



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

PAUL R. LEPAGE
GOVERNOR

WALTER E. WHITCOMB
COMMISSIONER

BOARD OF PESTICIDES CONTROL

June 23, 2017

**Room 118
Marquardt Building
32 Blossom Lane, Augusta, Maine**

AGENDA

9:00 AM

1. Introductions of Board and Staff
2. Minutes of the March 31, 2017 and May 12, 2017 Board Meetings

Presentation By: Cam Lay
Director

Action Needed: Amend and/or approve minutes from board meetings

3. Overview of Regulations Regarding the Use of Unmanned Aircraft for Pesticide Application

At the March 2017 meeting, the Board discussed current pesticide regulations and the use of unmanned aircraft to apply pesticides. Following that discussion, the Board requested that staff invite Federal Aviation Administration staff to provide an explanation of the current aviation regulations pertaining to the use of unmanned aircraft for the application of pesticides.

Presentation By: Daniel Jockett
FAA Aviation Safety Inspector.

Action Needed: None; informational only

CAM LAY, DIRECTOR
90 BLOSSOM LANE, DEERING BUILDING



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4. Continuing Discussion of Rulemaking Priorities

At an earlier meeting, the Board discussed undertaking rulemaking to address Section 5 of Chapter 29 concerning browntail moth. Rulemaking is time-consuming and expensive so a list of all potential rulemaking was developed and, at the March 31, 2017 meeting, the Board pared that list down to Chapters 27, 29 and 36. The Board will now discuss whether to proceed with rulemaking and consideration of amendments.

Presentation By: Cam Lay
Director

Action Needed: Determine whether to initiate rulemaking and schedule a hearing

5. Continuing Discussion of Funding for University of Maine Cooperative Extension PSAT and PSEP Positions

At the May 12, 2017 meeting, the Board tabled discussion of a request from Jim Dill of the UM CES for \$65,000 per year in recurring funding for a combined UM PSEP (Pesticide Safety Education Program) and PAT (Pesticide Applicator Training) position. Dr. Dill provided draft job descriptions for both positions. Details of Dr. Dill's presentation and the discussion to table the motion are in the minutes of that meeting.

Presentation By: Cam Lay
Director

Action Needed: Determine whether to provide funding for this position, and in what amount

6. Draft Interim Policy Regarding Interpretation of "Dominated by Emergent or Aquatic Plants" as Used in Chapter 29 Section 6A(V)

At the May 12, 2017 meeting, the Board discussed whether the definition of wetlands in Chapter 29 Section 6A(V)(c) is intended to include small areas without standing water which contain plants typically associated with a wetland habitat. The Board also discussed whether manmade depressions containing surface water, such as equipment ruts and roadside ditches, should be considered as wetlands for the purpose of this section. The Board requested that staff draft a policy based on the discussion. That policy is attached for the Board's review.

Presentation By: Cam Lay
Director

Action Needed: Revise and/or adopt policy

7. Chapter 29 Variances

At the April 24, 2015 meeting the Board began a two-year trial period in which staff could issue new variances from Chapter 29 for pesticide applications within 25 feet of surface water in railroad and DOT

rights-of-way under criteria detailed in a memo from Henry Jennings and related Board discussions. The staff would like the Board to now provide guidance for drafting a formal policy for initial variances and renewals. The original memo and minutes are attached for reference. Staff would like to know if flood-control levees and utility lines should be included in the policy as well.

Presentation By: Cam Lay
Director

Action Needed: Evaluate trial program, provide guidance for draft policy

8. Consideration of Consent Agreement with Jason Douin of JD Landscapes Inc. of Augusta, Maine

The Board's Enforcement Protocol authorizes 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 to resolve the matter. This case involves the application of a pesticide by an unlicensed individual.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Other Old or New Business

- a. Letter to Joint Standing Committee on State and Local Government from Board re LD 1505 An Act to Create Consistency in the Regulation of Pesticides
- b. Pega business management software update and demo
- c. Status of complaint summary report: in progress, will be complete by next meeting
- d. Articles and correspondence submitted by Board constituents:
 - Email and CNN news article submitted by Heather Spalding
 - Letter from Emera, Inc.
 - Email from Nancy Jezior
 - Email and letter submitted by Lynn Hower Allen and Parkinson's Disease support group
 - Email from Scott Longfellow
- e. Legislative items:
 - LD 174 An Act To Limit the Use of Pesticides on School Grounds—Committee Amendment
 - Public Law 2017 Chapter 59 An Act To Modify the Definition of "General Use Pesticide" (LD 594)—signed by the Governor on May 11, 2017
- f. Variances Renewed:
 - Dubois Contracting, vegetation control on Fort Kent dike.
 - Maine Department of Transportation, control of woody brush on roadsides in various towns
 - Stantec, Inc, control of Japanese knotweed in Phippsburg

10. Schedule of Future Meetings

August 4, September 15, October 27 and December 8, 2017 are tentative Board meeting dates. The Board will decide whether to change and/or add dates.

- The August 4, 2017 meeting will be held in Fairfield

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 Board's office or pesticides@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.