



PAUL R. LePAGE
GOVERNOR

STATE OF MAINE
MAINE DEPARTMENT OF AGRICULTURE, FOOD AND RURAL RESOURCES
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333-0028

WALTER WHITCOMB
COMMISSIONER
HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

February 18, 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

(Note: The Board may break for lunch sometime between 11:30 AM and 1:00 PM.)

1. Introductions of Board and Staff
2. Minutes of the December 10, 2010, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. FIFRA Section 18 Emergency Exemption Registration Request for the Use of Avipel to Reduce Bird Predation of Corn Seed

The University of Maine Cooperative Extension is requesting a FIFRA Section 18 Emergency Exemption registration for the use of Avipel[®] (anthraquinone) to reduce bird predation of corn seed after planting. Historically, insecticides used to treat corn seed have carried a side benefit of also deterring bird predation. Those insecticides have been phased out over the years, and currently there are no seed treatment options available to mitigate bird predation, which has become an increasing problem in recent years. This application is supported by the manufacturer, Arkion Life Sciences, and the University of Maine Cooperative Extension.

Presentation By: Mary Tomlinson
Pesticides Registrar/Water Quality Specialist

Action Needed: Approve/disapprove the Section 18 Emergency Registration request

4. Revision of the Special Local Needs Label (FIFRA Section 24[c]) for the Use of Ethrel on Greenhouse Tomatoes

On October 2, 2009, the Board approved a Special Local Needs (SLN) registration request for the use of Ethrel brand plant growth regulator to accelerate crop ripening of greenhouse tomatoes as the plants are nearing the end of the production cycle. On December 30, 2010, the Board received a letter from Tony Kish, the EPA product manager for Ethrel. Mr. Kish directed Maine to revise the SLN label to correct a language omission which limits the maximum annual application rate per acre to five pints. The Board will now consider approval of the amended label.

Presentation By: Mary Tomlinson
Pesticides Registrar/Water Quality Specialist

Action Needed: Approve/disapprove the revised label

5. Review of Pending Legislation

According to the Office of the Revisor of Statutes, seven bill titles have been submitted that affect the Board of Pesticides Control. Four of those bills relate to pesticide notification. Aside from notification, one bill would change the qualifications of two Board members, one would require some level of competency testing for commercial farmers and the final bill would restrict certain pesticide uses. To date, the bill text has been printed for only three of these bills: LD 16, LD 228 and LD 321. Copies are enclosed in the Board packet. The Board will discuss the pending bills and determine if there is consensus on whether the Board wants to take a position and, if so, what points should be included in any testimony.

Presentation by: Henry Jennings
Director

Action Needed: Provide input to the staff about the Board's position

6. Consideration of the Staff Negotiated Consent Agreement with C & D Corporation of Deblois

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 by a company employee beyond the property line and onto a separate property without the authorization of the land owner.

Presentation By: Raymond Connors
Manager of Compliance

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

7. Consideration of the Staff Negotiated Consent Agreement with RMH Cleaning and Restoration, Inc., of Livermore

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 commercial company applying pesticides for mold remediation.

Presentation By: Raymond Connors
Manager of Compliance

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

8. Consideration of the Staff Negotiated Consent Agreement with Lucas Tree Experts of Portland

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 a pesticide by a company employee for mosquito control with insufficient notification to a nearby neighbor listed on Maine's non-agricultural notification registry.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Consideration of the Staff Negotiated Consent Agreement with Scotts Lawn Service of Hermon

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 multiple violations of state pesticide law by company employees during 2010.

Presentation By: Raymond Connors
Manager of Compliance

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

10. Review of the 2010 Complaints/Inquiries Summary

The report by the Stakeholders Committee on Aerial Spraying and Drift included a recommendation for the Board to produce and review an annual summary of complaints received by the Board's office.

Summaries from 2008 and 2009 led to Board recommendations for improving the report. The Board will now review the 2010 summary.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: None—informational only

11. Water Quality and Product Registration Update

Water Quality: The BPC water quality program continues to collaborate with the Friends of Casco Bay (FOCB) on sediment sampling for residential pesticides. During 2010, sediment samples were collected from urban watersheds in Portland and South Portland, Mussel Cove in Falmouth, and Broad Cove in Cumberland. Lab analyses are not yet complete. Results have been received for stormwater and sediment samples collected in 2009 which the Board will now review and discuss. The Quality Assurance Project Plan for Water Quality Monitoring has been updated and submitted to the EPA.

Registration: The transition from hardcopy labels and MSDSs to electronic storage is in process.

Presentation By: Mary Tomlinson
Pesticides Registrar/Water Quality Specialist

Action Needed: None—informational only

12. 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

13. Other Old or New Business

- a. Central Maine Power Company's 2011 Transmission Line Vegetation Management Plan—H. Jennings
- b. BPC Policies/Information for Board Members Web Pages—H. Jennings
- c. Other?

14. Schedule and Location of Future Meetings

April 1, April 29 and June 3, 2011, are the tentative dates for the next Board meetings. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

15. 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.