



JOHN ELIAS BALDACCI
GOVERNOR

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

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COMMISSIONER
HENRY S. JENNINGS,
ACTING DIRECTOR

BOARD OF PESTICIDES CONTROL

February 16, 2007

Colby Thomas Rooms, Hampton Inn
425 Kennedy Memorial Drive, Waterville
(Exit 127 from I-95)

AGENDA

9:30 A.M.

1. Introductions of Board and Staff
2. Minutes of the January 26, 2006 Board Meeting

Presentation By: Henry Jennings
Acting Director

Action Needed: Amend and/or approve

3. Section 18 Emergency Registration Renewal Request for Coumaphos to Control Varroa Mites and Small Hive Beetles in Managed Honey Bee Colonies

The Division of Plant Industry in the Maine Department of Agriculture, Food & Rural Resources has again requested that the Board petition EPA for a FIFRA Section 18 specific exemption for use of coumaphos (CheckMite+) to control both Varroa Mites and Small Hive Beetles in managed bee colonies. Fluvalinate has been used to control Varroa Mites since 1987, but resistance started developing in 1997. In addition, Small Hive Beetles have spread into Maine and there is no product currently registered to control this pest. The State Apiarist points out that a healthy bee keeping industry is needed to support Maine agriculture, and that a regulatory control product is essential so that migratory bee operators may continue to service the various commodity groups in this state. The request is supported by the product manufacturer, Bayer Corporation, and their regulatory specialist points out they are continuing to pursue a full Section 3 Registration with EPA.

Presentation By: Wesley C. Smith
Pesticides Registrar

Action Needed: Approve/Deny request to petition EPA for a Section 18 Specific Exemption Registration for Coumaphos for Use with Bees.

4. Continued Discussion Concerning Potential Development of Buffer Zones to Protect Surface Water

At the July 21, 2006 Board Meeting, members reviewed their prioritization balloting for discretionary tasks discussed at their 2006 planning session in June. Development of buffer zones to protect water quality ranked as the Board's number four priority. The Board reviewed a memorandum summarizing surface water data, other state requirements for buffer zones and an initial concept for a future rule at their January 26, 2007 meeting. Members were concerned that using DEP's definition of state waters may create a rule that is too broad. Consequently, the Board requested that the staff invite personnel from the DEP to their next meeting to discuss options for defining the surface waters to be protected.

Presentation By: DEP Staff

Action Needed: Continue Development of Buffer Zone Concepts

5. Adoption of Housekeeping Amendments to Chapters 10, 20, 21, 27, 28 and 31

A public hearing was held on November 17, 2006 on a series of minor housekeeping amendments to eight different rule chapters. Four people testified at the public hearing and 13 written comments were received prior to the December 1, 2006 deadline. The Board reviewed the rulemaking record at their December 15, 2006 meeting and asked the staff to make minor revisions to a couple of the proposed amendments based on the rulemaking record. The Board reviewed the minor changes at their January 26, 2007 meeting and voted to move forward with the final adoption of changes to Chapters 10, 20, 21, 27, 28 and 31 at the February meeting. Members determined they would not adopt the proposed changes to Chapter 40 and 41 relating to the use of trichlorfon.

Presentation By: Henry Jennings
Acting Director

Action Needed: Adoption of Amended Rules, Basis Statement and Response to Comments

6. Consideration of Staff Negotiated Consent Agreement with JDB Inc. of Brewer

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. In this case, a company applicator misread the address on the work order and started applying broadleaf weed control to the wrong property. The property owner observed the application and rushed out to stop the application. Application of pesticides without the authorization of the property owner is considered use of a pesticide in a careless, faulty or negligent manner.

Presentation By: Raymond Connors
Acting Chief of Compliance

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

7. Consideration of Staff Negotiated Consent Agreement with the Causeway Club Golf Course of Southwest Harbor

This case is similar to the preceding agenda topic 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 an employee of the club applying pesticides at the course during 2006. Golf courses are considered a place open to use by the public, which may only be sprayed by licensed commercial applicators. At the time of the applications, no person from the course was licensed as a commercial applicator. These actions constitute a violation of the Board's statute requiring that a licensed applicator be present whenever commercial applications are conducted.

Presentation By: Raymond Connors
Acting Chief of Compliance

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

8. Other Old or New Business

- a. Legislative Update H. Jennings
- b. YardScaping Update G. Fish
- c. Other ?

9. Schedule and Location of Future Meetings

March 16, 2007 in Waterville; April 13, 2007 and May 18, 2007 are the tentative dates for the next Board meetings and/or a planning session.

Adjustments and/or Additional Dates?

10. Adjourn

NOTE: The Board Meeting Agenda and most supporting documents are posted one week before the meeting on the Board website at <http://www.thinkfirstspraylast.org/>.

NOTE: Any person wishing to receive notices and agendas for meetings of either the Medical or Environmental Risk Advisory Committees 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.

NOTE: On March 27, 1998, the Board adopted the following policy on accepting written comments:

For regular business meetings, the staff will continue to reproduce letters and short reports delivered to the Augusta office prior to the day of the meeting. Persons sending faxes or electronic submissions should call to verify that their document was received in its entirety and in legible condition. Persons should also be aware that lengthy documents will have to be sent to the State's Central Printing Office which may require up to a three day lead time to get them back. If time is short, those people will be advised to make their own copies. At a minimum, fourteen copies are recommended so as to include the Board, the Assistant Attorney General, the Director, another staff member responsible for the topic, one for the person requesting the agenda article, and three extras for press and other interested parties.