



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

August 1, 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: Eckert, Walton, Jemison and Simonds (via speaker phone)

1. Introductions of Board and Staff

The Board and staff introduced themselves.

2. Minutes of the June 13, 2008, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

Jemison/Walton: Moved and seconded approval of the minutes

In Favor: Unanimous

3. Introduction of Tamas Peredy, Director of the Northern New England Poison Center

Tamas Peredy, MD, is the current Medical Director of the Northern New England Poison Center. Dr. Peredy will serve on the Medical Advisory Committee when it is reformed. He would like an opportunity to meet the Board, introduce himself, and discuss issues common to the BPC and the Poison Center.

Presentation By: Lebelle Hicks
Staff Toxicologist

Action Needed: None, Informational

Eckert introduced Dr. Tamas Peredy, Director of the Northern New England Poison Center (NNEPC), and noted that the BPC has a long history of collaborating with the NNEPC on tracking incident data. Dr. Peredy addressed the Board stating he is an emergency room physician and a toxicologist. He said he had no expertise in pesticide application, and instead would rely on the

BPC's expertise in this area. The Poison Center receives about 300 calls per day. Dr. Peredy splits oversight of the Poison Center with Dr. Karen Simone. Hicks added that the Poison Center Director has historically served on the Medical Advisory Committee.

Board members asked questions on the types and number of calls related to pesticides and the regional distribution. Peredy stated they get a lot of calls on pharmaceuticals, and tend to get more calls per capita from the rural areas since there are fewer other resources available. He suggested they may average one call per day on pesticides, although the pattern varies seasonally.

Eckert asked how the BPC could be of assistance. Peredy suggested that working collaboratively on incident data collection would be beneficial. He also noted that medical professionals receive virtually no training on pesticides and that training provided by the BPC has been helpful.

4. Revisions to the Board Policy for the Medical Advisory Committee

At its June 13, 2008, meeting, the Board reviewed its policy covering its Medical Advisory Committee. At that time, Board members decided it was appropriate to revise the current policy to call for three standing members, with a provision for adding ad hoc members as needed, and to eliminate the provision for terms. The staff toxicologist has prepared a draft revised policy for the Board's consideration.

Presentation By: Lebelle Hicks
 Staff Toxicologist

Action Needed: Approve/Amend Revised Policy

- Hicks provided an overview of the proposed revisions to the Board policy establishing the Medical Advisory Committee (MAC). The revised policy reduces the number of standing committee members from six to three and allows for the addition of ad hoc members as needed. Eckert commented that the MAC had not met in recent years, but had been active several years ago. She also said the Board generally relies on EPA's process for comprehensive risk assessments, and has used the MAC for issues specific to Maine. Hicks inquired if the proposed revisions should be amended to specify that the standing members would include the Medical Director of the NNEPC or his designee, to be consistent with the description of the member from the Maine CDC. Board members agreed this change made sense.

Jemison/Walton: Moved and seconded approval of the revised policy as amended

In Favor: Unanimous

5. DuPont Request for 24(c) Registration for DuPont™ Express® Herbicide with TotalSol for Control of Bunchberry in Lowbush Blueberries

At the request of University of Maine Cooperative Extension Crops Specialist David Yarborough, E. I. DuPont de Nemours and Company is requesting a Special Local Need [24(c)] Registration to allow the use of DuPont™ Express® Herbicide with TotalSol (soluble granules) on lowbush blueberries. The Special Local Need label for Express Herbicide would allow for selective postemergence control/suppression of certain broadleaf weeds, primarily bunchberry.

Presentation By: Wesley Smith
Pesticides Registrar

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

- Smith introduced the subject and alerted the Board to an update in the application. Since there is no tolerance for tribenuron-methyl on blueberries, the product must be applied at least 365 days before harvest. So growers will need to apply the product after harvest which will provide close to a two-year interval between application and harvest.

David Yarborough, Extension Blueberry Specialist, stated that bunchberry has been a problem for a large number of growers. Bunchberries prevent blueberries from colonizing areas that they otherwise would colonize. The Canadian version of tribenuron-methyl has been used on blueberries for ten years in Canada. Having the product available for Maine growers would help keep them competitive.

Jemison cited concerns he had about the lack of affinity of the active ingredient to bind to soil particles, which was echoed by Simonds. This concern is exacerbated by the predominance of coarse soils in many blueberry growing areas of the state. A long debate ensued about the scientific evidence available to address this concern. Concerns about bees and foraging mammals were also expressed.

Board members discussed a number of options for approving the request in a manner that allows the Board to address the groundwater concern, such as one-year approval, an approval contingent on certain data being provided to the Board or approval with requirements for applicator training. Ultimately, none of these options proved satisfactory to the Board.

Jemison/Walton: Moved and seconded that the matter be tabled to allow for review of additional data.

In Favor: Unanimous

6. Discussion of Board Process for Reviewing Monsanto Company's Registration Request for MON 89034 and MON 89034 × MON 88017

Monsanto Company has submitted registration requests for MON 89034 and MON 89034 × MON 88017. The second-generation genetic event, MON 89034, codes for two not-yet-registered Cry proteins which may be sold in either field corn or sweet corn seeds. The MON 88017 genetic event was registered earlier this year in Yieldgard VT Rootworm and Yieldgard VT Triple corn varieties. Since Maine has not yet registered any Bt sweet corn products, the staff is seeking input on the appropriate course for reviewing these registration requests.

Presentation By: Lebel Hicks
Staff Toxicologist

Action Needed: Determine Appropriate Registration Review Approach

- ☑ Hicks explained that the Monsanto request involves one event that combines two proteins and one event involves an already reviewed protein combined with a gene for glyphosate tolerance. These events may eventually be included in either field corn or sweet corn seeds. Since Maine has not yet approved registration of any Bt sweet corn products, Board members discussed what sort of review would be appropriate. Concern was also raised about the lack of a refuge required for sweet corn.

Lauchlin Titus explained that sweet corn is harvested earlier than field corn. In addition, the total Maine acreage is only about 3000 acres that is spread out into small fields across the state. The largest Maine grower plants only about 120 acres. There are generally alternate hosts near the sweet corn plantings also. The sweet corn label would require that corn stalks be destroyed with rotary mowing, disking or plow-down within one month of harvest.

Logan Perkins and Peter Aldridge also expressed concern about the use of Bt sweet corn in Maine. Aldridge said MOFGA had substantial concerns about genetic drift and he also recommended including MOFGA on the Medical Advisory Committee (MAC). Hicks pointed out that MOFGA's Eric Seidman was on the technical committee in the past. Perkins asked that a sweet corn grower be included on the committee and that past history should be reviewed to look for new corn products that were withdrawn after problems arose. Eckert said the Board should review the experience to date with Bt field corn in Maine.

Consensus was reached to convene the Bt corn technical committee to review resistance concerns and the MAC to review any human health concerns associated with sweet corn consumption.

7. 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: Henry Jennings
Director

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

- ☑ Blue Hill residents and members of the Maine Coalition for Alternatives to Pesticides, Robert LeVine and Michael and Ellen Paige, came before the Board to offer their comments. In questioning the point that had been made in one of the written comments that the eight telephone complaints received by the Board did not constitute a significant enough number, he said that most people do not even know of the existence of the BPC or who to complain to. He also said that public health, water and air must come first and that the Board had a different standard of harm from the one recently adopted by the Governor's safe chemicals task force. The task force recommendation was to shift the burden of proof to require the chemical industry to prove the safety of products before they are marketed. LeVine, along with Peter Aldridge in his written

comment, recommended that the precautionary principle be followed, where any exposure to pesticides is harmful unless proven otherwise.

The Paiges told of their personal experiences with spray drift from the blueberry fields in their area. Ellen Paige said that people have no idea that spraying is taking place or what is being applied and are often forced to stay indoors in hot weather with their windows closed. She said any drift is unacceptable and aerial application is the problem. Fish pointed out that ground spraying has its own problems. LeVine said blueberry growers are organized and have a commission, but that opponents are organizing now. Peter Aldridge added that people are being harmed at least psychologically, if not physically or medically.

Jennings reviewed the staff memo concerning standards of practice. The memo suggests strengthening the existing standards of practice in Chapter 22 which would require greater diligence on the part of growers, including wind speed measurement, regular calibration of equipment, more precise identification and mapping of sensitive areas and the measurement of weather conditions at the application site rather than the loading site.

When the subject of where applicators who have sprayed the same field for many years might fit into the equation, Fish pointed out that this was an excellent case in point of where problems might arise, if a new house was added, etc. An up-to-date map would be critical before any application was made. Walton said allowances would need to be made for variances and exemptions.

Following further discussion by the Board on standards of practice, Jennings said the staff would mold everything discussed to date into a single document for consideration at the next meeting. This would be the prelude to rulemaking. Hicks suggested the inclusion of all comments received.

8. Consideration of Staff Negotiated Consent Agreement with Vaughn Rasar

On June 3, 1998, the Board amended its Enforcement Protocol to authorize the staff to work with the Attorney General and negotiate consent agreements in advance in 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 and resolve the matter. This case involved the application of a restricted-use pesticide by a grower whose certification had expired years earlier.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: Approve/disapprove the consent agreement negotiated by staff

- Connors explained that Rasar had purchased a restricted-use pesticide without a license and applied it on strawberries. He did have a private applicator's license, but it had expired. Board members also questioned the actions of the dealer, who evidently sold the pesticide to Rasar without checking for a license, and it was stated that this was also being investigated.

Jemison/Walton: Moved and seconded approval of the consent agreement.

In Favor: Unanimous

9. Update on the Agricultural Health Study

Staff toxicologist Lebelle Hicks will provide an update on the Agricultural Health Study (AHS). AHS is a joint effort of the National Cancer Institute, the National Institute of Environmental Health Sciences, and the Environmental Protection Agency. Ninety thousand pesticide applicators and their spouses in Iowa and North Carolina have been followed from 1993 to 2008. The goal is to evaluate what factors around the farm are related to sickness in farmers and their families.

Presentation By: Lebelle Hicks
Staff Toxicologist

Action Needed: None, Informational

Discussion on this item was postponed.

10. Other Old or New Business

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

Board members acknowledged receipt of the additional variance permits.

b. Slide Show on the Back Cove Project—G. Fish

Fish gave a slide show on the recent planting at the Back Cove YardScaping Demonstration Project in Portland, where more than 1000 trees, shrubs and perennials were installed in the first phase of the gardens. This was the culmination of about six years of planning and preparation on the part of many volunteers and organizations.

c. Letter to Nancy Oden—H. Jennings

Discussion on this item was postponed.

d. Other?

Jennings noted that the Joint Standing Committee on Agriculture, Conservation and Forestry would be holding a hearing on August 19 on the Governor's four nominations to the Board. Two nominees, Qualey and Simonds, are up for reconfirmation, and the other two, Deborah Aldridge and Charles Ravis are nominees to be new Board members. It was hoped that the new members could be in attendance at the next meeting.

11. Schedule and Location of Future Meetings

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?

Meetings for November 14 and December 12 were tentatively scheduled.

12. Adjourn

Jemison/Qualey: Moved and seconded that the meeting adjourn at 2:00 PM.

In Favor: Unanimous