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July 2, 2009

TO: Board Members

FROM: Gary Fish, Manager, Pesticide Programs

RE: Draft Policy to Clarify What Pesticide Products May be Distributed by a Landlord to a Tenant

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Concerns have been expressed to the Board's staff recently about a large property management company systematically distributing pesticides to low income tenants, including some non-English-speaking tenants. Overuse of liquid sprays was of particular concern.

At the May meeting you discussed these concerns. At the meeting there was some sentiment that certain baits and traps present minimal risks even for untrained applicators, but that liquid sprays and aerosols can present risks when improperly applied. Consensus was reached to direct the staff to develop a draft policy for consideration at a future meeting.

The draft policy language follows:

Although it is clearly unlawful for a landlord to sell any pesticide to a tenant, it is not so clear whether giving the product to them is regulated as distribution under 22 MRSA § 1471-C (8) and 1471-W. Therefore, the Board shall adopt a policy to clarify which types of pesticide products are allowed for distribution by a landlord to a tenant without remuneration.

Products that pose higher risks because they produce fumes, very small spray droplets or other forms of inhalation hazard or those that are not ready-to-use (require mixing) shall not be distributed by landlords to their tenants.

Products that pose higher risks include but are not limited to, aerosols of any kind, smokes, bombs, fumigants, liquid sprays and dusts or powders.

Products that do not pose these aforementioned higher risks may be distributed by landlords to tenants but only without any form of remuneration and only for use in the tenant's own apartment area.

Please be prepared to discuss this issue and make suggestions for amendments. If you have any questions, please call or email me.