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GOVERNOR

STATE OF MAINE
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

February 24, 2012

Important—please note meeting location:
AMHI Complex, 90 Blossom Lane, Deering Building, Room 319, Augusta, Maine

AGENDA

9:30 AM

1. Introductions of Board and Staff
2. Minutes of the December 16, 2011, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Syngenta Crop Protection, Inc., Request for FIFRA Section 24(c) Registration for Callisto Herbicide on Low Bush Blueberries in the Bearing Year

Syngenta Crop Protection, Inc. is requesting a Special Local Need [24(c)] Application to allow use of Callisto[®] herbicide for broadleaf weed control on low bush blueberries in the bearing year. This request is supported by University of Maine Blueberry Extension Specialist Dave Yarborough. Callisto is already used on low bush blueberries in the non-bearing year and Syngenta has provided data indicating that residues are expected to be below the established tolerance.

Presentation By: Mary Tomlinson
Pesticides Registrar

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

4. FIFRA Section 18 Emergency Exemption Registration Request for the Use of Avipel to Reduce Bird Predation of Corn Seed

The application for a FIFRA Section 18 Emergency Exemption registration for the use of Avipel[®] (anthraquinone) to reduce bird predation of corn seed after planting is being resubmitted to the EPA. The Board approved this application in 2011, but the exemption was denied by the EPA due to lack of supporting economic loss and/or pest population data. The Board's staff has worked with distributors, Cooperative Extension and wildlife agencies to develop data to be submitted with the application. This

application is supported by the manufacturer, Arkion Life Sciences, and the University of Maine Cooperative Extension.

Presentation By: Mary Tomlinson
Pesticides Registrar

Action Needed Approve/Disapprove the Section 18 Emergency Exemption Registration Request

5. Request from Maine Migrant Health Program and Eastern Maine Development Corporation to Help Support a Worker Safety Training Program for Summer 2012

Since 1995, the Board has supported a Migrant and Seasonal Farmworker Safety Education program. During 2011, 360 individuals received pesticide safety training. The Maine Migrant health program and Eastern Maine Development Corporation are planning to provide two health and safety outreach workers during the 2012 agricultural season. Funding to support this effort is being requested in almost the same amount as last year, and funds have been budgeted in the Board's FY'12 work plan.

Presentation By: Chris Huh, Program Manager, Farmworkers Jobs Program,
Eastern Maine Development Corporation
Barbara Ginley, Executive Director, Maine Migrant Health Program

Action Needed: Discussion and determination if the members wish to fund this request

6. Discussion of Amendments to Chapter 21—Pesticide Container Disposal and Storage

LD 1758, An Act To Eliminate the Deposit Requirements for Containers of Limited and Restricted Use Pesticides, proposes repealing Maine's deposit requirements for restricted use pesticide containers. If enacted, rulemaking to repeal or amend Chapter 21, Pesticide Container Disposal and Storage, of the Board's rules will be necessary.

The deposit system dates back to 1983, when the Maine Legislature enacted PL 1983, Chapter 542, in response to concerns that many agricultural pesticide containers were not being cleaned or properly disposed of. By the mid-1980s, the Board's staff had implemented the deposit system and worked with agricultural producers to clean up existing dumps. By the early 1990s, a voluntary recycling system for plastic containers was also gaining momentum. The high cost of modern day crop protection chemicals now provides further incentive for growers to remove all of the pesticides from the empty containers. Today, economic efficiency is driving a transition to reusable, mini-bulk containers, further reducing the container disposal volume.

All of the above factors, coupled with aggressive outreach programs, have led to a different agricultural waste management mind-set in which on-farm disposal is no longer a consideration. The Board will now discuss whether it prefers to amend or repeal Chapter 21 and, if amendments are preferred, what amendments it would like to consider.

Presentation By: Henry Jennings
Director

Action Needed: Determine the appropriate course of action with respect to Chapter 21

7. Review of the Report Pursuant to Resolve 2011, Chapter 59, Approval of the Draft Best Management Practices and Discussion of Report Recommendations

Resolve 2011, Chapter 59—To Enhance the Use of Integrated Pest Management on School Grounds, enacted by the Legislature in May 2011, requires the Board to: (1) develop best management practices (BMPs) for the establishment and maintenance of school lawns, playgrounds and playing fields; (2) assess compliance with Board rule Chapter 27, Standards for Pesticide Applications and Public Notification in Schools; and (3) report back to the Joint Standing Committee on Agriculture, Conservation and Forestry (ACF), no later than February 1, 2012. The report, including BMPs, assessment and recommendations to minimize use of pesticides on school grounds, was delivered to the ACF on February 1, 2012, and presented on February 7, when the Committee stated its support for the report's recommendations. The Resolve further requires that the BMPs be delivered to every school in the state. The Board will now review and consider approval of the draft BMPs, and discuss how it wishes to address the recommendations in the report.

Presentation by: Henry Jennings
Director

Gary Fish
Manager of Pesticide Programs

Action Needed: Review/Approve the draft BMPs and discuss report recommendations

8. Discussion of Refuges Relative to Chapter 41 and the New Blended Refuge *Bt*-corn Products

At the December 2011 meeting, the Board approved the registration requests for two new *Bt*-corn products—Optimum[®] AcreMax (EPA No. 29964-12), with 5% blended refuge, and Optimum[®] AcreMax Xtra Insect Protection (EPA No. 29964-11), with 10% blended refuge. The Board will now discuss how the blended refuges impact the provisions in Chapter 41, Special Restrictions on Pesticide Use, intended to promote coexistence between *Bt*-corn growers and their non-*Bt*-corn-growing neighbors.

Presentation by: Lebelle Hicks
Staff Toxicologist

Action Needed: Determine whether policy adjustments are appropriate

9. Consideration of a Consent Agreement with Pulsifer Orchard of Cornish

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 drift from a pesticide application at the orchard onto an abutting property.

Presentation By: Raymond Connors
Manager of Compliance

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

10. Consideration of a Consent Agreement with Sullivan Property Management of Lewiston

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 the application of insecticides by an unlicensed employee.

Presentation By: Raymond Connors
Manager of Compliance

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

11. Consideration of a Consent Agreement with Korhonen Land Care of Woodstock

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 the application of herbicides by unlicensed employees.

Presentation By: Raymond Connors
Manager of Compliance

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

12. Consideration of a Consent Agreement with Lucas Tree Experts Company of Portland

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 the failure to notify a registrant on the Pesticide Notification Registry.

Presentation By: Raymond Connors
Manager of Compliance

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

13. Consideration of a Consent Agreement with Christian Bulleman III of Dresden

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 mold remediation work using registered pesticides without a commercial pesticide applicator license.

Presentation By: Raymond Connors
Manager of Compliance

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

14. Development of a New Pesticide Notification Registry

The Board has received letters from Representatives Dill and Timberlake requesting that the staff be directed to work on the development of a new pesticide notification registry. The Board will discuss the request and how it wishes to proceed.

Presentation By: Henry Jennings
Director

Action Needed: Discuss the requests and determine what action should be taken

15. Election of Officers

The Board's statute requires an annual election of officers. The members will choose a chair and vice-chair to serve for the coming year.

Presentation By: Henry Jennings
Director

Action Needed: Nominations and election of officers

16. Planning Session

March 30, 2012, is the tentative date for a Board planning session. Topics suggested for the Planning Session thus far are listed below. The staff will ask the Board to review the list and make additions or deletions as appropriate.

- Chapter 27 review and changes
- Exam waiting period
- Board member guidance on receiving public input
- What is the pipeline for GMO products?
- Board meeting packet news articles
- 25(b) policy
- Water quality projects
- Does the Board want to be notified about BPC website updates?
- Board oversight of staff

17. Other Old or New Business

- a. Legislative Update—H. Jennings
- b. Product registration update—M. Tomlinson
- c. Water quality update—M. Tomlinson

- d. Brochure and other “advertising” regarding Agricultural Basic pesticide applicator license—G. Fish
- e. E-mail expressing concern about *Bt*-corn—H. Jennings
- f. Central Maine Power Company’s Transmission Right-of-Way Vegetation Management Plan for 2012—H. Jennings
- g. Other?

18. Schedule of Future Meetings

March 30, 2012, is the tentative date for a Board planning session, and May 11 is a tentative Board meeting date. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

19. 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.