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

BOARD OF PESTICIDES CONTROL

June 5, 2015

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

AGENDA

8:30 AM

1. Introductions of Board and Staff
2. Minutes of the April 24, 2015 Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

3. Review of Draft “Guidance for the Application of Pesticides In Forest Settings In Order to Minimize the Risk of Discharges to Surface Waters”

On June 27, 2012, the Board approved *Interim Guidelines for Forest Pesticide Applications* which were intended to assist foresters in minimizing the risk of discharges to surface waters. In April, 2015, the Maine Department of Environmental Protection finalized a general permit for aerial application of pesticides to forestry sites and referenced BPC Best Management Practices. Additionally, at the Joint Standing Committee on Agriculture, Conservation and Forestry work session for LD 817, An Act Regarding Aerial Pesticide Spray Projects, there was discussion about adding references to technological advances for aerial spraying. The Board reviewed the interim guidelines at the April 24, 2015 meeting and provided some input which the staff has attempted to capture in a new draft.

Presentation By: Mary Tomlinson
Pesticides Registrar and Water Quality Specialist

Action Needed: Provide Guidance to the Staff

4. 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 5, 2014, meeting, the Board had a discussion about the definition of “property open to use by the public,” which state statutes defines as commercial applications requiring a licensed applicator. 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.” During that discussion it was noted that this exemption has been used most commonly by land trusts to treat for invasive plants where they post and indicate the area (but not the entire

“property”) is temporarily closed to the public. The Board discussed this topic at the March 13 and April 24, 2015 meetings, but tabled the matter pending further input from Maine land trusts. The Board will review those findings and provide guidance on whether this is the appropriate interpretation of the rule.

Presentation By: Henry Jennings
Director

Action Needed: Provide Guidance on Interpretation of the Chapter 10 Definition

5. Board Discussion About How to Handle Situations in Which a Property Owner Removes Signs Prior to the Required 48 Hours

In April of 2015, the Board’s office received an inquiry about whether it was lawful for a property owner to remove signs posted pursuant to Chapter 28, Section 3, prior to the expiration of the 48 hour posting period. One homeowner allegedly removes the signs as soon as the lawn care company leaves the property. Chapter 28 states that signs “shall remain in place at least two days following the completion of the application.” The staff is seeking Board input on the interpretation of that standard and whether the staff should enforce the standard with homeowners.

Presentation By: Henry Jennings
Director

Action Needed: Provide Guidance to the Staff

6. Board Discussion About Commercial Certification and Licensing Periods

The Board’s staff has been working with the State Office of Information Technology and Pegasystems to develop a new technology solution to manage the Board’s licensing system and other process oriented activities. That effort includes an analysis of the Board’s processes and discussion about whether any of those processes can be streamlined or simplified. The commercial applicator licensing requirement is one that adds complexity, but not necessarily benefit—licenses last for two years and the certification period lasts for six years—which makes that process more difficult to automate. Private licenses have the same three-year license and certification period. Because the staff is in the midst of analyzing its business processes, it seemed appropriate to bring process questions to the Board for review and discussion.

Presentation By: Henry Jennings
Director

Action Needed: Provide Guidance to the Staff

7. Board Discussion About Enforcement of the Ag Basic License Requirement

On April 1, 2015, the new Maine statute requiring licensing of “private applicators of general use pesticides for food production” (the so-called Ag Basic license) went into effect. The compliance staff has raised the question about how the Board recommends enforcing this new standard. Historically, the Board has endorsed a phased approach to enforcement of new standards. The staff is seeking guidance on the appropriate enforcement approach.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: Provide Guidance to the Staff

8. Consideration of a Consent Agreement with Tractor Supply Company of Brentwood, TN

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 a retailer that was selling pesticides positioned closer than ten feet from animal feed.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Other Old or New Business

- a. Variance Permit for Maine Department of Transportation, Bureau of Maintenance & Operations
- b. Variance Permit for RWC, Inc.
- c. Variance Permit for Asplundh Tree Expert Co.—Railroad Division
- d. Variance Permit for Dubois Contracting
- e. EMERA Maine Letter
- f. Nancy Oden Letter and Article
- g. Land Trusts Memo and Survey
- h. Other?

10. Schedule of Future Meetings

July 10 and August 28, 2015 are the next tentative Board meeting dates. The Board will decide whether to change and/or add dates.

- Tentative plan for field trip/Board meeting August 27-28 (Thanks to Nancy McBrady for her hard work on this)
 - Leave Augusta Thursday morning, August 27, arrive in Jonesboro around noon. Have lunch and tour the Blueberry Hill Farm Experimental Station.
 - Proceed to Wyman's of Maine, Deblois for a tour of the processing facility and fields.
 - Proceed to Machias for dinner/overnight. Listening session in the evening?
 - Board Meeting Friday, August 28 at University of Maine Machias. Listening session before meeting?
 - Eat lunch.
 - Return to Augusta.
- 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 Chamberlain, at the Board's office or anne.chamberlain@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.