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STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
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COMMISSIONER
HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

July 26, 2013

**Maine Organic Farmers and Gardeners Association,
294 Crosby Brook Road, Unity, Maine, Main Building**

AGENDA

8:30 AM

1. Introductions of Board and Staff

2. Minutes of the May 24, 2013, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Public Forum (limited to one hour)

At this time, the Board invites anyone interested to address its members with questions or concerns about any pesticide-related issues.

Presentation By: Henry Jennings
Director

Action Needed: None required

4. Final Adoption of Major Substantive Rule Amendments to Chapter 27, Standards for Pesticide Application and Public Notification in Schools

The Board held a public hearing on proposed amendments to Chapter 27 on September 7, 2012, and provisionally adopted the amendments on December 7, 2012. The Joint Standing Committee on Agricultural, Conservation and Forestry held a public hearing on the proposed amendments on February 7, 2013, and held work sessions on April 9 and May 22, 2013, before reporting the resolve out as ought-to-pass. Resolve 2013, Chapter 63 was enacted by the Legislature and became law on June 22. The Board will now decide whether to finally adopt the amendments.

Presentation By: Henry Jennings
Director

Action Needed: Final Adoption of the Rule, Basis Statement, Rulemaking Statement of Impact on Small Business, and Response to Comments for Chapter 27

5. Consideration of the Canyon Group's Special Local Need (FIFRA Section 24[c]) Registration Request for GWN 1715 (EPA #81880-4) to Control Mites and Whiteflies on Greenhouse Tomatoes

In 2008, the Board approved a Special Local Need (SLN) registration for the use of Nexter to control mites and whiteflies on greenhouse tomatoes. The 2008 registration expires this year. The Canyon Group is now requesting an SLN registration to allow use of GWN 1715, which has the same formulation as Nexter. Backyard Farms supports the use of this formulation. EPA has established a tolerance for the active ingredient pyridaben.

Presentation By: Mary Tomlinson
Registrar and Water Quality Specialist

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

6. Review of Draft Policy on Exclusion Areas for Potential Aerial, Public-Health-Related Mosquito-Control Programs

At the May 24, 2013, meeting, the Board provisionally adopted amendments to Chapters 20, 22, and 51. The amendments were intended to allow for potential public-health-related mosquito-control programs conducted by governmental entities. During the development of the Chapter 20 amendments, the Board determined it was preferable to define "exclusion areas," in the context of potential aerial applications, via policy, instead of codifying them in rule. Such a strategy allows the Board greater flexibility should new concerns arise. When the Board adopted the rule amendments, it directed the staff to bring a draft policy on exclusion areas to the next meeting in order to address concerns voiced by concerned parties. The staff has drafted a policy which the Board will now consider.

Presentation by: Henry Jennings
Director

Action Needed: Revise/amend draft policy and adopt, if appropriate

7. Consideration of a Chapter 29 Variance Request from Boyle Associates to Treat *Phragmites* in Jordan Park Marsh in Old Orchard Beach

Chapter 29 allows the Board to grant variances from the 25-foot setback required from surface water under Section 6 of Chapter 29. Boyle Associates of Gorham, Maine, has contracted to control two invasive *Phragmites* stands which are part of a wetland area at Jordan Marsh Park in Old Orchard Beach. The control plan calls for a late summer/early fall application of glyphosate and imazapyr, coupled with repeated mowing. Applications will take place when there is no standing water present. The Board will now consider the request

Presentation By: Anne Bills
Pesticides Safety Educator

Action Needed: Approve/disapprove variance request

8. Consideration of a Consent Agreement with Sea Urchin Cottage of York

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 application of pesticides to a rented cottage by an unlicensed applicator.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Consideration of a Consent Agreement with the Northeast Agricultural Sales, Inc., of Detroit

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 operation of a major pesticide storage facility in Connor Township that did not conform to the Board's Chapter 24 rules and sales of restricted-use pesticides to unlicensed applicators.

Presentation By: Raymond Connors
Manager of Compliance

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

10. Other Old or New Business

- a. Legislative Update—H. Jennings
- b. Legislative Hearing on Rule Amendments to Chapters 20, 22, and 51—H. Jennings
- c. Staff Submission of Loveland Products Request for a 24(c) Registration Request for Malathion 8 Aquamul for Use on Lowbush Blueberries—M. Tomlinson
- d. Variance Permit for Green Thumb Lawn Service—H. Jennings
- e. Other?

11. Schedule of Future Meetings

September 6, October 18, and December 6, 2013, are tentative Board meeting dates. The September 6 meeting is tentatively slated to include a planning session. 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 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.