

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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FARM TECHNOLOGY REVIEW COMMISSION

DRAFT

Meeting Minutes

Wednesday, November 17, 2010.

11.00 AM to 2.00PM

Massachusetts Technology Collaborative (MTC),
Weiss Conference Center, Room 102, 75 North Drive, Westborough, MA 01581

Commission Members Present:

Gerard Kennedy, Designee, Department of Agricultural Resources
Ed Kunce, Designee, Department of Environmental Protection
Roy Petre, Designee, Department of Public Health
Dennis Buckley, Designee, Department of Revenue
Carter Wall, Executive Director, Massachusetts Renewable Energy Trust
James Cooper, Dairy Farmer Licensed as a Producer Dealer
Peter Melnik, Dairy Farmer, Massachusetts Cooperative of Milk Producers Federation
Mark Duffy, Dairy Farmer, Massachusetts Association of Dairy Farmers

Others in attendance:

Gerry Palano	MDAR	Brad Mitchell	Farm Bureau
Sean Bowen	MDAR	Susan Isberg	USDA
Kim Foley	MDPH	Thomas Collaro	USDA
Richard Lerner	MDPH	Darin Beasley	USDA
Priscilla Brooks	MDPH		

Summary of Recommendations

RECOMMENDATION: Identify appropriate targeted tax credits for agriculture.

RECOMMENDATION: Secure taxation exemptions for farms involved in agricultural production that are on a par with those for manufacturing corporation whether the farm is incorporated or an individual under Chapter 62, the income tax statute. Broaden the exemption so that agricultural production includes farm stands, as defined under MGL C40 for renewable or sustainable energy.

RECOMMENDATION As a Commission the Department can work with DOR to put on paper the discussion and make a recommendation. It was suggested that the next Commission meeting should be scheduled after the legislative filing date so that the Commission can understand any legislation which is filed which addresses these issues.

RECOMMENDATION: MDAR to work with DOR to refine the issues for Commission to ensure a full understanding of any recommendation with respect to taxation

RECOMMENDATION : Database to be created by MDAR staff of farms interested in being nominated for excess credits

RECOMMENDATION: MDAR to identify approach for farms to aggregate SRECs. There are 6 to 8 businesses that are aggregating SRECS. Looking into a farmer aggregator might be an option to pursue. A cooperative approach may also be productive given the significant commissions that some of the aggregators are taking.

RECOMMENDATION: Education and Guidance for Local Officials on Agricultural Issues and Renewable Energy Projects

ITEM 1: Introductions

Gerard Kennedy called the meeting to order at 11:15AM. The members of the Farm Technology Review Commission (FTRC) and the public introduced themselves and were welcomed. He recommended a change to the order of items on the agenda to account for the schedules of several USDA personnel who had joined the meeting to discuss slaughterhouse issues.

Kennedy mentioned that along with NRCS's Tom Akin several commissioners – Peter Melnik, Ed Kunce and Gerard Kennedy - participated in a panel presentation at the Massachusetts Health Officers Association annual meeting in October. The goal was to educate Boards of Health about evolving and innovative agriculture practices in the areas of sustainable waste management and renewable energy. The presentations highlighted these new approaches and their benefits in helping to address the state's renewable energy and waste management goals but also to understand any challenges and concerns that may exist at the local level. Ed Kunce mentioned that there might be an opportunity through ongoing regular meetings – monthly or quarterly- to continue to engage Boards of Health.

ITEM 2: DISCUSSION: Review of taxation issues and progress update Dennis Buckley updated the Commission on two letter rulings relative to sales tax exemptions and renewable energy projects.

1. Wind Turbines Letter Ruling:

In this instance the owners were planning to send all the energy generated from a wind turbine to the grid. If you produce electricity **to be sold**, the component parts of the wind turbine are exempt from sales tax. In this particular case, with the exception of a name plate and a certain type of paint, all the component parts were exempt from the sales tax because the turbine was producing electricity **to be sold**. This exemption is found in MGL Chapter 64H Sec 6.

2. Anaerobic Digester Letter Ruling:

The other letter ruling related to the AGE Anaerobic Digester project. One of the key issues was the fact that the energy being produced was in excess of the farm's energy needs for agricultural production and that the farm would be selling the excess. If the energy produced was just for farm use, the farm would enjoy an exemption from the sales tax because the energy would be for **agricultural production**. As discussed in the previous paragraph, if electricity is produced **to be sold**, the equipment is also exempt from sales tax. The AD enjoys an exemption from sales tax because all of the components are either exclusively used in **agricultural production** or produce electricity **to be sold**.

Carter Wall suggested that the Commission keep a record of issues which potentially could be forwarded to the legislature for action, such as a Tax Credit for AD; or consideration of a consistent definition of agriculture.

DB cautioned that every time there is a change to a statute it is specific to a chapter and a section that the legislature has defined. Every section has a list of definitions that relates to various interests. Trying to get consistency across different statutes is challenging. Efforts might be better directed towards trying to identify a tax credit to benefit the farming community. This is an approach which is more warmly received by the legislature and the revenue department. An example is the Life Sciences Credit. The credit should also be a refundable credit which is important because a credit is no use if you are not making any money.

GK asked DB about the potential for the classification of agriculture as manufacturing. Manufacturing businesses enjoy different types of credits usually through a manufacturing corporation. There are pluses and minuses to being incorporated – lawyers' fees, a minimum tax you must pay, you must file returns electronically, a lot of burdens- but you get an investment tax credit as a manufacturing corporation. As an agricultural operation if you buy tangible personal property such as machinery or equipment (that has a useful life of over 5 years among other criteria) you may be exempt from the sales tax because it is used in agricultural production but you also may get a tax credit when filing a corporate return if you are a manufacturing corporation. The credit is 3% of whatever the expenditure on the equipment was.

Instead of classifying agriculture as manufacturing, agriculture may want to try to get that exemption for farmers who pay a personal income tax. Under this scenario a farmer will not have to pay the sales tax and may get a 3% credit of whatever the cost is for the equipment. The credit is not a refundable tax credit but one which can be carried over. It is only available to corporations but the Commission may want to recommend an investment tax credit for equipment purchases in agriculture which is available to people who file under the income tax statute, Chapter 62.

Ed Kunce asked if a state or federal agency required an addition to a piece of equipment such as an air pollution device or a scrubber, would the device be eligible for the tax credit? DB answered that if the equipment is eligible for ITC the total cost of the equipment is taken into consideration. The sales tax exemption is for equipment and machinery that is used to transform or produce tangible personal property to be sold.

GK asked about the process for getting an investment tax credit. DB stated that a manufacturing corporation receives three tax benefits:

- (i) An exemption from sales tax under MGL C 64H Section 6 subsections R and S when buying machinery and equipment
- (ii) An investment tax credit
- (iii) An exemption from local personal property tax on equipment and machinery.

A possible approach for the Commission is to recommend that individual income tax filers involved in agricultural productions should benefit from the same exemptions as corporations that are involved in agricultural production. So instead of looking to get agriculture classified as manufacturing, it would be more beneficial to go after the same exemptions enjoyed by manufacturing corporations for application to agricultural production.

Peter Melnik said that it is a good idea and combined with the sales tax and the ITC could be a real saving. It has to be machinery and equipment and be depreciable over 5 years.

Carter Wall asked about the legislative calendar. Brad Mitchell stated that Farm Bureau is working to file legislation along these lines and would appreciate the support of the Commission.

RECOMMENDATION: Identify appropriate targeted tax credits for agriculture.

RECOMMENDATION: Secure taxation exemptions for farms involved in agricultural production that are on a par with those for manufacturing corporation whether the farm is incorporated or an individual under Chapter 62, the income tax statute. Broaden the exemption so that agricultural production includes farm stands, as defined under MGL C40 for renewable or sustainable energy.

As a Commission the Department can work with DOR to put on paper the discussion and make a recommendation. It was suggested that the next Commission meeting should be scheduled after the legislative filing date so that the Commission can understand any legislation which is filed which addresses these issues.

RECOMMENDATION: MDAR to work with DOR to refine the issues for Commission to ensure a full understanding of any recommendation with respect to taxation

ITEM 3: DISCUSSION: Review and Update of Energy Related Issues

Anaerobic Digesters: Carter Wall stated that two AD projects –in Rutland and Sheffield- are in construction and acknowledged DEP’s work in helping address air quality permit issues.

Gerry Palano mentioned that there are a lack of regulations or specifications for biogas materials. Gerry has been invited to sit with the State Plumbing Board to further discuss this issue. Some information could be gleaned from the way that the state handles biogas from landfills or wastewater treatment

facilities. Another development in this area is the surge of interest in urban food production using AD or gasification of wood chips as an energy source for greenhouse production.

CW asked about the status of the Commissioner of Agriculture's definition of an agricultural business for agricultural net metering purposes. GP indicated that it was under review and that by the end of the year, the Department would have a guidance. CW stated that it is particularly relevant given the work being conducted at DEP on the solid waste master plan. GP talked about a map generated by MassDEP of areas in the state which could potentially serve as locations for ADs.

Ed Kunce cautioned on local concerns about some of these renewable projects. For instance local health departments were very concerned with biodiesel about components of some of these projects, such as caustics, solvents, toxics and VOCs, that were not being regulated by DEP. The moratorium on municipal waste incineration is a hot button issue with some groups. And the more that something looks like it is burning waste, the more that it can be perceived as a violation of the moratorium. **It is important therefore to ensure that proper communication occurs.**

Sustainable Revenue Source: CW and GP are meeting with Center for Ecological Technology to see what inroads could be made with utilities about CET's experience running a REC program. The goal is to develop a sustainable revenue source for renewable energy projects to support the development of agricultural renewable energy projects. This was in the report to the legislature. It could take the form of a check off box on a utility bill.

Another need is to identify farms which could be interested in being nominated for excess credits from local agricultural renewable energy projects. There are seven zones served by utilities and it would be a great help to farmers to be able to identify other agricultural operations to receive the credits. A database of interested farms would be the product. Credits can play a role in financing projects with investors and banks. Banks have been skittish about some of the financing options to date.

RECOMMENDATION: Database to be created by MDAR staff of farms interested in being nominated for excess credits

There are 6 to 8 businesses that are aggregating SRECS. Looking into a farmer aggregator might be an option to pursue. A cooperative approach may also be productive given the significant commissions that some of the aggregators are taking.

RECOMMENDATION: MDAR to identify approach for farms to aggregate SRECS.

Peter Melnik stated that with all this new farm technology that the definition of agriculture is really important. He cited an example where Gerry Palano at a local meeting of building officials explained that Anaerobic Digesters on a farm were considered by the Department to be agricultural equipment and therefore benefitted from the provisions of Chapter 40A Section 3.

CW stated that it would be very valuable to create a Guidebook to Municipal Government on locating Renewable Energy Systems for local building inspectors. DB stated that the farming community needs to educate officials about these issues. He said that the more you can educate the officials about these new technologies the further along you will be when you approach cities or towns with one of your projects. The agricultural community needs to define the issues first.

RECOMMENDATION: Education and Guidance for Local Officials on Agricultural Issues and Renewable Energy Projects

ITEM 4: DISCUSSION: USDA Regulations for Animal Slaughtering and Processing

GK introduced the USDA personnel who had joined the meeting at the invitation of Kim Foley of DPH. Given the need that has been expressed to the Commission by certain producers for greater local access to slaughtering and/ or processing, this was an opportunity for the Commission to question the USDA personnel on the regulatory framework controlled by USDA/ FSIS. On-farm slaughtering, custom slaughtering and mobile slaughtering are all options that have been discussed in past meetings.

USDA has been involved somewhat with mobile slaughtering and processing. This is a unique situation especially if the farm wants to be federally inspected requiring an inspector to follow the unit around. USDA does have [guidance on their website](#). There are three or four federal processors with mobile units operating in other parts of the country that have used federal funding to support their development. There are funding opportunities available to producers for these types of units through USDA Rural Development, details of which can be found on their website.

The typical process for mobile unit operation is for the unit operators to set up a schedule for the USDA veterinarian and inspector to show up on site. The unit set-up consists of a semi truck where they do the slaughtering. This truck backs up to another semi truck which acts as the cooler. The two trucks are sealed together. The cooler truck is then sealed. There is no cost for USDA to provide the inspector, for the most part. (Weekends, overtime and holidays are examples of costs that are usually not covered by USDA.)

The participation of USDA generated many questions as shown in the following paragraphs:

If the state decided to purchase a mobile unit and make it available to farms, is that inspected by USDA ? Everything that is intended to be re-sold needs to be federally inspected ?

Who actually runs these mobile units, for example the units in Washington or New York ? It can be a sole proprietor or a cooperative approach. The unit in Washington is completely run by a cooperative. A couple of other co-ops have taken a single facility and are bringing their animals there for slaughtering. The co-ops can offer specific services to meet the needs of their cooperative members. This can be a cost effective approach to operating a slaughterhouse.

Co-ops build their own facility they can design it to meet their immediate needs. A group of farmers might be able to come up with the funds to build a facility that can meet all of their needs.

Would there be an inspector available for a new slaughtering facility and could an inspector be provided on a part-time basis? Some of these units will only operate once or twice a week. USDA indicated that it should not be a problem and that if the operation is up and running USDA would do what they can to provide an inspector.

Are inspectors required to have their own bathroom and office? A desk, a file cabinet and adequate heat and light are required but bathrooms and offices can be shared.

Does a plant which does both custom slaughtering and USDA Inspected slaughtering have to meet the same federal requirements ? Their standards are more or less the same.

What is involved in getting a custom slaughterhouses upgraded to a USDA inspected slaughtering and processing facility? USDA stated that some of them are fairly high quality and need a grant of inspection and the proper paperwork. Much of the equipment and tools are the same in a custom facility as for a USDA facility. On the USDA website there is a [guidance on the USDA inspection process](#). The application is simple and is processed through USDA Albany.

BM stated that in Maine there was grant program to help custom slaughterhouses upgrade to federally inspected facilities. He asked if a federally inspected slaughterhouse that operated formerly as a custom slaughterhouse can give up its federal status. He was told that once someone goes federal they can give up their status but are unlikely to do so given the economic benefits of being able to sell across state lines.

Is there enough capacity for processing animals in Massachusetts ? It appears to be a less question of capacity and more an issue of services, location and cost. Ultimately it comes down to economics. The existing infrastructure does not appear to meet the needs. Services appear to be an issue. Location is also a problem. USDA stated that MA does not have enough slaughtering. There are plenty of processors but ultimately it comes down to cost

Can animals be slaughtered in one part of the state and processed elsewhere? USDA replied that this was possible and happens regularly.

Is it more economical to separate slaughtering from processing? In general, probably, not because it is usually more cost effective to build a single facility instead of two facilities to accommodate both services. It is also not ideal for a farmer to drop off an animal for slaughtering and then have to pick the carcass up and transport it to a processor and then pick up the steaks.

Part of the challenge of only slaughtering animals is that the economics are a real challenge. It is difficult to operate a business solely for slaughtering.

The problems really occur around November because of how the industry works. Some federal establishments this time of year also do conduct custom slaughtering for hunters in addition to their federal USDA services. This can cause additional back-ups.

If a meat shop wants to take a USDA stamped and slaughtered carcass to resell within their store, what requirements must they follow in order to be able to sell the meat? They can take in federally inspected and packed animal, cut it up and sell it within the confines of their retail market directly to their customers – the ultimate consumer. Selling it to a restaurant or a retail establishment would constitute retail-to-retail sale of non-federally inspected product which is not allowed, *unless* the facility is under federal inspection. For example, a farmer would not be able to bring an animal carcass to a butcher and take back the cut meat to sell it through a farmers market unless the meat shop is federally inspected.

The process for a meat shop to become federally inspected varies depending on the existing condition and size of the facility. However processing cut and wrap facilities do not require an inspector on site. Inspectors are on patrol assignments and a butcher cutting that day may or may not see an inspector. Processing services available locally include artisinal cutting, high end cutting, aged beef, specific cuts of veal and so on.

Of the meat processors in Newmarket Square in Boston, are there processors which would provide this service? There are but they have their own HACCP system, a part of which is the type or condition of meat that they will receive. Sean Bowen made the point that while there may be slaughtering/processing bottlenecks at Adams or Bloods, there might not be the same constrictions for processing elsewhere, in which case a producer could have the animal slaughtered at one of the USDA slaughter facilities and then transported elsewhere for processing. USDA Inspected Processors and Slaughterhouses are [listed on the USDA FSIS website](#)

What are the processing needs of producers in the South Eastern part of the state who were concerned about the stress on their animals from transportation ? Southeastern farms have expressed a variety of needs from on-farm to mobile to local access for slaughtering. There are different concerns expressed by producers all over the state – the concern is distance, quality, the cuts, they want mobile, or small or on-farm.

Mark Duffy expressed some skepticism about the impact of bringing animals to a facility designed by the leading architect for slaughterhouses (Temple Grandin) it is difficult to justify those concerns. He expressed his concern about the impact that the construction of additional facilities in the state would have on the existing facilities in the state, especially if those facilities claim to be struggling. Some producers state that those facilities do not meet their needs and if they did, they would be producing more animals.

How does a CSA which owns the animal before it is slaughtered would a custom slaughtering operation be appropriate for slaughtering and processing ?

If the members of the CSA actually own the animal before the slaughtering could a This is common particularly with immigrant communities. The CSA is paying for the services but not the animal. Once it is brought back, cut and wrapped, from the custom operation it can be distributed among family and friends but it cannot be resold at market. Farmer would technically have to sell it to the buyers of the CSA prior to slaughter¹.

Mark Duffy questioned Brad Mitchell as to the specific regulations that he views as a barrier to the development of slaughterhouses in the state? BM mentioned the fee for the mobile processing unit and the fact that the MPPU is still in the pilot phase. Kim Foley stated that a meeting was scheduled for December to review the MPPU pilot and that DPH was proposing a simple change to their regulations to allow MPPUs to operate subject to a DPH policy. She also indicated that DPH had no opposition to mobile slaughtering units for red meat and that it falls under the jurisdiction of USDA.

EK stated that having heard from the slaughterhouse sector, the farmers and the regulators what are the next steps for the Commission ?

¹ (NOTE Kim Foley from MDPH subsequently issues a clarification on the issue. She emailed: "In follow up to the last farm technology review commission meeting, I wanted to clarify a response to a question that was asked at the end of the meeting regarding the use of non USDA inspected facilities for the purpose of slaughtering red meat animals for distribution by CSAs. At the time, I believe the USDA investigators, who are not in house plant inspectors, gave incorrect information in saying that animals for CSAs could be slaughtered at custom/non-USDA inspected state licensed facilities. I wrote to the USDA FSIS Albany District office to the district manager to clarify. In his letter he states that red meat offered for sale within the context of CSA arrangements must be slaughtered and processed at USDA inspected facilities. They may not be processed in state licensed custom plants. This is in agreement with the state position.' A subsequent letter of clarification was developed by MDPH and is available on the FTRC website)

Peter Melnik stated that as a farmer the important message about the barriers is that the barriers are surmountable. The issue is that on small Massachusetts farms there are ways to address the needs but there may have to be a collective effort on the part of the farmers. A cooperative approach is one approach that may work. There is nothing to say that you cannot do it if you get together a group of like minded farmers and collectively address the issue.

ITEM 4: Wastewater and DEP

MassDEP is looking at the spectrum of wastes that are generated on farms through various food processing activities and the wastewaters that come out of this process and are looking at de minimus levels. They do not want farms to be treated like typical industrial operations. The five key areas on which they are working to provide relief and/ or clarification in their groundwater regulations are:

1. Clarify exemptions for manure
2. Manure mixed with processed wastewater
3. Manure mixing and wastewater management for offsite farms
4. Irrigation practices for wastewater where there are de minimus standards
5. Variance or exemption process

DEP has identified this regulatory package as a priority. There is general support within MassDEP but it is possible that there will be issues, questions or concerns once the details of proposed changes are presented. Recognizing that this regulatory change will not happen overnight DEP has set up an interim process including the Milkhouse Wastewater MOA, which provides a legal shield to allow farmstead practices on their farms gather the data to help inform DEP decision making. Also an ad hoc group within DEP has been set up to handle these issues on a case by case basis. NRCS has been particularly helpful to DEP understand. Some of the NRCS tools may be too complex for some farms so DAR has developed some basic standards that must be satisfied.

EK indicated that he is hopeful that there would be some draft language by the beginning of the year.

The meeting was adjourned at 2.10PM

Summary of Recommendations

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