



STATE OF MAINE
DEPARTMENT OF AGRICULTURE, CONSERVATION AND FORESTRY
BOARD OF PESTICIDES CONTROL
28 STATE HOUSE STATION
AUGUSTA, MAINE 04333

JANET T. MILLS
GOVERNOR

AMANDA E. BEAL
COMMISSIONER

BOARD OF PESTICIDES CONTROL

April 5, 2024

9:00 AM Board Meeting

Join the meeting in person at Deering Building, Rm. 101, 90 Blossom Ln, Augusta
Or

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Meeting ID: 296 422 483 432

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AGENDA

1. Introductions of Board and Staff
2. Board Director Appointment

A director has been selected by the department and commissioner's office. The board may vote on the appointment of the director according to Title 22 §1471-B.

Presentation By: Megan Patterson, Director of Animal and Plant Health
Action Needed: Approve/Disapprove new Board Director

3. Minutes of the February 9, 2024 and February 23, 2024 Board Meetings

Presentation By: Alex Peacock, Director
Action Needed: Amend and/or Approve

4. Election of Officers

The Board's statute requires an annual election of officers. The members will choose a chair and vice-chair to serve for the coming year.

Presentation By: Alex Peacock, Director
Action Needed: Nomination and Election of Officers

5. General Conduct Expectations of Members of the Board of Pesticides Control

Review of expectations of Board members while operating in their capacities as Board members and as private citizens.

Presentation By: Carey Gustanski, Assistant Attorney General
Action Needed: Discussion

6. Consideration of a Request for Variance from CMR01-026 Chapter 29 from RWC, Inc, to Treat Railroad Rights-of-way in Maine

RWC, Inc is seeking a variance from Chapter 29, Section 6, Buffer Requirements, in order to treat the Canadian Pacific Kansas City rail tracks rights-of-way in Maine. Board policy indicates that first-time variance requests must be considered by the Board. The policy further stipulates that railroad variance requests need to be consistent with the Maine Department of Transportation standards. The last variance for this railroad, previously contracted under Davey Tree Experts, was approved at the May 6, 2022 Board meeting.

Presentation By: Alex Peacock, Director
Action Needed: Approve/disapprove variance request

7. Review of Chapter 60: Designation of Critical Pesticide Control Areas

Overview of criteria which the Board will use in deciding if an area should be designated a Critical Pesticide Control Area.

Presentation By: Alex Peacock, Director
Carey Gustanski, Assistant Attorney General
Action Needed: Discussion

8. Request to Designate Eagle Lake Water District Wellheads as a Critical Pesticide Control Area

Staff have received a petition to designate Eagle Lake Water District Wellheads as a critical pesticide control area as outlined in Chapter 60: Designation of Critical Pesticide Control Areas. Staff has provided the information provided by the requesting party. Once received, the board shall conduct rulemaking according to 5 MRSA Ch. 375, subchapter II and allow for local representation on board decisions regarding the designation according to Title 22 § 1471-V.

Presentation By: Alex Peacock, Director
Action Needed: Discussion/amend/approve rulemaking

9. Potential Rulemaking on 1770: Resolve, Directing the Board of Pesticides Control to Transition to Electronic Submission of Pesticides Sales and Use Data

At the December 1, 2023 Board meeting, the Board discussed LD 1770 and what issues might be addressed in rulemaking. There is a need for the Board to discuss rulemaking to implement LD 1770. At the February 9, 2024 and February 23, 2024 Board meetings, the Board discussed additional information they would like to include in amendments to Chapter 50: Reports and Recordkeeping. Staff have compiled a memo with draft language for the Board to consider.

Presentation By: Karla Boyd, Policy & Regulations Specialist
Action Needed: Discussion and amend/approve rulemaking

10. Potential Rulemaking to Implement Amendments Required by the EPA for Approval of the Maine Pesticide Certification and Training Plan

In August 2023, the Maine Pesticide Certification and Training Plan amendments were approved by EPA. In section 13 of the state plan, staff put together rulemaking that would be required for EPA to provisionally accept the plan. This includes changes to Chapter 20, Chapter 31, and Chapter 32 with several incorporation of federal rule by reference. Staff have provided a table of changes needed in a memo as well as draft language that satisfies the requirements.

Presentation By: Karla Boyd, Policy & Regulations Specialist
John Pietroski, Manager of Pesticide Programs
Action Needed: Discussion/amend/approve rulemaking

11. Consideration of Consent Agreement for Ehrlich

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 to resolve the matter. This case involved failure to notify participants on the Maine Notification Registry and failure to receive prior authorization to apply pesticides.

Presentation By: Alex Peacock, Director
Action Needed: Review and/or Approve

12. Consideration of Consent Agreement for Mainely Grass

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 to resolve the matter. This case involved failure to notify participants on the Maine Notification Registry, unauthorized application of pesticides, use inconsistent with the pesticide label and off-target deposition of pesticides through spray drift.

Presentation By: Alex Peacock, Director
Action Needed: Review and/or Approve

13. Other Old and New Business

- a. Variance Permit for CMR01-026 Chapter 29, Dubois Contracting
- b. Variance Permit for CMR01-026 Chapter 29, Damariscotta Mills Consulting, Inc.
- c. Update on LD 1537 and LD 1960
- d. Toxicologist Job Advertisement
- e. Environmental Specialist IV: Compliance Manager Job Advertisement
- f. Update on subpoenas for Paraquat

14. Schedule of Future Meetings

June 7, 2024 and July 19 are the next scheduled Board meeting dates. The Board will decide whether to change and/or add dates.

Staff have reserved Deering Room 101 for June 7, 2024 and July 19, 2024.

Amendments 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 Board's office or pesticides@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.