



JOHN ELIAS BALDACCI  
GOVERNOR

STATE OF MAINE  
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES  
BOARD OF PESTICIDES CONTROL  
28 STATE HOUSE STATION  
AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III  
COMMISSIONER  
HENRY S. JENNINGS  
DIRECTOR

**BOARD OF PESTICIDES CONTROL**

**June 13, 2008**

John E. Dority Safety & Performance Training Center (Conference Room, Lower Level)  
10 Mountain Avenue (off Route 201 going toward Skowhegan), Fairfield  
(Exit 133 from I-95)

**MINUTES**

**9:30 AM**

Present: Simonds, Jemison, Eckert, Walton, Stevenson, and Qualey

1. Introductions of Board and Staff

The Board members and staff introduced themselves.

2. Minutes of the May 2, 2008, Board Meeting

Presentation By: Henry Jennings  
Director

Action Needed: Amend and/or approve

Qualey/Simonds: Moved and seconded approval of the minutes.

In favor: Unanimous

3. DuPont Request for 24(c) Registration for DuPont™ Coragen® Insect Control on Potatoes

At the request of University of Maine Cooperative Extension Crops Specialist James Dwyer, E. I. DuPont de Nemours and Company is requesting a Special Local Need [24(c)] Registration to allow the use of DuPont™ Coragen® insect control for Colorado potato beetle, cabbage looper, and European corn borer in potatoes. This product would provide an alternative to the neonicotinoid-based insecticides to which some insects, including the Colorado potato beetle, have developed resistance.

Presentation By: Wesley Smith  
Pesticides Registrar

Action Needed: Approve/Disapprove 24C Registration Request

- ☑ Smith briefly introduced the subject, pointing out the request was put forward by Jim Dwyer of the Cooperative Extension. Coragen offers a different mode of action to help address resistance that has begun to develop to the neonicotinoids. Simonds inquired about the difference between Coragen and Altacor. Altacor is registered for use on potatoes and contains the same active ingredient. Tim Hobbs of the Maine Potato Board responded, stating that Altacor is more expensive, since it is priced for the fruit and nut market, and supplies in the east are very limited. Having the option of using Coragen addresses both of those concerns.

Eckert asked about the mode of action for the active ingredient rynaxypyr. Hicks stated the active ingredient in Coragen is a selective activator of insect ryanodine receptors. It works in the muscles by releasing calcium at inappropriate times.

Qualey/Jemison: Moved and seconded that the 24(c) application be approved.

Peter Aldridge of Jonesboro asked about bee toxicity. Hicks stated the bee toxicity is 100 milligrams per bee. Tony Jadczyk, the State Apiarist, stated that 100 milligrams per bee equates to a low bee toxicity. Hicks added that there is no bee warning on the label.

In Favor: Unanimous

#### 4. Consideration of DEP Concerns About Runoff from Lawn Pesticide Applications

John Glowa of the Maine DEP investigated a complaint about a lawn application of pesticides at a set of condominiums near the ocean in Lincolnville. Glowa's investigation revealed that pesticides were applied in a variety of areas directly adjacent to culverts, storm drains, and other drainage areas. The application conformed with the Board's 25-foot setback to surface water, but may have conflicted with the Turf BMPs.

Presentation By: Gary Fish  
Manager of Pesticides Programs

Action Needed: Determine whether changes are warranted to the Board's existing rules/BMPs

- ☑ Fish briefly reviewed the Glowa memo that described a granular application of a weed-and-feed product to turf areas surrounding a set of condominiums near the ocean in Lincolnville. The memo included pictures showing granules applied onto several drainage areas, such as adjacent to a storm drain, a culvert, a ditch, and a well. Glowa's memo raised questions about BPC laws pertaining to pesticide applications likely to drain into surface water. Fish stated the application complied with the new Chapter 29 setback requirement, but may have conflicted somewhat with the Turf BMPs.

Brian Kavanah, Robert Stratton, and John Glowa from DEP were all present. Lynn Barnard, who filed the complaint with the DEP, was also present. Kavanah pointed out that a pesticide application may be in compliance with BPC requirements but still run afoul of DEP laws. He explained that DEP's purpose was to bring the issue to the Board's attention with the idea of

working collaboratively with the Board and staff over the coming years to conduct educational and outreach, or revise the current rules or BMPs. Kavanah expressed alarm at the USGS research data showing that 83% of samples from streams draining urban landscapes had pesticide detections that exceeded an aquatic life criterion.

Simonds explained the difficulty of trying to regulate drainage areas. He pointed out the landscape is inundated with minor waterways at certain times of year. He asked the staff how the recent Turf BMPs would apply to the complaint. Fish stated there was language about leaving granules adjacent to storm drains, etc. Jemison suggested that the high cost of fuel may curtail the amount of turf applications in the future.

Robert Stratton applauded the work of the BPC in developing the Turf BMPs. He said that the DEP enjoyed an excellent working relationship with the BPC on water issues. Stratton suggested the problem comes when the more persistent materials are used outdoors in areas where runoff is likely to occur.

Kavanah pointed out that the BPC definition of a stream left out many waterways. Simonds stated that was by design. Lynn Barnard stated she believed there would be a second application of herbicides at the condominiums in the fall. This would result in a double dose of chemicals mixing in the bay. Board members questioned whether there may have been any label violations and said the BPC should conduct its own independent investigation to see if any pesticide violations occurred.

Discussion continued on the topic for some time, leading toward a consensus to direct the staff to work with DEP on educational and outreach opportunities in the short term, with a long-term view toward seeking consensus on some additions to the Turf BMPs and possibly revisiting Chapter 29 in the future.

5. Discussion About When to Reestablish the Medical Advisory Committee

The three-year terms of all six members of the Board's Medical Advisory Committee (MAC) have all expired. There have been no occasions for human health pesticide risk assessments since 2001, when the MAC reviewed mosquito-control products in view of a potential West Nile Virus outbreak. The Board will discuss whether to reestablish the MAC now or wait until there is a specific need.

Presentation By:      Lebelle Hicks  
                                 Staff Toxicologist

Action Needed:        Decide when to reestablish the MAC

- Eckert explained that the MAC had not met in five or six years and that one member had retired from his academic position and left the state. The current MAC is a standing committee of six members. Hicks stated that the three-year terms had expired for all the existing members. She asked if it was appropriate to reconstitute the MAC now or wait until there is a human health issue requiring review.

Jemison suggested waiting until an issue arises. Simonds asked why it was necessary to have terms for the MAC members. This led to a discussion about amending the MAC Policy to call for three standing members with ad hoc members added as needed. Board members also suggested dropping the “terms” provision for the standing members.

Consensus was reached to ask Hicks to redraft the MAC Policy to call for three standing members with a provision for adding ad hoc members and no provision for terms.

6. Continued Discussion About Approaches to Address Public Concerns About Aerial Spraying

The Board held a Public Information Gathering Meeting on aerial spraying and spray drift at its December 2007 meeting, and has discussed issues and ideas at each of its meetings since then, including site planning and sensitive areas. The Board has indicated that buffers will be the next topic for discussion and the staff has prepared a memo to introduce this subject. The Board will now review the staff memo and continue its discussion about aerial spraying and drift.

Presentation By:       Lebelle Hicks  
                                  Staff Toxicologist

Action Needed:         Provide feedback to the staff about the information presented and determine the next steps

- Hicks introduced the topic with a brief overview of the staff memo, pointing out the staff was advocating a three-pronged approach to preventing drift: a minimum setback to Sensitive Areas Likely to Be Occupied (SALOs), a standard of harm, and specific best management practice for aerial spraying. Jennings expanded on the staff logic for not relying on buffer zones as the primary mechanism for deterring off-target drift. The number of variables involved in the airborne movement of particles does not lend itself to determining a fixed number set in rule. Arbitrary buffers would either be too small to be effective in many cases or too large to be practical.

Simonds observed there were no unconditional buffers cited in the state laws that the staff had attached. He suggested the Board should propose a minimum buffer, knowing that the agricultural community may have concerns. Jemison was interested in seeing buffer zone requirements for all 50 states. Simonds thought it was more important to see information on the differences between states. After a short discussion, the Board reached consensus that minimum buffers should only apply to sensitive areas, but not necessarily to another property.

Simonds suggested there are three circumstances that must be defined in relation to a minimum buffer for aerial spraying:

- No sensitive areas within 200 feet—no buffer required
- Sensitive area within 200 feet—200-foot minimum buffer required
- SALO within 200 feet—at least 200-foot buffer required, depending on circumstances

Eckert questioned whether 200 feet was adequate in all circumstances. She suggested there may be some SALOs that are more sensitive than others. David Bell advocated for a performance-based

standard. Walton observed that it was important to protect organic farmers and public water supplies. Stevenson reminded participants that SALOs are what is driving this issue.

Board members ultimately endorsed the conceptual framework put forward in the staff memo. They directed the staff to solicit additional feedback from stakeholders. Jennings asked what the next steps were. Board members asked to see some ideas on standards of practice and record keeping. The staff should then add details to the previous work for one more review prior to developing a draft rule.

7. Correspondence from Nancy Oden Regarding Pesticides and Bee Mortality

Nancy Oden of Jonesboro addressed an e-mail to the Board with a short message and an article concerning the suspension of the approval of eight neonicotinoid seed-treatment products by the German government after the “mass death” of bees was attributed to these pesticides. The Board will consider this correspondence and determine an appropriate response.

Presentation By: Henry Jennings  
Director

Action Needed: Determine appropriate response

- Jennings explained that Nancy Oden often contacts the Board’s office during spray season to express concerns about pesticide use. In this instance, Oden urged the Board to take action on a group of pesticides to protect bees. Jennings asked if the Board believed it was appropriate to take any action in response to the Oden request.

Jemison discussed the German incident cited by Oden in her e-mail. He pointed out that it was caused by dust from a seed treatment. Reportedly a sticking agent had not been used to adhere the seed treatment to the seed. All treated seed in the U.S. has a sticking agent.

Anthony Jadczyk, the State Apiarist, stated there are a number of factors involved in Colony Collapse Disorder (CCD). Penn State and the USDA are taking the lead in researching the problem. Jadczyk stated there is conflicting evidence on the causes of CCD. He said the German incident resulted in dead bees next to the hives, which is unlike CCD. Jadczyk stated that bee keepers are always concerned about systemic pesticides and that synergism between pesticides is also a concern. He emphasized that mites and the viral complex associated with them is the biggest problem for bees currently. The pesticides that are used to control the mites are losing their effectiveness. Other stresses on bee colonies arise from the transient manner in which bees are used and the monocultures they feed upon.

After a brief discussion, Board members summarized their current position as follows:

- EPA is the principle regulatory body with regard to pesticide registration, since the BPC does not have the scientific resources to conduct comprehensive risk assessments on the 8400 products registered for use in Maine.
- The German incident is atypical of CCD because the dead bees were near the hive.

- Banning neonicotinoids would lead to increased use of more acutely toxic insecticides such as organophosphates.
- Treated seed is considered a treated article and the BPC does not have jurisdiction over treated articles.
- There is a lack of consensus among members of the scientific community as to the causes of CCD, therefore it is inappropriate to take action at this time.

8. Other Old or New Business

a. Variance Requests Approved for Chapters 22 and 29—H. Jennings

- Jennings alerted Board members to the variances that had been issued pursuant to Chapter 22 and Chapter 29.

b. Other?

- Fish updated the Board with news that plans are in place to plant over 1000 plants at the Back Cove Yardscaping Demonstration Project on the Back Cove in Portland on June 26 and 27.

Jemison inquired about the status of Montville’s ordinance to ban GMO crops. Jennings stated the ordinance adoption did not comply with the requirements of the Board’s statutes. He said Commissioner Bradstreet planned to set up a meeting with the selectmen to explain what needs to be done for the ordinance to be enforceable.

9. Schedule and Location of Future Meetings

August 1, September 12, and October 17 are the tentative dates for the next Board Meetings. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

- No changes or additions were made

10. Adjourn

- Jemison/Qualey: Moved and seconded that the meeting adjourn at 1:43 PM.

In Favor: Unanimous