



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

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

BOARD OF PESTICIDES CONTROL

May 12, 2017

**Room 118
Marquardt Building
32 Blossom Lane, Augusta, Maine**

AGENDA

9:00 AM

1. Introductions of Board and Staff

2. Minutes of the May 12, 2017 Board Meeting

Presentation By: Cam Lay
Director

Action Needed: Amend and/or Approve

3. Consideration of Three Plant Incorporated Protectants (PIP) for Late Blight Control in Potatoes

J.R. Simplot Company submitted registration requests for three new seed potato products that contain VNT1 protein and feature late blight protection. The Board toxicologist and the Chair of the PIP Technical Committee have reviewed the VNT1 protein technology and are prepared to present and discuss their findings.

Presentation By: Lebelle Hicks
Staff Toxicologist

John Jemison
Board Member and PIP Technical Committee Chair

Action Needed: Approve/Disapprove PIP Registration Request or Pursue a Medical Advisory Committee and/or a PIP Technical Committee Review of the Late Blight Resistant PIP Products

CAM LAY, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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4. Syngenta Crop Protection, Inc., Request for FIFRA Section 24(c) Registration for Callisto Herbicide on Lowbush Blueberries in the Bearing and Nonbearing Years

Syngenta Crop Protection, Inc. is requesting a Special Local Need [24(c)] Application to allow use of Callisto® herbicide for broadleaf weed control on low bush blueberries in the bearing and non-bearing years. This request is supported by Dave Yarborough, University of Maine Blueberry Extension Specialist. The expiring 24(c) for Callisto is for use in low bush blueberries during the crop-bearing year. Because the additional applications will be made in the non-bearing year, residues are expected to be below the established tolerance.

Presentation By: Mary Tomlinson
Pesticides Registrar

Action Needed: Approve/Disapprove 24(c) Registration Request

5. Loveland Products, Inc., Request for FIFRA Section 24(c) Registration for Malathion 8 Aquamul on Blueberries

Loveland Products, Inc. is requesting a Special Local Need [24(c)] registration to increase the maximum application rate of Malathion 8 Flowable agricultural insecticide to control spotted wing drosophila (SWD) on high and low bush blueberries. This request is supported by David Yarborough, University of Maine Blueberry Extension Specialist, and is based on economic considerations. The SLN is for the same rate as the current SLN for Gowan Malathion 8 Flowable.

Presentation By: Mary Tomlinson,
Pesticides Registrar

Action Needed: Approve/Disapprove 24(c) Registration Request

6. Arkion Life Sciences LLC Request to extend FIFRA Section 24(c) Registration for the Use of Avipel Hopper Box (dry) Corn Seed Treatment to Discourage Consumption of Corn Seed by Grackles, Black Birds, and Crows

Arkion Life Sciences LLC is requesting an extension of the Special Local Need [24(c)] registration for the use of Avipel® Hopper Box (dry) Corn Seed Treatment (anthraquinone) to reduce predation of corn seed by grackles, black birds, and crows. This extension is supported by Richard Kersbergen, University of Maine Cooperative Extension Corn Specialist.

Presentation By: Mary Tomlinson,
Pesticides Registrar

Action Needed Approve/Disapprove the Section 18 Emergency Exemption Registration Request

7. Overview of Pesticide Laws that Currently Pertain the Use of Unmanned Aircraft for Pesticide Application

At the March 2017 meeting, the Board discussed current pesticide regulations and their pertinence to the use of unmanned aircraft to apply pesticides. Following the March discussion, the Board requested that

staff invite Federal Aviation Administration staff to provide explanation of the current aviation regulations pertaining to use of unmanned aircraft for the application of pesticides.

Presentation By: Daniel Jockett,
FAA Aviation Safety Inspector

Action Needed: None—Informational Only

8. Continuing Discussion of Rulemaking Priorities

At an earlier meeting, the Board discussed undertaking rulemaking to address Section 5 of Chapter 29 concerning browntail moth. Rulemaking is time-consuming and expensive so a list of all potential rulemaking was developed and, at the last meeting, the Board pared that list down to Chapters 27, 29 and 36. The Board will now discuss whether to proceed with rulemaking and consideration of amendments.

Presentation By: Megan Patterson,
Manager of Pesticide Programs

Action Needed: Determine Whether to Initiate Rulemaking and Schedule a Hearing

9. Discussion of the Definition of Wetlands as it Pertains to Chapter 29 Section 6

Ron Lemin, Crop Production Services, has requested that the Board clarify whether the definition of wetlands in Chapter 29 Section 6(c): “dominated by emergent or aquatic plants” was intended to include dry areas which contain plants such as phragmites, cattails, purple loosestrife, etc. The Board will now discuss the attached memo and provide clarification on the intended interpretation of the definition of wetlands.

Presentation By: Megan Patterson,
Manager of Pesticide Programs

Action Needed: Provide Definition Interpretation Clarification

10. Discussion of Provision of Worker Protection Standard Handler and Worker Training by Licensed Agricultural Basic Pesticide Applicators

In June of 2016, staff submitted an equivalency request to EPA regarding certification requirements for trainers of handlers and workers as defined by the Worker Protection Standard (WPS). The equivalency request argued that the licensing and certification requirements for Maine Private Applicators of General Use Pesticides (ag basic applicators) exceed the federal standards for certification of private applicators certified to use restricted use pesticides. Agreement with this argument would allow licensed and certified agricultural basic applicators to train their workers/handlers in compliance with the WPS. The Board will now discuss the attached staff memo and equivalency request and determine whether to consider agricultural basic applicators suitably trained to provide training to workers and handlers as defined by the WPS.

Presentation By: Megan Patterson,
Manager of Pesticide Programs

Action Needed: Determine Whether to Consider Ag Basic Applicators as Equivalent to Private Applicators for the Sole Purpose of Training WPS Defined Workers and Handlers

11. Consideration of Consent Agreement with Goodall Enterprises DBA NaturaLawn of America of Bangor, Maine

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involves the unauthorized application of a pesticide by a commercial applicator.

Presentation By: Raymond Connors
Manager of Compliance

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

12. Consideration of Consent Agreement with Salmon Falls Resort & Golf Club LLC

The Board's Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on matters not involving substantial threats to the environment or public health. This procedure was designed for cases where there is no dispute of material facts or law, and the violator admits to the violation and acknowledges a willingness to pay a fine to resolve the matter. This case involves the commercial use of a pesticide by an unlicensed applicator.

Presentation By: Raymond Connors
Manager of Compliance

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

13. Request for Clarification of Minimum State-level Labeling Requirements for Minimum Risk (Section 25(b) of FIFRA) Pesticides

In 1996, EPA exempted minimum risk pesticides from federal regulation under section 25(b) of FIFRA. The Pesticide Control Act of 1975 has not been revised to reflect the new reality of minimum risk pesticides. Staff request that the Board provide definitive guidance on requiring the minimum protective language of "caution" and the Child Hazard Statement for all pesticide products registered in Maine.

Presentation By: Cam Lay
Director

Action Needed: Approve/Disapprove Proposed Minimum Label Language

14. Election of Officers

The Board's statute requires an annual election of officers. The members will choose a chair and vice-chair to serve for the coming year.

Presentation By: Cam Lay
Director

Action Needed: Nominations and Election of Officers

15. Other Old or New Business

- a. Board fund report
- b. Homeowner outreach update
- c. Revised biological policy pertaining to browntail moth control
- d. Email and article submitted by Heather Spalding
- e. Email and letter submitted by Lynn Hower Allen
- f. Email and articles submitted by Heather Spalding
- g. CMP 2017 Foliar Herbicide Plan
- h. Asplundh variance
- i. RWC variance
- j. Woodland Club variance

16. Schedule of Future Meetings

June 23, 2017 and August 4, 2017 are tentative Board meeting dates. The Board will decide whether to change and/or add dates.

- The August 4, 2017 meeting will be held in Fairfield

Adjustments and/or Additional Dates?

17. 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.