



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

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

February 28, 2020
Deering Building, 90 Blossom Lane, Room 101, Augusta, Maine

9:00 – 10:00 AM Board Meeting
10:00 - 11:30 AM Public Information Gathering Session On Notification
11:30 – 12:00 PM Board Meeting Continued

MINUTES

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

1. Introductions of Board and Staff

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

2. Minutes of the January 15, 2020 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

- Board members noted a few minor changes to be made to the minutes.
 - **Jemison/Adams: Moved and seconded to accept minutes as amended**
 - **In Favor: Unanimous**

3. Report on 2019 Work Accomplished and Request for Funds for Mosquito Monitoring from Integrated Pest Management Program

The Integrated Pest Management Program is reporting work accomplished in 2019 and requesting funds to assist with on-going efforts for mosquito surveillance and identification, refinement of a GIS-based mosquito habitat mapping system, and continued outreach around vector-borne diseases.

MEGAN PATTERSON, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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Presentation By: Kathy Murray, DACF IPM Specialist

Action Needed: Discussion and Determination if the Board Wishes to Fund this Request

- Murray gave the Board an overview of the history of the mosquito monitoring program. She added that they had been also receiving money from a Zika federal grant the Maine CDC had received but that money has since dried up. Since then the BPC has been funding the Department monitoring plan.
 - Haley Mealey has worked with Murray on the mosquito monitoring program for the last two years. Mealey stated they usually sample about 1,000 mosquitoes and this year they increased to about 6,500. There were no positives for any of the mosquitoes tested but there were some positive from York collected by Maine Medical Research Institute.
 - Mealey explained they have been utilizing GIS technology with the goal to have sites MMRCI has monitored overlaid with different data layers, with created buffer zones around each site, allowing them insight into which types of sites support large populations of specific species. Ultimately, this builds framework for someone to do a statistical analysis to optimize their surveillance efforts.
 - Morrill asked if there was any evidence that mosquitoes vectoring Zika had been found in New England.
 - Murray stated they had only been found as far as south Connecticut.
- **Jemison/Granger: Moved and seconded to fund the Mosquito Monitoring Program in the amount of \$6,501**
 - **In Favor: Unanimous**

4. Request to Extend Special Local Need [24(c)] Registration for Asulox Herbicide (UPL NA Inc.) for Bracken Fern in Wild Blueberries

In 2010, the Board first approved a Section 24(c) registration for Asulox Herbicide (EPA Reg. No. 70506-139). The 24(c) was renewed in 2014, but the registration expired January 31, 2020. This University of Maine Cooperative Extension submitted this renewal request for a 24(c) registration. In the absence of other effective control measures for bracken fern, this product has proven to be effective, especially in newly cleared land and abandoned fields returned to production. The proposed SLN will expire December 31, 2024.

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

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

- Tomlinson told the Board that UMaine Cooperative Extension is requesting another five-year extension of the Section 24(c) registration for Asulox Herbicide. She added that label rates remain the same and applicators may only apply spot treatments once every other year.

- Lily Calderwood, UMaine Cooperative Extension blueberry specialist, told the Board that she contacted a few large wild blueberry growers regarding some issues brought to light by Bryer's risk assessment. Calderwood stated that most applications happened in 2010 and most have not had to go back to those same spots. She added that as new spots of bracken fern pop up they use this product. Calderwood told the Board that one of the companies she spoke with accounts for 25% all wild blueberry acreage in Maine and they have used a total of 800 pounds over the past ten years, and in all 14,000 pounds of active ingredient have been applied to 40% of all wild blueberry acreage in the last ten years. She added that this was much less than the 53,500 pounds of active ingredient that was allowed. Calderwood told the Board that the blueberry processors check for Asulox residue because of European and Asian markets and have not found it in their data collection.
- There was discussion amongst the Board about Board requested water testing.
- Calderwood told the Board that one of the companies had not applied the product in the last three years, and the other company only used it in a new field, but felt they still need it as an option for land that may come into use, or for areas where bracken fern may reemerge.
- Bryer told the Board she had conducted a risk analysis and the product had a really short half-life. She added that in Florida they were applying the product two times per year and out of 11,000 water samples taken eight returned positives and they were below the level of concern.
 - **Granger/Adams: Moved and seconded to approve**
 - **In Favor: Unanimous**

5. Board Review of Notification Requirements

At the January 2020 meeting of the Board, Representative Pluecker asked the Board to consider review and revision of existing notification requirements. The Board determined that it would be helpful to receive additional comment from the public and voted to host a public information gathering session at the February 28 meeting of the Board.

Presentation By: Megan Patterson, Director

Action Needed: Discussion and Determination of How the Board Wishes to Proceed

- **Morrison/Granger: Moved and seconded to table until next meeting in order to gather more information and input**
- **In Favor: Unanimous**

6. Other Items of Interest

- a. LD 2069
- b. LD 2070
- c. LD 2082
- d. LD 2083

e. Forestry Report and Public Law 2019 Chapter 84

- Morrill commented that the report was interesting, especially regarding the aerial application height and the label language that corresponded with it.
- Patterson responded that after speaking with the applicators it was clear this was done for human safety.
- Tomlinson stated that she consulted with the EPA and this is an acceptable practice.

f. Board of Pesticides Control 2019 Government Evaluation Act Report

g. Policy Describing the Environmental Risk Assessment Committee

h. Policy Describing the Medical Advisory Committee

- Patterson told the Board there was reason to believe the board may be asked to form an Environmental Risk Assessment Committee, ERAC, in response to some of the bills introduced into legislature, and that a member of the Board must serve as chair for the ERAC. She added that there could also be a mandated Medical Advisory Committee, which would need to be chaired by the medical member of the Board, Jack Waterman.
- Morrill asked if there was any idea on what these would encompass as far as man hours and staff time, in order to better understand the levels of funding that would be needed.
- Patterson responded that Bryer has looked at companies that conduct literature review and those could be quite expensive, but there is a wide degree of how this can be done and in how much detail. She added that these companies employed utilize either one or two reviewers who would decide which studies should be reviewed by staff. There are currently about 25,300 focused studies on glyphosate, and over 250,000 studies in all. Patterson told the Board that the last ERAC conducted by Lebel Hicks looked at one thousand studies and took multiple years. She added that this ERAC would be fairly substantial, up to \$250,000 to complete the double-blind approach literature analysis for glyphosate.
- Pluecker asked if there was any direction the Board could give to the Agriculture Committee to direct them, so it is not as expensive.
- Morrill asked if it be more appropriate to look at what the current uses are in Maine to narrow that scope.
- Pluecker stated, yes, it is ultimately going to be based on specific parameters.
- Morrill asked if there was any data in the completed forest report that could be mined out to narrow the focus.
- There was discussion about the *Bt* Corn ERAC, its scope, and how long it took to complete.

i. Public Law 2020 Chapter 584 and Fiscal Note

- Patterson told the Board that this is now law and explained that it does not come from the Board, but it does include a 15-cent tax on pesticide containers at the consumer level. She stated that staff has obligations attached to this law, including publishing a list of all pesticide products registered in the state. She added that one concern was that everyone who sells pesticide products is not actively communicating with the Board because there are exemptions for some products. Patterson told the Board that the Maine Revenue Service is responsible for enforcing this tax that will be collected at the store level.
- Morrill asked if the BPC would receive funding for this to use towards another position.
- Patterson replied that the Board would receive up to \$60,000 to fund a half time office associate II.

j. Policy on Allowable Pesticides for Control of Browntail Moth Within 250 Feet of Marine Waters

k. Neonicotinoid Registration Reviews

- Patterson told the Board that EPA recently conducted a review of neonicotinoid registrations and the interim decision and proposed label language changes are posted online
- Morrill asked if this could be included in the next Board packet.

l. Lorsban Manufacture

- Patterson told the Board that Corteva will no longer be manufacturing Lorsban, which is an organophosphate with the active ingredient Chlorpyrifos.

10:00 AM—Public hearing session:

- At the January 2020 meeting the Board asked for a public listening session to address notification in various ways. Several people, including Representative Pleucker provided comment at the January meeting and the Board concluded this was a complicated issue and they required more information on where the intended direction was. This meeting was a continuation of that discussion.
- The Board discussed public concerns and what people thought worked, areas of improvement, and ways to assist constituents who feel there is no way to be notified. Morrill stated that the rules currently include the non-agricultural registry and the by request agricultural registry.
- Jemison added that the last time the Board engaged in rulemaking related to notification the process was long and the resulting law was repealed. He commented that he would love to know if any other state has a great system that they have implemented.
- Morrill asked if staff could pull some historic data on how the discussion around notification went the last time because it would be very helpful to the conversation.

- Patterson replied that staff could gather information.
- Fish commented that it started with a very long public information gathering process that went to legislature and when that bill got there another came up behind it and that committee ran with the outside bill and we ended up with the notification registry that required mapping and people to sign up. He added that they began working on a GIS database and then the bill got repealed.
- Arthur Kelly, owner Kelly Orchard, commented that one person had signed up from the registry back then, and when I gave them a call they stated the reason they signed up had to do with publicity.
- Morrill asked if Pluecker had made the request to the abutter to be notified.
- Pluecker stated he has not because the people who live in the home are not involved in the growing.
- Morrill asked if Pluecker would utilize that option if he found out who the grower was.
- Pluecker replied, absolutely, and that last time this was the crux of the issue, exactly who was responsible for notification. He added that trying to read through the rules can be confusing and that public outreach is a great idea. Pluecker asked if there was a more comprehensive summary of the rule that is easier to understand because there is increased public worry about pesticides right now and we need a site the public can access that is more responsive to their needs.
- Heather Spaulding, Deputy Director for MOFGA, stated they have been participating since the beginning of the Board and notification has been a key concern since then and she expressed hope that taking another look at this would allow us to come together in a way to move forward. Spaulding recounted the history of what occurred during the last time this subject was discussed. She added that there needs to be a simple, easy and free way for all citizens and producers to request and receive notification.
- Morrill asked if the \$25 fee and requirement to register for the non-agricultural registry was a barrier to people.
- Spaulding stated that people should not have to pay to find out about chemicals that may endanger them and that it should not be an annual requirement to sign up.
- Patterson commented that anyone who is not able to pay can fill out a hardship form and they are not charged \$25. She explained how annual registration works and how it kept the registry information accurate.
- Jemison commented that this has been around for approximately 20 years.
- Patterson noted that the BPC does not have many people that participate in the program.

- Spaulding suggested not charging a fee and just have one simple system instead of the two.
- Morrill responded that he agreed that public education is integral.
- Kevin Towle, Orkin Exterminating Company, asked if people do not know they can just get on the non-agricultural notification registry for free.
- Pluecker stated that the rules and statute seem difficult to interact with; we are seeing towns ban pesticides, bills in legislature, and we are trying to figure out a way to make it more accessible
- Towle commented that having a website that was easier to understand and navigate would be helpful.
- Jesse O'Brien, Owner Downeast Turf Farm, commented that he has spoken with his neighbors and very few asked to be notified. O'Brien is also the Chairman of both the Portland and South Portland MAC committees. He added that they meet for about an hour and a half each month finds himself spending most of his time talking about the BPC. O'Brien stated that most these folks do not even know what the BPC is and we need to be reaching out to these groups.
- There was consensus among other stakeholders present that more education outreach by the BPC would be helpful so the public would know about existing notification rules.
- Adams commented that most farmers who come and talk to us have a great communication with their neighbors, but those neighbors are not living in fear. He added that this is the fourth time he has heard that Portland and South Portland need help, and it is a great big ball of wax and that always comes back to education. Adams said that in Pluecker's case, if he had asked for notification, the drift may not have occurred.
- There was discussion about the IPM Council and them working with municipalities to on education to inform people. Patterson noted that the IPM Council meets twice each year and is all volunteer. Fish added that he supervises one of the people on the council and in order to do a lot more it would require resources, not just financial, but paid staff.
- Morrill stated that one of the Board's tasks this fall was to start an education campaign and we would like to see that move forward as much as possible.
- Spaulding commented that the BPC has a long history of complaints and agreements and we know farmers like Pluecker and others have been impacted economically by drift, and some have lost certification because of it.
- Morrill asked if there was documentation the Board could review regarding these incidences.

- Spaulding replied, absolutely, and added that she lived in Palermo and ended up moving because it is not all great communication between growers and their neighbors.
- Adams stated that we are trying to figure out how we can keep talking and understand each other better.
- Morrill stated that it sounded like there was a lot of backing for education out there. He asked that staff follow up with Pluecker on his drift complaint and find out how we could work to make it clearer who is responsible for the notification.

7. Schedule of Future Meetings

April 17, 2020; June 5, 2020; and July 24, 2020 are proposed meeting dates.
 Dates? September 18, 2020, Nov. 6, 2020

- Upcoming proposed meeting dates were: July 24, 2020; September 18, 2020 and November 6, 2020.
- There was a discussion about possible topics for the Board's 2020 Field Trip. Suggestions included water monitoring and mosquito monitoring, including trapping and the rearing lab at MMCRI.

8. Adjourn

- **Jemison?Adams: Moved and seconded to adjourn at 11:48am**
- **In Favor: Unanimous**