



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

April 7, 2023

9:00 AM Board Meeting

Join the meeting in person in Room 101, Deering Building, 32 Blossom Lane, Augusta

Or

Join on your computer, mobile app or room device

[Click here to join the meeting](#)

Meeting ID: 222 929 323 631

Passcode: ogrs9g

Or call in (audio only)

[+1 207-209-4724,,74644805#](tel:+1207209472474644805)

Phone Conference ID: 746 448 05#

AGENDA

1. Introductions of Board and Staff
2. Minutes of the February 24, 2023 and March 15, 2023 Board Meetings

Presentation By: Megan Patterson
Action Needed: Amend and/or approve

3. Review of the Board Budget

In early 2017, the Board reviewed the budget with the goal of identifying potential resources that could be allocated to Board priorities. At that time the Board requested ongoing annual updates on the status of the Pesticide Control Fund.

Presentation By: Megan Patterson, Director

Action Needed: Provide guidance to the staff on Board budget priorities

4. Review and Discussion of Potential Rulemaking Topics

At its January 11, 2023, meeting, the Board expressed interest in initiating rulemaking to incorporate existing Board policy and other potential rulemaking topics. At the February 24,

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2023, meeting, staff provided a list of rulemaking ideas identified by Board members and staff. At the March 15, 2023 meeting the Board engaged in further discussion about prioritizing rulemaking concepts, but did not vote to move to rulemaking. The staff will present a summary of the March discussion, additional information on some rulemaking concepts, and a timetable of possible hearing dates for Board consideration.

Presentation By: Karla Boyd, Policy and Regulations Specialist

Action Needed: Discuss rulemaking concepts and possibly vote to schedule a hearing

5. Staff Memo on Proposed Water Quality Monitoring Related to Aerial

Executive Order 41 FY 20/21 directed the Board to develop a surface water quality monitoring effort to focus on the aerial application of herbicides in forestry to be conducted in 2022. In an effort to be responsive to this request and to accommodate what was a changing timeline for the completion of the EO request, staff conducted a small preliminary surface water quality monitoring pilot study in 2021. Staff proposed an expanded monitoring project for completion in 2022, but in the absence of additional funding chose to develop standard operating procedures and scout potential sampling sites. At the December 2, 2022, meeting staff provided an update on the progress on and challenges to completing the EO 41 water quality monitoring project. Following the completion of preliminary field assessments, staff propose a modified water quality monitoring project to be completed in 2023.

Presentation By: Pam Bryer, PhD, Pesticides Toxicologist

Action Needed: Review/discuss the project proposal; approve/disapprove the project proposal

6. Staff Memo on Clarification of Distribution

Chapter 20, Section 1(D) of the Maine pesticide rules, permits retailers and end users of pesticides no longer registered in Maine to continue to sell and use those items provided they were properly registered when obtained, and such distribution and use is not prohibited by FIFRA or other Federal law. Recent inquiries have highlighted confusion as to who qualifies as a retailer, and what “obtained” means when selling and using products that are no longer registered. Staff proposes clarifications of the rule for consideration by the Board.

Presentation By: Mary Tomlinson, Registrar and Water Quality Specialist

Action Needed: Discuss the memo; approve/disapprove adoption by interim policy

7. Staff Memo on Potential Cancellation of Special Local Need (SLN), Section 24(c) Registrations

For a Special Local Need (SLN), Section 24(c) registration to be approved and remain active through its registration period, the EPA Section 3 pesticide product on which the SLN is based must maintain current registration in Maine. In addition, the SLN application must also be submitted through the registration portal with the payment of the annual renewal fee. To date, seven SLNs are in jeopardy of cancellation either because they were never submitted through the registration portal and have not paid the renewal fees or because the product was not renewed for 2023.

Presentation By: Mary Tomlinson, Registrar and Water Quality Specialist

Action Needed: Informational only

8. Staff Memo on Possible Addition of Elongate Hemlock Scale to the Board's Policy on *Approved Invasive Invertebrate Pests On Ornamental Vegetation In Outdoor Residential Landscapes For Neonicotinoids Exemption*

Staff have received a request to add Elongate Hemlock Scale to the Board's existing policy on the use of neonicotinoids for the management of invasive invertebrate pests in outdoor residential landscapes.

Presentation By: John Pietroski, Manager of Pesticide Programs

Action Needed: Discuss the memo; approve/disapprove amendment of the interim policy

9. Consideration of Consent Agreement with BD Grass & Sons, Blaine, 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 failure to notify the Board of a spray incident.

Presentation By: Alex Peacock, Manager of Compliance

Action Needed: Review and/or approve

10. Consideration of Consent Agreement with Mosquito Deleto, Sandown, New Hampshire

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 unlicensed applicator, failure to maintain pesticide application records, and failure to post applications.

Presentation By: Alex Peacock, Manager of Compliance

Action Needed: Review and/or approve

11. Other Old and New Business

a. Update on 2023 pesticide product registration

b. Variance Permit for CMR01-26 Chapter 29, Maine Department of Transportation

c. Variance Permit for CMR01-26 Chapter 29, RWC, Inc.

d. Letter from Maine Organic Farmers and Gardeners Association (MOFGA) regarding recently collected pesticide product registration related affidavits and confidentiality

- e. Possible bill on use and sales reporting
- f. Update on container barrier treatments
- g. Other?

12. Schedule of Future Meetings

No additional meeting dates have been scheduled. The Board will decide whether to add dates.

The Board will also decide if future meetings will be remote, in-person or hybrid.

Adjustments and/or Additional Dates?

13. Adjourn

NOTES

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