

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

251 Causeway Street, Suite 500, Boston, MA 02114
617-626-1700 fax: 617-626-1850 www.mass.gov/agr



CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

BETHANY A. CARD
Secretary

JOHN LEBEAUX
Commissioner

PESTICIDE BOARD MEETING MINUTES

August 25, 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 March 18, 2022 :

Motion: Approve the minutes of March 18, 2022: J. Looney

Second: M. Moore

Discussion: None

In Favor: All

Abstain: R. Berman

Opposed: None

B. PESTICIDE PROGRAM UPDATES

T. LaScola provided Pesticide Program updates.

Neonicotinoid Classification Change

T. LaScola stated that the classification change for neonicotinoid pesticide products began on July 1, 2022. She explained that the Pesticide Program ("Program") sent out notices to applicators and manufacturers throughout 2021 and 2022. Additionally, the Program created a list of all the products that would become Restricted Use. The list was posted in May and over the past few months there had been some changes made to the list due to some errors made in determining if a product was or was not going to change. The number of changes made were minimal. Frequently asked questions documents were developed explaining the change and direct supervision. Overall, the switch went as smooth as it could. Pesticide Inspectors are now conducting marketplace inspections to ensure that products are off the shelves. If products are found on the shelves that should not be, the inspectors work with the stores to ensure the products are taken off.

Chair Lebeaux asked how the marketplace inspections are going. T. LaScola responded that overall, there does not appear to be a lot of products on the shelves. If/When products are found, MDAR works with the store to ensure the product is taken off the shelf and sent back.

Glyphosate Commission

T. LaScola provided a background on the Commission. The draft of Phase I was completed and presented to the Commission. There were some comments made relative to the stakeholder list and available science that was listed to be reviewed in Phase II. The final draft will be presented at the Commission meeting on September 15th to approve Phase I and discussions about Phase II will be had.

Chair Lebeaux indicated that there were some fiscal issues in completing Phase II, but MDAR and DEP were working on a solution.

C. REGULATION UPDATES

T. LaScola provided an overview of the regulatory process for pesticide regulations. She stated that if a new regulation is to be developed or existing regulations changed, the Pesticide Board ("Board") must first approve the change/addition of regulations. MDAR drafts the regulation and the draft needs to be approved by the Board before it goes through the required public hearing process. The Board may also make changes to the draft regulation. After the hearing is held, MDAR may adjust the draft regulations (based on the comments). A final draft is then submitted to the Board for approval. The Board may also make changes at this point. Once a final draft has been approved by the Board, the regulation begins to move through the promulgation process.

Chair Lebeaux asked T. LaScola if a vote need to be taken if there are no changes to the draft after the public hearing does. T. LaScola answered yes.

333 CMR 9.00 Amendment (Pesticide Dealers Regulations):

T. LaScola stated that due to changes made to the Federal Insecticide Fungicide Rodenticide Act ("FIFRA") MDAR had to update 333 CMR 10 (Dealer Regulations). The updates were very minimal in that it added a few items to the record keeping requirements. Any other changes made in the section were copy edits.

333 CMR 14.00 Amendment (Pesticide Use in/on School Property Regulations)

T. LaScola stated that a representative from a Mosquito Control District ("MCD") asked the Pesticide Board to consider amending the regulations so that larvicide could be exempt from having to be listed on a schools Integrated Pest Management ("IPM") plan prior to use. It was explained that the MCD's have a hard time getting the schools to update their plans to include the products thus not allowing the MCD's to use larvicide in the catch basins or storm drains. This leaves "holes" in their mosquito control and could lead to having to use adulticide if not able to kill the larvae. The Board asked MDAR to send notices out to schools informing them that there may be a change to the regulation. When MDAR reported that there were not comments from the schools, the Board directed MDAR to amend the regulations. The change in the regulation would allow for an MCD or organization established under M.G.L.c. 252. to apply a larvicide in a catch basin/storm drain on school property if the product is not listed on the plan.

Discussion on 333 CMR 14.00 Amendments:

B. Magee asked if this exemption is for all larvicides or just for the Category 4 larvicides (as indicated in the exemption for notification). T. LaScola stated that this exemption was for all larvicides. He also asked if the reference to 14.04(5) is the correct reference versus referencing the IPM plan requirements. She stated that the reference in the draft regulation is the correct reference.

S. Ward asked if there would be any checks and balances in place to ensure that the exemption was not being abused. T. LaScola responded that the inspectors conduct inspections with the schools and will match up application records to the plan and the requirements.

Motion: Approve the draft amendments 333 CMR 9.00 and 14.00 and for MDAR to hold a public hearing: J. Looney

Second: M. Marold

Discussion: M. Marold had a few comments relative to some of the inconsistent language used in the regulations. There was discussion on how the best way to present and review her comments. She didn't believe they changed the intent/purpose of the regulations. J. Burgess legal counsel indicated that MDAR would review her comments and make appropriate changes so they will be incorporated into the final draft.

Chair Lebeaux asked for the timing on how the regulations will progress. T. LaScola indicated that she would try to schedule the hearing by late October and have the Board vote on it by the end of the year.

K. Romero noted that there was a question in the Q&A. Chair Lebeaux called out the question which was whether larvicides were all biologicals. T. LaScola replied that there are both conventional and biological larvicides.

In Favor: All

Opposed: None

D. MOSQUITO CONTROL TASK FORCE RECOMMENDATIONS

Taryn LaScola, Director of Crop and Pest Services ("T. LaScola) provided a summary of the 21st Century Mosquito Control Task Force ("MCTF") and its report. She first began by providing a summary of how mosquito control is structured in the state. She stated that the role of the MCTF was to review how mosquito control is organized and run in Massachusetts and make recommendations to the Legislature on how it can be improved. She explained that during the process the MCTF was broken into four (4) subcommittees that were to make recommendations based on the topics of: local engagement, pesticide selection, best management practices and policy/structure. The subcommittees made a total of 23 recommendations. Given time constraints, T. LaScola chose the following recommendations to summarize:

Recommendation BP-7: Develop an online reporting system

This recommendation was specific to commercial applicators working in the private sector. Information to be reported would include EPA Registration Number, amount used, location (Town), application method. She noted that there was also a recommendation for resources to be allocated for this system.

M. Marold asked what the MCTF meant when they specified location. T. LaScola indicated she believed it was just town but for more information about the intent and discussions behind the recommendations can be obtained through the minutes.

B. Magee asked if this would include the 25b products. T. LaScola indicated she wasn't sure given that the recommendation includes the EPA Registration number so that would not necessarily include the 25b products.

Recommendation LE-1: Online System to Track Property Exclusions

T. LaScola explained that there is a current online system for individuals to request exclusions. This recommendation would require MDAR to update their existing system to include the following: option for renewal, information to be carried over and the ability to add/removal of parcels in one form.

Recommendation LE-2: Markings for Exclusions

T. LaScola explained that the current regulations require that excluded properties be marked with pie plates. This recommendation would remove that requirement. She explained that the reasoning was that GPS/GIS capabilities are available, but every Mosquito Control District has different capabilities, so funding was recommended for this.

B. Magee asked if this could be done through a regulatory change. T. LaScola stated that it could be.

Recommendation PS-1 and PS-2: Pesticide Active Ingredients and Inert Ingredients

These recommendations were that no action take place and the existing information/review was adequate. T. LaScola noted that there was a minority recommendation relative to inert ingredients.

Recommendation PS-4: Pesticide Selection

T. LaScola explained that this recommendation was to formalize the review process for the products that are used by the MCD's and the State Reclamation Board ("SRB"). It would create a group of agencies to review the products and then included in a mosquito control plan. This would go above what is currently being done on the state and federal level.

Recommendation PS-7: PFAS and Contamination

T. LaScola explained that this recommendation was that as analytical capabilities evolve the Pesticide Subcommittee should have methods to ensure that pesticides are not contaminated with PFAS. The recommendation also includes unknown containments.

Summary of Other Recommendations

T. LaScola stated that the other recommendations included restructuring the current mosquito control structure, monitoring/research projects, development of a mosquito management plan, more involvement from the public, statewide surveillance and education, resources for the implementation of these recommendations.

General Discussion

B. Magee asked if MDAR knew what the legislatures intent was regarding the MCTF recommendations. Chair Lebeaux stated that regardless of what the legislature does or does not do, the Board could recommend that MDAR look at implementing the recommendations. T. LaScola stated that some of the recommendations would need a legislative change to take place. J. Looney responded that a lot of the recommendations appeared to have many MCTF members in favor of them and the Board may want to look at those. Chair Lebeaux indicated that MDAR could go through the recommendations and separate the ones that did not require a legislative change and have that on a future agenda for the Board to discuss.

E. ADVISORY COUNCIL UPDATES

Conservationist Advisory Council

C. Richmond provided an update. He stated that they had met twice since the last Board meeting. Some of the topics that were talked about were as follows:

- Rights of Way applications. Discussions about how Integrated Pest Management ("IPM") is implemented and the amount of pesticide use.
- Digitizing the annual pesticide use reports
- MCTF recommendations. He indicated the Council may bring some comments about the MCTF to the Board for further discussion.
- Municipal-Opt Outs

Pesticide Applicator Advisory Council

B. Leon provided an update. He reiterated that this Council would like to have the MDAR require a license to apply a 25b product and they are looking forward to the time when they can comment on the 333 CMR, Section 10 amendments.

F. NEW BUSINESS

S. Ward indicated that there is a new pest that cranberry growers are fighting (scale). He stated despite looking for alternatives to control it, Diazinon is the only product right now that can control it. The push to eliminate all organophosphates would remove Diazinon from the market and they would not have a tool to work with.

G. ADJOURN

Motion: J. Looney

Second: K. Romero

Discussion: None

In Favor: All

Opposed: None