



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

November 19, 2021

9:00 AM Board Meeting

Video conference hosted in MS Teams, to join the meeting:

Join on your computer or mobile app

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Or call in (audio only)

+1 207-209-4724 United States, Portland

Phone Conference ID: 440 033 928#

AGENDA

1. Introductions of Board and Staff
2. Minutes of the October 8 Regular and August 16 Emergency Board Meetings

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or approve

3. Request to extend a Special Local Need [24(c)] Registration for Arsenal Herbicide with Applicators Concentrate for Increased Surfactant Rate When Used in Combination with Glyphosate for Jack Pine, Red Spruce and White Spruce Release

The Board last approved a Section 24(c) registration for Arsenal Herbicide (EPA Reg. No. 241-299) in 2016 and initially approved it in 2004. This current EPA label specifies a maximum surfactant concentration of 0.25% (v/v) for conifer release. The current and proposed SLN allows the increased rate of surfactants for tank mixes of Arsenal and glyphosate which maximizes the effectiveness of glyphosate.

Presentation By: Mary Tomlinson, Pesticides Registrar and Water Quality Specialist

MEGAN PATTERSON, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



PHONE: (207) 287-2731
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Action Needed: Approve/disapprove 24(c) registration request

4. Staff Memo: Update on a Feasible Definition of PFAS in Pesticide Products

At the October 8, 2021 meeting, staff presented a memo discussing the difficulty of identifying a PFAS definition for the implementation of the affidavits required by LD 264. Since that meeting, staff have met with staff at Maine DEP to discuss LD 1503. At that meeting, it became apparent that pesticides would be subject to the requirements of LD 1503 as well as LD 264. Staff will now present the outcome of that research.

Presentation By: Dr. Pam Bryer, Pesticides Toxicologist

Action Needed: Information only

5. Continued Review of Potential Rulemaking Concepts Pertaining to LD 155 (neonicotinoids used in residential turf/landscape management) and Discussion of Next Steps for Proposed Rulemaking in Response to LD 264 (PFAS affidavits and registration of pesticide products) and LD 316 (prohibition on chlorpyrifos distribution)

On June 10, 2021 LD 155, LD 264 and LD 316 were signed into Maine law. At its August 27, 2021 meeting, the Board held stakeholder information gathering sessions addressing these three bills. Following the August meeting, the Board directed staff to return with a review of rulemaking concepts. At the October 8, 2021 meeting of the Board, staff returned with proposed language and further discussion of rulemaking concepts. Following the October meeting, the Board directed staff to return with a draft rule for concepts related to LD 264 and additional information related to outstanding questions on LD 155—primarily related to the definition of “invasive vertebrate species”. Staff will now present their findings.

Presentation By: Megan Patterson, Director

Karla Boyd, Policy & Regulations Specialist

Action Needed: Refine the rulemaking concepts and schedule a hearing

6. Staff Report and Presentation of Sampling Results from the Ten Cities Surface Water Quality Study

On February 26, 2019, the Board approved funding for a staff proposed water quality monitoring effort referred to as the “Ten Cities Project”. The primary objective of the study was to assess the occurrence of pesticides in surface water in urban waters along a population gradient of the ten largest Maine cities. Additional objectives including assessing the feasibility of passive sampling techniques and establishing a baseline for future trend studies of pesticide contamination in the sampled waters. Staff will present the findings of the study.

Presentation By: Dr. Pam Bryer, Toxicologist

Mary Tomlinson, Pesticide Registrar and Water Quality Specialist

Action Needed: Discuss and provide feedback on results

7. 2021 Preliminary Water Quality Monitoring Related to Aerially Applied Herbicides in Forestry

Executive Order 41 FY 20/21 directed the Board to develop a surface water quality monitoring effort to focus on aerial application of herbicides in forestry to be conducted in 2022. In an effort to be responsive to this request and to accommodate what was a changing timeline for completion of the EO request, staff conducted a small preliminary surface water quality monitoring pilot in 2021. Sampling was limited and all samples were collected in advance of planned 2021 aerial applications of herbicides for site preparation and conifer release.

Presentation By: Mary Tomlinson, Pesticide Registrar and Water Quality Specialist

Action Needed: Discuss and provide feedback on results

8. Consideration of a Consent Agreement with Mosquito Squad of Southern Maine, Scarborough, Maine

The Board’s Enforcement Protocol authorizes staff to work with the Attorney General and negotiate consent agreements in advance on 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 to resolve the matter. This case involves multiple applications by unlicensed/unsupervised individuals, an unauthorized application, failure to notify an individual on the Maine Pesticide Notification Registry, and noncompliant record keeping.

Presentation By: Raymond Connors, Manager of Enforcement

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

9. Other Old and New Business

- a. Obsolete Pesticide Collection Results
- b. LD 264 Final Report—January 15, 2022
- c. LD 519 Final Report—February 1, 2022
- d. LD 524 Final Report—January 1, 2022
- e. Executive Order 41 Final Report—Due January 2, 2022
- f. Medical Advisory Committee Update
- g. Other items?

10. Schedule of Future Meetings

At the time of writing, there are no additional meetings scheduled. The Board will decide whether to add dates.

The Board will also decide if there is a continuing need to meet remotely.

Adjustments and/or Additional Dates?

11. Adjourn

NOTES

- The Board Meeting Agenda and most supporting documents are posted one week before the meeting on the Board website at www.thinkfirstspraylast.org.
- Any person wishing to receive notices and agendas for meetings of the Board, Medical Advisory Committee, or Environmental Risk Advisory Committee must submit a request in writing to the Board's office. Any person with technical expertise who would like to volunteer for service on either committee is invited to submit their resume for future consideration.
- On November 16, 2007, the Board adopted the following policy for submission and distribution of comments and information when conducting routine business (product registration, variances, enforcement actions, etc.):
 - *For regular, non-rulemaking business*, the Board will accept pesticide-related letters, reports, and articles. Reports and articles must be from peer-reviewed journals. E-mail, hard copy, or fax should be sent to the Board's office or pesticides@maine.gov. In order for the Board to receive this information in time for distribution and consideration at its next meeting, all communications must be received by 8:00 AM, three days prior to the Board meeting date (e.g., if the meeting is on a Friday, the deadline would be Tuesday at

8:00 AM). Any information received after the deadline will be held over for the next meeting.

- During rulemaking, when proposing new or amending old regulations, the Board is subject to the requirements of the APA (Administrative Procedures Act), and comments must be taken according to the rules established by the Legislature.