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GOVERNOR

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

WALTER E. WHITCOMB  
COMMISSIONER  
HENRY S. JENNINGS  
DIRECTOR

**BOARD OF PESTICIDES CONTROL**

**October 7, 2011**

Colby/Thomas Room, Hampton Inn  
425 Kennedy Memorial Drive, Waterville  
(Waterville/Oakland Exit 127 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. Public Hearing on the Proposed New Rule Chapter 33, and Amendments to Chapters 28, 41, and 60

The Board will hear testimony on the following new rule chapter and amendments to three existing rules:

- *Chapter 33—Certification and Licensing Provisions/Private Applicators of General Use Pesticides:* The proposed new rule would establish the procedures for taking exams, applying for a license, and documenting continuing education requirements for farmers who use only general use pesticides and annually sell more than \$1,000 of plant or plant products intended for human consumption. The new license requirement arose from a new public law (PL 2011, Chapter 169), enacted by the Maine Legislature in the spring of 2011.
- *Chapter 28—Notification Provisions for Outdoor Pesticide Applications:* The proposed amendment to Chapter 28 would implement a change mandated by a new law enacted by the Maine Legislature in the spring of the 2011. Public Law 2011, Chapter 332, specifies that the current 500-foot notification distance contained in Chapter 28 of the Board's rules be modified to allow for notification up to 1,000 feet for aerial applications.
- *Chapter 41—Special Restrictions on Pesticide Use:* The proposed amendment to Chapter 41 would eliminate the requirement for training prior to purchasing or using genetically modified corn containing *Bacillus thuringiensis (Bt)* genes.
- *Chapter 60—Designation of Critical Pesticide Control Areas:* The proposed amendment to Chapter 60 would remove the designation of critical pesticide control area surrounding the Deblois Fish Hatchery.

Additional details of the proposed amendments were described in the public hearing notice published in major newspapers on September 14, 2011. Copies of the notice, the new proposed rule, and the proposed

rule amendments are available upon request, or may be viewed at the Board's website, [www.thinkfirstspraylast.org/laws/rulemaking.htm](http://www.thinkfirstspraylast.org/laws/rulemaking.htm).

Sign-up sheets for each chapter will be available at the door for persons wishing to testify. Written comments may be e-mailed to [henry.jennings@maine.gov](mailto:henry.jennings@maine.gov), or mailed to the Board's address above, until 5:00 PM on October 21, 2011.

3. Minutes of the July 15, 2011, Board Meeting

Presentation By: Henry Jennings  
Director

Action Needed: Amend and/or approve

4. State Government Evaluation Act Report to the Legislature

Under the Maine Revised Statutes, Title 3, Chapter 35, the State Government Evaluation Act (GEA), provides for periodic review of state government agencies in order to evaluate their efficacy and performance. Pursuant to the GEA, the Joint Standing Committee on Agriculture, Conservation and Forestry (ACF) has asked the Board to prepare a GEA report, including financial and programmatic details, by November 1, 2011. The ACF will begin its review of the Board no later than February 1, 2012, and submit its findings and recommendations to the Legislature by March 15, 2012. The Board will now review a draft of the report prepared by the staff.

Presentation By: Henry Jennings  
Director

Action Needed: Review the draft GEA report and provide input to staff

5. Consideration of Staff Negotiated Consent Agreement with William Gurrisi, Winchester, Massachusetts

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 to a lake without the required approval from the Maine Department of Environmental Protection.

Presentation By: Raymond Connors  
Manager of Compliance

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

6. Other Old or New Business

a. LD 837 update—H. Jennings

b. Letter from Devin Morrill, Lucas Tree Experts, regarding streamlining of the applicator licensing process—H. Jennings

c. Other?

7. Schedule and Location of Future Meetings

November 18 and December 16, 2011, are the tentative dates for future Board meetings. The Board will decide whether to change and/or add dates.

Adjustments and/or Additional Dates?

8. 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](http://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.