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

July 10, 2015

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

AGENDA

8:30 AM

1. Introductions of Board and Staff
2. Public Hearing on Proposed Rule Amendments to Chapters 31, 34 and 35

The Board will hear testimony on the proposed amendments to the following three rules:

- **Chapter 31 Certification and Licensing Provisions/Commercial Applicators**
 1. Change the license period from two years to three; change the certification period from six years to three and align the licensing and certification periods.
 2. Amend the description of Category 6B to clarify what types of applications are included.
 3. Change the requirement for passing both the core and category exams within one year of each other to within five years.
 4. Clarify that certified or licensed wastewater or drinking water operators are exempt from licensing only while applying pesticides to the wastewater or drinking water and not while performing other duties such as weed management.
- **Chapter 34 Certification and Licensing Provisions/Dealers**
 1. Shorten the time period a person must wait before re-taking an exam they have failed to align with other licensing rules.
 2. Change the license period from one year to three; change the certification period from five years to three and align the licensing and certification periods.
- **Chapter 35 Certification and Licensing Provisions/Spray Contracting Firms**
 1. Remove the requirements for spotters and monitors for forest insect aerial spray programs.
 2. Change the license period from two years to three.

Additional details of the proposed amendments were described in the public hearing notice published in major newspapers and on the Secretary of State website on June 17, 2015. Copies of

the notice and the proposed rule amendments are available upon request, and may be viewed at the Board's website, <http://www.maine.gov/dacf/php/pesticides/rulemaking.html>

Written comments may be e-mailed to henry.jennings@maine.gov, or mailed to the Board's address above, until 5:00 PM on July 24, 2015.

3. Minutes of the June 5, 2015, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

4. Board Discussion About Herbicide Label Plant-Back Restrictions as They Apply to Cover Crops

At the April 24, 2015 meeting, John Jemison requested that the Board review the herbicide plant-back label restrictions and how they currently prevent farmers from planting cover crops that are being recommended by the United States Department of Agriculture. The staff has been researching the question and will update the Board on the current status.

Presentation By: Lebel Hicks
Staff Toxicologist

Action Needed: Provide input to staff

5. Board Discussion About Further Streamlining of the Agency Licensing and Other Processes

The staff has been working to develop a new, comprehensive technology solution to better manage the licensing processes and provide a self-service internet portal for licensees. Because programming/automating complex business rules is both difficult and expensive, one aspect of the development involves a methodical analysis of the current processes with a view toward identifying opportunities to simplify and/or improve those processes. The staff will provide a brief overview of the current progress and invite input on other potential areas to improve the agency processes.

Presentation By: Gary Fish
Manager of Pesticide Programs

Action Needed: Provide Guidance to the Staff

6. Review of Letter to from Justin Nichols Recommending Changes to the Board's Posting Requirements

Justin Nichols and Gail Jones, landscapers, were working at a client's property in Falmouth for about 35 minutes when both of them started feeling ill. Shortly thereafter they discovered a sign indicating the lawn had been sprayed just prior to their arrival. Nichols called the telephone number listed on the sign but was unable to get any timely information about what had been applied at the site. Nichols subsequently wrote to the Board inspector with the goal of providing input and recommendations for the Board to consider.

Presentation By: Henry Jennings
Director

Action Needed: Determine the appropriate response

7. Consideration of a Consent Agreement with the Town of Hartland

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 to resolve the matter. This case involves two unlicensed municipal employees who applied sodium bisulfite to control weeds on municipal sidewalks and walkways.

Presentation By: Raymond Connors
Manager of Compliance

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

8. Draft Policy Regarding Interpretation of CMR 01-026, Chapter 10, Section 2 (P) (2), Definition of Property Open to Use by the Public as Regards Outdoor Applications

At the December, 2014 and the April and June, 2015 meetings the Board had discussions about the definition of “property open to use by the public,” as it applies to treating small areas within a large land holding. Section 2 (P) (2) of Chapter 10 provides the exemption, “where the public has not been permitted upon the property at any time within seven days of when the property received a pesticide application.” The discussion included information from a survey made of land trusts which use this exemption to apply pesticides to control invasive vegetation. The staff has drafted a policy based on that discussion.

Presentation By: Henry Jennings
Director

Action Needed: Approve/Disapprove the Policy

9. Other Old or New Business

- a. Department of Agriculture, Conservation and Forestry Pollinator Protection Plan
- b. Other

10. Schedule of Future Meetings

August 27-28, October 9, November 13, and December 18, 2015, are tentative Board meeting dates. The Board will decide whether to change and/or add dates.

- a. August meeting:
 - Who is planning to travel in the state van from Augusta?
 - Who will be staying at the Machias Motor Inn?
 - Make sure to sign up for sandwiches and drinks before leaving today.
- b. 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 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.