Clerk

Presented by Representative KUMIEGA of Deer Isle.
Cosponsored by Senator JOHNSON of Lincoln and
Representatives: DEVIN of Newcastle, KRUGER of Thomaston, RYKERSON of Kittery,
Senator: VITELLI of Sagadahoc.

Printed on recycled paper

Emergency preamble. Whereas, acts and resolves of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, scientific data show the adverse effects of methoprene and resmethrin on the lobster populations in Long Island Sound in Connecticut; and

Whereas, in order to prevent similar adverse effects on the lobster population of this State, the introduction of methoprene and resmethrin into the Gulf of Maine must be prohibited as soon as possible; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 22 MRSA §1471-CC is enacted to read:

§1471-CC. Restricted use of methoprene or resmethrin

The use of methoprene or resmethrin is prohibited in any body of water that drains into the Gulf of Maine or on land from which runoff could enter into any such waterway.

Emergency clause. In view of the emergency cited in the preamble, this legislation takes effect when approved.

SUMMARY

This bill prohibits the use of methoprene or resmethrin, 2 chemicals used for mosquito control, in any body of water that drains into the Gulf of Maine or on land from which runoff could enter into any such waterway.

Maine Board of Pesticides Control

Miscellaneous Pesticides Articles December 2013

(identified by Google alerts or submitted by individuals)

Portland Press Herald

PRINTTHIS

December 14

Maine Gardener: Debate over pesticides' effect on bees coming to Legislature

A beekeeping lawmaker plans to propose a two-year moratorium of the use of neonicotinoids, which some studies have found to be harmful.

By Tom Atwell

Legislators will consider a bill in the coming session to place a moratorium on neonicotinoid pesticides, which some studies have shown to be harmful to honeybees.

click image to enlarge

A bee collects pollen from a globe thistle.

Staff file photo by Gregory Rec

Select images available for purchase in the Maine Today Photo Store

"The Legislative Council approved it for consideration in the short session," said Rep. Brian Jones, D-Freedom, the bill's sponsor. "They perceive that it may be an emergency, and I was kind of pleased by that."

Honeybees, as well as other bees such as bumblebees, are necessary in agriculture because they pollinate crops, which is necessary for the production of most fruits and vegetables.

Neonicotinoids are a broad class of systemic pesticides, meaning that the chemicals are absorbed into the tissue of plants to kill insects harmful to them. But some studies have shown that

neonicotinoids also kill or cause paralysis in many types of bees, and other studies have found that neonicotinoids cause bees to become disoriented, so they can't find their hives.

The studies also have shown that neonicotinoids show up in wax and nectar found in beehives.

However, some studies have shown that neonicotinoids are not harmful to bees at all.

Jones, a licensed beekeeper with six hives, said he is going to propose a two-year moratorium on the use of the pesticides while further research is done.

"The reason I started to explore this is that the European Union created a two-year moratorium last July, because a couple of studies" showed that the pesticides damaged bees, Jones said, and were a possible contributing factor in colony collapse disorder.

Frank Drummond, a University of Maine professor with specialties in blueberry pollination and integrated pest management, said the jury is still out on whether neonicotinoids harm bees.

"Because of that very controversial and contradictory data, a moratorium would not be a bad thing, especially since for a lot of the agricultural industry there are alternatives," Drummond said.

He said he would recommend that money be included to pay for the study of the pesticides' effects on pollinators.

Drummond added that neonicotinoids are a broad range of herbicides, and that some have been shown to be more harmful than others.

Lois Berg Stack, an ornamental horticulture specialist and professor at the University of Maine Extension, said use of the pesticides is very common.

"They are used for a wide variety of pests, both by commercial growers and by the homeowner," Stack said.

She said the pesticides can be used on seeds by people who sprout them to create small plants, and on plants as they're grown to marketable size by commercial growers, and then by those who retail the plants. Each of those steps could be done in various locations and in different states.

"The whole job of record-keeping, where the crops are started and then grown and at the retailer will be a real challenge," she said.

And the neonicotinoids last a long time.

"They are very persistent chemicals in the plant and very persistent chemicals in the soil," she said, "and it would be expensive to test every crop to find out if it had neonicotinoids in it."

All of that means enforcing a moratorium could be difficult.

Drummond said commercial farmers in Maine do not use many neonicotinoids because of the types of crops grown here. He believes the most common use is in home gardens.

Ever since the lily leaf beetle arrived in Maine, I have been advising readers to use Bayer Advanced Rose and Flower treatment on lilies if they can't keep up with the beetles by hand-picking. The main active ingredient in that product is imidacloprid, one of the pesticides that would be banned under the moratorium.

Stack said that Friends of the Earth has released a 33-page report called “Gardeners Beware,” which is available at http://tinyurl.com/mfpgqma. The report discusses the science of the effect of neonicotinoids on bees and other pollinators, and recommends that home gardeners buy organic plants grown without neonicotinoids, and that they stop using them in their own gardens.

Tom Atwell has been writing the Maine Gardener column since 2004. He is a freelance writer gardening in Cape Elizabeth and can be contacted at 767-2297 or at:

tomatwell@me.com

Were you interviewed for this story? If so, please fill out our accuracy form

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☐ Check the box to include the list of links referenced in the article.

courant.com/entertainment/hc-pesticides-1219-20131217,0,1106040.story

Courant.com

Connecticut Failing To Monitor Pesticide Use

Nobody's Tallying Up The Amount Of Pesticide Being Used Across The State

By GREG HLADKY, ghladky@ctnow.com

12:30 PM EST, December 17, 2013

advertisement

Sitting in dusty file cabinets at Connecticut's environmental agency are tens of thousands of reports by licensed landscapers, lawn-care professionals and farmers about how much pesticide they are putting down each year.

No one is reading them. No one has ever read them or totaled the numbers since the reporting law was first passed in the 1980s. Which means no one has any idea how much pesticide is actually being used in this state on lawns, school grounds, in parks and on agricultural land.

"No one's adding the figures up," says Dr. Jerome Silbert, executive director of the Watershed Partnership. "There's no way to know what the trends are."

It's a rather peculiar situation when you consider that pesticide is such a hot-button issue in Connecticut, one likely to see another round of legislative warfare in 2014.

Another curious thing about this impotent statute (state officials say they've never had the staff or money to actually look at the reports) is that no one apparently wants to or even thinks it's possible to repeal the law.

"It's useless," admits state Sen. Ed Meyer, a Guilford Democrat who is co-chair of the legislature's Environment Committee. "The reason why it's not been repealed is that those of us who support the environment are every year hoping to put the funds in to properly staff this agency."

"I don't think it will ever be repealed," agrees Erica Fearn. "Pesticides are such a hot topic."

Fearn is executive director of the Connecticut Environmental Council.

The CEC isn't, as you might expect from its name, a bunch of tree-hugging, anti-pesticide left-wingers. It's actually an association of more than 160 professional lawn-care types, landscapers, groundskeepers, municipal park officials and farm groups that are in favor of what they argue is the proper and safe use of pesticides.

You'd think a business-oriented organization like that would be gung-ho for repealing a law that does nothing for anyone except create more paperwork. But that doesn't seem to be the case here.

Fearn says the pesticide-reporting law is like a lot of other state environmental rules and regulations that aren't really being enforced because the state Department of Energy and Environmental Protection (DEEP) doesn't have adequate staff. She insists keeping those records is a good thing, even if no one uses them.

"I think it's a good law," says Mike Wallace, a CEC board member and manager of Simsbury's municipal golf

course. "The fact that they don't have anybody there to [read the reports] isn't our fault... If the citizens of Connecticut don't fund their environmental agency, well then, shame on the citizens of Connecticut."

Meyer puts it in even harsher terms: "State government could be indicted, in my opinion, for failing to properly fund its environmental agency."

The lack of hard information about pesticides in this state (that reporting law doesn't even address the use of lawn chemicals by do-it-yourself homeowners) has in no way inhibited the often heated arguments surrounding the issue.

The CEC has repeatedly sought repeal of a state law that in 2010 banned any pesticides on school grounds used by kids in kindergarten through 8th grade. Meyer says that law was passed because there was an "abundant amount of evidence that pesticides are toxic to children of that age."

Landscapers and groundskeepers insist they need those federally approved pesticides to kill grubs and other stuff they say is ruining lawns and playing fields. Anti-pesticide types call those claims a bunch of, well, cow manure would be the nice translation.

"In Connecticut, there are three things certain in this life," says Martin Mador, a spokesman for this state's Sierra Club chapter: "Death, taxes, and that the pesticide applicators will be trying to remove that K-8 ban."

The CEC and its allies tried and failed to win repeal in the 2013 General Assembly. Mador and a collection of other (traditional tree-hugging) environmentalists tried and failed to extend the ban to public high schools and all public parks.

Meyer says lawmakers on both sides of the pesticide fence agreed to pull back and get some independent advice on how toxic these disputed pesticides are for humans of school age. The state has hired a Harvard toxicologist for $75,000 to report back next month to both the DEEP and the General Assembly.

Another environmental concern likely to come up in the 2014 legislature is the possible effect of pesticides on crop "pollinators" like honey bees and butterflies, says Meyer.

The European Union this year put a two-year moratorium on the use of a type of nicotine-based pesticide that some studies have linked to "bee colony collapse." That mystery condition has killed off vast numbers of bees in hives across the U.S. and Europe. Experts fear that a continued loss could prevent pollination that's critical to food crops of all types.

The U.S. Environmental Protection Agency hasn't made the same ruling on those "neonicotinoid pesticides" and the big chemical companies that make them have ferociously condemned as unscientific efforts to stop their use.

Despite the lack of hard data about pesticides in Connecticut, Silbert says national figures indicate that "certain types of pesticide use is increasing."

Monsanto's popular weed-killer "Roundup" is "being used in increasing amounts because weeds are becoming more resistant," according to Silbert.

Environmental groups cite statistics showing that as much as 80 million pounds of pesticide a year are being used on American lawns. The EPA has approved something like 200 different types of pesticides for use on lawns and playing fields.

Silbert says a spot survey in 2006 by the Quinnipiac University Polling Institute found about half of Cheshire homeowners said they used pesticide on their lawns.

The reason so many homeowners and landscaping professionals love pesticide is simple, says Silbert: "It does work... [Pesticides] are quick, they kill the weeds."

Whether or not they are really that harmful to people is a matter of huge dispute.

"The K-8 Ban bans the use of EPA-approved pesticides," says Fearn. Federal experts have conducted multitudes of tests and these chemicals "are considered very safe to use," she points out.

The trouble is, more and more people distrust those federal experts and fear they've been influenced or conned by the giant pesticide companies.

A Connecticut legislative report issued earlier this month concluded "there are substantial uncertainties regarding the health and environmental effects of some widely used pesticides."

One example is a very common lawn weed-killer known as "2,4-D" (short for 2,4-Dichlorophenoxyacetic acid), which has been the target of harsh restrictions in several Canadian provinces, Sweden, Denmark and Norway because of cancer fears. The EPA and Canada's Pest Management Regulatory Agency disagree, and so do a lot of folks who get paid to keep lawns and playing fields pretty, smooth and weed-free.

Wallace says athletic directors around Connecticut "have been clamoring for fields that are not infested with grubs" ever since the K-8 ban went into effect. He says playing fields are rapidly deteriorating and that kids shouldn't be forced to play on weedy, grubby and potentially dangerous fields.

Most licensed professionals, according to Fearn, use pesticides as a last resort and use "the least harmful control available."

Of course, kids a century ago played on non-pesticide-treated fields all the time. "They put up with what are now considered sub-standard conditions," says Wallace.

He argues ballplayers shouldn't have to worry about slipping on patches of clover or other weeds and possibly injuring themselves.

Silbert snorts at those kinds of claims. He says pesticide industry types "don't want to let people know there are non-toxic ways to take care of lawns."

One of the simplest, Silbert says, is to just re-seed lawns and playing fields regularly, and to make sure the soil is healthy. "When you hear people saying non-toxic care doesn't work, it's almost always because they're not putting seed down," he says.

Brad Robinson is DEEP's pesticide control program supervisor. He's the guy in charge of all those unread annual reports (from 2,810 licensed applicators and 507 pesticide-using farmers) sitting in files at his agency's headquarters on Elm Street in Hartford.

Robinson says the last time state regulators made an attempt to figure out how much pesticide was being used in Connecticut and for what purpose was more than two decades ago.

At that time, the best guess was that about 45 percent was for agricultural use, another 45 percent for non-agricultural use, and the remaining 10 percent was being spread by private homeowners. Aside from the fact those numbers now have to be horribly out of date, Robinson isn't sure they were correct even back then.

"I don't have a huge amount of confidence in those estimates," says Robinson. "We simply don't know who is buying [pesticides] and how much."

And when you don't even know the size of a potential threat, it makes dealing with it all that much tougher to figure out a solution.

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FDA examining antibacterial soaps, body washes

By Saundra Young , CNN
updated 4:40 AM EST, Tue December 17, 2013

CNN.com

(CNN) -- Manufacturers of antibacterial hand soap and body wash will be required to prove their products are more effective than plain soap and water in preventing illness and the spread of infection, under a proposed rule announced Monday by the Food and Drug Administration.

Those manufacturers also will be required to prove their products are safe for long-term use, the agency said.

"Millions of Americans use antibacterial hand soap and body wash products," the agency said in a statement. "Although consumers generally view these products as effective tools to help prevent the spread of germs, there is currently no evidence that they are any more effective at preventing illness than washing with plain soap and water.

"Further, some data suggest that long-term exposure to certain active ingredients used in antibacterial products -- for example, triclosan (liquid soaps) and triclocarban (bar soaps) -- could pose health risks, such as bacterial resistance or hormonal effects."

About 2,000 individual products contain these products, health officials said.

"Our goal is, if a company is making a claim that something is antibacterial and in this case promoting the concept that consumers who use these products can prevent the spread of germs, then there ought to be data behind that," said Dr. Sandra Kweder, deputy director of the Office of New Drugs in FDA's Center for Drug Evaluation and Research.

"We think that companies ought to have data before they make these claims."

Studies in rats have shown a decrease in thyroid hormones with long-term exposure, she said. Collecting data from humans is "very difficult" because the studies look at a long time period.

Get dangerous germs out of your home

Before the proposed rule is finalized, companies will need to provide data to support their claims, or -- if they do not -- the products will need to be reformulated or relabeled to remain on the market.

"This is a good first step toward getting unsafe triclosan off the market," said Mae Wu, an attorney for the Natural Resources Defense Council. "FDA is finally taking concerns about triclosan seriously. Washing your hands with soap containing triclosan doesn't make them cleaner than using regular soap and water and can carry potential health risks.

The FDA first proposed removing triclosan from certain products in 1978, the council said, "but because the agency took no final action, triclosan has been found in more and more soaps."

In 2010, the council said it sued FDA to force it to issue a final rule. The new proposed rule stems from a settlement in that suit, according to the NRDC.

The rule is available for public comment for 180 days, with a concurrent one-year period for companies to submit new data and information, followed by a 60-day period for rebuttal comments, according to the FDA.

The target deadline is June 2014 for the public comment period, then companies will have until December 2014 to submit data and studies. The FDA wants to finalize the rule and determine whether these products are "generally recognized as safe and effective" by September 2016.

"Antibacterial soaps and body washes are used widely and frequently by consumers in everyday home, work, school and public settings, where the risk of infection is relatively low," said Dr. Janet Woodcock, director of the FDA's Center for Drug Evaluation and Research.

"Due to consumers' extensive exposure to the ingredients in antibacterial soaps, we believe there should be a clearly demonstrated benefit from using antibacterial soap to balance any potential risk."

The action is part of FDA's ongoing review of antibacterial active ingredients, the agency said.

Hand sanitizers, wipes and antibacterial products used in health care settings are not affected.

Most hand sanitizers have 60% alcohol or ethanol and are generally recognized as safe when water isn't available, Kweder said. However, health officials still believe washing hands with soap and water is the best method.

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Improper pesticide application to blame for massive bumblebee die off

Written by Tracy Loew Statesman Journal
Dec. 22

statesmanjournal.com

Improper pesticide application was the cause of a massive bumblebee die off this summer, an Oregon Department of Agriculture investigation has concluded.
ODA has issued six civil penalties totaling $2,886 in connection with four separate incidents in Wilsonville, Hillsboro, West Linn and downtown Portland.
The investigation centered on the use of pesticide products containing two active ingredients, dinotefuran and imidacloprid.

Three civil penalties being issued are connected to the largest of the bumblebee incidents, which took place in Wilsonville in June.
In that incident, an estimated 50,000 bumblebees died following the application of dinotefuran on European linden trees.
The other three civil penalties are connected to a smaller bumblebee incident on a landscaped business property in downtown Portland following the application of a pesticide product containing imidacloprid, also on linden trees.

For its role in the Wilsonville incident, Collier Arbor Care of Clackamas, a licensed commercial pesticide operator, has been issued a civil penalty in the amount of $555 for performing a pesticide application in a faulty, careless, or negligent manner.
The pesticide applicators in the incident, Mark McMullen of Beaverton and Sean Rinault of Woodburn, were each issued civil penalties also in the amount of $555.
ODA's investigation determined that the linden trees were clearly in bloom at the time of the pesticide applications. The product label states that the pesticide is known to be hazardous to bees when applied onto flowering trees in bloom and should not be used under those conditions.

Collier Arbor Care has also been issued a civil penalty in the amount of $407 for applying a pesticide product inconsistent with its labeling in connection to the downtown Portland incident.
ODA's investigation determined that the application rate of the pesticide product was in violation of the label instructions.
The pesticide applicators in the incident, Rinault and Ray Duval of Estacada, were each issued civil penalties also in the amount of $407.

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Connecticut Inches Closer To Enacting Historic GMO-Labeling Law

Posted By Katie Rucke On December 16, 2013 @ 5:00 am In Environment,Front Page: Environment,National | No Comments

GMO corn in Yellow Springs, Ohio. (Photo/Lindsay Eyink via Wikimedia Commons)

Connecticut is one step closer to enacting the nation's first ever legislation that would require companies to label foods with genetically modified organisms, as the state's Democratic Gov. Dannel Malloy signed off on the only voter-approved GMO-labeling legislation last week.

While exciting and historic for GMO advocates, the bill signing was purely ceremonial, as the legislation that voters passed in June requires at least four other states — including at least one that borders Connecticut — to pass similar GMO-labeling legislation before it can be enacted. Meaning, New York, Massachusetts or Rhode Island, along with at least three other states, must also pass GMO-labeling legislation, as there needs to be about 20 million residents affected, before Connecticut's GMO-labeling law can be put into effect.

Connecticut lawmakers reportedly built this clause into the legislation to protect local businesses "from being put at a competitive disadvantage."

During the signing ceremony, Malloy called for Americans to "demand GMO labeling" legislation.

Senate President Donald E. Williams Jr., D-Brooklyn, added "Families have the right to know whether the food they purchase has been genetically modified."

Exactly when Connecticut's law will be enacted remains unknown, as big agriculture businesses such as Monsanto, BASF, Bayer, Dow, DuPont and Syngenta — the "Big Six" companies that control the world's seed, pesticide and biotechnology industry — continue to spend millions persuading voters that labeling genetically engineered products is not necessary.

Specifically, big agriculture argues a labeling requirement will only increase food costs and hurt the livelihood of farmers, and have together defeated proposed legislation in several states including California, Washington state and Maine.

Although when the labeling requirements will become law remains unknown at this point, Malloy says he is proud lawmakers on both sides of the political aisle came together on this issue to pass the first GMO labeling requirement in the nation.

"The end result is a law that shows our commitment to consumers' right to know while catalyzing other states to take similar action," he said, before adding that this piece of legislation is the first in a movement big agriculture won't be able to stop.

Tara Cook-Littman, director of GMO Free Connecticut, agreed and thanked advocates for all of their work, not just in the state but across the country.

According to Russia Today, legislation to either label or prohibit GMO foods has been introduced in at almost half of all U.S. states, but only Connecticut's bill has passed. Consumers Union senior scientist Michael Hansen said this is surprising since "Surveys have always found 80 to 95 percent of people wanting labeling."

He went on to add that "People are paying attention to food, and because of that they're more interested in GMO issues and buying food that's more local and food without pesticides and other added ingredients."

According to a report from the Non-GMO project, it's estimated that about 75 percent of grocery store products in the U.S. contain at least one genetically modified ingredient, usually corn, soy, canola or sugar. And with more and more reports finding that consumption of GMO corn and soy products can lead to liver, kidney and bone marrow damage, it's likely increasingly more Americans will come to favor legislation that allows them to know what exactly is in their food.

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Out for Blood

Growing numbers of bed bugs, mosquitoes and ticks are spreading misery and frustrating lawmakers.

BY MARY WINTER

Like vampires, bed bugs feed on human blood, do their best work at night and are very hard to kill. Also like vampires—at least those on TV and movie screens—bed bugs have made a mysterious comeback in the past decade.

The United States "is now experiencing an alarming resurgence in the population of bed bugs," the Centers for Disease Control and Prevention and the Environmental Protection Agency announced in May. Unfortunately, they're not the only bugs that have Americans scratching their heads and asking why now? Black-legged ticks are blamed for a surge of Lyme disease, and mosquitoes carrying the West Nile virus plague certain regions, even though their numbers nationally remain stable.

Experts can't say with certainty what's causing the increase, but blood-sucking vermin definitely are on state lawmakers' minds. In the last four years, NCSL data show states have seen more than 100 bills on bed bugs and 92 mosquito-related bills. Nine states have enacted roughly 18 laws pertaining to Lyme disease, according to the Lyme Disease Association.

The bed bug is "one of the smartest bugs. It hides and waits for you, then smells your breath, like someone just lit up the barbecue grill."

—REPRESENTATIVE DALE MALLORY (D), OHIO

Night Feeders

Powerful—yet dangerous—pesticides such as DDT all but put an end to bed bugs in the 1950s, but since the late 1990s, they've been multiplying and are found in every state, sending complaints pouring into public health agencies, according to the CDC and EPA. About as big around as an apple seed, but as thin as a credit card, beg bugs hide in mattress seams, bed frames, headboards, cracks in furniture and behind wallpaper. They come out at night to feed on human and animal blood, typically leaving red, itchy welts where they bite. Bed bugs aren't known to carry diseases, but they can cause infections and are costly to governments and businesses. Worst of all is the human suffering they cause, says Representative Dale Mallory (D) of Ohio.

"The stories are endless. People burn their houses down to get rid of bed bugs. People sleep in bathtubs. Kids are sent home from school with their coats in plastic bags," he says. Mallory lives in Cincinnati, the most bed bug-infested city in the country, according to Terminix pest control company, which ranks cities according to the number of service calls it receives from each.

Representative Dale Mallory (D) Ohio

Soon after Mallory was elected in 2007, a tour of senior housing shocked him."It was nightmarish," Mallory says. "There were bed bugs falling from the ceiling. It traumatized me. And the more I looked, the more I saw… It's one of the smartest bugs. It hides and waits for you, then smells your breath, like someone just lit up the barbecue grill."

Bed bugs, which have no natural predators, invade apartment buildings, movie theaters, dormitories, nursing homes, hotels, airports—anyplace there's a high concentration of transient people. They hitchhike in luggage and clothing and can just as easily show up in a five-star hotel as a homeless shelter. Eradicating an infestation "usually requires multiple visits by a licensed pest control operator and diligence on the part of those experiencing the infestation," according to the CDC and EPA. The price can

Mary Winter is State Legislature's assistant editor and senior writer.

Bed Bug Busters

Bed bugs are reddish-brown and can be as big as apple seeds. Notify your landlord or a pest control company as soon as you find bed bugs in your home. You could make the problem worse if you try to destroy them yourself, by spreading the bugs to other rooms in your home.

- Use a flashlight to check for small, reddish spots, they could be bed bugs hiding under and along the seams of the mattress, box spring and bed frame.
- Search other furniture near the bed, like night stands and chairs.
- When you sleep in a hotel, keep your luggage away from the wall, on a luggage rack or in a dry bathtub. Don't put it on the bed.
- Check for bugs wherever you are stay.
- If you see signs of bed bugs, call the hotel desk or tell your host right away.
- When you return home from a trip, keep your travel clothes separate from other laundry, and wash them in warm water right away.
- Vacuum to rid your luggage of bed bugs and empty the vacuum contents into a tightly sealed plastic bag. Throw the bag away in an outside garbage bin.

Source: U.S. Department of Health and Human Services.

be well over $1,000, and people who can't afford that often try ineffective over-the-counter insect foggers or "bug bombs," or they try to drive the bugs out with intense heat, which can be dangerous without proper equipment, says Mallory.

What's needed, Mallory says, is research on more effective ways to kill bed bugs and legislation that allows more resources to be used to eradicate them. Mallory sponsored a successful House resolution asking Congress to urge the EPA to approve the emergency use of the pesticide Propoxur—banned for indoor use—to attack the bugs, but the bill died in Congress. He also formed a bed bug task force but claims local leaders are too embarrassed by a bed bug problem to deal with it. "Lots of people have decided to stick their heads in the sand." The lack of progress frustrates Mallory. "If you're Cincinnati, how do you continue to do nothing when you're No. 1 in the nation for bed bugs?"

Bug Laws

Ohio's anti-bed bug law prohibits hotels from using bedding infested with bed bugs or other vermin. At least 22 similar laws are on the books in other states. In New York, landlords must tell any prospective renters if an apartment has had bed bugs within the last year. Nevada requires infested hotel rooms be "thoroughly fumigated, disinfected and renovated until such vermin or bed bugs or other similar things are entirely exterminated."

Representative Bill Kennemer (R) Oregon

Oregon lawmakers took a different approach. State law shields the names of infested hotels and businesses. No government agency tracks bed bugs in Oregon, so private exterminators have been the best source of information, says Oregon Representative Bill Kennemer (R). Hotels fear they'll lose business if word gets out they have bed bugs. So lawmakers came up with "a workable and quality solution." Exterminators turn over infestation information to health agencies, but all names and exact locations are redacted from the public record. With tourism Oregon's third-biggest industry, keeping the lodging sector healthy is critical to the economy, Kennemer emphasizes.

West Nile Outbreaks

In late July, Colorado Statehouse regulars were surprised to learn that a former colleague was hospitalized in critical condition, suffering severe headaches, weakness and fever—all because of a mosquito bite. Former Representative Ken Summers (R) developed encephalitis, or swelling of the brain, from a mosquito carrying the West Nile virus, which required him to be

on a ventilator to help him breathe. Doctors expect he will need months of therapy.

Summers' case was far worse than most. Up to 80 percent of people bitten by mosquitos carrying the virus don't develop any symptoms. The rest will suffer milder, flu-like symptoms. According to the CDC, most people with this type of West Nile disease recover completely, although fatigue can last weeks or months. A small percentage who are infected will develop what Summers has—serious neurologic illness, such as encephalitis or meningitis, which can cause coma, paralysis and death.

Since 1999, more than 37,000 Americans have contracted West Nile, and about 1,549 have died from it. Last year was especially bad—West Nile struck some 5,674 Americans, killing 286.

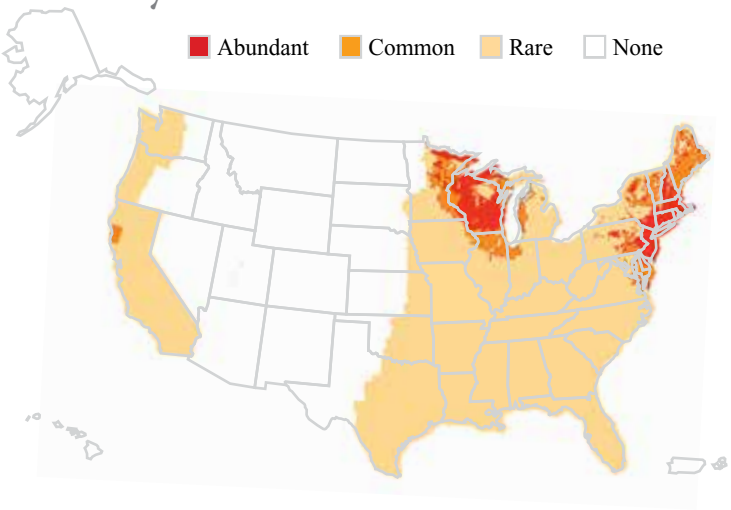
Outbreaks are hard to predict, although the right combination of weather, including high moisture and temperature, is known to encourage mosquito breeding. The good news is that pesticide spraying reduces the spread of the disease. "Numerous studies have shown that the risk of West Nile far outweighs the risk of pesticide exposure," says Janet McAllister, entomologist in CDC's Arboviral Diseases Branch. Still, safety concerns persist and environmental groups that object to pesticide spraying have taken up their concerns with lawmakers.

More typical is Maine's law, which directs state agriculture and forestry departments to protect the public from mosquito-borne diseases by using "integrated pest management techniques and other science-based technology that minimize the risk of pesticide use to humans and the environment."

Lyme on the Rise

Another vermin is causing an uptick in Lyme disease. The blacklegged or deer tick infects 300,000 Americans with the disease every year, the CDC estimates, and that number is increasing.

Lyme Disease-Infected Tick Areas



Source: American Lyme Disease Foundation

When ticks feed on people, they can infect them with a bacteria acquired from deer that causes Lyme disease. Up to 30 percent of deer—the ticks' main food source—carry the bacteria in their blood.

These ticks can be as small as pinheads, with bites that are painless, so people often don't detect them. But three to 30 days after being bitten, victims often develop flu-like symptoms and a skin rash. Most recover quickly if they receive antibiotics within 72 hours. Without the drugs, the infection can spread to the heart, joints and nervous system, causing long-term pain, cognitive impairment and numbness. Even when victims receive antibiotics, however, an unknown percentage continue to suffer symptoms.

In 2011, 96 percent of all cases of Lyme disease occurred in 13 states in the Northeast and Midwest. C. Ben Beard, chief of the Bacterial Diseases Branch, Division of Vector-Borne Diseases for the CDC, believes the increase in Lyme disease is due to "a number of factors," including changes in weather, loss of biodiversity due to land development and expanding deer populations.

In Massachusetts, where Lyme disease has been called an epidemic, a 2011 legislative report urged the state to look at more aggressive ways to fight the tick, including reducing deer and rodent populations, eliminating tick habitat, using chemical and biological controls, and increasing public awareness about checking routinely for ticks and wearing the proper clothing outdoors.

Representative Pam Brown (D) of New Hampshire calls Lyme disease a "huge problem" in her state and has first-hand knowledge of its devastation. Brown was bitten by a tick in 2002 and says she has never recovered. At 57, the one-time quality assurance engineer for a software firm has lost two jobs because of cognitive decline and fatigue. "My ability to work at that level is kaput. Instead of earning six figures, I have been on disability for years."

Representative Pam Brown (D) New Hampshire

Brown takes Western and Chinese medicine, but says she still has difficulty concentrating and can't rely on her memory. "It takes me three hours to do a job that should take one." She says it took six years to get a diagnosis of Lyme

disease—she was first told she had mononucleosis—and says many doctors don't believe chronic or long-term Lyme disease exists. In part to advocate for more awareness about Lyme disease, Brown ran for a House seat in a special election earlier this year and won. She would like to see legislation requiring New Hampshire doctors to receive Lyme disease education.

Because diagnosis remains inexact, Virginia this year passed a law requiring health care providers to notify affected patients that laboratory testing can produce false negatives. Other bills address treatment. A new Maine law mandates that the state's Lyme disease website include information about all kinds of treatments for Lyme, including long-term use of antibiotics. Many doctors opposed the bill, saying long-term antibiotic use may be riskier than the disease.

But in Connecticut, Massachusetts, New Hampshire and Rhode Island, doctors who treat Lyme patients with long-term antibiotics are protected from disciplinary action. In Connecticut and Rhode Island, insurance companies must cover treatment, and New York is considering similar legislation.

States and nonprofit groups are also stepping up efforts to educate people on how to avoid tick bites in the first place, which many experts agree is the single best defense against the disease.

Keeping the public safe has long been one of state governments' most important roles—a role most legislators will tell you never gets any easier.

SL ONLINE

For more information on how to deal with disease carrying bugs, go to www.ncsl.org/magazine.

PRINT THIS

UPDATED: Honeybee groups sue EPA over insecticide registration

12/10/2013 04:00:00 PM
Vicky Boyd

Courtesy Agricultural Research Service

Beekeeping groups have filed a challenge against the Environmental Protection Agency over its approval of the pesticide sulfoxaflor, which is highly toxic to honeybees.

Sulfoxaflor, marketed by Dow Chemical under the brand names Closer and Transform, belongs to the Insecticide Resistance Action Committee's Group 4. This is the same group to which neonicotinoids belong.

But sulfoxaflor belongs to the 4C subclass—different than the subclass 4A, which includes neonicotinoids.

g

The groups have said the pesticide poses a threat to not just honeybees but other pollinators, and that the EPA violated the Federal Insecticide, Fungicide and Rodenticide Act in registering the insecticide, according to a news release.

In an email, Garry Hamlin, Dow media relations manager, said, "Sulfoxaflor is less toxic to bees and less persistent in the environment than many of the insecticides that farmers are using now. EPA registered sulfoxaflor with the understanding that it would displace older products posing greater risk to bees."

The groups also claim that the tests conducted by Dow as part of the registration didn't accurately measure the chemical's effects on pollinators.

The groups include the Pollinator Stewardship Council (formerly the National Pollinator Defense Fund), national Honey Bee Advisory Board, American Honey Producers Association, the American Beekeeping Federation, and beekeepers Bret Adee, Jeff Anderson and Thomas R. Smith. They are being represented by Earthjustice.

The suit was filed in the Court of Appeals for the Ninth Circuit in San Francisco.

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