



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**

**October 2, 2009**

Colby Thomas Room, Hampton Inn  
425 Kennedy Memorial Drive, Waterville  
(Waterville/Oakland Exit 127 from I-95)

**MINUTES**

**9:30 AM**

Present: Eckert, Jemison, Bohlen, Ravis

1. Introductions of Board and Staff

The Board, staff and Assistant Attorney General Randlett all introduced themselves.

2. Public Hearing on Proposed Amendments to Chapter 28, Notification Provisions for Outdoor Pesticide Applications

The Board will hear testimony on proposed amendments to Chapter 28 intended to implement the provisions of PL 2009, Chapter 378, LD 1293, An Act To Require Citizen Notification of Pesticide Applications Using Aerial Spray or Air-carrier Application Equipment. The proposed amendments clarify the circumstances under which mandatory disclosure to neighbors is required, and provide additional flexibility on how applicators can provide the mandatory notice. The amendments also establish the details for the notification registry required by LD 1293. Additional details of the proposed amendments were described in the public hearing notice published in the major newspapers on September 9, 2009. Copies of the proposed amendments are available upon request or may be viewed at the Board's website, [www.thinkfirstspraylast.org](http://www.thinkfirstspraylast.org).

Sign-up sheets will be available at the door for persons wishing to testify. Written comments may be submitted to the Board's address above until 5:00 PM on October 16, 2009.

Eckert explained that the Board would now entertain testimony on the proposed amendments to Chapter 28. Jennings explained the Board hearing procedures and how to submit written comments. A transcript of the hearing will be available upon completion.

3. Minutes of the August 28, 2009, Board Meeting

Presentation By: Henry Jennings  
Director

Action Needed: Amend and/or approve

- Connors and Jemison both pointed out minor typos in the minutes.

Jemison/Ravis: Moved and seconded approval of the minutes as amended

In Favor: Unanimous

4. Bayer CropScience Request for FIFRA Section 24(c), Special Local Need Registration for Ethrel® Brand Ethephon Plant Regulator (EPA #264-267) on Greenhouse Tomatoes

At the January 23, 2009, meeting, the Board approved a request from Bayer CropScience for a Special Local Need (SLN) registration to allow the use of Ethrel® Brand Ethephon Plant Regulator on greenhouse tomatoes. That request was later withdrawn when EPA indicated it would be rescinding all ethephon SLN registrations because the agency had not reviewed and approved studies submitted to address crop residues and worker safety. Those studies have now been reviewed and approved. Consequently, the Board will once again consider an SLN registration for this purpose. Use of this product would aid Backyard Farms in providing consistent tomato quality year-round, by accelerating ripening and minimizing crop loss due to softness, cracking, and other deformities.

Presentation By: Mary Tomlinson  
Pesticides Registrar

Action Needed: Approve/Disapprove SLN Registration Request

- Jennings reminded Board members that they had approved essentially the same request in January. However, the initial request was later withdrawn when EPA notified the state that it was going to terminate all existing SLN registrations of Ethrel for that purpose, because studies addressing worker safety and crop residues had not been accepted and approved by EPA. Those studies were subsequently accepted, so states were advised that they could reapply, as long as Bayer agreed to make minor changes to the label.

Ravis asked why a respirator was not required for applicators, since they are applying an organophosphate in an indoor environment. Jennings stated that a review of the worker safety study indicated that applicator risks were well below EPA's margin of error. Erika Roderick added that Backyard Farms uses the paint-on application method anyway, which doesn't aerosolize the mixture.

Jemison/Ravis: Moved and seconded approval of the SLN Registration Request

In Favor: Ravis, Eckert and Jemison

Abstaining: Bohlen

5. Consideration of Board Policy Describing Non-broadcast Pesticide Applications Allowed Under Chapter 29, Section 6

Chapter 29, Section 6, of the Board’s rules prohibits most broadcast applications of pesticides within 25 feet of certain defined surface waters. Pesticide applications other than “broadcast” applications are not prohibited. The Board will consider adoption of a policy that clarifies what types of pesticide applications are not considered “broadcast” applications for the purposes of Chapter 29.

Presentation By: Raymond Connors  
Manager of Compliance

Action Needed: Approve/Disapprove the Draft Policy

- Connors suggested that the draft policy should probably take into account DEP’s shoreland zoning law which limits the removal of vegetation in the shoreland zone. There was some discussion of exactly what is required under the shoreland zoning law. Board members observed that towns can have more restrictive ordinances, and that LURC jurisdiction may be different. Connors also observed that the draft policy doesn’t specify a time frame for which the spray area limitations apply.

Jemison suggested it would be beneficial to invite a DEP staff person to a Board meeting to explain DEP’s shoreland zoning law. Connors agreed to meet with DEP personnel to discuss coordinating the BPC’s surface water buffer requirements with DEP’s shoreland zoning law. The staff will then bring a revised policy back for consideration.

6. Policy on Application of Insect Repellents by School Personnel to Students

Due to the unprecedented number of confirmed cases of Eastern Equine Encephalitis (EEE) in horses this year, Maine health officials are recommending heightened precautions against mosquito bites. One of the recommendations is for people to wear repellents when outdoors. Some schools are sending home permission requests to allow school staff to apply repellents for outdoor activities. Since public school employees are considered governmental employees, a technical reading of the Board’s licensing laws would require school employees to have a commercial applicator license for that purpose. The staff would like Board input on how the public interest is best served and whether an interim enforcement policy should be adopted for this practice.

Presentation By: Gary Fish  
Manager of Pesticide Programs

Action Needed: Determine Board Position on Application of Repellents

- Fish explained that this concern had moved to the forefront with the rise of EEE in Maine. He pointed out that repellent labeling prohibits application by children, which would translate to anyone under 18 years old in Maine. Board members found this requirement puzzling. Bohlen questioned whether it was necessary to always have permission in writing, and gave examples of

less formal circumstances in which the policy might apply. Consensus was reached to strike the word, “written” from the policy.

Ravis/Bohlen: Moved and seconded approval of the policy as amended.

In favor: Unanimous

7. Other Old or New Business

a.     EEE Update                    Lebelle Hicks  
  Pesticide Toxicologist

    Jennings stated that at last count, there were about thirteen confirmed cases of EEE in horses in Maine, and some pheasant flocks have been affected. So far, there have not been any confirmed human cases in Maine.

b.     Registry Update            Paul Schlein  
  Public Information Officer

    Schlein informed the Board that the registry for aerial and air-carrier equipment is now up and running flawlessly, after ironing out of a few minor glitches. He indicated that nearly two hundred people have signed up since it went live on September 11.

c.     Bt Corn Update            Lebelle Hicks  
  Pesticides Toxicologist

    Jennings reported that the PIP Technical Committee met on September 18 to discuss pending registration requests involving reduced refuge requirements. The Committee wants more time and additional scientific information before it makes a recommendation on these products.

d.     Other?

    Randlett alerted the Board that the Maine Office of the Attorney General had joined other states in filing a petition with EPA asserting that many of the so-called “inert ingredients” contained in pesticide formulations are hazardous, and should, therefore, be disclosed on the pesticide label. The petitioners recently received a response from EPA stating it is in agreement and will soon commence rulemaking to require the listing of inert ingredients.

8. Schedule and Location of Future Meetings

November 6, December 18 and January 22, 2009, 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 additional meeting dates were added.

9. Adjourn

Jemison/Ravis: Moved and seconded that the meeting adjourn at 12:44 PM.

In favor: Unanimous