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GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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COMMISSIONER
HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

May 13, 2016

AMHI Complex, 32 Blossom Lane, Marquardt Building, Room 118, Augusta, Maine

MINUTES

8:30 AM

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

1. Introductions of Board and Staff

- The Board Staff, and AAG Mark Randlett introduced themselves
- Staff Present: Chamberlain, Connors, Couture, Hicks, Jennings, Tomlinson

2. Minutes of the March 25, 2016 Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

- Minutes were not available for review in time

3. Overview of Mosquito-borne Diseases and Monitoring in Maine

The Maine Center for Disease Control and Prevention (Maine CDC) coordinates state activities around preventing vector-borne diseases. As part of its responsibilities, the CDC coordinates mosquito and disease monitoring in Maine. The presence of mosquito-borne diseases and the species of vector mosquitoes present in Maine have been on the rise in recent years. Sara Robinson of the Maine CDC will provide an overview of the trends and the state's monitoring program.

Presentation By: Sara Robinson, MPH
Epidemiologist, Maine Center for Disease Control and Prevention

Action Needed: None – Informational Only

- Robinson explained how the Maine Center for Disease Control (CDC) monitors and where they would like to go in the future. She also gave an overview of mosquito-borne diseases Eastern Equine Encephalitis (EEE) and West Nile Virus (WNV). They found two positive pools last year for EEE and WNV and both were in York county.

- Morrill asked what the budget is for testing in 2016. Robinson stated it is still to be determined. They will receive their funding from the federal CDC on July 1, so they plan their monitoring a year in advance. Last year they received \$20,000, and from the BPC they received \$25,000. Robinson stated they may receive more funding because of Zika, but that would be for use in 2017. Robinson also mentioned it takes time for those funds to filter down to the states and because we are not in a Zika endemic area, our state will get a smaller percentage of the money.
- Eckert asked Robinson about Zika testing. Robinson stated that for Zika it makes more sense to test humans, because they are likely to find it in humans earlier rather than in mosquitos. They would increase testing of people who travel to infected countries. For EEE and WNV, they would look for infected mosquitoes. The mosquitoes they are currently looking for are evening biters and the Zika carrying mosquitoes are day biters, so they would not be caught in the traps.
- Morrill suggested doubling the \$25,000 contribution to mosquito pool testing. Morrill stated if homeowner education is the focus, this dovetails nicely.
- Morrill asked Jennings if there are funds available for the upcoming year. Jennings stated that there are and the Board is in a strong position to allocate funds, especially before June 30. Jennings stated that mosquito monitoring is very important, and it can prevent disease just by providing the public with timely information on the disease threat, and it doesn't require spraying. There is a lot of concern around spraying for mosquitoes.
- Bohlen states they need to think long term and that any type of monitoring tends to be forever. There is a difference between short term need and long term commitments and Bohlen states the Board needs to be clear on which they are doing. Bohlen states he would back one year and then look at where they are.
 - **Morrill/Jemison: Moved and seconded to approve a one year increase in funding to \$50,000 to the Maine CDC for monitoring mosquitoes**
 - **In Favor: Unanimous**

4. Review and Discussion of Board Homeowner Education Efforts and Available Funding

Over the last several months, the Board discussed various ideas and approaches for improving education of homeowners on the use of Integrated Pest Management and the proper use of pesticides. The Board subsequently directed the staff to make homeowner education a priority for 2016. The staff will provide an update to the Board about recent activities and discuss additional ideas and available funding.

Action Needed: Determine next steps

- Jennings provided an overview of recent homeowner education efforts. He stated this has been a rather hectic period for staff for a variety of reasons. The move has been incredibly disruptive and they are in crunch time on the IT project. Additionally, Gary took a new job and the staff has been trying to fill in for him.
- Jennings mentioned that staff have written a Homeowner Guide to Managing Ticks that was going to go to press, but because of its length they decided to use as more of a resource on the website and as publicity for the Tom Mather talks on May 4. The Mather talks were not exactly as anticipated. The intention had been to have him focus more on landscaping to reduce tick friendly habitat.

- Eckert stated that Mather focused more on individual efforts to protect oneself. She added he has an interesting way to identify ticks and mentioned Mather's Tick ID website where he identifies ticks and how long they have been attached onto an individual.
- Jennings stated that people who attended the talks thought they were great and they were appreciative. There were about 100 people in Falmouth and 27 in Wells. The audience was very engaged at both places.
- Jennings stated one idea discussed by staff was to break up some of the messages in the larger article and submit it as smaller articles. There are not as many articles about landscape modification, which can be quite effective.
- Jennings went to Rockport and gave a talk that started as best management practices and morphed to natural practices for lawns and gardens. Hicks and Sarah Robinson attended a Lyme Disease forum in Wiscasset, where there were about 350 people in attendance. Chamberlain and Patterson spoke at McLaughlin Gardens. Tomlinson and Hicks will attend a camping expo at LL. Bean's this weekend. There are two talks in Harrison tomorrow. Jennings and Tomlinson will also be speaking at two sub-committee meetings in South Portland.
- Jennings stated they have some other ideas they are working on. These include several talks ranging in topics from lawn IPM to mosquitoes. There are plans to host some talks at garden centers and Wells and Falmouth are both anxious to have the BPC come back.
- Jennings stated there has been discussion about developing YouTube videos around the same topics as the talks. Bohlen stated they have someone who does videos for them and it is not expensive. Jemison stated that landscape issues seem like a suitable topic for YouTube videos.
 - **Consensus was reached to revisit the topic at the next meeting and the staff should be prepared to give an update.**

5. Consideration of the EPA Special Local Need [FIFRA Section 24(c)] request to extend the use of Bravo ZN, EPA Reg. 50534-201 and the State Supplemental Special Local Need (SLN) [FIFRA Section 24(c)] request to extend the use of Bravo ZN, EPA Reg. 50534-201-100 for control of late blight (*Phytophthora infestans*) in long-season potatoes

The Special Local Needs (24c) request to extend the use of Bravo ZN (EPA Reg. No. 50534-204-100) limits use to long-season potatoes during epidemics of severe late blight (*Phytophthora infestans*). The request is in response to high levels of late blight present in recent growing seasons in Maine, according to Steve Johnson, Ph.D., Crops Specialist, at the University of Maine Cooperative Extension. The continued use of this product at the higher rate will permit growers the needed flexibility to respond more effectively during unique growing conditions that promote late blight. Both the primary SLN and the state supplemental SLN for Bravo ZN are hereby submitted for the Board's approval.

Presentation By: Mary Tomlinson
Pesticide Registrar

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

- This SLN registration request was originally approved five years ago. This application is for an extension of that, and also to approve a state supplemental Special Local Needs on the primary and supplemental labels for late blight. The product has been effective against late blight.
- Eckert asked if there is going to be a full FIFRA Section 3 label for this. Tomlinson stated they are working towards getting a label, but it will be awhile because EPA requested additional data.

- Granger asked if any concerns have come up in the last five years. Jemison stated that he does not think anyone has come close to the maximum allowed. He agrees with Steve Johnson that no one is going to apply anything that is not needed.
 - **Granger/Jemison: Moved and seconded to extend the registration of Bravo ZN, EPA Reg. 50534-201 and approve the State Supplemental Special Local Need (SLN) [FIFRA Section 24(c)] request to extend the use of Bravo ZN, EPA Reg. 50534-201-100 for control of late blight (*Phytophthora infestans*) in long-season potatoes.**
 - **In Favor: Unanimous**

6. Consideration of the EPA Special Local Need [FIFRA Section 24(c)] request for the use of Omega 500F Fungicide, EPA Reg. 71512-1 and the State Supplemental Special Local Need (SLN) [FIFRA Section 24(c)] request to extend the use of Omega 500F Agricultural Fungicide, EPA Reg. 71512-1-100 as an in-furrow, banded spray on potatoes at planting for control of powdery mildew scab.

The Special Local Needs (24c) request for the use of Omega 500 F Agricultural Fungicide (EPA Reg. No. 71512-1-100) would allow the use of the product as an in-furrow, banded application in potatoes at planting for control of powdery mildew scab, *Spongospora subterranean* f. sp. *Subterranean*, which can render affected crops unsaleable and transmit the potato mop top virus. Steve Johnson, PhD, from the University of Maine Cooperative Extension has submitted a letter of support. Both the primary SLN and the state supplemental SLN for Omega 500F Agricultural Fungicide are hereby submitted for the Board’s approval.

Presentation By: Mary Tomlinson
Pesticide Registrar

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

- Tomlinson stated this request came not from Johnson, but from Syngenta.
- Hicks had some concerns that the compound has some reproductive toxicity and evidence of carcinogenicity. Also, she stated the labeled uses, with the exception of *Brassicas*, are all foliar, including for potatoes. The only label directions for incorporation into soil is for *Brassicas* and turnip. Tim Hobbs was asked what the potatoes would be used for, and he said chipping stock. If the concern is infants, chipping potatoes are peeled and infants are not going to eat potato chips, so exposure is unlikely to happen. Hicks is no longer sure this is an issue. Hicks also stated it would not get into the tuber through an in-furrow application.
- Bohlen asked what is it about these varieties that makes them worth planting even though they’re susceptible. Hobbs replied they are bred specifically for frying as chips. Hobbs also states that chipping varieties are thin skinned which makes them susceptible to fungi.
- Morrill states the Board would like to receive a report from Syngenta and Steve Johnson in two years.
 - **Granger/Jemison: Moved and seconded to approve the Special Local Needs (24c) request for the use of Omega 500 F Agricultural Fungicide (EPA Reg. No. 71512-1-100) that allows the use of the product as an in-furrow, banded application in potatoes at planting for control of powdery mildew scab**
 - **In Favor: Unanimous**

7. Consideration of a Consent Agreement with Moark of Turner, ME

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 involves the use of a product inconsistent with the product label.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors stated there was an issue of fly bait being used extensively and possibly draining into a stream. The inspector could not verify runoff into the stream. There was also an issue of improper protective clothing. The label calls for the applicator to wear waterproof gloves and the bait was applied with leather gloves.
- Connors stated the company's position is that the label does not specify that product has to be evenly distributed. Consequently, the application was not inconsistent with the label. The label does say particles must be one to two inches apart, and they clearly were not.
 - **Jemison/Eckert: Moved and seconded to approve the consent agreement negotiated by staff**
 - **In Favor: Unanimous**

8. Consideration of a Consent Agreement with Kendall Cooper of Buckfield, ME

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 involves the purchase of restricted-use pesticides by an unlicensed person.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connor stated this case involves the purchase of Blue Max Herbicide by Kendall Cooper in May 2015 to treat forage corn. Cooper was licensed at one time, but was not licensed at time of purchase. The dealer did not ask to see a license for the purchase of the restricted use pesticide
- Morrill asked if there is a consent agreement for the store that sold the herbicide to Cooper. Connors replied that he is working on resolving it.
 - **Jemison/Stevenson: Moved and seconded to approve the consent agreement negotiated by staff**
 - **In Favor: Unanimous**

9. Consideration of a Consent Agreement with Orkin Exterminating Company Inc. of Portland, ME

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 involves an unauthorized pesticide application.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors stated that two products were applied by an Orkin applicator to the exterior of the wrong residence. The intended residence was several houses down. Orkin reported the incident prior to the homeowner calling us. Orkin offered to mitigate the misapplication by offering to remove all soil that the pesticide had come in contact with and replace it. Bifenthrin and a botanical pyrethroid insecticide were the two products applied.
- Jemison asked if Orkin has since discussed how they are going to correctly identify target sites going forward. Connors stated that Orkin held a group meeting and went over their policy. They told the employee he would be terminated if the same type of incident occurred again.
 - **Eckert/Jemison: Moved and seconded to approve the consent agreement negotiated by staff**
 - **In Favor: Unanimous**

10. Consideration of a Consent Agreement with Sports Fields Inc. of Monmouth, ME

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 involves pesticide applications to a school's fields without following several requirements of Chapter 27.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors stated that this consent agreement involves Sports Fields Inc., which is a company that makes applications to school sports fields throughout the state. At more than one school, the IPM coordinators were not provided with the required records from Sports Fields detailing applications that Sports Fields made. There were four School IPM inspections conducted that showed this violation.
- Bohlen stated our goal is to encourage compliance. When we see repeat offenses we tend to make the fine higher. If schools are this company's niche they should know how to comply. Let's watch them for a while, and make sure they are doing what they should. We need to send a signal that it's serious, and let them know we're going to be checking.
 - **Jemison/Granger: Moved and seconded to approve the consent agreement negotiated by staff**
 - **In Favor: Unanimous**

11. Consideration of a Consent Agreement with Black Bear Lawn Care of Orono, ME

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 involves a commercial pesticide application by a company with no licensed applicators.

Presentation By: Raymond Connors
Manager of Compliance

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

- Connors stated this consent agreement is in response to Black Bear Lawn Care making unlicensed spot treatments of herbicide at Walgreens stores. Connors stated the company has been paying on a payment plan and has taken several months to pay.
 - **Eckert/Stevenson: Moved and seconded to approve the consent agreement negotiated by staff**
 - **In Favor: Unanimous**

12. Other Old or New Business

- a. Letter from Board to the Joint Standing Committee on Appropriations and Financial Affairs
The bill essentially died. Jennings met with Jim Dill. The way the bill ended up was not what was intended.
- b. South Portland proposed Pesticide Ordinance
Mary is speaking to the South Portland Conservation Commission in June. Jennings will also be speaking with them on Monday. Hicks stated Portland is putting together a committee. Morrill stated Portland passed a policy requiring IPM on city-owned land
- c. Harpswell Outdoor Pesticides Control and Fertilizer Use Ordinance
- d. Email from Nancy Oden
- e. Other?

13. Schedule of Future Meetings

July 1, August 19, November 4, and December 16, 2016 are tentative Board meeting dates. The August 19 meeting is tentatively a field trip. There is a discussion about a possible September 23 meeting in Unity. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

14. Adjourn

- **Jemison/ Granger: Moved and seconded to adjourn at 11:10 am**
- **In Favor: Unanimous**

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 Chamberlain, at the Board's office or anne.chamberlain@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.