

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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CONSERVATIONIST PESTICIDE ADVISORY COUNCIL

MEETING MINUTES

Date: May 6, 2022

A. ROLL CALL

Kimberly Pearson, Brewster Natural Resources Advisory Commission	Present
Clint Richmond, Sierra Club	Present
Regina LaRocque, MGH Center for Environment and Health	Present
Laura Mattei, Sudbury Valley Trust	Present
Rosemary Malfi, Northeast Organic Farming Association	Present

The Conservationist Pesticide Advisory Council ("Council") did meet or exceed the minimum number three (3) of members present to form a quorum and conduct business.

B. GOALS/MISSION

Taryn LaScola reminded the members that at the previous meeting, members indicated that they wanted to discuss the goals and mission of the Council. C. Richmond stated that he thought that the members may want to think more about this topic before discussing. C. Richmond stated that he wanted to move along to the other items on the agenda as he believed the public that was in attendance wanted to hear about those items.

C. RIGHTS OF WAY OVERVIEW, Taryn LaScola

T. LaScola stated that some of the MDAR staff (Clayton Edwards, Hotze Wijnja, and Jessica Burgess) that work with the Rights of Way ("ROW") were present to help answer and questions. She provided an overview of the ROW regulations via Power Point presentation which included:

- Definition
- Vegetation Management Plan ("VMP") and Yearly Operational Plans ("YOP")
- Plan review process
- Notification/Public input process
- Sensitive Area Material List

Council Members had many questions after the presentation which included:

ROW Advisory Panel

C. Richmond asked if there a separate ROW Advisory Panel for each plan or if there is one panel. T. LaScola responded that there is one ROW Advisory Panel and that the ROW Advisory Panel typically reviews the plans one at a time unless there are more than one that is submitted at the same time. L. Mattei asked about the role of the

ROW Advisory Council. T. LaScola responded that they review the VMP's and may ask for additional information, ask questions about the plan and make a recommendation to MDAR if the plan should be approved.

VMP and YOP Submission

C. Richmond and R. LaRoque had some questions in relation to who submits the plans and provides the notification. C. Edwards indicated that it is the utility companies that submit the plans and notification is either performed by the utility company, applicator, or both.

C. Richmond asked if the VMP's are staggered or if they all end/start in the same year. C. Edwards indicated that they are all staggered.

Sensitive Areas

R. Malfi asked for clarification on what a Sensitive Area is. C. Edwards responded that it includes wetlands, land over standing water, private wells, residential dwellings.

K. Pearson provided a scenario where a private homeowner had put in a well and had contacted the town to find out how to register the well. She asked how the well would be "flagged" for ROW application. C. Edwards indicated that some towns keep track of the wells and MDAR has a well registry on its page. K. Pearson stated that she believed that homeowners would not know about this unless they were told. J. Burgess indicated that there is an intersection with multiple authorities and different requirements. There are multiple responsibilities from different entities. MDAR only has its authority under M.G.L.c. 132B and therefore cannot go beyond that. MDAR has created an opportunity for the homeowner to provide the information in a centralized place via the website. K. Pearson indicated that she believed that there needs to be more communication to the towns around the plan. R. LaRoque agreed with her on this point.

Integrated Pest Management ("IPM")

R. LaRoque and R. Malfi asked how MDAR is ensuring that IPM is being utilized and alternatives are being promoted given that the regulations speak to the use of IPM. T. LaScola stated that IPM is a collective approach to pest control and include pesticides as a management tool. Pesticides should not be used as a first or last result, but rather as a tool that is to be used when the circumstances require it. C. Edwards stated that ROW management plans included mechanical controls and other types of management all of which are dependent on the type of vegetation, terrain etc. The VMP states the broader picture as to the area and management practices that will be utilized for 5 years. This includes past work that was done and a justification for the use of herbicides to manage an area. The YOP is specific to what and where herbicides will be used and nothing else. MDAR is only responsible for the use of pesticides. MDAR is notified or required to be notified of the non-pesticide control measures used. It was noted that the plans usually do recognize previous years work and outcomes, which can be evaluated.

Tracking Pesticide Use

C. Richmond indicated that this goes back to the Council wanting to know how much pesticides are being used. T. LaScola stated that there are requirements for individual application records and an annual reporting requirement. If the public wants the annual information the request can come to MDAR as it collects that information, but for individual records, the request would have to go to the applicator.

Mission

R. LaRoque indicated that she would like the Council to work on helping execute the mission set forth in the regulations relative to ensuring IPM is being utilized.

Opt Outs

K. Pearson would like there to be an option for owners of easements to be able to opt out. J. Burgess stated that MDAR cannot interfere with property rights and must stay within its jurisdiction.

Public Comment

C. Richmond call on member of the public, Bruce Taub to speak. B. Taub provided information about the ROW work in Brewster and the opposition to it.

D.25B PRODUCTS OVERVIEW, Taryn LaScola

T. LaScola provided an overview of what 25b Minimum Risk Pesticides (“25b Product”) are and the current state of the licensing requirements in relation to these types of pesticides. She explained that the 25b Products are pesticides that EPA does not require to go through the registration process. To qualify to be a 25b Product, the products must include active and inert ingredients on the 25b list. While some states register these products and require a license, Massachusetts does not. T. LaScola stated that over the past several years the Pesticide Applicator Advisory Council has indicated to MDAR that they believe that a license should be required to use these products. She also stated that a Pesticide Board Subcommittee member has also brought up the issue of licensing and registering these products.

Bob Leon, Chair of the Pesticide Applicator Advisory Council and Richard Berman, member of the Pesticide Board Subcommittee reiterated what T. LaScola had stated and stated that the products are not benign, and they should be addressed.

R. Malfi asked if the products are if the labels on these products are similar to registered product given the fact that they do not go through the registration process. T. LaScola responded that if a manufacturer of a 25b Product also manufactures registered pesticides, the labels are usually set up in the same manner. However, if a company is not in the pesticide market, then the labels could look different. She indicated that since the products are not registered, there are all different formats of the labels.

R. LaRoque asked what the “ask” from MDAR was. T. LaScola stated that there was no ask and that it was an agenda item requested by C. Richmond. She explained that the Pesticide Applicator Advisory Council had brought this to the attention of the Pesticide Board and that during the review of the draft regulation the Board will have that in mind. The Board can then determine if the licensing requirement should be in the regulations as they have the final approval of the regulations.

L. Mattei expressed her concern with the fact that they don’t know how toxic or non-toxic these products are.

C. Richmond stated that it would be interesting if there was information from other states about how regulating the 25b Products has reduced any issues/negative effects.

R. Malifi asked if licensing is required for pesticide use in agriculture and whether requiring a license for these products would affect that. T. LaScola stated that MDAR would have to consider that when drafting language.

T. LaScola stated she would provide the Council with some links with additional information on 25b Products.

E. NEW BUSINESS

Discussion about the scheduling the next meeting was had, and it was agreed upon that the Council would like to meet regularly.

R. LaRoque let the Council know that she had been speaking with T. LaScola about how to put the annual use report information in an electronic format. She asked if the Council would be in favor of having MDAR put the data in an electronic format and make it public. K. Pearson stated that she would like the information to be in a geocoded database and have it put on a map. T. LaScola indicated that MDAR does not obtain the location of the application in the annual use report. The Council was in favor of having this done. T. LaScola acknowledge the desires of the Council and indicated that resources are a factor.

T. LaScola responded to a comment from the public relative to the implementation of the neonicotinoid classification change that will take place on July 1, 2022. She stated that MDAR has been in constant communication with all the stakeholders and will have a list of products that are changing over on the website.

K. ADJOURN

Motion: R. Malifi

Second: R. LaRoque

In Favor: All