



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

December 1, 2023

9:00 AM Board Meeting

MINUTES

Present: Adams, Bohlen, Carlton, Ianni, Jemison, Lajoie, Neavyn

1. Introductions of Board and Staff

- Boyd, Bryer, Couture, Pietroski, Peacock
- Assistant Attorney General, Carey Gustanski

2. Minutes of the October 13, 2023 Board Meeting

Presentation By: John Pietroski, Acting Director
Action Needed: Amend and/or approve

- **Jemison/Lajoie: Moved and seconded to approve minutes as amended**
- **In Favor: Unanimous**

3. Funding Request for DACF IPM Program

The Integrated Pest Management Program is requesting funds to assist with ongoing efforts for the advancement of IPM in Maine. The Maine IPM Program works closely with the BPC to educate and promote IPM across the entire State of Maine, including giving talks annually for applicator credits across several categories, updating the GotPests website with new factsheets and research, and referring to the BPC website in all presentations and educational materials. While the IPM Program is supported, in part, by grant funding this funding is insufficient to support all outreach opportunities. The Board originally heard this request at their September 1, 2023 meeting and decided to table it until the budget could be reviewed. The IPM Program is requesting a grant of \$38,911 to support outreach and education in calendar year 2024.

Presentation By: Hillary Peterson, Ph.D., IPM Specialist
Action Needed: Discussion and decision to amend/approve/disapprove funding

MEGAN PATTERSON, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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- Peterson provided the Board with a memo detailing expenses needed for the IPM program. She explained that the monies listed for the Rodent Academy would be reimbursed by the fee for attendance to the academy. Peterson stated that the total ask that would not be reimbursed was \$27,801. There was an increase in the funding request for the mosquito monitoring program because more hours were needed for the mosquito monitoring intern.
- Adams stated that registrations were back up and projected numbers were reasonable. He asked if this line item had been added to the projected budget.
- Pietroski responded that the request was added under expenditures.
 - **Carlton/Jemison: Moved and seconded to approve funding request for DACF IPM Program**
 - **In Favor: Unanimous**

4. Workshop Session to Review the Rulemaking Record on the Proposed Amendments to Chapter 41

(Note: No additional public comments may be accepted at this time.)

On August 9, 2023 a Notice of Agency Rulemaking Proposal was published in Maine’s daily newspapers, opening the comment period on the proposed amendments to Chapter 20, 31, 32, 41. A public hearing was held on September 1, 2023 by a hybrid meeting in Deering Building 101 at 90 Blossom Lane, Augusta and on the Microsoft Teams platform. The written comment period closed at 5:00 PM on September 11, 2023. Nine people spoke at the public hearing and six written comments were received by the close of the comment period. The Board moved forward and voted to adopt Chapters 20, 31, and 32. The Board changed language in Chapter 41 related to acreage requirements for dealers and re-posted the proposed rulemaking to allow for public comment until November 24, 2023 at 11:59 PM. The Board will now review the rulemaking comments for Chapter 41 and determine how it wishes to proceed with the rulemaking proposals.

Presentation By: Karla Boyd, Policy & Regulations Specialist
 Action Needed: Discussion and determination on how the Board wishes to proceed with the rulemaking proposals

- At the previous meeting the Board had voted to go back out for comment regarding the acreage size limit for *Bt* corn seed detailed in Chapter 41.
 - **Lajoie/Carlton: Moved and seconded to accept as written**
 - **In Favor: Unanimous**

5. Update on Implementation of LD 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

At the September 1, 2023 Board meeting, staff brought forward a memo regarding the implementation of LD 1770. Bohlen agreed to join staff for a meeting with developers and licensed applicators/dealers that use Maine Pesticide Enforcement, Registration, and Licensing Software (MEPERLS) to discuss changes that would be needed to simplify the data entry process for annual reports. Staff will provide an update from these meetings. In addition, the Board discussed potential rulemaking to require electronic submissions of records. Staff will give a brief

update on the discussions at the sales and use meetings. These discussions will be included in the report on the implementation of LD 1770 is due to the legislature by March 1, 2024.

Presentation By: John Pietroski, Acting Director
Action Needed: Discussion

- Pietroski stated that this change was prompted by LD 1770 and Boyd would be preparing the legislative report that is due March 1, 2024. He outlined the details and persons who attended the last two meetings discussing use and sales changes. Pietroski stated there would be another upcoming meeting.
- Bohlen explained some of the types of errors that crop up in the data on a regular basis. He stated there needed to be clarity on the purpose of these data and the critical questions to be answered by it. Bohlen added that consideration must be taken regarding how to present the findings in a fair, honest and informative manner. He posed the suggestion of possibly reporting on the twenty most common actives used in the state. Bohlen added that it would be a fair amount of work to do to pull this together and there would be a lot of back and forth with the regulated community to get the the most accurate data possible.
- Bryer asked what the questions were that BPC staff should focus on trying to answer.
- Bohlen stated that that answer was fairly broad but staff should focus on how people are using pesticides, if there were trends in pesticide use and which pesticides were being used most often.
- There was discussion about the duplication of reporting if both applicator reports and dealer reports were counted. Bohlen stated that the two reports could not be added together.
- Patterson noted that the ACF committee was open to the fact that collecting these data electronically would be challenging.
- There was further discussion of the limitations of these data and the regulated community who are unable to comply with electronic reporting.
- Lajoie noted that much pesticide use was seasonal and some pesticides did not get used some years depending on weather patterns.
- Patterson explained those that could not submit an annual report would not be able to renew their license.
- Bohlen noted he would like the discussion about difficulties in entering electronically to be addressed in the rulemaking process. Other Board members agreed.
- Jemison stated it may be beneficial for the ACF Committee to hear this discussion.
- Adams stated that the Board needed to know the percentage of applicators that could submit electronically. He suggested staff reach out to those doing the reporting to find out what would be a hardship.

6. Draft Adjuvant Policy

At the February 24, 2023 Board meeting, the Board voted on developing a policy that excluded colorants as adjuvants following the implementation of PL 2022 c. 673 (130st Legislature LD 2019), which includes spray adjuvants in the definition of pesticides. At the July 21, 2023 Board meeting, the Board voted to implement a policy related to the distribution of adjuvants that were not previously registered in Maine. Additionally, there is a need to develop a policy regarding recordkeeping requirements for spray adjuvants. Staff have combined these concepts into one policy for consideration.

Presentation By: Karla Boyd, Policy & Regulations Specialist
John Pietroski, Acting Director
Action Needed: Discuss; approve/disapprove adoption by interim policy

- Staff brought forward a draft policy regarding reporting adjuvants and what products would be considered adjuvants.
- Adams noted that policy was non-enforceable, so it would need to be added into rule.
- Patterson stated that it may be clearer to state what regulations do not pertain to adjuvants.
- Adams stated he did not see the urgency in adopting this policy today and would like some time to review adjuvant labels.
- The Board discussed the details of what needed to be reported and how label violations of adjuvants would be handled.
- Adams asked staff to come back at the next Board meeting with either rulemaking and/or a policy regarding what would not be required for adjuvants.
- Bohlen had questions about which pieces needed to go through rulemaking and which could be done via policy.

- **Carlton/Jemison: Moved and seconded to table until next meeting**
- **In Favor: Unanimous**

7. Pesticide Regulatory Changes Announced by EPA regarding Bulletins Live! Two and the Endocrine Disruptor Screening Program

Board staff received a request to bring forth a discussion of several recently released “EPA Update” press releases. Bulletins Live Two is a web map service run by EPA that instructs pesticide applicators about geographic areas where applications must be modified or avoided. Applicators in Maine have not needed to make changes to applications based on Bulletins Live! Two until very recently. Additional focus on Bulletins Live! Two comes from its proposed role in implementing the changes to pesticide registration that have been recently proposed due to changes brought on by the Endangered Species Program. EPA has also announced a revitalization of the Endocrine Disruptor Screening Program (EDSP). The EDSP covers all chemicals under EPA’s authority; changes in this program are likely to affect pesticide registration review and re-review.

Presentation By: Pamela Bryer, PhD, Pesticides Toxicologist
Karla Boyd, Policy & Regulations Specialist
Action Needed: Discussion

- Boyd explained the documents provided to the Board regarding Bulletins Live! Two and the Pesticide Use Limitation Area, PULA, designated by EPA in part of Aroostook County. There will likely be more PULA’s in Maine in the future. She explained that EPA was evaluating pesticides in large groups rather than by specific active ingredients. The first group resulted in the Herbicide Strategy presented to the Board at the last meeting. The next groups were slated to be the insecticide and the fungicide strategies. Boyd stated there was an example label of one of the products in the Board packet that would be subject to the PULA and applicator’s would need to navigate to the Bulletin’s Live! Two website for further application direction.
- AV equipment in the meeting room was not functioning so Bryer was unable to present the prepared presentation to the Board regarding the Endocrine Disruptor Screening Program (EDSP). The Board agreed this would be better to present at a later date.

8. Update on Agricultural Container Recycling in Maine by Mark Hudson

At the September 1, 2023 Board meeting members expressed interest in receiving an update regarding the current landscape of agricultural container recycling in Maine. In response, staff spoke with Mark Hudson, Executive Director, of the Ag Container Recycling Council (ACRC). Hudson offered to give an update on agricultural container recycling.

Presentation By: Mark Hudson, Executive Director, Ag Container Recycling Council
Action Needed: Discussion

- Hudson explained the history of the Ag Container Recycling Council, ACRC, and presented a PowerPoint presentation to the Board. He explained that the program was not only for pesticide containers but for all agricultural containers, including fertilizers, adjuvants and more. After containers were properly rinsed, the goal of the ACRC was to store, collect, inspect, grind, and recycle the plastics into various end uses. The ACRC has collected over 240 million pounds since its inception.
- Hudson explained the current ACRC situation in Maine and explained the importance of proper container rinsing. He said dirty containers were the number one threat to the program. Hudson stated that ACRC collected approximately 10,000 containers in Maine in 2023 and had the low rejection rate of less than 1.6%, which was promising. He stated that ACRC was actively looking for additional collection sites in Maine. The current sites were at Nutrien, Helena, and Carovail.

9. Consideration of Consent Agreement with Green Shield Pest Solutions Saco, Maine

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 to resolve the matter. This case involved an unauthorized application, use of a pesticide inconsistent with the label and use of a pesticide in a negligent manner.

Presentation By: Alex Peacock, Manager of Compliance
Action Needed: Review and/or Approve

- Peacock stated that the company failed twice to notify the same person on the notification registry this year.
 - **Carlton/Jemison: Moved and seconded to approve the consent agreement**
 - **In Favor: Unanimous**

10. Other Old and New Business

- a. EPA request for comment on WHITE PAPER: Benefits of the Adoption of Structured Content and Digital Pesticide Labels

- b. EPA Update: EPA Issues Advanced Notice of Proposed Rulemaking for Public Comment to Seek Additional Information on Use of Pesticide Treated Seed and Paint
- c. EPA Update: EPA Releases Draft Biological Evaluations of Dinotefuran and Acetamiprid Effects on Endangered Species
- d. EPA Update: EPA Publishes New Webpage to Answer Frequently Asked Questions on the EPA/FDA Whitepaper on Modernizing Oversight of Products for Animals Regulated as Pesticides or New Animal Drugs
- e. EPA Update: The Coordinated Framework for the Regulation of Biotechnology
- f. EPA Update: EPA Proposes Updates to Strengthen the Safer Choice Standard
- g. EPA Update: EPA Approves Strengthened Pesticide Safety Plans for Certifying Applicators
- h. Article: Federal appeals court sides with agriculture on chlorpyrifos

9. Schedule of Future Meetings

January 10, 2024, February 23, 2024 and April 5, 2024 are the next scheduled Board meeting dates. The Board will decide whether to change and/or add dates.

Staff reserved Augusta Civic Center Kennebec/Penobscot Room for January 10, 2024; Marquardt Room 118 for February 23, 2024; and Deering Room 101 for April 5, 2024.

Deering Building Room 101 has been reserved for the following tentative dates: May 17, June 28, and August 16, 2024

Adjustments and/or Additional Dates?

11. Adjourn

- **Carlton/Jemison: Moved and seconded to adjourn at 11:50 AM**
- **In Favor: Unanimous**