



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

September 12, 2008

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 August 1, 2008, Board Meeting

Presentation By: Henry Jennings
Director

Action Needed: Amend and/or approve

3. DuPont Request for 24(c) Registration for DuPont™ Express® Herbicide with TotalSol for Control of Bunchberry in Lowbush Blueberries

At the August 1, 2008, meeting, the Board considered a request from University of Maine Cooperative Extension Crops Specialist David Yarborough and E. I. DuPont de Nemours and Company for a Special Local Need [24(c)] Registration to allow the use of DuPont™ Express® Herbicide with TotalSol (soluble granules) on lowbush blueberries. The Special Local Need label for Express Herbicide would allow for selective postemergence control/suppression of certain broadleaf weeds, primarily bunchberry.

In a lengthy discussion, Board members cited concerns about the lack of affinity of the active ingredient in Express to bind to soil particles, especially when considering the coarse soils in many blueberry growing areas of the state. Other questions were raised about the toxicity of the active ingredient. Since inadequate information was available to answer these questions at the meeting, the Board voted to table the matter until the following meeting, and to request additional data from the manufacturer to address these concerns. The staff has received additional information from the manufacturer and the Board will now review this material and reconsider the request for registration.

Presentation By: Wesley Smith
Pesticides Registrar

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

4. Discussion of Board Process for Submission and Review of 24(c) Registration Requests

Special Local Need [24(c)] registration requests are often submitted by applicants with a sense of urgency and the expectation that the request will receive immediate attention from the Board. However, it is not unusual for more time to be required to research the application and ask for missing or additional information. While the Board always tries to respond to these requests as quickly as possible, proceeding without all the necessary information can make it difficult or impossible for the Board to make an informed decision, resulting in further delays. The staff would like the Board to consider adopting a policy to ensure that there is adequate time to process and research these requests, while still fulfilling the needs of the applicants.

Presentation By: Wesley Smith
Pesticides Registrar

Action Needed: Decide whether to create a policy for processing 24(c) requests

5. Continued Discussion About Approaches to Address Public Concerns About Aerial Spraying

The Board held a Public Information Gathering Meeting on aerial spraying and spray drift at its December 2007 meeting, and has discussed issues and ideas at each of its meetings since then, including site planning, sensitive areas, buffers, and standards of practice. At its August 1, 2008, meeting the Board listened to concerns about aerial spraying expressed by several residents of the Blue Hill area. Following discussion of standards of practice, the Board asked the staff to gather together everything discussed to date and mold it into a comprehensive proposal to bring back to the next meeting. The Board will now review the staff memo and continue its discussion on aerial spraying and drift.

Presentation By: Henry Jennings
Director

Action Needed: Review the staff memo and decide what steps to take next

6. Consideration of Staff Negotiated Consent Agreement with Waterville Schools

On June 3, 1998, the Board amended its Enforcement Protocol to authorize the 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 failure of the school to follow the notification regulations and record-keeping requirements in Chapter 27 when herbicides were applied to athletic fields at two schools on a regular school day.

Presentation By: Raymond Connors
Manager of Compliance

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

7. Consideration of Staff Negotiated Consent Agreement with Scotts Lawn Service

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. In connection with the incident above, the applicator contracted by the Waterville Schools to do the herbicide applications failed to follow the label requirements which specified keeping people or pets away from the treatment area during application and preventing reentry to the area until the sprays had dried. In addition, the applicator failed to keep some of the required record-keeping elements.

Presentation By: Raymond Connors
Manager of Compliance

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

8. Consideration of Staff Negotiated Consent Agreement with Hands of Thyme

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 company's unlicensed application of herbicides at a senior citizen hospice facility.

Presentation By: Raymond Connors
Manager of Compliance

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

9. Consideration of Staff Negotiated Consent Agreement with Belle Vue Farm

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 purchase and application of restricted-use pesticides by a vegetable grower with an expired applicator's license and expired certification.

Presentation By: Raymond Connors
Manager of Compliance

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

10. Consideration of Staff Negotiated Consent Agreement with Paris Farmers Union

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 multiple sales of restricted-use pesticides to six unlicensed pesticide applicators.

Presentation By: Raymond Connors
Manager of Compliance

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

11. Other Old or New Business

- a. Variance Permit Issued to Green Thumb Lawn Service for Chapter 22—H. Jennings
- b. Update on Board member appointments—H. Jennings
- c. Letter to Nancy Oden—H. Jennings
- d. New Correspondence from Nancy Oden—H. Jennings
- e. Update on Colony Collapse Disorder—Anthony Jadczyk
- f. Other?

12. Schedule and Location of Future Meetings

October 17, November 14, and December 12 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?

13. 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.