



JOHN ELIAS BALDACCI
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
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AUGUSTA, MAINE 04333-0028

SETH H. BRADSTREET III
COMMISSIONER
HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

August 28, 2009

John E. Dority Safety & Performance Training Center (Conference Room, Lower Level)
10 Mountain Avenue (off Route 201 going toward Skowhegan), Fairfield (Exit 133 from I-95)

AGENDA

9:30 AM

1. Introductions of Board and Staff
2. Minutes of the July 1, 2009, Emergency Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Minutes of the July 10, 2009 Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

4. Review of Draft Rule Amendment to Chapter 28 to Implement the Provisions of LD 1293

On June 21, 2009, Governor Baldacci signed Public Law 2009, Chapter 378, LD 1293, An Act To Require Notification of Pesticide Applications Using Aerial Spray or Air Carrier Equipment. The Board discussed the provisions of this bill at their June 12, 2009, meeting and initially decided to focus staff efforts on implementing the registry provisions of the bill. At the July 10 meeting, the Board reviewed a staff memo detailing concerns that have arisen about the language of the bill, and it directed the staff to draft a letter to the Committee on Agriculture, Conservation and Forestry (ACF), alerting the Committee to the concerns. Subsequent discussions with the bill's sponsor and ACF Committee members have encouraged the Board to move forward with a comprehensive rule amendment to implement the intent of the bill, even if some of the details conflict with LD 1293. The Board will review a draft rule amendment prepared by the staff and determine whether to direct the staff to initiate rulemaking proceedings.

Presentation by: Henry Jennings
Director

Action Needed: Determine whether to initiate rulemaking

5. Update on Bt Corn Reviews and Pending Registration Requests

The Board's Medical Advisory Committee (MAC) met on July 15 and concluded its review of the dietary safety of Bt corn. The Plant Incorporated Protectant Technical Committee is scheduled to meet on September 18 to review Bt corn with reduced refuge requirements. The staff will discuss the status of the MAC review and update the Board on pending Bt corn registration requests.

Presentation By: Lebelle Hicks

Action Needed: None—informational only

6. Consideration of Staff Negotiated Consent Agreement with C & D Corporation of Deblois

On June 3, 1998, the Board amended its Enforcement Protocol to authorize staff to work with the Attorney General and negotiate consent agreements in advance in 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 and resolve the matter. This case involved the application of Velpar by a company employee that extended beyond the property boundary for the target field.

Presentation By: Raymond Connors
Manager of Compliance

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

7. Adoption of Board Policy on Chapter 27 with Respect to School Farms and Greenhouses

At the July 10, 2009, meeting, the Board reviewed a staff memo detailing concerns that the notification requirements contained in Chapter 27 create an unreasonable burden for educators managing school gardens and greenhouses, especially given that these facilities are only visited by a relatively small percentage of faculty and students. The Board agreed that the current rule was overly restrictive in these instances and directed the staff to draft an interim enforcement policy to allow greater flexibility in these circumstances.

Presentation by: Gary Fish
Manager of Pesticide Programs

Action Needed: Determine whether to adopt the draft interim enforcement policy

8. Adoption of Board Policy on the Distribution of Pesticides from Landlord to Tenant

At the July 10, 2009, meeting, the Board reviewed a staff memo detailing concerns about property management companies supplying pesticides to tenants and concerns about the potential risks and harm that might result from the improper application of pesticides by untrained applicators. The Board provided additional input to the staff and directed it to redraft the policy for consideration at the next meeting. The Board will now consider adoption of the draft policy.

Presentation By: Henry Jennings
Director

Action Needed: Decide whether to adopt the formal policy

9. Other Old or New Business

- a. Variance permit for Aroostook Agriculture, Presque Isle, Maine, for the 2009 Roadside Brush Control Program in the towns of Mapleton, Castle Hill, and Chapman, and brush control under power lines for Maine Public Service Company—H. Jennings
- b. Recent correspondence received regarding glyphosate and Roundup®—L. Hicks.
- c. Other?

10. Schedule and Location of Future Meetings

October 2, November 6, and December 11, 2009, are the tentative dates for the next Board Meetings. The Board will decide whether to change and/or add dates.

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 attention of Paul Schlein, Public Information

Officer, at the Board's office. 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.