

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



Maura T. Healey
GOVERNOR

Kimberley Driscoll
LIEUTENANT
GOVERNOR

Rebecca L. Tepper
SECRETARY

Ashley E. Randle
COMMISSIONER

PESTICIDE BOARD MEETING MINUTES

March 28, 2023

BOARD MEMBERS IN ATTENDANCE

Commissioner Ashely Randle, MDAR (Chair)	Present
Marc Nascarella, DPH, Designee for Commissioner Cook	Present
Michael Moore, DPH, Food Protection Program	Absent
Misty Anne Marold, DFG, Designee for Commissioner Amidon	Present
Kathy Romero, DEP, Designee for Commissioner Heiple	Absent
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 NOVEMBER 9, 2022:

Motion: Jack Looney

Second: Brian Magee

Discussion: None

In Favor: All

Opposed: None

Abstention: Commissioner Randle

B. OPENING REMARKS, COMMISSIONER RANDLE

Commissioner Randle provided some opening remarks as it was her first time chairing the Pesticide Board as Commissioner.

B. PESTICIDE PROGRAM UPDATES, TARYN LASCOLA

EPA Proposed Interim Decision ("PID"), Rodenticides

EPA conducted its registration review of rodenticides and has issued its PID which includes the following changes:

- Restricting some rodenticides
 - Second Generation Anti-Coagulants ("SGAR"), Strychnine and Zinc Phosphide
 - First Generation Anti-coagulants ("FGAR"), Bromethalin and Cholecalferol in containers larger than 1lb

- Label Changes

- Additional PPE for loose bait
- Prohibition on spot and broadcast applications of some products in turf, lawn, parks, golf course, campsite and other recreational areas
- Post-application search, collection and disposal of carcasses of target pests or non-target animals, cleanup of bait moved from its original placement location, and reporting of dead and dying non-target organisms; and
- All RUP products include label language directing users to access the web-based *Bulletins Live! Two* and follow the measures contained in any Endangered Species Protection Bulletin(s) for the area in which the user is applying the product.

J. Looney asked how the restriction would impact the Board. T. LaScola replied that it would not affect the Board or the Pesticide Board Subcommittee. MDAR would need to ensure that the classifications were switched in its registration system, market-places were only selling general use products and that individuals have the proper licensure.

B. Magee asked about the timing of the decision. T. LaScola stated that the comment period on this decision closed on February 14th but could not tell when EPA would come out with their final decision.

M. Marold asked if MDAR would provide information to state facilities that may use rodenticides. T. LaScola stated that once a final decision is made, it would be the responsibility of MDAR to reach out to all the applicators which would include anyone that work for a state facility. M. Marold indicated that she could help facilitate communication with her department.

R. Berman indicated that if the products become restricted, there will be an increase in individuals obtaining the Commercial Certification license.

Annual Use Report

MDAR has almost completed an online Annual Use Report and RUP Sales Report Form. Once it is launched, MDAR notify individuals that it is available to report their 2022. MDAR will give individuals ample time to complete the form given the fact that it will be available later than it has been sent out in the past.

SB3181/HB4931 (An Act Relative to Pesticides)

This bill was signed just before the administration changed. It did the following:

- Require MDAR to have an online use reporting system
- Requires public institutions of higher education to have an IPM plan which adds 29 “entities” to have an IPM plan.
- Adds limitations to what can be used outside of a school

MDAR will need to:

- Devise an outreach strategy to notify the colleges/universities
- Devise an outreach strategy to notify applicators
- Devise an outreach strategy to notify thousands of schools
- Determine how to handle an extremely large number of “hardship requests” that will come in. We know right now there are some things (like rodent control) where there are no options that fall into the criteria set forth. Thousands of schools.
- 333 CMR 14.00 will need to be amended again.

There was discussion among the Board members about how MDAR will implement the new requirement and the impact on MDAR.

Comments/Questions from the General Public

Bob Leon asked if the Use Reports could be entered by the individual or company. T. LaScola responded that either the individual or the company could submit the report as they have done in the past with the hard copy form.

Rosemary Malfi asked if the regulations would need to be changed given the fact that MDAR is in the process of updating the school regulations. T. LaScola indicated that the regulations may have to be, but MDAR would need to review it.

Natalia Clifton stated that the 25b products and OMNRI approved products do not have an EPA Registration Numbers and therefore currently do not require a licensed applicator and that is concerning.

C. Whiting Rice asked how MDAR is ensuring compliance with the schools. T. LaScola, responded that MDAR does conduct inspections with schools. They review the plans and records. She indicated that the enforcement team does have a lot of different things that they are currently working on, and they need to prioritize where they focus their efforts.

Donald Sutherland stated that New York and Connecticut have a similar requirement and that it seems to go well.

C. PESTICIDE APPLICATOR ADVISORY COUNCIL UPDATE, BOB LEON

B. Leon stated that the Council has been discussing the following:

- Want/need to have licensing requirements for the 25b products
- Time required before an individual can take the Commercial Certification license. They would recommend reducing it from 2 years to 1 year. This request comes from the fact that there are many more products that are restricted or may become restricted
- Advisory Council membership: George Williams was previously a licensed Dealer but has a career change in that he now works for a manufacturing company and is not based out of Massachusetts anymore. B. Leon asked the Board if they had any concerns with the change. R. Berman stated that he thinks the Council should have a Dealer representative on the Council. J. Looney emphasized that the Council is a Massachusetts Council.

D. CONSERVATIONIST PESTICIDE ADVISORY COUNCIL, ROSEMARY MALFI

R. Malfi stated the Council has been discussing the following:

- Enforcement of IPM plans at schools
- Pesticide Use Reports and the fact that the geographic locations are not listed in those reports

E. BARLEY STRAW FOR ALGAE CONTROL, MISTY ANNE MAROLD

M. Marold stated that DFG has been receiving requests for the using barley straw for the control of algae. DFG's response has been that since it is not registered as a pesticide that it could not be used. Due to the number of inquiries, DFG, MDAR and DEP met to discuss the issue and came to the same consensus and only once it was registered a permit could not be considered.

Hotze Wijnja, Chemist for MDAR, clarified and added that a company would need to request registration from EPA.

M. Nascarella indicated that if the group of agencies met again to discuss, DPH would like to be part of the conversation given the work they do with Cyanobacteria related to water bodies used for swimming and recreational non-swimming bodies of water.

F. PRE-EMPTION, JESSICA BURGESS

J. Burgess stated that there has been an increase in local government attempting to regulate pesticides. She stated that the Massachusetts Pesticide Control M.G.L.c. 132B provides MDAR with the authority to regulate pesticides in the state. MDAR does occasionally correspond with town officials/town council about the authority that it has. On occasion MDAR has seen a town move for a "Home Rule Petition", but to date it has not appeared to be successful. The Attorney General's ("AG") office does review municipal by-laws before finalizing to ensure that there is no conflict. When a pesticide by-law is submitted, the AG's office has reached out to MDAR relative to understanding its authority and in the past those by-laws have not been approved.

R. Berman stated that there needs to be a unified approach to pesticide use in the state and that the commercial industry is concerned about.

M. Marold asked if a Board member is aware of a town that has a by-law that was passed, should they notify MDAR. J. Burgess replied that if it impacts what the member needs to do in their role with their department they can reach out.

Comments/Questions from the Public

C. Whiting Rice asked if municipalities could submit by-laws relative to fertilizers. J. Burgess stated that the legislation that gave MDAR the authority to regulate fertilized did allow for towns to regulate it further, but they were given specific timelines to do so.

R. Malfi asked for clarification relative to the AG reviewing by-laws that are vetted through the local Board of Health. J. Burgess indicated that those by-laws would not go to the AG for review, but it still does not give the Board of Health the authority to regulate pesticides.

G. NEW BUSINESS

R. Berman asked when the public hearing for 333 CMR, Section 10 will be ready to go to the public hearing. She responded that the Board must review and approve it before it goes to the public hearing. She indicated that the regulations are still going through the internal review process.

G. ADJOURN

Motion: J. Looney

Second: M. Marold

Discussion: None

In Favor: All

Opposed: None