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BOARD OF PESTICIDES CONTROL
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BOARD OF PESTICIDES CONTROL

February 21, 2014

AMHI Complex, 90 Blossom Lane, Deering Building, Room 319, Augusta, Maine

AGENDA

8:30 AM

1. Introductions of Board and Staff
2. Minutes of the January 8, 2014, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or Approve

3. Consideration of Complaint Filed by Donna Herczeg of Portland Concerning TruGreen Lawncare and Sterling Insect-Lawn Control

Chapter 90 of the Board's rules (attached) allows citizens and organizations to submit complaints to the Director for the purpose of having the complaint placed on a Board Meeting agenda. While most complaints are not handled in this manner, Chapter 90 provides an alternate avenue to the public to present concerns directly to the Board on matters in which the compliance staff is unable to address. The Board will review the complaint and determine if any action is warranted at this time.

Presentation By: Henry Jennings
Director

Action Needed: Determine whether any action is warranted

4. Review of Board Policy Relative to the Environmental Risk Advisory Committee

In 1999, the Board first created the Environmental Risk Advisory Committee (ERAC) as an analog to the Medical Advisory Committee (MAC), to assist the Board in evaluating and addressing state-specific environmental concerns. The ERAC has not been active since 2006, when it completed work relating to concerns about browntail moth spraying. Since the committee has no current membership, and it has not met in nearly eight years, the staff proposes that the Board review the ERAC policy to ensure that it best articulates the Board's goals, and decide whether the proposed membership still makes sense.

Presentation By: Henry Jennings Lebelle Hicks
Director Staff Toxicologist

Action Needed: Provide Feedback to the Staff about the ERAC Policy and the Proposed Committee Membership

5. Formation of an Environmental Risk Advisory Committee to Address Concerns about Potential Pesticide Impacts on Marine Invertebrates

At the January 8, 2014, meeting, the Board reviewed pesticide-related bills currently being considered by the Maine Legislature. In the course of discussing LD 1678, An Act To Protect Maine's Lobster Fishery, the staff highlighted some related emerging research which suggests that synthetic pyrethroids may have the potential to cause adverse effects on aquatic invertebrates. As a result of the discussion, the Board voted to direct the staff to form an Environmental Risk Advisory Committee (ERAC), intended to assess the potential impacts of insecticides on lobsters and other marine invertebrates. The staff will suggest members for the committee and seek Board input as well.

Presentation by: Henry Jennings Lebelle Hicks
 Director Staff Toxicologist

Action Needed: Provide Guidance to the Staff on the Scope and Membership of the ERAC

6. Review of Current Rulemaking Ideas

Over the past several months, the Board has discussed a number of policy areas for which some additional refining of rules may be desirable. The staff will summarize recent rulemaking ideas and seek Board guidance on whether and when to initiate any additional rulemaking.

Presentation By: Henry Jennings
 Director

Action Needed: Provide Guidance to the Staff

7. Consideration of a Consent Agreement with Atlantic Pest Solutions of Kennebunkport

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 on 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 drift from a mosquito/tick control operation into a brook.

Presentation By: Raymond Connors
 Manager of Compliance

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

8. Consideration of a Consent Agreement with Ramon Forestry Service, LLC, of Clinton

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 on 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 drift to a residential property from an application to an abutting blueberry field.

Presentation By: Raymond Connors
 Manager of Compliance

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

9. Consideration of a Consent Agreement with Gateway Inn of Medway

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 on 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 applications by an unlicensed applicator to areas open to the public.

Presentation By: Raymond Connors
Manager of Compliance

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

10. Consideration of a Consent Agreement with Olde English Village, LLC, of South 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 on 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 pesticide applications by an unlicensed applicator.

Presentation By: Raymond Connors
Manager of Compliance

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

11. Consideration of a Consent Agreement with Jato Highlands Golf Course of Lincoln

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 on 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 pesticide applications by an unlicensed applicator.

Presentation By: Raymond Connors
Manager of Compliance

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

12. Other Old or New Business

- a. Friends of Penobscot Bay Offer to Assist with Coastal Sediment Sampling—H. Jennings
- b. Risk Assessment of Mosquito Adulticides—L. Hicks
- c. Report to the Joint Standing Committee on Agriculture, Conservation and Forestry Regarding Grants and the Adequacy of the Product Registration Fee—H. Jennings
- d. Legislative Update—H. Jennings
- e. The Woodland Club Chapter 29 Variance—H. Jennings

- f. Central Maine Power Transmission Right-of-Way Vegetation Management Plan for 2014—H. Jennings
- g. Beekeeper Petition to Discourage Large Retailers from Selling Neonicotinoids—H. Jennings
- h. Other?

13. Discussion About the Approval Process Relating to a Registration Request for a *Bt* Soybean Product

Dow AgroSciences LLC, has submitted a request to register a *Bt* soybean product that may be used only for seed increase, breeding, research, and seed production in breeding nurseries and research stations. Since the Board has never registered a soybean plant incorporated protectant (PIP), the staff is seeking guidance about what sort of review process—if any—the Board would like to undertake before considering the registration request.

Presentation by: Lebelle Hicks
 Staff Toxicologist

Action Needed: Provide Guidance to the Staff About the Review of the Registration Request

14. Schedule of Future Meetings

March 28, May 9, June 17, August 18, and September 12, 2014, are tentative Board meeting dates. The June 17 meeting is planned to be held in the Madison/Skowhegan area, following a tour of Backyard Farms. 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 Anne Bills, at the Board's office or anne.bills@maine.gov. 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.