



JANET T. MILLS
GOVERNOR

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

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

February 23, 2024

9:00 AM Board Meeting

MINUTES

Adams, Bohlen, Carlton, Ianni, Jemison, Lajoie

1. Introductions of Board and Staff

- The Board, Assistant Attorney General Gustanski, and Staff introduced themselves

2. Minutes of the Emergency February 2, 2024 Board Meeting

Presentation By: Megan Patterson, Division Director
Action Needed: Amend and/or approve

3. Review of BPC Enforcement Protocol

At its February 9, 2024 Board meeting, concerns arose about the proposed fines imposed by several consent agreements. During the course of the discussion, there were questions about (1) whether the matter may have been more appropriately presented to the Board prior to negotiating a draft agreement, (2) the process by which the Board might alter an agreement, and (3) how the staff arrives at proposed penalties. Some of the questions relate to the Board's existing Enforcement Protocol. The last time this protocol was revised was in 2013. Consequently, the staff determined a review of the existing protocol may be a useful starting point.

Presentation By: Megan Patterson, Division Director
Action Needed: Discussion/Amend enforcement protocol

- Adams suggested a protocol that would trigger when certain cases should be brought before the Board before the completion of consent agreement negotiations. The Board agreed. Examples suggested included bodily harm, environmental harm and repeat offenders.
- There was a discussion about a possible delay in process if all consent agreements were brought before the Board before deals were negotiated. Patterson mentioned the issue of the

Board's history of delays when they had been settling the consent agreements quite some time ago.

- Ianni asked if there had ever been a deep dive into this topic and if staff had looked at how other agencies in the state handle these and what their criteria were.
- Gustanski noted that when staff notified the Board they would be bringing a case before them the violator must also be notified before the hearing.
- There was a discussion about possibly approaching the legislature to change the fee structure for violations currently in statute. Patterson explained the process for this, which could either be the Board voting to submit legislation or attempting to put together a Department bill which would entail the Department working on language and finding a sponsor.
- Jemison noted that it was often difficult to determine intention, but there had been cases over the years where harm was caused by pesticides to change the view from a property. He suggested that cases like this be added to the list that be brought before the Board before the finalization of a consent agreement.
- Adams suggested bringing this back at a future meeting when Peacock was in attendance and added that BPC staff should also work on additional education and training.

4. Potential Rulemaking on 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

At the December 1, 2023 Board meeting, the Board discussed LD 1770 and what issues might be addressed in rulemaking. There is a need for the Board to discuss rulemaking to implement LD 1770. At the February 9, 2024 Board meeting, the Board discussed additional information they would like to include in amendments to Chapter 50: Reports and Recordkeeping. Staff have compiled a memo with draft language for the Board to consider.

Presentation By: Karla Boyd, Policy & Regulations Specialist
Action Needed: Discussion and amend/approve rulemaking

- Boyd stated there was additional language added to Chapter 50. This included language added to incorporate a waiver process for an individual to show proof that they could not submit electronic reports.
- There was discussion about where the proposed waiver language was located in the rule.
- Patterson suggested that it could be moved so it was not under the transition section.
- Bohlen stated that was what he also had in mind.
- Carlton voiced concern about education and training surrounding electronic reporting.
- There was Board discussion about what external users could currently see for information regarding reporting and if there should be additional information required.
- Patterson suggested the Board could consider holding another stakeholder engagement forum as an opportunity to hear from the impacted public and could narrow it down to which topics Board members would like to hear about.
- Adams asked for this rulemaking to be added to the agenda of the next meeting.

5. Update on Report Regarding the Implementation of LD 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

At the September 1, 2023 Board meeting, staff brought forward a memo regarding the

implementation of LD 1770. Bohlen agreed to join staff for a meeting with developers and licensed applicators/dealers that use Maine Pesticide Enforcement, Registration, and Licensing Software (MEPERLS) to discuss changes that would be needed to simplify the data entry process for annual reports. Staff will provide an update from these meetings. In addition, the Board discussed potential rulemaking to require electronic submissions of records. Staff will give a brief update on the discussions at the sales and use meetings. These discussions will be included in the report on the implementation of LD 1770 is due to the legislature by March 1, 2024.

Presentation By: Megan Patterson, Division Director
Action Needed: Discussion

- The draft report was presented to the Board members.
 - **Carlton/Lajoie: Moved and seconded to send the report to the ACF committee**
 - **In Favor: Unanimous**

6. Other Old and New Business

a. Review of Revised Adjuvant Policy

- Adams asked about the disposition of Chapter 41 in the legislature.
- Patterson responded that Chapter 41 rule was voted ought not to pass. A minority and a majority report would be sent to the full legislature, so there was a possibility it could still move forward.
- Adams asked if BPC would be facing an uphill battle with trying to provide the *Bt* training.
- Jemison stated that the training currently online should remain relevant for two to three years, but someone should eventually update it over time. He added that he was disappointed to hear that these changes would not be accepted. Jemison stated that he had pushed for this change so that the rules and regulations made sense with the current technology.
- Adams asked if anyone had asked a seed company to conduct the training and if that would be acceptable for them to do that.
- Patterson stated that they could conduct the training but would need to meet guidelines for staff approval.
- Jemison stated that he would be able to attend the April, June and July Board meetings but was unsure about any after that. He expressed that he had enjoyed representing UMaine on the Board and asked for information on how to exit as a Board member.

7. Schedule of Future Meetings

April 5, 2024, June 7, and July 19 are the next scheduled Board meeting dates.

Staff have reserved Deering Room 101 for August 30, 2024, and September 6, 2024.

8. Adjourn

- **Carlton/Jemison: Moved and seconded to adjourn at 10:40 AM**
- **In Favor: Unanimous**