



JOHN ELIAS BALDACCI
GOVERNOR

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

SETH H. BRADSTREET III
COMMISSIONER
HENRY S. JENNINGS
DIRECTOR

BOARD OF PESTICIDES CONTROL

May 14, 2010

Bangor Motor Inn & Conference Center (Conference Room, Lower Level)
701 Hogan Road, Bangor

AGENDA

9:30 AM

1. Introductions of Board and Staff
2. Minutes of the April 16, 2010, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. Request for Renewal of DuPont Special Local Need [24(c)] Registration for Express[®] Herbicide with TotalSol for Control of Bunchberry in Lowbush Blueberries

In September of 2008, the Board approved a Special Local Need (SLN) registration for DuPont Express[®] Herbicide with TotalSol (EPA Reg. No. 352-632), but imposed a December 2009 expiration due to concerns about groundwater contamination. The Board anticipated potential water monitoring data would shed light on the groundwater issue, however the staff was not able to conduct any monitoring in that time frame. In addition, the late-season approval allowed little time for growers to make an application during 2008. Consequently, the University of Maine Cooperative Extension and DuPont are now requesting to renew the SLN registration to make this product available to growers again to allow for selective postemergence control/suppression of certain broadleaf weeds, primarily bunchberry in lowbush blueberries.

Presentation By: Mary Tomlinson
Pesticides Registrar

Action Needed: Approve/Disapprove 24(c) Registration Request

4. Public Information Gathering Session About Development of a Comprehensive Pesticide Notification Registry

On April 1, 2010, Governor Baldacci signed Public Law 2009, Chapter 584, LD 1547, An Act To Revise Notification Requirements for Pesticide Applications Using Aircraft or Air-carrier Equipment. Among other things, the new law directs the Maine Board of Pesticides Control to establish a comprehensive pesticide notification registry which encompasses both existing registries and is expanded to include other types of pesticide application equipment. The new law further directs the Board to report its progress to the Legislature by next February. Thoughtful comments are welcome from the public about any aspect of the registry development. At this second information gathering meeting, however, the Board would like to focus on what distances need to be established for different types of applications and equipment and whether signage should be used to help notify the public about pesticide spraying. Written comments may be sent to the Board's main office at Maine Board of Pesticides Control, 28 State House Station, Augusta, ME 04333-0028, or e-mailed to henry.jennings@maine.gov.

5. Board Discussion About Development of the Comprehensive Notification Registry

Public Law 2009, Chapter 584, LD 1547, directs the Board to work to develop a comprehensive notification registry. Initial Board discussions have identified appropriate notification distances and the feasibility of requiring posting of signs at applications sites as the two most challenging components of a comprehensive notification registry. The Board will discuss these two issues and the basis for making its determinations.

Presentation by: Henry Jennings
Director

Action Needed: Provide Input to the Staff on Distances and Signs

6. Consideration of the Staff Negotiated Consent Agreement with Old Marsh Country Club of Wells

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 pesticides at a golf course in violation of multiple regulatory requirements.

Presentation By: Raymond Connors
Manager of Compliance

Action Needed: Approve/Disapprove the Consent Agreement Negotiated by Staff

7. Proposed Policy for Approving Registration of Plant Incorporated Protectants

The Maine Board of Pesticides Control registers over 8,500 pesticide products annually without Board review of individual products. Approval of registration is delegated to the staff and based on the federal EPA's parallel registration approval process. In 1994, the Board adopted a verbal policy requiring review of Plant Incorporated Protectant applications prior to approving state registration requests. After first approving nineteen registration applications for *Bt*-corn products, the Board reached consensus that it was time to update the 1994 verbal policy.

Presentations By: Henry Jennings
Director

Action Needed: Approve/Revise Draft Policy for Reviewing Plant Incorporated Protectant
Registration Requests

8. Discussion of Concerns About Unlicensed Commercial Agricultural Producers

At the recent Board Planning Session, concerns were raised about the evolution of state and federal pesticide laws which now allow many commercial growers to apply pesticides to their crops and/or livestock without a pesticide applicator's license or any formal training. The basic standard for requiring a private pesticide applicator's license—triggered by the use of a restricted pesticide—was established in the early 1970s, and has never been updated by the federal EPA. Since that standard was established, a number of legal requirements have been imposed and a series of public health and environmental risks have been identified that were not well documented in the 1970s. Some members of the agricultural community have questioned whether the existing standard is still appropriate.

Presentation by: Gary Fish
Manager of Pesticide Programs

Action Needed: None—discussion only

9. Other Old or New Business

- a. E-mail from Nancy Oden—H. Jennings
- b. Other?

10. Schedule and Location of Future Meetings

On June 24, at 7:00 PM, there will be a Public Information Gathering Meeting in Machias. This meeting will be continued at 9 AM on June 25. On July 23, the Board meeting will be held in Portland, and will be combined with a Public Information Gathering Meeting. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

11. 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.