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STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD & RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
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BOARD OF PESTICIDES CONTROL

December 16, 2011

John E. Dority Safety & Performance Training Center (Conference Room, Lower Level)
10 Mountain Avenue (off Route 201 going toward Skowhegan), Fairfield (Exit 133 from I-95)

AGENDA

9:30 AM

1. Introductions of Board and Staff
2. Minutes of the November 18, 2011, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Adoption of Proposed Amendments to Chapters 28, 41, and 60, and the Proposed New Rule Chapter 33

(Note: No additional public comments may be accepted at this time.)

On September 14, 2011, a Notice of Agency Rulemaking Proposal was published in Maine's daily newspapers, opening the comment period on the proposed amendments to Chapters 28, 41, and 60, and the proposed new rule Chapter 33. A public hearing was held on October 7, 2011, at the Hampton Inn in Waterville, and the written comment period closed at 5:00 PM on October 21, 2011. Five people spoke at the public hearing and five written comments were accepted by the close of the comment period. The Board reviewed the rulemaking record at the November 18, 2011, meeting and directed the staff to prepare the documents necessary for rule adoption for the December 16 meeting. The Board will now review the rulemaking documents and determine whether adjustments are necessary and whether to adopt the proposals.

Presentation by: Henry Jennings
Director

Action Needed: Adjust the rulemaking documents as appropriate and determine whether to adopt the new rule and/or amendments

4. Consideration of the Plant Incorporated Protectants (PIP) Technical Committee Report

Pioneer Hi-Bred International, Inc., submitted registration applications for two new *Bt*-corn seed products that feature both reduced refuge requirements and the newly popular refuge in a bag (blended

seed) technologies. Since the PIP Technical Committee had not evaluated the new refuge approaches, a review of this technology was warranted. The Board's PIP Technical Committee met on November 21, 2011, to discuss risks associated with reduced refuge technologies. The Board will now review the Committee's final report, and additional information received after the meeting, in order to decide whether the new refuge requirements pose an increased risk of insect resistance.

Presentation By: Lebelle Hicks
 Staff Toxicologist

 John Jemison
 Board Chair and PIP Technical Committee Chair

Action Needed: Determine whether the risks associated new refuge approaches pose acceptable risks

5. Decision on Registration of Two New *Bt*-corn Products

Pioneer Hi-Bred International, Inc., has submitted registration requests for two new *Bt*-corn products—Optimum[®] AcreMax (EPA No. 29964-12), with 5% blended refuge, and Optimum[®] AcreMax Xtra Insect Protection (EPA No. 29964-11), with 10% blended refuge. The Board will now decide whether these new products should be registered in Maine.

Presentation By: Lebelle Hicks
 Staff Toxicologist

Action Needed: Decide whether to approve/disapprove the registration requests

6. Review of Board Policy on Delegation of Registration Request Decisions for PIPs

In May 2010, the Board adopted a policy which deferred to the staff approval of applications that are substantively identical to PIP products already registered. If the Board approves the new PIP products allowing reduced refuge size and blended refuges, the Board may also wish to review this policy, to see if amendment is needed, or if Board approval will still be required for new products with other than 20-percent spatial refuges.

Presentation By: Lebelle Hicks
 Staff Toxicologist

Action Needed: Decide whether to amend the policy

7. Review of the Report Outline and Draft BMPs Pursuant to Resolve 2011, Chapter 59

Resolve 2011, Chapter 59: Resolve, To Enhance the Use of Integrated Pest Management on School Grounds, passed by the Legislature in May 2011, requires the Board to develop best management practices (BMPs) for the establishment and maintenance of school lawns, playgrounds, and playing fields; assess compliance with Board rule Chapter 27: Standards for Pesticide Applications and Public Notification in Schools; and report back to the Joint Standing Committee on Agriculture, Conservation and Forestry, no later than February 1, 2012. The staff will now update the Board on its progress toward fulfilling the requirements of the resolve.

Presentation by: Henry Jennings
Director

Action Needed: Review staff efforts to date and provide guidance on legislative recommendations and the report to the Maine Legislature

8. Other Old or New Business

- a. Crisis Exemption Report for use of Avipel[®] on corn to repel crows, grackles, and other blackbirds—M. Tomlinson
- b. Discussion of holding regular Board meetings at the Deering building in Augusta—H. Jennings
- c. Other?

9. Schedule of Future Meetings

January 20 and February 24, 2012, are the tentative dates for future Board meetings. March 30, 2012, is the tentative date for a Board planning session. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

10. 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.