

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: February 9, 2024

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
Rosemary Malfi, Xerces Society	Present
Kristin Andres, Association of Preserve Cape Cod	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.

DOCUMENT(S) PRESENTED:

Pre-notification Power point

C. NEW COUNCIL MEMBER INTRODUCTION, KRSITIN ANDRES

K. Andres introduced herself to the Council members. She currently works for the Association of Preserve Cape Cod, a non-profit environmental advocacy group on the Cape. She was previously the conservation agent for Chatham and remains connected to the conservation agents on the Cape.

The members introduced themselves to K. Andres.

D. PESTICIDE ENFORCEMENT UPDATES, T. LASCOLA

Pesticide Annual Report: The use report data was posted online. The information was posted in a searchable format. The full list in a more static form is also posted and available. MDAR is working on reviewing and potentially updating the online form for 2023 to help reduce the number of anomalies or gaps that were seen in the 2022 data. She stated that the ability to make changes may be limited given the forms capabilities. MDAR will develop a guidance document to help assist the applicators when making the entries to the form.

C. Richmond asked if individuals could correct the form once they submit the form. T. LaScola stated that the form is a simple form that does not allow an individual to make changes to it once it has been submitted. MDARs goal is to make improvements to the form or provide better guidance so that the information being put in by the application is correct. Any long-term changes will be looked at for 2024 given the need to post the 2023 use report form soon.

R. Malfi asked about what the “back-end” data looks like. T. LaScola explained that it is a csv format that is then exported into an Access Database so that queries can be performed. R. Malfi asked how much she thought it would cost to improve the use data and to hire someone to review the data. T. LaScola replied that the Board instructed MDAR to investigate what the capabilities the current system has to add the elements that Council requested. New York and California’s use report system was discussed as states that have different types of systems and requirements and they could be looked at. In response to that, T. LaScola is going to survey other states as to how they collect their use data and any costs associated with it.

K. Andres asked what the goal of the Councils interest in the use report data was. She stated that she understood its importance was but wanted to know more about what the Councils intent in the request was. R. Malfi responded that the role of the Council is narrow and is to guide the Pesticide Board (“Board”) in their role with pesticides. The Council wants the Board to support the addition of elements within the use report. C. Richmond followed up with stating that M.G.L.c. 132B, Section 5A requires an annual report. T. LaScola stated that the requirement for the annual use report is not within Section 5A but rather the regulations (333 CMR, Section 10). She also stated that this type of request does falls within the scope of the Councils directive given that the Council can review the regulations and then bring any issues/concerns to the Board.

C. Richmond asked if MDAR knew what percentage of use was being reported. T. LaScola indicated that it is difficult to tell given that both individuals and companies are able to report. There may be several individuals reporting for one company, but they would be listed as separate entries. She stated that there was an expectation submission may have been low in the first year, given the change to an online form.

C. Richmond then asked if MDAR was thinking about capturing data relative to pesticide sales to licensed applicators. T. LaScola stated it would need to be a regulatory change. She stated if the end goal is the use data, then sales data would not be helpful as sale of a product is not indicative of use. He also asked if there are any requirements relative to keeping track of how much product an applicator stores or what they store. T. LaScola stated that there are no specific regulations, but rather there are best management practices/recommendations.

Pesticide Exam: At the last Board meeting, MDAR stated that they wanted to explore the idea of splitting the Commercial and Private Certification exams into two parts. One part would include core-competency questions and the other part would include the category specific questions. MDAR wants to explore the capability of the existing licensing and exam platforms to do this. Splitting the exam into two parts would allow for MDAR to update exams/exam questions more easily and ensure that applicators could pass core competency questions. The Board was supportive of MDAR to explore this.

E. PRE-NOTIFICATION REQUIREMENTS

T. LaScola informed the Council that this topic was discussed in the summer of 2023 but was put on hold until the Councils request for additional annual use data was completed.

R. Malfi stated that her initial focus was on pre-notification requirements to residential properties. She indicated that there were concerns relative to applications being performed on a neighboring property and neighbors lack of legal rights to know what and when a pesticide is applied. T. LaScola stated that the pre-notification requirements are specific to the contracting entity. Additionally, the applicator is required to leave specific information with the contracting entity after the application as well. T. LaScola stated that if the Council is looking at reviewing the pre-notification requirements in the lawn care/turf industry, it should review 333 CMR 13.06.

R. Malfi asked about the pre-notification requirements for apartment buildings. T. LaScola stated that for outdoor applications in a multi-unit dwelling setting (apartment, Homeowner Associations, condominium complex etc.) the notification is given to the contracting entity upon request. She noted that MDAR developed Best

Management Practices (“BMP’s”) for these types of settings. The BMP’s address posting notifications, communication, etc.

C. Richmond asked if municipalities could require that landlords provide the notification to tenants. Jessica Burgess, MDAR Legal Counsel, stated that it would depend on how it was written and that it would be left to the Attorney General’s Office to decide. R. Malfi asked J. Burgess asked if changes could be made through the regulations. J. Burgess replied that it would depend on how it was written and that other legal concerns such as property rights, would need to be considered. K. Pearson asked if MDAR has seen any municipalities be able to pass by-laws to reduce pesticides. J. Burgess stated no.

C. Richmond asked T. LaScola if she knew of other states having pre-notification requirements that extend beyond what Massachusetts requires. She responded stated that she believed there to be some states that have pre-notification registries, but she was unsure if it was done through regulation or legislation.

R. Malfi asked if the other members wanted to pursue this topic further. The members agreed to go forward with continued discussion.

G. NEW BUSINESS

C. Richmond stated that the Glyphosate Commission was meeting the next day and he hoped that T. LaScola would provide an update to the Council at the next meeting.

R. Malfi asked that the topic of treated seeds be put on a future agenda.

K. ADJOURN

Motion: R. Malfi

Second: R. LaRocque

In Favor: All