

The Commonwealth of Massachusetts

Executive Office of Energy and Environmental Affairs



Department of Agricultural Resources

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PESTICIDE BOARD SUBCOMMITTEE MEETING MINUTES

April 20, 2021

Zoom Meeting at: <https://zoom.us/j/92526085006?pwd=NHJjdVpmOUZ4eDQ4b1dZSGJGR0RGUT09>

Meeting ID: 925 2608 5006; Passcode: 622948

BOARD MEMBERS IN ATTENDANCE

Michael Moore, DPH, Food Protection Program, (Chair)	Present
Commissioner John Lebeaux, MDAR	Present
Marc Nascarella, DPH, Designee for Commissioner Bharel, MD	Present
Eric Seaborn, DCR, Designee for Commissioner Montgomery	Present
Richard Berman, Commercial Applicator	Present

The Board did meet or exceed the minimum number (3) of members present to form a quorum and conduct business.

B. REVIEW OF MINUTES FROM OCTOBER 20, 2020 AND JANUARY 19, 2021

Motion: that the Pesticide Board Subcommittee approves the summary notes for the October 20, 2020 meeting and the January 19, 2020 meeting.

Moved: R. Berman

Second: M. Nascarella

Discussion: None

In Favor: M. Moore, J. Lebeaux, M. Nascarella, R. Berman

Opposed: None

Abstained: E. Seaborn

C. PRODUCT REGISTRATIONS

Motion: That the Pesticide Board Subcommittee registers the pesticide products listed on the EIPAS PR April 20, 2021 Subcommittee cover sheet with the exception of the following products:

- Empyros, EPA Reg. No. 5905-641.
- Acuron® GT Herbicide, EPA Reg. No. 100-1675.
- Agrisel 3-Way Max Turf & Ornamental Broadleaf Herbicide, EPA Reg. No. 228-409-72159.
- Panther Duo Herbicide, EPA Reg. No. 71368-115; and
- Thwartext, EPA Reg. No. 85588-18.

Moved: R. Berman

Second: J. Lebeaux

Discussion: None

In Favor: M. Moore, J. Lebeaux, M. Nascarella, E. Seaborn, R. Berman

Opposed: None

Abstained: None

Motion: That the Pesticide Board Subcommittee has determined that the use of the following products:

- Empyros, (EPA Reg. No. 5905-641), containing S-metolachlor.
- Acuron® GT Herbicide, (EPA Reg. No. 100-1675), containing S-metolachlor; and
- Thwartext, (EPA Reg. No. 71368-115), containing methoxyfenozide.

may cause an unreasonable risk to man or the environment, when taking into account the economic, social and environmental costs and benefits of their use. This determination is based upon the leaching potential and toxicological concern of this substance as defined in the "Protection of Groundwater Supplies from Non-Point Source Pesticide Contamination" Regulations. Therefore, the Subcommittee hereby modifies the registration classification of agricultural/commercial pesticide products containing methoxyfenozide and metolachlor from general to restricted use for groundwater concerns.

Moved: R. Berman

Second: J. Lebeaux

Discussion: None

In Favor: M. Moore, J. Lebeaux, M. Nascarella, R. Berman, E. Seaborn

Opposed: None

Abstained: None

Motion: That the Pesticide Board Subcommittee has determined that the use of the following products:

- Agrisel 3-Way Max Turf & Ornamental Broadleaf Herbicide (EPA Reg. No. 228-409-72159), containing 2,4-D at 47.33%; and
- Panther Duo Herbicide, (EPA Reg. No. 71368-115), containing 2,4-D at 38.87%,

as restricted use pursuant to the Subcommittee's decision on April 14, 1989, to register products containing 20% or more of 2,4-dichlorophenoxyacetic acid (2,4-D) and/or its derivatives as state restricted use.

Moved: R. Berman

Second: J. Lebeaux

Discussion: None

In Favor: M. Moore, J. Lebeaux, M. Nascarella, R. Berman, E. Seaborn

Opposed: None

Abstained: None

D. SPECIAL LOCAL NEEDS (SLN) REGISTRATION RENEWAL REQUEST FOR THE EXISTING SLN MA-170003 REGARDING THE USE OF DEVRINOL 2-XT (NAPROPAMIDE, EPA REGNO 70506) IN MASSACHUSETTS CRANBERRY PRODUCTION

Motion: That the Pesticide Board Subcommittee hereby grants a renewal of the Special Local Needs registration (SLN MA -170003) for Devrinol 2-XT Selective Herbicide (EPA Reg. No. 70506-301) to allow multiple applications in new cranberry plantings. The renewal is for an additional five years and the new SLN label expires on April 30, 2026.

Moved: R. Berman

Second: J. Lebeaux

Discussion: See below.

In Favor: M. Moore, J. Lebeaux, M. Nascarella, R. Berman, E. Seaborn

Opposed: None

Abstained: None

This request for a renewal of existing SLN, for the use of Devrinol 2-XT on cranberries. The original SLN registration was approved in 2017. SLN registrations require evaluation and renewal every 5 years.

Hillary Sandler from the UMass Cranberry Station provided an overview and described that the special local need situation for this product still exists. The SLN label allows for the use of Devrinol 2-XT as a pre-emergent application on new plantings of cranberries. Specifically, it allows the ability to do up to three applications on new planting to combat weed pressure and facilitate cranberry planting to colonize the bog. The need for this product is also important as part of renovation of bogs that allows growers to stay competitive.

E. DISCUSSION OF FLUORINATED PESTICIDES

Before starting the discussion, Moore had a question for staff to find out if impacted registrants had been informed about this discussion. Moore recognized that this discussion may impact multiple products and believes that registrants of potentially impacted products should be notified. Wijnja stated that registrants had not been notified about the fluorinated pesticide discussion.

Moore stated that in previous meetings people who are affected by Subcommittee's decisions have a chance to listen to the discussion. Registrants that are affected by a discussion that the Subcommittee is considering and a possible action normally have an opportunity to listen, raise questions and are given advanced notice. Moore was inclined to recommend that this discussion is postponed until affected registrants have been notified.

Berman stated that he agreed with Moore and also noted that it is not time sensitive issue and that there is no urgent need for action on this topic. Moore also noted that registrants have the right to view the information that is being considered by the Subcommittee.

Moore proposed to postpone the discussion of fluorinated pesticides to allow MDAR to send out notification to the affected registrants.

F. NEW BUSINESS

Berman recommended that the Subcommittee look into registering 25b pesticide products [aka. Minimum risk pesticides]. Berman supported this request with information on these type of products and the way they are used. Although these pesticide products are low in toxicity, they are not free from risk. Most of these products are essential oils, while they exist in nature they are manufactured into products with higher concentrations in order to provide insect killing potential. Individuals with plant allergies are more sensitive to these product's and at a greater risk for an allergic reaction. Essential oils are also more likely than other products to stain surfaces, especially vinyl and tile roofs. Because these products are currently not registered, the Department has no record of what products are being used in the state and has no ability to track or record adverse effect reports. There are currently unlicensed people using these products that increases the risk of adverse effects. These unlicensed applicators may not have proper health and safety training, and they might not be exposed to pesticide education of any kind. Section 25b pesticides are increasingly being used in schools and daycare sites because Chapter 132 B exempts them from notification and reporting requirements specified in 333 CMR section 14.

Berman noted that on April 8, 2021, EPA published in the Federal Register a solicitation asking for public comment and suggestions regarding pesticide exemption from registration and other requirements. Comments are due by July 7, 2021. Berman suggests that the Department brings up this topic at the next meeting and shares the Federal Register notice with the Subcommittee. Berman stated that there is no need to wait until changes are made at the federal level. For the reasons mentioned above and noting that we have the authority, 25B products should be registered here in Massachusetts. As an example, he mentioned the state of Maine where these products are registered and therefore information on the use of those products.

Moore acknowledged Berman's request and states that it can be included as a discussion topic at a next meeting. With reference to the fluorinated pesticides discussion, he asked how the companies could be notified of the Subcommittee considering taking action on this. With respect to due diligence, Moore noted that the companies should have the right to state their case.

Berman noted a separate but related subject is whether these applicators who use 25B products should be licensed in MA. He viewed that as a topic to be addressed by the Department and Pesticide Board. The registration of 25Bs in MA would provide information on the use of these products and ability to track adverse effect reports.

Moore defers to the Department to further develop this topic for a discussion at a future meeting.

ADJOURN

Motion: To adjourn the April 20, 2021 Subcommittee Meeting.

Moved: R. Berman

Second: J. Lebeaux

In Favor: M. Moore, J. Lebeaux, M. Nascarella, E. Seaborn, R. Berman

Opposed: None