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

WALTER E. WHITCOMB
COMMISSIONER

HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

July 27, 2012

Important—please note meeting location and time:

Maine Potato Board, 744 Main Street, Suite 1, Presque Isle

AGENDA

8:30 AM

1. Introductions of Board and Staff
2. Minutes of the June 15, 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Public Law 2011, Chapter 510, repealed the statutory mandate for the deposit system for restricted-use pesticide containers.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.

4. Board Determination About Rulemaking Initiatives

At its May 11, 2012 meeting, the Board directed its staff to initiate rulemaking with a goal of finalizing amendments by the end of the calendar year. Three policy areas were targeted by the Board, including: 1) repeal of the restricted use pesticide container deposit rule, Chapter 21 and the associated records contained Chapter 50; 2) incorporation of recommendations contained in the legislative report covering pesticide use at schools; and 3) incorporation of certain Board policy interpretations into existing definitions.

Prior to commencing formal rulemaking proceedings, the Board held Public Information Gathering Work Sessions at its June 15 and July 27 meetings. The staff needs to file the rulemaking paperwork no later than August 7. Consequently, the Board must finalize its decisions around which subjects to include and which concepts it supports.

Presentation by: Henry Jennings
Director

Action Needed: Determine which rulemaking areas to include in the 2012 initiative

5. Consideration of a Chapter 29 Variance Permit Request from Vegetation Control Services, Inc. to Control Woody Brush in Wetland Areas of the Transmission Line Connecting the Kibby Wind Power Project in North Western Maine

The Board can grant variances for the 25-foot setback required from surface water under Section 6 of Chapter 29. Vegetation Control Services, Inc. is seeking approval to treat woody brush in wetland areas along the transmission line when no water is present. The applicator will use a motorized backpack mist blower which allows foliar treatments that minimize herbicide drip.

Presentation By: Henry Jennings
Director

Action Needed: Approve/disapprove the variance request

6. Section 18 Emergency Registration Request for HopGuard (potassium salt of hop beta acids) to Control Varroa Mites in Managed Honey and Commercial Bee Colonies

The Division of Animal and Plant Health in the Maine Department of Agriculture, Food & Rural Resources is requesting that the Board petition EPA for a FIFRA Section 18 specific exemption for use of HopGuard (potassium salt of hop beta acids) to control Varroa Mites in managed bee colonies. Tony Jadcak, State Apiarist, is seeking approval for use of this product with its different mode of action to aid growers in controlling this pest. He points out that a healthy bee keeping industry is needed to support Maine agriculture and that this product is essential to honey production and commercial bee operators. The request is supported by the registrant, BetaTec Hop Products, a wholly owned subsidiary of John I. Haas, Inc. Lloyd

Schantz, Executive President, stated the company is in the process of pursuing a full FIFRA Section 3 registration with EPA.

Presentation By: Mary Tomlinson
Pesticides Registrar

Action Needed: Approve/Deny request to petition EPA for a Section 18 Specific Exemption registration for HopGuard for use with bees.

7. 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. At their June 15 meeting, the Board reviewed a new draft of its webpage and directed the staff to bring back an updated draft, a proposed revision to the retail sign, and a press release. The Board will now review staff efforts and 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

8. Review 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. The Board reviewed an initial draft of the BMPs at its June 15 meeting and will now entertain additional suggestions.

Presentation By: Mary Tomlinson
Registrar and Water Quality Specialist

Action Needed: Provide input to staff on the draft BMPs

9. Discussion About the Board's Catchphrase – “Think First – Spray Last”

“Think First – Spray Last” has been in use as the Board’s Integrated Pest Management (IPM) catchphrase since approximately 1998. The original staff concept behind the catchphrase was to identify a simple, easy to remember phrase that would convey the basic tenets of IPM to the general public, for whom the phrase “Integrated Pest Management” isn’t easily understandable.

Questions have arisen about whether “Think First – Spray Last” is the best phrase to convey that concept. The Board will now discuss the phrase and whether it can be improved.

Presentation by: Henry Jennings
 Director

Action Needed: Begin a dialogue about the catchphrase

10. Other Old or New Business

- a. Extension of permit to Ron Lemin for control of Giant Hogweed in Bangor—H. Jennings
- b. Other?

11. Schedule of Future Meetings

September 7, October 26, and December 7, 2012, and January 9, 2013 are tentative Board meeting dates. The January meeting will be in conjunction with the Maine Agricultural Trades Show. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

12. 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.