



JOHN ELIAS BALDACCI
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

March 5, 2010

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 December 18, 2009, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Request from Maine Migrant Health Program to Help Support a Worker Protection Safety Training Program for Summer 2010

Since 1995, the Board has supported a Migrant and Seasonal Farmworker Safety Education Program. During this past year, 170 individuals received training under this project. The Maine Migrant Health Program is planning to provide two health and safety outreach workers during the 2010 agricultural season. Funding to support this effort is being requested and the staff will point out that the total cost will be similar to the past year and that amount has been budgeted in the Board's FY '10 work plan.

Presentation By: Chris Huh, Plan Manager, Eastern Maine Development Corporation
Barbara Ginley, Executive Director, Maine Migrant Health Program

Action Needed: Discussion and determination if the members wish to fund this request

4. Consideration of Monsanto's Application to Register Its MON 89034 x MON 88017-Containing Bt Cultivars

Monsanto has submitted an application to register its MON 89034 x MON 88017 cross. Since 89034 is a different event that has not been registered in Maine before, the staff held the

registration until the Medical Advisory Committee report on the dietary safety of *Bt*-containing plant-incorporated protectants had been reviewed by the Board. The Board will now consider this application.

Presentation By: Lebelle Hicks
Staff Toxicologist

Action Needed: Decide whether to register the *Bt*-corn product

5. Consideration of the Staff Negotiated Consent Agreement with the Town of South Berwick, Maine

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 by an unlicensed municipal employee to control grass and weeds along the sidewalks and curbs.

Presentation By: Raymond Connors
Manager of Compliance

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

6. Consideration of the Staff Negotiated Consent Agreement with Spruce Bay Farm and Landscape, Inc., Poland, Maine

This case is similar to the preceding agenda topic 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 by an unlicensed landscaping company to control weeds in a flower bed.

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 TruGreen Chemlawn of Manchester, New Hampshire

This case is similar to the preceding agenda topic 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 two applications of herbicides to residential lawns without providing advance notice to neighbors, as requested.

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 the Town of Randolph, Maine

This case is similar to the preceding agenda topic 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 herbicides by an unlicensed municipal employee.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Consideration of Board Policy Describing Non-broadcast Pesticide Applications Allowed Under Chapter 29, Section 6

Chapter 29, Section 6, of the Board's rules, prohibits most broadcast applications of pesticides within 25 feet of certain defined surface waters. Pesticide applications other than "broadcast" applications are not prohibited. The Board will consider adoption of a policy that clarifies what types of pesticide applications are not considered "broadcast" applications for the purposes of Chapter 29.

Presentation By: Henry Jennings
Director

Action Needed: Approve/Disapprove the Draft Policy

10. Review of 2009 Complaint 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. The staff produced a draft report for calendar year 2008 which the Board reviewed and then made suggestions for modifying the format. Those modifications have been incorporated into the 2009 summary of complaints which the Board will now review.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: None—informational only

11. Review of 2009 *Bt*-Corn Inspection Summary

In July of 2007, the Board first approved product registration requests for several *Bt* field corn products. Rules regulating the use of plant-incorporated protectants were finalized in March of 2008. The Board directed the staff to carefully monitor the use of *Bt* corn during the first few years of use to ensure that growers are adhering to requirements intended to prevent insect resistance and pollen drift. The staff has summarized the 2009 *Bt*-corn inspection results and the Board will now review them.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: None—informational only

12. Other Old or New Business

- a. Legislative Update—H. Jennings
- b. E-mails from Nancy Oden—H. Jennings
- c. Discussion about the March 26, 2010, Planning Session
- d. Other?

13. Schedule and Location of Future Meetings

March 26 is the tentative date for the Board's planning session, and April 16, 2010, is the tentative date for the next Board Meeting. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

14. 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.