

# THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



## Department of Agricultural Resources

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## PESTICIDE BOARD MEETING MINUTES

November 29, 2022

### BOARD MEMBERS IN ATTENDANCE

Commissioner John Lebeaux, MDAR (Chair)	Present
Marc Nascarella, DPH, Designee for Commissioner Cook	Present
Michael Moore, DPH, Food Protection Program	Present
Misty Anne Marold, DFG, Designee for Commissioner Amidon	Present
Kathy Romero, DEP, Designee for Commissioner Suuberg	Present
Nicole Keleher, DCR, Designee for Commissioner Rice	Present
Richard Berman, Commercial Applicator	Present
Brian Magee, Toxicologist	Present
Steven Ward, Farmer	Present
Jack Looney, Public Member	Present
R. Christopher Brittan, Public Member	Present
Steven Bird, Toxicologist	Absent

The Board did meet or exceed the minimum number (7) of members present to form a quorum and conduct business.

### A. REVIEW OF MINUTES FROM:

**Motion:** Accept the minutes J. Looney

**Second:** K. Romero

**Discussion:** Remove "Acting" from Commissioner Cooks title

**In Favor:** All

**Opposed:** None

### B. PESTICIDE PROGRAM UPDATES

#### Posting Enforcement Action

T. LaScola-Miner stated that MDAR will begin posting their enforcement actions on their webpage. MDAR will post the more egregious enforcement actions such as license revocations, administrative orders and fines. Information posted online would include the company, violation, type of enforcement action and date of the action.

Discussion: R. Berman believed it would be helpful in the commercial applicator industry.

S. Ward asked if it would be much work to keep updated. T. LaScola stated that some details still need to be worked out, but she did not believe it would be too much work. J. Looney thought it was a good idea to have transparency.

B. Magee asked if this would need a regulatory change of which T. LaScola responded it would not need one.

M. Moore asked if someone could appeal their name being on the list. T. LaScola-Miner responded that they could not and that nothing would be posted until after the ability to appeal the enforcement action had passed.

### Pesticide and Marijuana Policy

Chair Lebeaux explained that when marijuana first became legal in Massachusetts, MDAR issued a policy that pesticides were not allowed to be used on marijuana. When the 2018 Farm Bill legalized hemp, pesticide labels started to incorporate hemp into them. Chair Lebeaux stated that MDAR recognizes that hemp and marijuana are biologically the same and the only difference is a legal definition for THC. Therefore, MDAR is changing its policy which would allow the use of products labeled for hemp on marijuana. However, there will be some additional conditions such as:

- Labeled for hemp and tobacco

- If two different rates for hemp and tobacco must use the lower rate

- If used inside greenhouse must be on the label

- The active ingredient must be exempt from a food tolerance

- The label cannot have any days to harvest on the label

333 CMR and 132B and the Worker Protection Standard (“WPS”) will now need to be adhered to by the marijuana industry. He noted that this policy does not require a regulatory change.

### Discussion:

R. Berman asked if a pesticide license would be required. T. LaScola-Miner replied that if a product is a general use product, then a license would not be required. However, the WPS would need to be followed and the individual using the product would need to be trained as a handler.

J. Looney asked if there was something put into place that would help protect the users of the marijuana products. T. LaScola-Miner stated that the end uses of hemp and marijuana are the same so allowing the use of a product with hemp on the label would allow for the risk mitigation. Additionally, MDAR put in the extra conditions to allow for added safeguards/protection.

S. Ward asked if MDAR has enough staff to enforce this policy. T. LaScola-Miner stated that they are planning to conduct a lot of outreach and education to assist growers with the new policy. Chair Lebeaux added that MDAR hopes that by giving the industry some tools there will be less use of pesticides illegally.

B. Magee asked how MDAR knows whether marijuana growers are using pesticides illegally. Chair Lebeaux indicated that MDAR works with the Cannabis Control Commission (“CCC”) and through the CCC required testing and complaints they are made aware of misuse. B. Magee asked if misuse is a massive problem. J. Lebeaux responded he did not believe it to be a massive problem.

M. Marold asked if MDAR has cross referenced the tobacco studies given the fact that marijuana may be used a little differently. T. LaScola-Miner stated that since products are labeled for hemp and hemp is used as the same things as marijuana there was a level of comfort in allowing the use.

M. Nascarella stated that DPH would be broadly support this, but DPH has always looked at marijuana as a pharmaceutical and would be interested in looking at what MDAR was reviewing when developing the new policy. He asked if there would be any surveillance done on the end products for the pesticides that are allowed to be used. T. LaScola-Miner stated that MDAR has been working with the CCC on the new policy and the active ingredients that are currently labeled for hemp are biologicals and are not on the required testing list.

He also asked if there was an existing list or if the products need to be reviewed by the Pesticide Subcommittee.

T. LaScola-Miner responded that the Subcommittee does not need to register the products. She explained that an individual would need to ensure the product is registered by EPA and Massachusetts and then review the labels to ensure that the product follows the criteria. She also stated that MDAR has not developed a list of “approved”

products, given how frequently it will change. The individual will need to make that determination based on the criteria and the guidance documents it has developed.

There was a question from the public as how it would work with the organic regulations. T. LaScola-Miner indicated that MDAR does not implement or certify organic farms.

Overall, the Pesticide Board was supportive of this policy.

### **C. ADVISORY COUNCIL UPDATES**

#### **Conservationist Pesticide Advisory Council**

Clint Richmond stated that they have been meeting bi-monthly. There have been two meetings since the Board last met. The draft regulation 333 CMR 14.00 was discussed, and the Council did not view it as a minor technical change. He stated that some members thought larvicides shouldn't be used at all and some members thought that the definition of larvicide was too broad. In September, the Council began looking at the municipal opt-out program and the recommendations from the Mosquito Control Task force. The Council had some concerns relative to the risk levels that were assigned to towns (relative to the municipal opt-out process). There was also discussion relative to PFAS and leaching. He noted that the Council is very concerned with this issue.

#### **Pesticide Applicator Advisory Council**

Bob Leon stated that they have not met since the last Board meeting, but they are still concerned relative to the 25b products and license requirements.

### **D. LETTER FROM GREATER BOSTON PHYSICIANS FOR SOCIAL RESPONSIBILITY ("GBPSR")**

Chair Lebeaux stated that the Board received a letter from GBPSR relative to PFAS and it is requesting the Board require all manufacturers to submit third-party verification that their products do not contain PFAS to maintain the state registration. He stated that in a normal request like this, MDAR would take the request back to review and deliberate and report back out to the Board.

#### **Discussion:**

M. Marold stated that this field is rapidly changing and would caution doing it without scientific data indicating it could be accomplished. This includes resources to conduct the testing. She also stated that in reviewing the request if MDAR finds any environmental end points she would be happy to look at it.

J. Looney stated that he believed at the last meeting this issue was flagged and perhaps the Board should just note that the letter was received, and it is appreciated.

S. Ward asked if MDAR understands what products are registered in MA that do contain PFAS. Chair Lebeaux indicated that it is MDAR's understanding that that PFAS found in pesticides was due to contamination, not as an ingredient. T. LaScola-Miner stated that when evaluating the request these questions being asked would be part of the consideration.

B. Magee asked if we have the legal authority. She responded that that question would also need to be reviewed.

### **E. NEW BUSINESS**

R. Berman asked T. LaScola-Miner what the status of the MDAR State Plan was. She replied that MDAR had received comments from the first submission to EPA, adjusted and resubmitted. MDAR is still waiting for a response.

Board members thanked Chair Lebeaux for his service on the Board. Chair Lebeaux stated that he has enjoyed working with the Board and thanked them for their participation.

S. Ward stated that the cranberry industry had put together a workgroup to evaluate to use of UAV's (unmanned aerial vehicles) for fertilizer and pesticide applications and would be meeting soon.

M. Marold announced that the BioMap Living Waters product developed by the Department of Fisheries and Wildlife had been updated and is online. It includes hands on items for conservation purposes. It will be a living product that will be routinely updated.

**G. ADJOURN**

**Motion:** J. Looney

**Second:** S. Ward

**Discussion:** None

**In Favor:** All

**Opposed:** None