

MCTF Pesticide Selection Subcommittee Meeting Minutes 11 16 21

Minutes for the Mosquito Control for the Twenty-First Century (MCTF) Task Force Meeting

Subcommittee Meeting: Pesticide Selection

November 16, 2021, 12:00 p.m. via Zoom

Meeting Topics:

- Meeting opening, roll call, welcome (Chair)
- Housekeeping notes (EEA representatives)
- Agenda review and introductory remarks (Facilitator)
- Directive 1: Identifying ingredients in pesticide formulations
- Sequence of directives to address
- Proposed schedule
- Wrap Up and Next Steps (Facilitator)
- Closing Remarks and Vote to Adjourn (chair)

Bob Mann conducted roll call at 12:01 pm. A quorum was established. Subcommittee members in attendance included: Priscilla Matton, Brad Mitchell, Jennifer Pederson, Richard Pollack, Helen Poynton, and Nicole Keleher. Opening remarks and a few quick logistical details were shared with the group. It was noted that disruptions should not prevent future meetings from preceding if we have a chair and quorum. John Wilhelmi wanted to get a sense if there would be a quorum for the 12/28 meeting. John Wilhelmi commented that he would keep an eye on progress to determine if the 12/28 meeting would need to be rescheduled or canceled as there may or may not be a quorum for the scheduled meeting on 12/28.

- Directive 1: Make recommendations regarding “identifying known ingredients in pesticide products used for mosquito control, analyzing the ability, or lack of ability, to identify such ingredients, and making recommendations for determining such ingredients.”

Brad Mitchell asked if we are choosing the pesticides or are we discussing different ways to look at process? Priscilla Matton commented that she was under the impression we would look at process. Richard Pollock noted the language in directive one leaves a lot to be desired. The issue is should be to better assess what is not listed. John Wilhelmi noted that this will come up in the inert ingredient discussion. Jennifer Pederson asked if MA further evaluated pesticides that are already approved by EPA or if MA just accepts EPA’s registration. Taryn LaScola replied that based on MA Pesticide Board’s recommendations and MA laws, MA may further restrict a pesticide. Richard Pollack asked if MA only reviews active ingredients or if it reviews all ingredients (including inert ingredients). Taryn LaScola replied that if the active ingredient has never been registered in MA, then MA reviews the active ingredient. If the product is new but the active ingredient is already in other registered pesticides, then MA still reviews the product, but the review is not as extensive as that for a new active ingredient. Richard Pollack asked about what would happen if the active ingredient were in other registered products, but those products were labeled for a different use? Hotze Wijnja (MDAR) replied that MA will review the products with the new use pattern.

Brad Mitchell noted States do not have ability to change label. They can limit how they are used by MCDs but can't change the label themselves. John Wilhelmi noted that three different types of ingredients came up during last Pesticide Selection subcommittee meeting: Active, Inert, and Synergistic. Brad Mitchell noted that many of the pyrethroids available to homeowners are more persistent than products the MCDs use. Richard Pollack commented that if active ingredients and synergist are required to be listed, identified, and have concentration indicated on label then there may not need to be further discussion on this topic and the group can switch the conversation to inerts, which is the unknown and a concern to others in this area. Nicole Keleher noted 25B products and asked if the subcommittee should include a sentence in the recommendation about these products. Taryn LaScola suggested that the subcommittee consider addressing 25B products under directive two. Richard Pollack noted that the MCDs don't use 25B products, so if the discussion is restricted to state mosquito control, then 25B products do not need to be discussed.

Brad Mitchell noted the impacts of larviciding are minimal, but other subcommittee members have brought them up as a problem. Bob Mann noted that we know the regulatory scheme for bringing the products to market is identifiable and that is not going to change. We can make recommendations to our spirit but practically that is not going to change. We should bring a spotlight to what these processes are. Richard commented that he believed concentration is on label and noted that it might be worthwhile asking manufactures if they can supply additional quality control information, such as analytical data identifying/quantifying active ingredients.

Taryn LaScola added that as an FYI, under FIFRA, MA conducts "producer establishment inspections" (PEIs) to take samples and confirm the identities of active ingredients. These checks do not check for contaminants, like PFAS. Jennifer Pederson noted that this could be one area with opportunity for more oversight. Helen Poynton noted interest in adding something about the PEIs in the recommendation. Otherwise, agreed active ingredients are listed on the label; therefore, don't think we need regulation to find other ingredients. Helen also noted that she can contribute to the discussion of resistance but didn't feel that conversation belonged here. No subcommittee members objected to this recommendation. Jennifer Pederson noted that the subcommittee needs to be prepared to defend a no action recommendation to the task force because some people do not trust EPA's registration process.

Bob Mann commented regarding concentration, that if there is a particular herbicide in the state where there is more than a 20% concentration, it is automatically considered a state restricted product. It might be something we can look at with the products that are labeled for mosquito control in MA if the concern is that the concentration be harmful for the environment or people. Perhaps the group would want to limit the products availability on the store shelves. Taryn LaScola noted that if a product is restricted it means that an individual that is using that product has to have a private or commercial certification license, required to get more continuing education units (CEUs), and have to have had your core license for at least two years. Brad Mitchell commented that he doesn't have concern with application related to the MCDs; however, we may need to consider alternatives.

Jennifer Pederson commented that if there are alternatives then they have gone through the registration process, in terms of process it seems like we have an adequate process in MA to deal with those. Nicole Keleher asked if we want to have a section for 25B products that do not follow the same approval process since they are being used in our state against mosquitos and they do have labeled active ingredients? Taryn LaScola commented that the directive said minimum risk when it refers to a

safer alternative and 25B are part of that. 25B are minimum risk pesticides per EPA. They are used by private companies and homeowners for mosquito control. They are technically pesticides just not registered pesticides.

Richard Pollack noted that his understanding is the MCDs don't use 25Bs and if the discussion is about state sanctioned mosquito control then we don't need to get into the weeds with 25B, but Richard encouraged the group to broaden the scope and look at this for commercial applicators as well. Jennifer Pederson noted that she is concerned about 25B and thinks it should be part of discussion because of the proliferation of the private companies. Taryn LaScola commented on the process by which a product becomes registered. Assuming the products have gone through the proper channels in the process and they are legal to use, with the Pesticide Selection subcommittee it then becomes the question of how you select the best pesticide using those different directives. Brad Mitchell noted that we need to understand that we are not looking at registration process. 25B shouldn't come up unless we take up private company and homeowner mosquito control. Our focus is on how MCDs choose to use pesticides and perhaps whether we are going to include private mosquito control. Nicole Keleher noted that she sees communities that are not well versed in pesticides push for 25B, so having us make a recommendation to not use 25B for widespread control would be a worthwhile recommendation.

John Wilhelmi shifted the conversation to inert ingredients in pesticide products and opens this topic to the group. Priscilla Matton commented that the EPA gets this information during their registration process, so there is no recommendation. Priscilla noted that she doesn't think we are going to find a manufacturer that will provide that State with this information and commented that manufacturers might stop registering their products in MA. The state and pesticide board are doing their due diligence. Bob Mann agreed with Priscilla Matton's points and noted that these are standard that are long established. There is an effort at EPA to review this topic of inerts federally.

Taryn LaScola commented that inerts are reviewed and classified by the EPA. These inerts are reviewed as part of registration process. Priscilla Matton commented to ensure committee members understood she did not mean PFAS in her previous comments. PFAS is not an inert and was never meant to be part of the product. Priscilla noted that she is certainly concerned with contaminants but doesn't think that fits in with the inert conversation. Helen Poynton asked if the MA Pesticide Board could review the inert ingredients without Confidential Business Information (CBI) being made available to the public. Taryn LaScola noted that legally, the board may have to release this information to the public.

Brad Mitchell agreed with Priscilla Matton and noted there will be people that want to know about inert ingredients. CBI is not protected by public record. Brad suggested that whichever subcommittee looked at this there will need to be legal protection from public disclosure of CBI. Jennifer Pederson commented that part the subcommittees charge is to make legislative recommendation if needed and this topic would be one of them. Richard Pollack noted that inert ingredients are known to EPA and even if they were known to MA regulators, people would still have concerns about the review process. Priscilla Matton asked if we were to make a legislative request, who would be qualified to test concentration? Unless it is the pesticide board, or subcommittee of the MA pesticide board, Priscilla is not sure who we would designate to ensure accuracy and robustness. Helen Poynton pointed out that MA has stricter requirements for many environmental issues than the EPA. For example, MA drinking water standards against PFAS are much more stringent than EPA. Helen noted part of it would be having

another agency review what has already been reviewed to make sure that there isn't anything of issue. Recommendation would be to have the MA state pesticide board also review pesticide ingredients.

Jennifer Pederson noted that she thought the DEP Office of Research and Standard had a hand in this. A technical office within state government seemed to be the place to have this evaluation. Brad Mitchell noted concern related to putting this on the pesticide board, as they may not have bandwidth. Brad noted a need to focus on mosquito control and not registration in general. Brad asked a question: do we envision mosquito control in MA having some sort of subgroup that reviews pesticides and chooses them? Until that is determined there may be challenges answering the question.

Bob Mann recommended leaving the two contradictory recommendations for a bit and noted he came to this topic by going to the pesticide board meetings, and the more he immersed himself in the topic the more he saw the wisdom in the way things were structured. Bob noted that some of the negativity is coming from places where people don't understand the process and people. Bob noted the pesticide board meetings are necessary meetings to attend if you want to expand understanding.

John Wilhelmi asked the group about what topics are overlapping with other subcommittees. Brad Mitchell responded that he is on policy structure subcommittee and there may be a bit of overlap. Helen Poynton noted that on the secondary recommendation to add in a way to protect confidential information. Jenn Pederson noted if ORS should be part of the pesticide registration subcommittee. Hotze Wijnja clarified that MDAR currently works with ORS related to certain herbicides where MA DEP and MDAR take review the information of these herbicides and they look at inerts. Brad noted that he doesn't think the charge of this group is to change the pesticide registration process. Jennifer Pederson noted that given what Hotze just said maybe the recommendation is that the pesticide board subcommittee be more involved with ORS. If they are not part of the structure and should be than maybe that needs to be part of the recommendation. Jenn also noted that when we go back to the task force this will become a point of contention and there may be a push for some sort of recommendation. Brad responded there will be a push for inerts but needs clarification if the subcommittee has the authority to make recommendations on pesticides.

Taryn LaScola agreed with Brad. Pesticide subcommittee is established by 132B and the registration process is established within the regulation. Any sort of change to that would be changing 132B or 333 CMR. We have this existing registration process. What is the recommendation for how the MCDs are selecting a product? The group can then weave in the issues related to PFAS or inerts. One thing to keep in mind is what has been done in the past for selecting pesticide for use for the MCDs or SRB. The group should look at some of the processes that are currently existing and then trying to weave in some of the directives that the subcommittee has been tasked with looking at.

Jennifer Pederson commented that 132B sets up the pesticide board, and on the board is the Commissioner of DEP or a designee. Taryn LaScola responded that 132B sets up the pesticide board and then sets up the pesticide board subcommittee, which are two different entities.

Helen Poynton noted that she and Brad had exchanged a comment or two via the chat, after which she read the comments aloud to the entire subcommittee. John Wilhelmi reiterated that direct messages cannot happen amongst the group and all discussions need to be in a public meeting format.

Brad Mitchell asked a question if it would be appropriate for the group to reach out to the policy structure group to state we need a subcommittee of the SRB that needs to review pesticides before they are used by the MCDs. At some point, we need to determine if this includes private mosquito control as well. It is noted that this may be a topic for recommendation to the policy structure group. Both Brad Mitchell and Richard Pollack are members of this subcommittee and would support this. Richard Pollack agreed that it would be good for the Policy Structure subcommittee to consider and vote on. Also felt that it is a good idea to look at the dichotomy between MCDs and other non-MCD applicators.

Priscilla Matton wanted to make sure that subcommittee members were all on the same page regarding products that are approved for use, but not which products are chosen for a specific situation. For example, an adulticide is a product that is registered by the EPA, registered in MA and is reviewed by the SRB subcommittee, but it's not making a determination whether or not the product should be used. Jennifer Pederson confirmed with Priscilla that we are concerned with the safety of using the product not how it is used.

John Wilhelmi asked the group if there were any further comments regarding where the members may be headed for further recommendations on identifying inert ingredients and the actions that will need to be taken. Jennifer Pederson commented interesting putting forward a first recommendation of no action necessary, and keep the other two as back up if there is pressure to do something different. Bob Mann pointed out there are certain points of view that will not be satisfied based on what we say and would rather be bold in how we put forth our recommendation then structure our arguments of how to defend that. Brad Mitchell noted that he still wants to focus on and address inerts. Brad also noted the only way to get inerts is to require them through legislation and protect CBI through legislation.

John Wilhelmi asked if there were any other comments about identifying inerts and there were none. John noted that a prudent path forward was to have draft recommendations or rationale for recommendations. John asked for volunteers that will agree to work off-line to come up with a first draft that everyone could see at the next subcommittee meeting. Helen Poynton asked if it should be two people doing this? Brad Mitchell noted that he has other commitments on another subcommittee but would be willing to assist if someone could give a brief synopsis of what the subcommittee is looking for.

John Wilhelmi noted that the group would need to come back to inert ingredients in the next subcommittee since there was limited time to discuss other topics before wrapping up. It is noted that other subcommittees have expressed interest in written questions being submitted to the MCDs and the group has the option to submit questions. Brad Mitchell noted to ask the why and how MCDs come to a decision. For example, adulticiding. Richard Pollack commented that he didn't think it was relevant to the subcommittee and was not sure what we would be asking MCDs about pesticides. Richard noted the MCDs have a listing of pesticides that are available for use and they pick which one to use. Helen Poynton asked if the group is drafting questions to one MCD or to all of them? John Wilhelmi noted that it could be either or and to be mindful of the number of questions being asked.

Next steps are reviewed with the group, which includes the submission of questions to the MCDs, the 11/30 subcommittee meeting will spend time coming up with Brad Mitchell's recommendation document, and to address directive two, if time permits.

There were no questions in the Q&A function for review. Bob Mann noted that the meeting was a good discussion making progress through the first directive. Seeing no other comments, Bob Mann took a

motion to adjourn the meeting. Richard Pollock made the motion and Brad Mitchell seconded. All in favor said aye and the meeting was adjourned at 1:49 pm.