



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

September 6, 2024

9:00 AM Board Meeting

MINUTES

1. Introductions of Board and Staff

- Adams, Carlton, LaJoie, Neavyn
- Assistant Attorney General, Carey Gustanski
- Boyd, Couture, Nelson, Peacock, Vacchiano

2. Minutes of the July 19, 2024 Board Meeting

Presentation By: Alex Peacock, Director

Action Needed: Amend and/or Approve

- Neavyn/Carlton: Moved and seconded to approve the July 19, 2024 minutes
- In Favor: Unanimous

3. Report on Annual Funding to Maine CDC for Mosquito Monitoring

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. Maine CDC and BPC entered into a Memorandum of Understanding in 2013 to establish cooperation to conduct surveillance for mosquito-borne diseases to protect public health. At the June 17, 2022 meeting Sara Robinson of the Maine CDC provided an overview of the trends and the state's monitoring program. At the April 5, 2022 meeting, the Board voted to approve funding in the amount of \$25,000 for Maine CDC's mosquito monitoring efforts.

Presentation By: Sara Robinson, Infectious Disease Epidemiology Program Director

Action Needed: Approve/Disapprove transfer of funds to Maine CDC

- Sara Robinson, Maine CDC Epidemiology Program Director and Chair of the Vectorborne Disease workgroup, updated the Board on where the Maine CDC currently stands and what they were requesting for mosquito monitoring funding. She gave an overview of viral detections from 2014-2023 and relayed that 2024 had been very busy with early virus detections and serious discussions about recommending a declaration of a public health threat or emergency. Robinson stated that one of the biggest information gaps was mosquito surveillance. Due to limited funding, widespread surveillance could not be conducted, which left them uncertain as to where the risk was highest. Robinson said that mosquito monitoring efforts were largely funded by the U.S. CDC through a grant from the Epidemiology and Laboratory Capacity (ELC) Program, whose purpose was to grant funding to health programs to detect, prevent, and respond to infectious disease outbreaks. This year Robinson's program requested \$175,000 and received \$37,500. She said that the estimate to double the mosquito surveillance site for 2025 was \$270,000. Robinson stated that the base amount required to maintain sustained and consistent monitoring was approximately \$175,000. She added that costs had increased for multiple reasons. One was because the months requiring monitoring had expanded and testing now began in May and went through until the end of October, whereas it used to be completed from July through September.
- Adams asked if the funding the Board approved would go to this year's mosquito monitoring or next year's.
- Robinson replied that any funding granted would be for both, but mostly for next year.
- There was discussion about rapid response testing, regarding its adequacy, if there was a need for more of it and the cost.
- Neavyn stated that the Maine Health Research Institute (MHRI) was his employer, and his comments may be a conflict of interest. He asked if his employment with MHRI affected his discussion on this topic.
- Gustanski responded that Board members should only talk if they did not have a financial interest in the agenda item being discussed.
- Neavyn stated that he would abstain from the vote.
- Robinson said that they had petitioned the legislature for several years, but the monitoring had never been funded. She added that the program did not generate any fees that could contribute to funding, so they had to rely on only the state and federal funding that was granted. Robinson stated that as of last month, they had tested 10,000 mosquito pools.
- Adams stated that he felt this was a real human health risk and the Board should spend funds available on helping protect human health. He suggested the Board consider increasing the level of funding. Other Board members agreed.
- Peacock let the Board know that they had not distributed funds previously granted.
 - **Carlton/Lajoie: Moved and seconded to approve dispersal of the original \$25,000 granted to Maine CDC**
 - **In Favor: Unanimous**
- Adams asked if that would help solve the funding problem.
- Robinson responded that the money promised from last year was already encumbered.

4. Review Responsibilities of the BPC for the Protection of the Public Health from Mosquito-borne Disease

A five-year MOU between Maine CDC and the BPC expires on December 31, 2024. Overview of MOU and discussion and highlights of the Report and Plan to the Joint Standing Committee on Agriculture, Conservation and Forestry Pursuant to Resolve 2013, Chapter 13: Directing the Department of Agriculture, Conservation and Forestry to Develop a Plan for the Protection of the Public Health from Mosquito-borne Disease. Discussion of BPC policy regarding the establishment of exclusions zones in the event of large-scale aerial mosquito control operations.

Presentation By: Alex Peacock, Director

Action Needed: Discussion

- Peacock stated that there were monies available to disperse an additional \$100,000 and mentioned that the Memorandum of Understanding (MOU) expired this year. He had begun a draft for a new MOU, with the same minimal dispersal level of \$25,000. There was anticipation that the arboviral threat would continue to increase yearly. Peacock reviewed with the Board the BPC's responsibilities if a public health threat were declared, including mapping exclusion zones such as organic farms and fish hatcheries as well as allowing the option for all agricultural producers to opt out of treatment. Staff were also working with the Department GIS coordinator to provide a survey for all agricultural producers.
 - **Lajoie/Carlton: Moved and seconded to approve additional funding to the Maine CDC in the amount of \$100,000**
 - **In Favor: Adams, Carlton, Lajoie**
 - **Abstained: Neavyn**

5. Workshop Session to Review the Rulemaking Record on the Comments Received Related to Chapter 60

(Note: No additional public comments may be accepted at this time.)

A public hearing was held on July 19, 2024 via a hybrid meeting in Deering Building 101 at 90 Blossom Lane, Augusta and on the Microsoft Teams platform. The written comment period closed on July 29, 2024 at 11:59 PM. Three people spoke at the public hearing and two written comments were received by the close of the comment period. The Board will now review the rulemaking comments and determine how it wishes to proceed with the rulemaking proposals.

Presentation By: Karla Boyd, Policy & Regulations Specialist

Action Needed: Approve/Disapprove Continuation of Rulemaking

- Boyd reviewed the rulemaking process and let the Board know that this was the point for them to review the public comments received.

- Adams stated he was challenged by this petition to designate Eagle Lake Water District wellheads as a Critical Pesticide Control Area, especially based on its origin. He added that the only previous petition for this designation that had come before the Board was brought forth to protect someone with a known health issue. Adams said that the Board had not heard or been presented with evidence like a water quality sample showing that there were pesticides in the well or that pesticides had left the property where they were sprayed.
- Peacock mentioned that currently, public wells and areas around public drinking water were deemed sensitive areas, and applicators were required to make applications in accordance with the label to protect those locations. He explained the two types of notification and clarified that with direct notification, the water district could send a letter to anyone within 500' of the area. Those individuals would then have to comply with notifying the water district when applications were planned, and if there were still issues, the Board would intervene and try to solve them.
- John Martin responded that he would argue that homeowners would require education to know which items were pesticides
- Peacock suggested that BPC staff could provide them with a copy of Chapter 28, Section 1.
- Martin asked if Peacock would be willing to review the water district's draft letter.
- Peacock said he would do that.
- Martin stated that they had spent a lot of money to find this water source and did not want to have to look for another one. He added that he was more worried about misapplication by a homeowner that could contaminate the water source rather than by a licensed applicator. Martin said he would draft a letter and send it via certified mail to all those who abutted the area.

6. Update on EPA's Endangered Species Act Compliance Strategies

Highlights and discussion of the EPA's Final Herbicide Strategy and draft insecticide strategy. Brief overview of EPA's Bulletins Live Two! And Erosion and Run-off Mitigation websites.

Presentation By: Alex Peacock, Director

Action Needed: Discussion

- Peacock stated that BPC planned to offer presentations for recertification credits at the Agricultural Trades Show (ATS) to educate applicators that these mitigations would start showing up on labels.
- Adams asked about the timeline for implementation.
- Vacchiano stated that the language was already on some labels but she had only seen one so far.
- Adams asked if staff anticipated this would be an extraordinary cost, beyond the norm, for just the time spent on education. He added that it was BPC's responsibility to make sure the public was aware and compliant.
- Peacock said significant time would be spent on education and outreach.
- There was discussion about Bulletins Live2 and how to make sure all were aware and checking it.
- Peacock noted that additional EPA strategies would be coming in the near future.

7. Request that the Board consider making pesticides with the active ingredient Tebuthiuron, a State Restricted Use Pesticide

In 2023, the Board accepted a consent agreement with Arthur and Amelia Bond for the unauthorized use, off-label application and negligent use of the pesticide tebuthiuron. The herbicide was used to kill mature oak trees at a neighboring property to the Bond's property in Camden, presumably to enhance their views of Camden Harbor. The destruction of these trees and use of this product by the Bond's has been widely reported in the media. Due to this reporting, there is concern that other homeowners may make copycat applications and cause more destruction of vegetation in the shoreland zone. Designating tebuthiuron as restricted use will only allow licensed pesticide applicators access to this product.

Presentation By: Alex Peacock, Director

Action Needed: Discussion to determine next steps

- Peacock explained that this request stemmed from the tebuthiuron incident that occurred in Camden Harbor which culminated in a consent agreement after inspections and sampling by BPC staff. He asked if the Board would like staff to move forward with research on the consideration of defining tebuthiuron as a restricted-use pesticide in Maine and/or also considering other products for status and policy. Peacock said that this would be somewhat difficult to undertake until a toxicologist was hired, particularly regarding assessing the risk to human and environmental health.
- Adams said he was absolutely in favor of making it more difficult for anyone to obtain this product.
- Carlton suggested the Board consider if there were other active ingredients that should be evaluated for change in Maine registration status.

8. BPC Field Trip

Historically Board members and BPC staff have taken an annual field trip to visit and learn about emerging technologies and practices within the regulated community. The last trip was forestry related in Greenville in 2019. The COVID-19 pandemic halted future field trips. This a short discussion to determine if the Board would like to reinstate annual field trips and discuss possible ideas and locations.

Presentation By: Alex Peacock, Director

Action Needed: Discussion

- Peacock told the Board that the last field trip was in 2019 when the Board and staff met with Weyerhaeuser and visited some conifer release sites. He asked if there was interest in planning a field trip for 2025 and if the Board had any suggestions.
- Carlton said he thought that was an excellent idea. He added that there was so much going on in Maine agriculture, and it would be beneficial to learn more about what was going on with potato and blueberry growers because he was always ensconced in the forestry world.
- Adams requested that staff email all Board members and ask them to submit their ideas.

9. Other Old and New Business

- a. Variance Permit for CMR01-026 Chapter 29, Green Thumb Lawn Service, Eddington
- b. Variance Permit for CMR01-026 Chapter 29, Green Thumb Lawn Service, Hudson
- c. Variance Permit for CMR01-026 Chapter 29, Bartlett Tree Expert Co., Portland
- d. Variance Permit for CMR01-026 Chapter 29, Basswood Environmental, LLC, Brooksville
- e. Variance Permit for CMR01-026 Chapter 29, Northeast Vegetation & Mosquito Control, Lewiston
- f. Variance Permit for CMR01-026 Chapter 29, Forest to Shore, Union
- g. Obsolete Pesticide Collection Program Flyer
 - Boyd reviewed the details of the Obsolete Pesticides Program with the Board.
 - Adams asked if pesticides were required to have been registered at some point in their life to be eligible for the program.
 - Boyd said the product needed to be a pesticide, but prior or current registration was not a requirement for inclusion in the collection. She added that items other than pesticides, such as paints, paint thinners, and regular cleaners were not accepted.
 - Adams said he inquired because to dispose of products safely, one needed to know what they were, and there were a lot of products out there, especially surfactants, that would be hard to identify.
 - Peacock stated that staff attempted to identify each product.
- h. Town of Athens Herbicide Notification Ordinance
- i. Report: Forever Pesticides: A Growing Source of PFAS Contamination in the Environment
- j. EPA Issues Emergency Order to Stop Use of Pesticide Dacthal
- k. Hiring of Manager of Compliance, Allison Smith
- l. Retirement of Peggy Lamb after more than 25 years of service to the State of Maine
 - Peacock informed the Board of Peggy Lamb's retirement and said her institutional knowledge would be greatly missed and thanked her for her years of service.
 - The Board also thanked her for her years of service.

10. Schedule of Future Meetings

The next scheduled Board meeting dates are October 25 and December 6. The Board will decide whether to change and/or add dates. The Board will also hold a meeting, as usual, on Wednesday, January 15, 2025, of the Agricultural Trades Show. The Board will decide whether to hold the meeting at the Deering building or at the Augusta Civic Center.

Adjustments and/or Additional Dates?

10. Adjourn

- **Carlton/Lajoie: Moved and seconded to adjourn at 11:00 AM**
- **In Favor: Unanimous**