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

HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

March 1, 2013

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 the Proposed Amendments to Chapters 20, 22, and 51

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

- **Chapter 20—Special Provisions:** The amendments to Chapter 20 would relax the requirement for government entities to obtain the permission of each individual landowner prior to conducting public-health, vector-control programs. The amendments would require public notice before any program is conducted. Landowners or occupants would be able opt out of ground-based control programs and certain sensitive sites would be excluded from aerial programs.
- **Chapter 22—Standards for Outdoor Application of Pesticides by Powered Equipment in Order to Minimize Off-Target Deposition:** The proposed amendment would exempt government-sponsored, public-health, vector-control programs from this chapter when the Maine Center for Disease Control and Prevention (Maine CDC) recommends control of disease vectors, since many of the requirements of this chapter would be impractical.
- **Chapter 51—Notice of Aerial Pesticide Applications:** The proposed amendment would exempt government-sponsored, public-health, vector-control programs from this chapter when the Maine CDC recommends control of disease vectors, since public notice requirements under this circumstance would be dictated under Chapter 20.

3. Minutes of the January 18, 2013, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

4. Presentation about the Maine Integrated Pest Management Council and Discussion about Possible Collaboration

Public Law 2001, Chapter 497, established Maine's Integrated Pest Management (IPM) Council which, by statute, must contain 11 members representing a diverse range of pest management and public interests. The Council has two coordinators, one from the Department of Agriculture, Conservation and Forestry, and one from the University of Maine Cooperative Extension. The Council is charged with facilitating, promoting, expanding, and enhancing IPM adoption in all sectors of pesticide use and pest management. Ronald Lemin, the Council Chair, will provide an overview of the Council's activities and discuss areas in which the Board and Council might work together to promote IPM.

Presentation by: Ronald Lemin
Chair, Maine IPM Council

Action Needed: Determine whether there are opportunities for collaboration

5. Section 18 Emergency Registration Renewal Request for HopGuard to Control Varroa Mites in Managed Honey and Commercial Bee Colonies

The Division of Animal and Plant Health in the Maine Department of Agriculture, Conservation and Forestry 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. State Apiarist Tony Jadczyk is seeking approval for use of this product, which provided consistent control against *Varroa* mites during the last season, and is an important alternative in resistance management and organic honey production. 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. Executive President Lloyd Schantz 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.

6. Section 18 Emergency Registration Request for Apivar (Amitraz) to Control Varroa Mites in Managed Honey and Commercial Bee Colonies

The Division of Animal and Plant Health in the Maine Department of Agriculture, Conservation and Forestry is requesting that the Board petition EPA for a FIFRA Section 18 specific exemption for use of Apivar (Amitraz) to control *Varroa* mites in managed bee colonies. State Apiarist Tony Jadczyk is seeking approval for use of this product with its different mode of action to aid growers in controlling this pest. The request is supported by the registrant, Arysta LifeScience America, Inc.

Presentation By: Mary Tomlinson
Pesticides Registrar

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

7. Consideration of a Chapter 29 Variance Permit Request from Southern Maine Forestry Services, Inc., to Control Invasive Plants in Scarborough, above the High-Water Mark Adjacent to the Ocean

Chapter 29 allows the Board to grant variances from the 25-foot setback required from surface water under Section 6 of Chapter 29. This request is to control areas of honeysuckle and Asiatic bittersweet above the high-water mark next to the ocean in Scarborough. The target areas are larger than Board policy allows for spot treatment. The applicator proposes to use a motorized backpack mist blower and a hand-powered backpack which allows foliar treatments that minimize herbicide drip. The Board will now consider this request.

Presentation By: Anne Bills
Pesticide Safety Educator

Action Needed: Approve/disapprove the variance request

8. Consideration of a Consent Agreement with Essex Power Services, Inc., of Boston, Massachusetts

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 an herbicide to the spillway planks at the outlet dam on Messalonskee Lake, which resulted in a direct discharge to Messalonskee Stream.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Consideration of a Consent Agreement with J & S Oil Company of Manchester

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 an unlicensed application of a “weed and feed” product to the turf areas around the Farmingdale store.

Presentation By: Raymond Connors
Manager of Compliance

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

10. Discussion About Offering Commercial Certification Exams in Spanish

At the January 18, 2013, meeting, the staff alerted the Board that it received a request to assist Spanish-speaking individuals with the commercial certification exams by offering the exams in Spanish. After some discussion, the Board directed the staff to research the feasibility of translating commercial Maine pesticide exams into Spanish. The staff surveyed other states about whether they offer exams in Spanish and evaluated some of the practical considerations. The staff will present its findings and discuss what the most appropriate next steps might be.

Presentation By: Henry Jennings
Director

Action Needed: Provide guidance to staff

11. Discussion of Board Policy Relating to Staff Participation in Municipal Meetings

At the January 18, 2013, meeting, the Board discussed staff participation in municipal meetings where local ordinances are discussed. Prior to the meeting, Department management worked with the staff to formulate a position in which the staff would refrain from participating in such meetings. Instead, the staff would offer technical advice in response to specific questions, and provide overview presentations to municipal organizations. This position was based on the reasoning that, (1) the staff should not risk creating the perception that it is meddling in a local rule issue, and (2) there are approximately 492 municipalities in Maine, so if the staff participates in ordinance discussions in one municipality, it should be prepared to participate in all of them. This position then led to a brief discussion about who directs the staff in such matters. The Board will now discuss appropriate roles with respect to staff supervision and whether participation in municipal ordinances is an area in which it should take a position, and if so, what that position should be.

Presentation By: Henry Jennings
Director

Action Needed: Provide guidance to staff

12. Legislative Update

When the 126th Maine Legislature convened, there were approximately nine bill titles affecting pesticides. The staff will update the Board on the status of the pending bills.

Presentation By: Henry Jennings
Director

Action Needed: Determination if the Board wants to take a position on any bills

13. 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

14. Other Old or New Business

a. Letter to individuals with both a Restricted Use Dealer and Commercial Master Certification regarding certification periods—G. Fish

b. Other?

15. Schedule of Future Meetings

April 12, May 17, June 21, and July 26, 2013, are tentative Board meeting dates. The Board will decide whether to change and/or add dates. The July 26 meeting is slated to take place in Unity.

Adjustments and/or Additional Dates?

16. 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.