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MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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DIRECTOR

BOARD OF PESTICIDES CONTROL

December 13, 2013

AMHI Complex, 90 Blossom Lane, Deering Building, Room 319, Augusta, Maine

AGENDA

8:30 AM

1. Introductions of Board and Staff
2. Minutes of the October 18, 2013, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

3. Request for Amendment to Chapter 22, Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition

Chapter 22 contains a requirement to identify and record sensitive areas, but exempts from this requirement commercial application categories 3B (turf), 3A (outdoor ornamental) and 7A (structural general pest control). A constituent has requested that the Board consider also exempting categories 7E (biting fly and other arthropod vectors) and 6B (industrial/commercial/municipal vegetation management).

Presentation By: Gary Fish
Manager of Pesticides Programs

Action Needed: Provide Guidance to the Staff about Whether/When to Initiate Rulemaking

4. Streamlining the Applicator Licensing Process

At the September 6, 2013, Planning Session, the Board discussed streamlining of the commercial applicator licensing process, which had been identified as the highest priority topic. The Board debated several ideas to improve the system. Companies are trying to get new and seasonal employees licensed quickly in the spring and summer. At the October 18, 2013, Board meeting, some of the ideas from the Planning Session were further discussed. The three ideas that seemed the most feasible were an optional combined application for exam and licensing, a temporary license/receipt and accepting credit card payments. The staff has done research and is prepared to discuss these options with the Board.

Presentation By: Gary Fish
Manager of Pesticides Programs

Action Needed: Provide Guidance to the Staff about Potential Changes

5. Review of Variance Policy for Chapter 29

At the October 18, 2013, meeting, the Board discussed the process for issuing variances from Chapter 29 for the control of invasive plants and instructed the staff to draft a policy allowing multiyear variances, provided certain conditions are met in the application. The staff has drafted a policy for the Board's review and discussion.

Presentation by: Gary Fish
Manager of Pesticides Programs

Action Needed: Provide Guidance to the Staff about the Policy

6. Increasing the Availability of Online Continuing Education Options

At the September 6, 2013, Planning Session, the Board discussed increasing online continuing education options, which had been identified as its third highest priority topic. At the October 18, 2013, Board meeting, there was further discussion around the topic and the Board asked the staff to provide data on what topics are currently covered by available online training. The staff has prepared a summary and is prepared to further discuss the subject with the Board.

Presentation By: Gary Fish
Manager of Pesticide Programs

Action Needed: Provide Guidance to the Staff

7. Review of the Board's Enforcement Protocol

At the September 6, 2013, Board meeting, concerns arose about the proposed fine imposed by a pending consent agreement. At the October 18, 2013, meeting, the Board reviewed the enforcement protocol, and discussed when enforcement cases should be presented to the Board prior to negotiating an agreement, as well as the Board's options regarding executive sessions. However, because the Assistant Attorney General was not present, it was agreed that discussion of this topic should be continued at the next meeting.

Presentation By: Henry Jennings
Director

Action Needed: Determine Whether Changes Should be Made to the Board's Enforcement Protocol and Provide Guidance to the Staff

8. Review of the Board's Reciprocal License Policy

Since 1992, the Board has had a policy requiring all applicators to pass Maine exams for certification (no reciprocal licenses). However, the Board promulgated emergency rule amendments to allow for reciprocal licensing when potato fields were too wet for ground spraying two different times. In addition, if a mosquito-borne health threat arises, and the Maine CDC recommends aerial spraying for mosquito control, the urgency of this situation may not allow sufficient time to license aerial applicators through the normal, sometimes time-consuming, process. The staff is suggesting that the Board consider amending its policy to allow issuance of reciprocal licenses when the staff determines an urgent need exists in which out-of-state applicators are likely to be needed.

Presentation By: Henry Jennings
Director

Action Needed: Provide Guidance to the Staff about Potential Policy Changes

9. Consideration of a Consent Agreement with Barry Churchill of Fort Fairfield

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 on 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 an application of a “weed & feed” product to an area open to the public by an unlicensed applicator.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

10. Update on Persistent Herbicides

Persistent herbicides have been the cause of numerous plant injury incidents in recent years. During the summer of 2013, the staff received an anonymous complaint from an organic farmer whose crops had been diagnosed with damage caused by persistent herbicide contamination of his compost. The farmer had purchased hay from a local supplier, and the hay land had been treated with ForeFront (aminopyralid). The ForeFront label prohibits movement of treated hay from the farm where it originated. The staff will update the Board on its investigation.

Presentation By: Henry Jennings
Director

Action Needed: None—Information Only

11. Other Old or New Business

- a. Legislative Update—H. Jennings
- b. BPC Website Changes—Anne Bills
- c. Other?

12. Schedule of Future Meetings

January 8, February 21, March 28, May 9, and June 27, 2014, are tentative Board meeting dates. The January 8 meeting will take place at the Maine Agricultural Trades Show, along with a Listening Session cohosted by the Maine IPM Council. The exact schedule for the Trades Show proceedings still needs to be finalized. The June 17 meeting is tentatively planned to be held in the Madison/Skowhegan area, following a tour of Backyard Farms. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

13. 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 Anne Bills, at the Board's office or anne.bills@maine.gov. 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.