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GOVERNOR

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

WALTER E. WHITCOMB
COMMISSIONER

HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

June 15, 2012

Important—please note meeting location and time:

AMHI Complex, 90 Blossom Lane, Deering Building, **Room 233**, Augusta, Maine

AGENDA

8:30 AM

1. Introductions of Board and Staff
2. Minutes of the May 11, 2012, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Public Information Gathering Work Session

Public Law 2011, Chapter 510, repealed the statutory mandate for the deposit system for restricted-use pesticide containers. In order to implement the intent of the legislation, the Board will need to repeal Chapter 21 of its rules and the corresponding record requirements in Chapter 50. In addition, after reviewing the Board's report pursuant to Resolve 2011, Chapter 59, covering the use of Integrated Pest Management at schools, the Joint Standing Committee on Agriculture, Conservation and Forestry encouraged the Board to pursue rule amendments recommended in the report. Finally, the Board has developed a number of interpretive policies over the years in response to questions about the meaning or intent of its rules or statutes. However, policies are not enforceable. Therefore, the Board believes it is prudent to incorporate interpretations into rule. Five different definitions have been targeted for rule incorporation. The Board is now soliciting informal public input on its rulemaking concepts prior to formally initiating rulemaking. Written comments may be sent to the Board's main office at Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028, or e-mailed to henry.jennings@maine.gov.

Presentation By: Henry Jennings

Action Needed: Determine what rule changes the Board wishes to pursue this year

4. Consideration of NuFarm Americas Inc. Request for a FIFRA Section 24(c), Special Local Need Registration for NuFarm Ethephon 2 Plant Growth Regulator (EPA #228-660) for Use on Greenhouse Tomatoes

Bayer CropScience is no longer supporting the FIFRA Section 24(c) registration for Ethrel Brand Ethephon Plant Regulator (EPA #264-267). However, NuFarm Americas Inc. is willing to support Backyard Farms' request for a 24(c) registration for NuFarm Brand Ethephon 2 Plant Growth Regulator for use on greenhouse tomatoes. Use of this product aids in providing consistent quality of tomatoes year-round, by accelerating ripening and minimizing crop loss due to softness, cracking, and other deformities.

Presentation By: Mary Tomlinson
Registrar and Water Quality Specialist

Action Needed: Approve/disapprove 24(c) registration request

5. Development of the Board's Pesticide Notification Message

At its May 11, 2012, meeting, the Board directed the staff to develop a brief outreach message about pesticide notification intended to inform the public about its rights and responsibilities. Following the May 11 meeting, the staff distributed a draft poster to Board members seeking their input. Members unanimously supported the poster and it was subsequently e-mailed to municipalities, agricultural associations, environmental organizations, and members of the Board's mailing lists. The Board will now discuss development of additional outreach materials and strategies covering Maine's pesticide notification laws.

Presentation By: Paul Schlein
Public Education Specialist

Action Needed: Provide guidance to the staff

6. Development of Forestry Best Management Practices Intended to Prevent Discharges of Pesticides to Waters of the State

Due to recent federal court rulings, as of October 31, 2011, discharges of pesticides to waters of the state are prohibited unless covered by a Maine Pollution Discharge Elimination System Permit. Maine has not finalized a general pesticide permit intended to cover pesticide applications made over or near water. Use of Best Management Practices (BMPs) will help prevent discharges of pesticides. Consequently, the Board will consider development of BMPs for various application sectors beginning with forestry.

Presentation By: Mary Tomlinson
Registrar and Water Quality Specialist

Action Needed: Provide input to staff on the draft BMPs

7. Review of the 2011 Complaints/Inquiries Summary

In 2007, the Stakeholders Committee on Drift recommended that the Board produce and review an annual summary of complaints received by the Board's office. Summaries from 2008 and 2009 led to Board recommendations for improving the report. The Board will now review the 2011 summary.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: None—informational only

8. Consideration of a Consent Agreement with Atlantic Pest Solutions of Brunswick

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 a pesticide application onto a property without the authorization of the property owner.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Other Old or New Business

- a. Notice by Maine Public Service of scheduled hydraulic spraying of substations and associated facilities—H. Jennings
- b. Variance Permits for Chapters 22 and 29 to DeAngelo Brothers, Inc.—H. Jennings
- c. Other?

10. Schedule of Future Meetings

The July 27 meeting is scheduled to be held in Presque Isle. Several logistics of the trip still need to be finalized.

September 7, October 26, and December 7, 2012, are tentative Board meeting dates. The staff will continue to work on scheduling a meeting during the Maine Agricultural Trades Show on January 8, 9, or 10. 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 Education Specialist, 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.