



JANET T. MILLS
GOVERNOR

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

BOARD OF PESTICIDES CONTROL

January 16, 2019

Augusta Civic Center, 76 Community Drive, Kennebec/Penobscot Room, Augusta, Maine

MINUTES

3:00 - 4:00 PM BOARD MEETING

4:00 - 5:00 PM PUBLIC FORUM

5:00 - 6:00 PM BOARD MEETING CONTINUED IF NECESSARY

Present: Adams, Bohlen, Flewelling, Granger, Jemison, Morrill, Waterman

1. Introductions of Board and Staff

- The Board, Assistant Attorney General Randlett, and Staff introduced themselves
- Staff Present: Bryer, Connors, Couture, Nelson, Patterson, Pietroski, Tomlinson

2. Minutes of the November 16, 2018 Board Meeting

Presentation By: Megan Patterson, Director

Action Needed: Amend and/or Approve

- **Flewelling/Jemison: Moved and seconded approval of minutes as amended**
- **In Favor: Unanimous**

3. Request for Financial Support from the Maine Mobile Health Program and the Eastern Maine Development Corporation

Since 1995 the Board has supported a Migrant and Seasonal Farmworker Safety Education program. The Maine Mobile Health Program (MMHP) and Eastern Maine Development Corporation (EMDC) provided training to 421 migrant agricultural workers during the 2018 season. Funding to support this effort in 2019 is being requested in the amount of \$5,360,

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which is the same amount the Board provided in 2018. The funding has been accounted for in the Board's FY'18 budget.

Presentation By: Chris Huh, Program Manager, Farmworkers Jobs Program, Eastern Maine Development Corporation

Elizabeth Charles McGough, Director of Outreach, Maine Mobile Health Program

Action Needed: Discussion and Determination if the Board Wishes to Fund this Request

- Huh thanked the Board for their ongoing support. He added that MMHP trained 421 workers in 2018, which was up from 335 in 2017.
- McGough stated their intent is to hire bilingual staff similar as they have in past years. The curriculum is amended year to year to better fit the needs of the farmworkers.
- Jemison stated he supports this program and they do great work.

- **Jemison/Flewelling: Moved and seconded to support request**
- **In Favor: Unanimous**

4. Maine Cooperative Extension Request to Extend FIFRA Section 24(c) Registration (ME-130001) Malathion 8 Flowable for Use on Blueberries

Maine Cooperative Extension is requesting to extend §24(c) ME-140001 registration. Gowan Company supports this registration which increases the maximum application rate of Malathion 8 Flowable agricultural insecticide to control spotted wing drosophila (SWD) in blueberries. Gowan Malathion 8 Flowable has been highly effective against SWD in Maine at the higher application rates. In addition, this product offers growers the advantage of very short pre-harvest and re-entry intervals. Available data indicate that residues are expected to be below the established tolerance.

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

Action Needed: Approve or disapprove the request

- Tomlinson recommended the Board consider the FIFRA Section 24(c) extension requests together (Items 4-6), because they are essentially duplicates.
- Yarborough stated the request is for an increased rate of application for management of spotted wing drosophila (SWD) with a product that is already registered. He added that the first year SWD arrived in Maine, approximately one quarter of the blueberry crop was lost.
- Yarborough stated resistance management with this pest has been considered, and growers are attempting to implement the cultural control of early harvesting. He explained that a residue tolerance for wild blueberry has been determined, and this pesticide active ingredient is a needed tool that also has a short preharvest interval.
- Jemison asked how much the rate would be increased.
- Tomlinson stated that the current rate is 1¼ pints/acre three times per year, and the 24(c) extension allows for a maximum of 2.5 pints/acre twice a year.

- Morrill asked why Gowan has not just changed their label. Yarborough speculated that most likely because it is a lengthy and expensive process and this does not represent a large enough market to justify.
- Tomlinson stated companies are strongly encouraged to incorporate these types of changes into a label but Gowan has not yet done that.
- Morrill asked if there was any data showing how many growers are using this product.
- Yarborough stated they do not currently track that data, but they could take a survey.
- Flewelling asked how many years the registration extension would be for.
- Tomlinson replied that it would be for five years.
- Morrill asked if the 2.5 pints per acre rate is the standard in other states. Tomlinson replied that this is what EPA has agreed to for the 24(c) registrations.
- Morrill questioned why the Board keeps seeing this label back, why the manufacturer is not changing it, and how much need is out there.
- Bohlen noted that he did not see anything in the package that told him about the relevant efficacy of those two rates, and he would like to see that data next time.
- Flewelling stated he would like to err on the side of the EPA.
- Jemison stated he wished there was a better chemistry available. Yarborough responded that there is and they are using those also.
- Jemison asked if Yarborough knew of a new chemistry coming out that may allow them to move away from organophosphates. Yarborough stated he was unsure. Handley stated Assail and Exirel are new products that came out for cane berries but they do not work as well as malathion.

- **Flewelling/Adams: Moved and seconded to accept the 24(c) extension for blueberries**
- **In Favor: Unanimous**

5. Maine Cooperative Extension Request to Extend FIFRA Section 24(c) Registration (ME-170001) Malathion 8 Flowable for Use on Cane berries

Maine Cooperative Extension is requesting to extend §24(c) ME-170001 registration. Gowan Company supports this registration which increases the number of allowable applications of Malathion 8 Flowable agricultural insecticide to control SWD in cane berries. Gowan Malathion 8 Flowable has been highly effective against the SWD in Maine cane berries with the extra application. In addition, this product offers growers the advantage of very short pre-harvest and re-entry intervals. Available data indicate that residues are expected to be below the established tolerance.

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

Action Needed: Approve or disapprove the request

- Tomlinson stated that this 24(c) extension allows two pints per acre to be applied a maximum of four times a year, rather than three times per year.
- Handley told the Board that the raspberry harvest lasts four to six weeks, and they need to be sprayed every five to seven days to keep the berries from turning to mush. He added that most growers have one half to five acre plantings, so they are not large plots, but a lot of people are growing cane berries.

- Handley stated they want a product with a preharvest interval of three days or less. Growers are also using spinosad and synthetic pyrethroids, and they are very worried about resistance with the spinosad. Handley noted that synthetic pyrethroids work well at higher rates but because they are a broad-spectrum insecticide they extremely hard on beneficial insects.
- Handley explained that netting with at least one millimeter mesh that completely covers the planting, with double doors at the entrance, is a non-chemical option that has been successful, but it is not inexpensive or easy to achieve.
 - **Adams/Flewelling: Moved and seconded to accept the 24(c) extension for cane berries.**
 - **Unanimous in favor**

6. Maine Cooperative Extension Request to Extend FIFRA Section 24(c) Registration (ME-170002) Malathion 8 Aquamul for Use on Blueberries

Maine Cooperative Extension is requesting to extend §24(c) ME-170002 registration. Loveland Products, Inc. supports this registration which increases the maximum application rate of Malathion 8 Aquamul to control SWD in blueberries. This request is based on economic considerations and the request is identical to the Gowan Company §24(c) ME-130001.

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

Action Needed: Approve or disapprove the request

- Yarbrough stated that product options allow for competition in the marketplace, potentially resulting in cost savings for growers.
 - **Flewelling/Granger: Moved and seconded to accept the 24(c) extension for blueberries.**
 - **Unanimous in favor**

7. Review of Proposed Groundwater Testing for 2019

7 M.R.S. § 607-A, Section 2-A, directs the Board to conduct water residue surveys, for both ground and surface water, to prepare profiles of the kinds and amounts of pesticides present. At the November 2018 Board meeting, Board staff proposed a continuation of past groundwater monitoring efforts. The Board asked that staff provide the Board with the proposed cost, purpose of the testing, and set objectives.

Presentation By: Mary Tomlinson, Registrar and Water Quality Specialist and Pam Bryer, Toxicologist

Action Needed: Approve or disapprove funding for the proposed monitoring effort

- Tomlinson summarized past groundwater sampling efforts and detailed the plan for upcoming sampling that was submitted as part of the Board packet. She noted that there

is a statutory requirement to conduct water residue surveys, and in previous years they sampled 124-197 wells that were within one quarter mile down gradient from a currently active agricultural field. Tomlinson told the Board she would like to increase this number to 200 and narrow the sampling area to be more specific.

- Bryer and Tomlinson have been working with Bohlen to refine the process of selecting points and to make the process statistically justifiable.
- Morrill asked Patterson if there were sufficient funds available.
- Patterson replied that there were.
- Adams asked if there would be any sampling of surface waters.
- Bryer responded not at this time, but plans are in the works for surface water sampling in the future.
- Adams stated he felt the Board should be conducting both surface and ground water surveys.
 - **Flewelling/Waterman: Moved and seconded to approve funding for the proposed monitoring effort.**
 - **Unanimous in favor**

4:00pm- Morrill opened public forum

4:38pm- The Board returned from public forum.

8. Update on Water Quality Monitoring Activities

7 M.R.S. § 607-A, Section 2-A, directs the Board to conduct water residue surveys, for both ground and surface water, to prepare profiles of the kinds and amounts of pesticides present. In 2018, the Board's staff was involved in surface water and sediment sampling. The staff will update the Board on those activities and the sampling results.

Presentation By: Mary Tomlinson
Pesticides Registrar and Water Quality Specialist

Action Needed: None—Informational Only

- Tomlinson outlined recent water surveys as described in memo submitted with the Board packet.
- Tomlinson stated extended surface water sampling was conducted in September 2018 in the Bangor area around the Penobscot river. Raw data from these samples has not yet been analyzed.
- Bohlen stated there was not a list in the memo of all pesticides the samples were tested for and he would like to see that list to know what was not found.
- Flewelling asked if the report was good news.
- Tomlinson responded that bifenthrin was found throughout the sediment, which was not unexpected since it is used both in urban and agricultural settings.

9. Correspondence

a. Email and article from Jody Spear

- Spear asked that the board rescind the registration for J.R. Simplot's plant incorporated protectants for late blight in potatoes. Spear stated the potato will modify regular strains of potatoes on the market.
- Jemison responded that he does not know how industry is finding this white russet potato compared to others.
- Alvin Winslow of Winslow Agriculture LLC stated that he is a Certified Crop Advisor and provides advisory services for approximately eight thousand acres of potatoes. He stated that he was employed with Monsanto when these potatoes were being developed. He further stated that the author of this book did not invent this potato and that his faulty lab work resulted in his resignation.
- Winslow stated that he would like to retain this product registration to help the potato industry stay competitive. He stated that over 200 research trials were done on these potatoes and the regulatory research data is a matter of public record.
- Tomlinson stated there are two registrations for Simplot, both for late blight protection (note: there were three in 2017, but one was cancelled by the registrant in 2017).
- Jake Dyer of the Maine Potato Board indicated that these potatoes are not currently being grown in Maine for either table or chipping stock.
- Morrill thanked both Spear and Winslow for bringing info to the Board.
- Jemison stated that a bioengineered label will be on the bag that these chips come in.

b. Letter from Linda Titus, Ag Matters

- Titus would like the Board to remove the requirements for recordkeeping for use of disinfectants in post-harvest wash tanks, such as used for washing leafy greens, because growers already must keep records of these applications under the Food Safety Modernization Act, and are being inspected by Quality Assurance and Regulations inspectors based on those records.
- Patterson stated that per BPC Chapter 50, Record Keeping and Reporting Requirements, commercial agricultural producers must maintain records for pesticide applications. By definition a commercial agricultural producer is any person who produces and agricultural commodity for commercial purposes. An agricultural pesticide application is any application of pesticide upon an agricultural commodity which is performed by or for a commercial agricultural producer. Additionally, the Board's policy on applications requiring an Agricultural Basic license states that production begins with the growing medium and ends when the product leaves the farm—which is inclusive of the applications described by Titus. This language appears to require growers to maintain records when they use dips and washes on produce prior to it leaving the farm.
- Jemison asked about the common active ingredients in the dips and washes.
- Patterson stated some common ones are bleach products and hydrogen peroxide, among others.
- Bohlen stated he needs more info before making a decision and would like the public to come before the Board to explain in detail. He added that this needs to be added to the future rule-making list.

- Morrill directed staff to add this as an agenda item for the next Board meeting.

10. Other Items of Interest

- a. LD 36 An Act To Change the Composition of the Board of Pesticides Control

11. Schedule of Future Meetings

March 8, 2019, April 19, 2019, and May 24, 2019 are proposed meeting dates. The March meeting will include a hearing on proposed rule amendments.

- Patterson suggested combining a Board meeting with a planning session.
- Morrill responded that the Board will defer to Patterson for this decision.

12. Adjourn

- **Flewelling/Jemison: Moved and seconded to adjourn at 5:26pm**
- **In Favor: Unanimous**