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GOVERNOR

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

BOARD OF PESTICIDES CONTROL

July 10, 2009

Harley D. Welch Agricultural Center, Maine Potato Board Conference Room, 744 Main St., Presque Isle

AGENDA

8:00 AM

1. Introductions of Board and Staff
2. Minutes of the June 12, 2009, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Public Forum

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. Continuing Discussion of Notification Requirements for Outdoor Pesticide Application

Public Law 2009, Chapter 378, LD 1293, An Act To Require Citizen Notification of Pesticide Applications Using Aerial Spray or Air-carrier Application Equipment, was passed by the Legislature and signed into law by the Governor on June 22, 2009; it will be effective on September 12, 2009. At its June 12, 2009, meeting, the Board discussed, in detail, whether Chapter 28 needed amendment to better coincide with LD 1293. Consensus was reached that the two could stand alone and Chapter 28 could be amended in the future if necessary. The Board believed it was prudent to focus on getting a registry up and operational first. However, since the June 12 meeting, the staff has concluded that some rulemaking would be necessary to implement LD 1293. In addition, significant questions have come to light that may prompt revisions to LD 1293 prior to next season. Given the current uncertainties, the Board will discuss what regulatory

elements constitute a workable notification law and whether it is prudent to move forward with rulemaking at this time.

Presentation by: Henry Jennings
Director

Action Needed: Discuss ideas for amending Chapter 28 to implement the legislative intent of LD 1293

5. Discussion of the Structure and Operation of LD 1293's Required Notification Registry

Public Law 2009, Chapter 378, LD 1293 requires that the Board "shall develop and maintain a registry of residents and property owners in the State who request to be placed on a registry for the purpose of receiving information on the outdoor application of pesticides using aircraft or air-carrier equipment... ." While the law specifies some of the information that must be submitted, it leaves the details of how the registry should actually be structured and operated to the Board to develop. The Board will now discuss these issues.

Presentation by: Henry Jennings
Director

Action Needed: Discuss the structure and operation of the notification registry

6. Discussion of the Definition of Spot Treatment with Respect to Chapter 29

Section 6 of Chapter 29 prohibits broadcast application of pesticides within 25 feet of surface water, but doesn't prohibit spot treatments in that area. However, the Board has never defined "spot treatment." The staff has prepared a memo detailing examples of how "spot treatment" is defined by other agencies for other purposes and is seeking guidance on developing a definition.

Presentation by: Raymond Connors
Manager of Compliance

Action Needed: Provide guidance to the staff

7. Board Discussion of Chapter 27 with Respect to School Farms and Greenhouses

A recent visit to a greenhouse at a school in Portland revealed an insect infestation that the school felt it could not treat due to a concern that it would not be in compliance with Chapter 27. The staff would like the Board to consider whether to allow some flexibility for school farms and greenhouses with respect to Chapter 27. At its June 12, 2009, meeting, the Board discussed this issue and came to the conclusion that distant properties not directly connected to schools, such as school farms and greenhouses, might not have been considered in the development of Chapter 27. The Board reached consensus that a policy covering notification and application method in these facilities might be viable and it directed the staff to develop a policy and bring it back for review at a future meeting.

Presentation by: Gary Fish
Manager of Pesticide Programs

Action Needed: Decide whether or not to adopt the proposed policy to allow some flexibility with respect to Chapter 27 for school farms and greenhouses

8. Board Discussion on Preventative Maintenance with Respect to Treatment for Bedbugs

With the resurgence of bedbugs, the staff is hearing that some applicators have developed systems for notification that effectively allow them to contract for routine pesticide application. Chapter 26 was developed in part to eliminate this type of practice. The staff would like to bring this to the Board's attention and see if it thinks some action is needed, including the establishment of a policy or possible changes to Chapter 26.

Presentation by: Gary Fish
Manager of Pesticide Programs

Action Needed: Decide if further action is needed in this matter

9. Board Discussion of the Distribution of Pesticides from Landlord to Tenant

An inquiry from the PropSys Company regarding landlords supplying roach traps to tenants has raised concerns about the potential risks and harm that might result from the improper application of pesticides by untrained applicators. Based on these concerns, while the Board does not currently have a formal policy prohibiting this type of distribution, it is now being discouraged. At its May 8, 2009, meeting, the Board discussed this issue and decided a more formal policy was necessary to cover this issue. The staff was directed to draft a policy and bring it back for Board review. The Board will now review the draft policy.

Presentation By: Henry Jennings
Director

Action Needed: Decide whether to adopt the formal policy

10. Other Old or New Business

a. Variance permit for Green Thumb Lawn Service, Brewer, Maine, for 2009 Vegetation Management Program in City of Brewer and Town of Veazie—H. Jennings

b. Other?

11. Schedule and Location of Future Meetings

August 28, October 2, November 6, and December 11, 2009, 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?

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 Paul Schlein, Public Information Officer, 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.