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**AD HOC PUBLIC HEALTH COMMITTEE ON A COMPREHENSIVE  
PESTICIDE NOTIFICATION REGISTRY**

**July 30, 2010  
Minutes**

The first meeting of the *Ad Hoc* Public Health Committee on a Comprehensive Pesticides Notification Registry was held on July 30, 2010, from 9:30 AM to 12:30 PM, in room 319 of the Deering Building at AMHI. Those present were:

*Committee Members and Affiliations:* Carol Eckert, MD MPH, Board Member and Chair; Tamas Peredy, MD, Northern New England Poison Center; Lauren Ball, DO MPH, Deputy State Epidemiologist, ME CDC; Lani Graham, MD, Physicians for Social Responsibility; Andrew Smith, ScD, State Toxicologist, ME CDC; Diane Silverman, PhD, Stephen Sears, MD MPH, State Epidemiologist, ME CDC

*Board Staff:* Henry Jennings, Director; Lebel Hicks, PhD DABT, Pesticides Toxicologist; Gary Fish, Pesticides Program Manager; Paul Schlein, Public Information Officer; Mary Tomlinson, Pesticides Registrar

*Audience:* Heather Spalding, MOFGA; Nick Bennett, NRCM; John Olson, Maine Farm Bureau

Brief History of Pesticide Notification Policy in Maine: Dr. Eckert gave a brief overview of the history.

Overview of LD 1547 and Identification of Charges to the Board Regarding Public Health Professional Input: Using a PowerPoint presentation (attached), Mr. Jennings provided additional historical background information, covered the legislative directives given to the Board, summarized the concepts the Board is currently working with to develop a comprehensive notification registry, and touched on the science of pesticide movement. During the presentation, the following ideas were expressed:

Dr. Graham—Would like to see growers' general schedules on the web and development of an automated message system.

Dr. Smith—Alert systems are already available. Many schools use them to alert parents about meetings or school cancellations.

Dr. Graham—Using an automated system will allow more participants to come into the system more easily. Growers should put data on the web site for anyone in the area to see.

Dr. Ball—Because farms move less, it is easier for them to determine who they must notify. It is much harder for commercial applicators. Dr. Ball wonders about the history of the ¼-mile distance.

Dr. Peredy—One problem with advance notice is weather which changes the schedule. Are we only considering one exposure pathway? Seems clear that the responsibility for determining when notice is required lies with the grower/applicator.

Dr. Eckert—Growers are okay with notice to “neighbors,” but 1,320 feet may be too far away to be considered a neighbor.

Dr. Sears—People move in around growers and that creates the rub.

Dr. Smith—Doesn’t think which model is appropriate is the issue at hand, but it should be about how to do effective notification and how do you evaluate what is more effective or efficient.

Dr. Graham—Effectiveness is the crux. How do they have input? We are running out of time. Are we looking for comments on the six points in the statute or can they comment on any point?

Mr. Jennings—Yes, all comments are welcome.

Dr. Peredy—Two-tiered approach with one level confidential to the wide area, and second level for very specific notice because they really need to know and they must identify themselves. Should that group receive greater information because they have health effects?

Dr. Graham—For certain chemicals that are applied just at certain times of the year could there be general information posted that says what is done during each month.

Mr. Jennings—Board could put up general information about which products are applied at what times of year.

Dr. Hicks—There are not a lot of updated fact sheet materials available to answer the questions that might come in after a general notice is issued.

Drs. Eckert, Ball and Peredy—Better to *not* identify people with documented illnesses and take that subject off the table. Not enough doctors would be willing to make that call.

Drs. Peredy and Smith—40-micron droplets would go into the nasal cavity, but not deep into the lung, but many materials would still be absorbed, all depending on the chemical.

Process Discussion—How Will the Committee Fulfill the Statutory Mandate?

Dr. Smith—There are two broad categories to respond to. One we can do in the time allotted and the other will take too long. Section 6, Articles 1, 3 and 5 of LD 1547 are straight forward and doable based on his past experience. The distance question is too scary. If distance is based on precedent it will be straight forward, but if it is to be based on toxicology, etc., that will require months of time to determine because it is chemically dependent, etc. If we go that way they will need a lot more information and funding. Are there other things that could be used to determine distances like complaint data? Does it come back to the automated system that makes it easier and makes the distance question less important? What do we want? Ease, confidentiality, etc., but a loss of precision in distances.

Dr. Graham—Don’t have to give up on the distance concept. Maybe aim for a larger distance, but calculating appropriate distances based on health effects and individual chemicals is not feasible.

Mr. Jennings—The Board has concluded that science will not bring us to the correct distances which will eliminate all the risk.

Dr. Eckert—We have looked at the models, but they still don't help determine what is a reasonable No Observable Adverse Effect Level (NOEL). Can't determine a safe distance or where there will be no health effects. Too many variables exist with weather, etc.

Dr. Sears—Studies have been done on individual factors, but they have not been combined to evaluate what the real risks may be. How do you develop a system that informs people? He thinks it is less important to define distances.

Dr. Smith—Must be clear if we do base any distance on science in regards to particle size, etc., but would not be able to decide whether there is a health risk from that exposure. So, maybe you can define distances based on the empirical data on how far materials move.

Dr. Ball—Can we get more information on the basis of the 1,320-foot distance that California is using in its school rules? What criteria did they use to establish this distance?

Mr. Jennings—Not optimistic about using particle movement as a basis for deciding the distances. Complaint data may be the easiest to defend.

Dr. Smith—How can we get more information about the MEGIS system that we could use to automate the notification process? Can we do a presentation on that potential system?

#### Wrap Up, Next Steps

- Are there any consensus points?
  - Risk assessment on specific situations is not feasible due to lack of data and lack of resources, and
  - Most agreed we should make access to notification simple and easy.
- Need to focus on the report to the Legislature for now.
- Should we have more meetings? We may need to have another meeting in September.
- Board wants feedback by October 1.
- Should the staff write something up and have the committee comment on it?
- Could the staff send it out to the committee as we go along (section by section)?
- The staff will send a complaint summary and draft report for committee review and comment.
- Dr. Smith may ask his outreach staff to participate in the discussion instead of risk assessment staff (Dr. Silverman).
- Dr. Ball still wants to hear more about the history of the ¼-mile distance.
- Each person should send us any burning comments that they did not get a chance to express in the meeting.

Minutes of July 30, 2010, Meeting of *Ad Hoc* Public Health Committee, *continued*

- We will not schedule another meeting until the staff has produced something for the committee to react to.
- The staff will send out information regarding the current Market Decisions survey and how the staff might evaluate the effectiveness of the system or the advertising the Board does.
- The staff needs to provide more information on what equipment is being used; because they are the experts on that and then the committee can react to it.

Draft

Graham 8/24/10

Unfortunately the current Maine Registry notification approach is all too close to the Washington State Registry approach. The best that can be said about the Maine registry is that at least it is not as onerous as the Washington one. Furthermore the Washington Registry has added the amazing requirement of a doctor's certificate supporting sensitivity to pesticides. However, the underlying assumption of both registries is: If people want to be notified about spraying (right to know) and know that there is a way to find out (apparently about 20% of the population if a recent survey is accurate), then notification should occur. Otherwise no effort will be made. A further underlying assumption is that only those living within a certain radius have a "right to know" regardless of interest. From the point of view of "right to know", this may be a valid consideration, but it is not going to be a consideration based on science.

In fact, these assumptions have almost nothing to do with science or health on a population basis. For some pesticides there is some human health data, but to assume that reasonable general conclusions can be drawn about the short or long term health risks to Maine people of spraying a wide range of chemicals is simply not feasible. And even if a great deal of time and money was spent, there would be virtually no chance of achieving such an objective. The health information needed is just not available. And one would have to take into account varying populations (children, chronically ill children, adults with various types of chronic diseases) as well as weather, wind conditions and spraying equipment.

While I am on the topic, I hope the Maine Legislature would consider passing a resolution in favor of reform of the federal Toxic Substances Control Act (TSCA), which has banned only 5 chemicals in its entire 35-year history. Only through reform of this legislation is there a chance to begin getting real scientific data on the health effects of chemicals released into our environment and solving the dilemma posed by the use of chemicals in agriculture and other areas.

Therefore it seems to me that the first thing the Legislature needs to decide is if it wants to serve only those who are well informed and capable, or if it wants to try to offer the option of non-exposure to rich and poor, educated and uneducated alike. If it wants to support a non-scientific approach to "right to know" alone, then the Registry is one simple response. It will serve the few but perhaps it is better than nothing. The Legislature will have to be satisfied that the bulk of the eligible population will not participate. You cannot possibly "educate" the bulk of the population so they will be able to access the Registry. All my past experience in public health shows that education is a limited approach. Even in relatively simple public health situations like tobacco or the wearing of seat belts, simple education never did the job. Environmental application of chemicals associated with an opportunity to place yourself on a Registry is many times more complicated.

If the Legislature wants to try to reach a larger sample of the potentially impacted population, and perhaps actually protect some of the more sensitive populations, whether or not they are educated, it seems to me that automatic telephone notification is one way. This is likely to be harder given the wide use of cell phones. However school cancellation would be an example of how this is used with relative success. Instead of having an affirmative "opt in", you could have an affirmative "opt out", where the person who didn't want to be notified would be taken off the list for a particular area. This option would also eliminate the public nature of the Registry with people having to identify themselves and have personal information available online.

Perhaps another way to accomplish broader notification would be the way that severe weather is brought to the attention of the public by radio public service announcement. Obviously it would be important to provide more information and do so calmly.

Unfortunately one of the disadvantages of broad notification is that relatively harmless approaches to insect or weed control are likely to be tarred with the same brush as more dangerous chemicals. One way around this might be to give farmers an exemption for spraying certain things, where there is good data about the risks to human health. I don't know enough about what is sprayed to know if there are things that might fit into that category.

I don't see the disadvantage to having farmers in particular areas post on the Department's website on an annual basis, the kinds of chemicals they use and the very general times these chemicals are applied. This would not solve notification, but would certainly provide more "right to know" information.

There is no good science to support a particular general distance setback given the wind, weather and lack of information on many of the chemicals involved. If general notification is chosen (as above), then whatever distance works best for the notification should be chosen within a certain range being sure to notify those who are within a quarter of a mile of the actual spraying. In any case it should not matter if a person lives in a rural or urban area. The chosen distances should be the same. Clearly it seems to me that the burden of notification should not fall on the person potentially affected.

Finally I hope that whatever is presented to the Legislature will be presented by someone who has training in risk assessment and human health. It is very hard to understand risk, but the committee should at least be given a chance.

I wish you well in solving this nearly insoluble problem.

Peredy 9/15/10

While we are not asked to render judgement upon this larger philosophical or legal issue I believe that the right of an individual to reside/work/occupy a space free from known or likely toxic exposure supercedes the right of any grower to reduce pestilence, enhance yield or otherwise increase marketability of their property. Therefore moving forward there is some impetus for the state to provide guidance as to the rules for safe use and notification of the potential harmful use of these chemicals.

As limited by the legislation to airborne use in one form or another there should be a reasonable education campaign by the state to notify the public of a pesticide notification registry. There should be a two-tiered system where within minimum distances notification is a requirement eg adjacent properties within a distance and a separate optional database where notification takes place because a group has selectively identified themselves as "sensitive." This should not require a doctor's note but is a self-selection. It should be confidential as it may convey health facts not wished to be disclosed and can go beyond the minimum required notification distances.

I disagree with expanding toxic substances legislation because this ignores the other half of the equation. It is the misuse of chemicals that cause harm and not the use or safe use. Draconian bans of chemicals does not promote education, research or understanding.

Graham 9/15/10

I will leave aside the big picture argument about the right to a space free of toxins. It's a great idea, but too complex for the moment.

However, I don't get the last comment about "I disagree with expanding toxic substances legislation..." What legislation is referred to?

Certainly reforming the federal Toxic Substances Control Act is one of my personal priorities and would certainly include some efforts at education.

However experience over 100's of years shows that education rarely, if ever, does the job. Whatever the state does is not likely to get people to sign up for the Registry which is why I really think the Registry is of marginal benefit. Most people who might like notice, won't know about it and of those that know, fewer still will sign up.

It's sad, but true. That said, if a Registry is to be the only answer to this question, I agree, no doctor's note

Hicks 9/22/10 to Peredy

Do you have any clarification for Lani on the point she raises below?

Tamas Peredy's 10/22/10 clarification

To clarify

Reform of the Toxic Substances Control Act will likely happen before the Nov 2012 election and will likely provide USEPA better guidance on what to do (focus) and how to get it done. I support many of these reforms.

It is my understanding that this has more to do with administration and procedures rather than fostering more science (unless it is science under duress with EPA placing greater demands upon manufacturers to prove safety). If this can be achieved without increasing public toxicophobia (if that is even possible) then it is all good.

I also support expanded Clean Air and Clean Water Acts to include things like Mercury.

Carol Eckert 9/24/10

Thanks to you all who attended the meeting and have submitted thoughtful oral and written comments.

The Board was updated at the last meeting and will be again next week on Oct 1 on your input.

I was really helped by several of your comments as to how we (BPC board and staff) could do better public education and notice via our website or other automatic methods to notify the public generally (and perhaps even specifically) about large scale aerial applications that occur in Maine. Obviously this could improve over the next years as more automated geographical info is available. Cost and logistics will be issues, but I am committed to continuing this discussion w/ board, staff, and our committee.

I agree with Tamas, Lani, and others that community right to know and freedom from toxic exposure in the home, workplace, and community are basic principles. And I understand Lani's point that this registry concept may not reach the "general" public. Nevertheless, I believe we are committed to continuing development of the registry because the political process led to it as an acceptable compromise for notification between the regulated and advocacy communities and because the legislature via its ACF committee has made it quite clear that BPC is to proceed with a concept for a more inclusive registry by the

start of the next session. Specific notice will vary I suspect based on distance and type of application but we can explore the concept of more notice for more sensitive populations.

I am not sure how the TOSCA reform will impact pesticide regulation but will look into it. My general knowledge was that reform would make review processes more proactive, but I am not sure for which substances.

Lani Graham /24/2010

Thanks Carol,

I think I understand the political issues, and I accept the need to try to educate. I've spent most of my professional life on that principle. But I think it is more fair to say that the Registry definitely "will not" reach the general public. Information about how to access health care does not reach the general public.

One important point that I made in my comments that I don't see addressed here is that the report to the Legislature should have some scientific input. With the support of Lebel Hicks, I assume that is happening. I would think that she would be helping to prepare the report and presenting it to the Legislative Committee. This might be enough, but I also hope that people like yourself, Andy Smith or some of the others on the committee with an understanding of the human health aspects might also be present to answer questions. I really believe the committee needs to understand what the Registry can do and what it can't do, as well as the exposure issues.

Thanks Carol for all your hard work for many years on these issues.

You understand more than most of us so I completely defer to your judgements.

Peredy 9/27/10

There are many hard to reach populations but there are several overlapping systems that may capture a majority to provide a notification opportunity including:

- public school system
- voting sites
- poison center
- health alert networks
- public health officers
- department of motor vehicle
- utility companies
- fish and game licensure
- interstate toll booths
- border crossings
- etc...

Its all about the \$\$ (time = \$\$)