

THE COMMONWEALTH OF MASSACHUSETTS

EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



Department of Agricultural Resources

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CHARLES D. BAKER
Governor

KARYN E. POLITO
Lt. Governor

MATTHEW A. BEATON
Secretary

JOHN LEBEAUX
Commissioner

FINAL

**Meeting Minutes, Board of Agriculture
Massachusetts Department of Agricultural Resources
101 University Drive, Suite C4
Amherst, MA 01002
01/18/2018**

Board Members in Attendance: Chair Abrams, Lucinda Williams, Laura Sapienza-Grabski, Skip Vadnais, Jr., Judy Leab, Fred Dabney, Lucinda Williams, and Michael Smolak with Lydia Sisson, Alison Carr, Noli Taylor, and Crystal Card via remote participation.

- 1. Call to Order and Introductions:** Chair Abrams called the meeting to order at 9:50am and asked everyone in the room to introduce themselves. Chair Abrams acknowledged that the Board has a quorum with Alison Carr, Noli Taylor, Lydia Sisson, Michelle Harvey and Crystal Card participating remotely via phone for geographic reasons. In accordance with the Open Meeting Law, the Chair employed remote participation with all votes being taken via roll call. Ms. Sapienza-Grabski noted that she is recording the meeting. Chair Abrams note that the Board has a transcriber for today's meeting and introduced Anne Bohan.
- 2. Minutes Summary:** The Board considered for approval the meeting minutes of 11/08/17. **Discussion:** Ms. Sapienza-Grabski acknowledged for the minutes of September, there were some minor amendments made which are not reflected. Whereas, the amendments were minor corrections it was not worth going back through them however, the vote was to accept the minutes as amended and it's not reflected here; it's just a motion to accept the minutes. **Action Taken:** Ms. Leab made a motion to approve the minutes of 11/08/17. Mr. Vadnais seconded the motion. Roll Call Vote: Ms. Williams - Aye, Mr. Vadnais - Aye, Ms. Sapienza-Grabski - Aye, Mr. Smolak - Aye, Ms. Leab - Aye, Mr. Dabney - Aye, Ms. Abrams - Aye, Ms. Carr - Aye, Ms. Taylor - Aye, Ms. Sisson - Aye and Ms. Harvey - Aye. The motion was unanimously approved.
- 3. Chair's Remarks:** Ms. Abrams noted from the last meeting's draft minutes that she should provide an update on the ALPC meetings. However, Ms. Abrams indicated she wasn't prepared to do so today. Therefore, Chair Abrams recalled that the last ALPC meeting looked at twenty plus properties for a vote of interest. Most of those are moving forward with perhaps one that was withdrawn because of family issues and another was withdrawn for unknown reasons. There will be another meeting sometime in the first quarter of 2018. After the next meeting the Chair indicated she would provide the Board an update. Following, Chair Abrams remarked that it was brought to her attention that a member of the Board attended another committee meeting and insisted at sitting at the table and indicated they represent the Board of Agriculture. The Chair continued, by stating that nobody on this Board has been authorized, appointed or voted to speak on behalf of this Board. Ms. Abrams requested if Board members attend someone else's committee meeting please sit to the side as this was a reflection on the entire Board. Furthermore, the Chair indicated that members attending other meetings are there strictly as a citizen and not as a member of the Board of Agriculture.

Ms. Sapienza-Grabski commented on the Chair's remarks and indicated that she advised the Board that she was going to attend the Farmland Advisory Panel meeting which she did. Ms. Sapienza-Grabski expressed that the Panel's meeting was being held privately and that they didn't want the public there. Continuing Ms. Sapienza-Grabski remarked that she was told on the way to the meeting that they did not want her in the room. At the Panel's meeting, Ms. Sapienza-Grabski said that she stated she was on the Board of Agriculture and was there to observe and never indicated she was there representing the Board. Furthermore, Ms. Sapienza-Grabski pointed out that she went to the Panel's meeting to listen as she believes the Panel is overstepping legislative authority that the Board of Agriculture has as being charged with supervision and control of the Department. Ms. Sapienza-Grabski concluded her comments by suggesting the Advisory Panel is not looking at a singular matter; rather they are looking at everything that has to do with the APR Program, including problems, land access, etcetera and she thinks this is an overstep.

Chair Abrams acknowledged Ms. Sapienza-Grabski comments and restated not being a member of the Panel it is appropriate to sit at the side and not at the table.

The Chair further clarified, if members go to another entities meeting they can say they are a member of the Board of Agriculture but cannot say they speak on behalf of the Board.

Referring back to Ms. Sapienza-Grabski comments, Ms. Williams asked about the remarks relative to the Board's charge as it relates to the Department. A brief discussion ensued clarifying the charge of the Board as a body versus that of an individual board member. Chair Abrams pointed out that a member cannot speak on behalf of the Board unless authorized by the Board to go to a meeting, specifically with something this Board has agreed to. As individuals anyone can attend any meeting, hearing, committee meeting, or panel to listen.

At this point, Board members discussed that the aforementioned applies to open meetings and this lead to a discussion about whether the Panel's meeting was an open meeting. Ms. Sapienza-Grabski indicated that the meeting was not an open meeting. Chair Abrams looked to Commissioner Lebeaux for clarification on the Panel's open meeting status. The Commissioner explained to the Board that the Advisory Panel is an allowed use, with no control, no authority or any supervision. An Advisory Panel is not subject to the open meeting law, but that none of the meetings were conducted privately and people are more than welcome to attend. Commissioner Lebeaux reminded the Board that the concept was first introduced in legislation that created a body like what the Panel represents. That legislation was vetoed by the Governor as with other proposed new Boards and Commissions in calendar year 2016 for the FY2017 budget as an amendment for an outside section. Given the Department heard a lot of concern, from a lot of people disappointed about the vetoed legislation the Commissioner sought guidance on how to create a body to help address stakeholders concerns. As the Commissioner explained to the Board, it was through inquiry as to how the Advisory Panel was formed. The Commissioner stressed that the Advisory Panel was strictly advisory and he has since proposed that the Panel follow the open meeting law to avoid any question.

The Board was reminded by the Commissioner, that their representative on the Farmland Advisory Panel is Mr. Smolak. At this time, the Commissioner and Assistant Commissioner Wentworth briefed the Board on stakeholder outreach regarding the formation of the Farmland Advisory Panel.

Following Commissioner Lebeaux's remarks, Ms. Sapienza-Grabski asked a couple of questions and voiced her concerns. Included in those concerns Ms. Sapienza-Grabski cited a letter sent from Mr. Pitcoff weighing in on pending APR legislation SB2175 and HB458 asking that the Legislator refrain until the Farmland Advisory Panel weighed in. Ms. Sapienza-Grabski noted that she thinks the Board and the ALPC should talk about how the APR Program is running, how policies and procedures are being changed, and how they're affecting farmers. In response, Mr. Dabney expressed that it was his conclusion that Mr. Pitcoff was speaking on behalf of himself and the Mass. Food System Collaborative. In addition, referencing Mr. Pitcoff's point that the legislation be delayed; Mr. Dabney noted his testimony to the Committee made the same point. Commissioner Lebeaux remarked that the Panel was loosely fleshed out to follow what was the intent of the original legislation that was vetoed. Furthermore, it was made clear at the first meeting of the Farmland Advisory Panel; it was not code for APR Review Committee. However, the APR Program

certainly is a key component to farmland access. A Farmland Action Plan could resemble in complexity and scope and depth the Food Plan. Various areas to be explored include: farmland protection tools, agricultural land preservation, land licensing, and funding. The scope of the body was never presented as APR oriented.

Ms. Leab commented that any decisions made by the Advisory Panel would be reported back to the Board; to which Mr. Smolak acknowledged. **Action Taken:** None.

4. **Board's Letter Dated November 21st, 2017: Discussion:** Ms. Sapienza-Grabski noted that the Board's letter sent out on HB441 Livestock Care and Standards Board had been voted on at the November 8th meeting and mailed on November 21st however, it did not reflect the vote of the Board. Chair Abrams acknowledged the issues with the letter. Board members continued to discuss the letter and how to proceed forward given that the legislation is now HB4050 and is now with the House Ways and Means Committee. Board members reviewed the language in the HB4050 legislation and the redrafted, draft letter provided in Board member's packets. The Board continued its discussion with a review of the differences in the language between HB441 and HB4050 and what the Board had previously voted on when the language was still as written in HB441. In particular, the Board discussed the prior vote at the last meeting regarding the Section BB in HB441 and to recommend keeping the two-thirds language as written in the bill.

Action Taken: Ms. Williams made a motion to take the January 18th, 2018 draft letter and to modify it to strike Section CC. The motion was seconded by Mr. Vadnais. Roll Call Vote: Ms. Williams – Aye, Mr. Vadnais – Aye, Ms. Sapienza-Grabski – Aye, Mr. Smolak – Aye, Ms. Leab – Aye, Mr. Dabney – Aye, Ms. Abrams – Aye, Ms. Taylor – Aye, Ms. Sisson – Aye, Ms. Carr – Aye, Ms. Harvey – Aye, and Ms. Card – Aye. The motion was unanimously approved.

Discussion: The Board briefly discussed the draft letter and sending it the House Ways and Means, before a brief discussion about Section BB and CC.

Action Taken: Ms. Sapienza-Grabski made a motion to recommend for the insertion of Section BB back into the letter as written in HB441. The motion was seconded by Mr. Vadnais. Discussion: After questions from Board members about the motion it was clarified that the vote was to reinstate Section BB as written in HB441 regarding the 2/3rds vote of the Livestock and Care Standards Board.

Roll Call Vote: Ms. Williams – Nay, Mr. Vadnais – Aye, Ms. Sapienza-Grabski – Aye, Mr. Smolak – Aye, Ms. Leab – Aye, Mr. Dabney – Nay, Ms. Carr – Abstain, Ms. Taylor – Aye, Ms. Sisson – Nay, Ms. Harvey – Nay, Ms. Card – Aye, Ms. Abrams – Nay.

Ms. Carr noted that she was trying to pull up the Bill and now going to change her vote from Abstain to Nay.

The vote on the motion resulted in a tie with six votes in favor and six votes against. Therefore, the motion does not pass which means no further changes to the letter.

Discussion: Commissioner Lebeaux asked for clarification of the Board's direction as it relates to the letter to ensure the Department redrafts the letter appropriately. Furthermore, the Commissioner addressed the workload of the agency and its efforts to try and be very responsive and respectful to the Board. In his comments the Commissioner asked the Board if it would like to consider a secretary or something of that nature to assist in more timely responses following the Board's meetings and their wishes as it relates to items such as letters, etc. Chair Abrams clarified that the only change to this letter is striking Section CC. Otherwise, the letter stays the same as drafted with the exception of reworking the first paragraph to the new Committee and not an amended letter. The Board briefly discussed the idea of having a clerk or secretary separate from MDAR staff assist the Board with certain tasks such as immediate follow ups after meetings, drafting letters, etc. See attached letter dated January 18th, 2018 reflecting the Board's vote.

5. **Reconsider Vote Taken on 11/8 on APR Program:** Discussion: Mr. Dabney raised his concerns about the discussion that occurred under "new business" at the Board's November 8th, 2017 meeting that

occurred after Ms. Abrams and Mr. Dabney had to leave the meeting early both physically and remotely. Mr. Dabney noted his greatest concern was that Ms. Abrams and Mr. Dabney were not included in the discussion; especially given their intimate knowledge of certain APR matters, and having both been members of the ALPC. Also, Mr. Dabney mentioned as a matter of common courtesy members should get advance warning what topic is going to be talked about particularly on a topic that one is well-informed about.

Continuing Mr. Dabney expressed that he doesn't disagree with the concept of the Board overseeing all aspects of the Department, which includes the APR Program, but he thinks that the issue not a reconsideration but more how the Board wants to get into this. What exactly are we going to discuss with the APR Program and to decide, because it is very complex and opens up a lot of different areas, how should we approach it? I would recommend we set aside time at a future meeting to discuss exactly that, so we know specifically where we are going to focus and address it in a way that we all understand how we go about the process.

Mr. Vadnais agreed with this approach and suggested that discussions should be had as to what the Board's involvement would be. Also noted, was that the Board had only said they should have input on this topic but never described as to what depth or to what.

Ms. Sapienza-Grabski noted that she brought the topic to the Board because she had become aware of the meeting the next day about the APR Program, and she want to bring that meeting to the Board's attention. Ms. Sapienza-Grabski also remarked that the Board had a lengthy discussion at the November 8th meeting about policies and procedures and wanted to understand them along with learning how they were implemented in the Department. In addition, Ms. Sapienza-Grabski indicated the Board had wanted to know the history of the policies, procedures, the Right-of-First-Refusal (ROFR) and to see the detail, study it, and learn more.

Concluding the discussion, the Board noted that all the APR policies, procedures and regulations are available online. Also noted the Board needs to set aside time at a meeting and have a conscious discussion about how and to what degree it wants to get into the APR Program.

Action Taken: None.

6. Department Reports:

- a. Update, Plant Nutrient Regulations:** Commissioner Lebeaux reported to the Board the amended Plant Nutrient Regulations were promulgated on January 12th and will be made available online by the Secretary of State at their website very soon. The Commissioner believes that the amended regulations address all the issues brought to the table by the agricultural community, to their satisfaction. The Commissioner briefly touched upon the amount of time and work it took to address the regulations and the Department's process, which included vetting, examining and discussing issues, and meetings with stakeholders at multiple venues, particularly with dairy farmers. Board members expressed their appreciation for getting the regulations out, especially during this time of year and not when farmers are busy with the planting season.
- b. Cannabis and Hemp Updates:** The Commissioner updated the Board on these new agricultural industries and provided an overview of the Department's responsibilities related to legalized marijuana and hemp. Also included in Commissioner Lebeaux's report, was an explanation of how the new law for legalized marijuana almost immediately breaks it down into marijuana and hemp. Also noted were the differences between marijuana and hemp, such as lower THC levels in hemp and no psychoactive properties. The Commissioner explained the structure of the Cannabis Control Commissioner (CCC) and the Advisory Board, which in statute assigns the MDAR Commissioner or his designee to the Board. Also on the Board, is a farming representative appointed by the Governor. Governor Baker appointed Lydia Sisson as a farming representative to the Advisory Board. Ms. Sisson also sits on the Board of Agriculture. The Advisory Board started meeting in

October and was charged with making recommendations as far regulations by November 30th. The Advisory Board was broken down into various subgroups including the Market Participation Subcommittee and the Market Access Subcommittee to put forward proposals relative to tiers for licensing, and how an operation would be measured. The CCC took proposals under consideration, did many public listening sessions, and in very late December released draft regulations, which are now under review and open for public comment. The CCC has to be able to receive applications on April 1st therefore; the regulations have to be promulgated before that date. Commissioner Lebeau talked about other aspects of the CCC and adult-use marijuana before updating the Board on MDAR's work related to the development of a Hemp Program, staffing plan and an update on the status of funding. The Commissioner noted the various end products produced from hemp including: rope, textiles, clothing, shoes, and Hemp Crete, which is a construction product. The Board had a brief discussion about what a hemp ag pilot program entails related to research.

- c. Healthy Incentives Program (HIP) and General Legislative Updates:** Assistant Commissioner Wentworth provided the Board a brief on HIP which included a push to increase funding for the Program for approximately \$1.3 million with advocates looking at increasing that number for FY2019 to over \$6 million. The dollar-for-dollar HIP Program matches SNAP benefits. Implemented in April of 2017, MDAR provides technical guidance, support and outreach to farmers, but the program itself is housed in the Dept. of Transitional Assistance. Between April 2017 and December 2017, the HIP program brought in about \$3 million in sales for MA farmers. HIP is limited to fresh produce, fruits and vegetables. About 62,200 individuals have increased their fruit and vegetable intake by one service per day because of HIP. The Farm Bill is very heavy with nutritional assistance or nutrition funding. Continuing, the Asst. Commissioner suggested perhaps something the Board could look at is recommendations for the federal Farm Bill. The Board briefly discussed the how HIP does not allow for the purchase of meats. The Commissioner commented on the fact that the Department has heard concerns from protein farmers about not being included in HIP. Ms. Sisson commented that SNAP benefits can be used to purchase local meat and eggs, while HIP is for fresh fruits and vegetables. Moving on to legislative updates, Assistant Commissioner Wentworth advised the Board that there are a lot of Bills pending and actions being taken on pending legislation. However, bills getting reported favorably out of committee doesn't necessarily mean they're going to pass. The Department is monitoring over 200 bills, a couple of high priority bills MDAR is following include the Ag Estate Tax, the Neonicotinoids bill, the Dairy Farm Tax Credit which would raise the tax credit from \$4 million to \$8 million, and the Cranberry Bog Renovation Tax Credit. The Board briefly discussed these bills along with a brief discussion on pollinators and foraging plants, and the status of agri-tourism bill.
- d. APR Right-of-First Refusal (ROFR) History:** As requested, the Commissioner reported on the history of the ROFR which is a contractual right that gives the holder (the Department, the Commonwealth) the option to purchase land according to specific terms before the landowner sells to a third party. The seller must offer the property to the state for the exact dollar figure that the buyer is willing to pay. The ROFR Option concept was first discussed back in 1979 when the thinking on how the APR Program was going to be structured. It was looked to right from the beginning to mark the ROFR that exists in Chapter 61A. Anyone holds a 61A may know that that should you decide to get out of the 61A program, if you're selling your property, you have to offer your local municipality the option to purchase the property at the same cost. And that essentially is what the Department used to structure the program. Though the first was slightly more than 200 APRs from 1980 to 1987, there was no mechanism to address a transfer. So that group has great flexibility. And it's been handled in a variety of ways, sometimes very productive, that future owners are active farmers, and unfortunately not always, which led in 1986 to the ALPC to vote to model a ROFR after the Chapter 61A language just mentioned. From 1987 to 1991, the Department employed the ROFR. In 1991 the Department modified or introduced a similar, but not exactly the same, program called the option to purchase at ag value (OPAV). So we have plus-or-minus 90 farms that are right of first refusal, and then we have over 600 farms at the option to purchase at ag value. The Department derives its authority relative to right of first refusal from Mass. General

Law, which was upheld, or there was a Supreme Judicial Court decision in 2001 that stated the Commissioner may bargain for and an owner may grant to the Commonwealth certain rights, including options and, by extension, the ROFR. Discussion: The Board asked the Commissioner a couple of questions and thanked him for his report. **Action Taken:** None.

7. **Commodity/Industry Updates from Members:** Ms. Taylor opened up the discussion by reporting on the advocacy for full funding for the HIP Program for the 2019 budget. The Vineyard program has had a huge impact on the usage of SNAP benefits at local farm stands and the farmers' market. The program has been a huge success and its' impacts on the community. On Farm to School, Ms. Taylor reported she is working on an effort to build a statewide Farm to School network around three different working groups: one focused on food education and school gardens; one focusing on the supply chain of getting more local food to school meals; and one focusing on policies to support Farm to School. Following, Ms. Carr reported that cranberry harvest wrapped up in the fall. Massachusetts was down slightly and the entire country was down, as well as parts of eastern Canada. The whole industry was down relative to what was expected, but we expect to return to normal levels next year. Ms. Carr mentioned the Commissioner and the Secretary of Ag and Jason and everybody come out and get into waders and experience harvest with the cranberry growers and that was really appreciated. Lastly, Ms. Carr noted her mention at the Board's meeting a couple of months ago that the CMC, the Cranberry Marketing Committee, had voted and had proposed a volume regulation for 2017 and for 2018. The proposed ruling for '17 was published in the Federal Registry, and right now we're undergoing an open comments period, and that lasts 30 days. It started January 2nd and it will wrap up on February 2nd. Ms. Harvey reported for nursery landscape continue to see just strong growth, strong customer demand. It is a good time to be a landscaper right now. The whole industry is experiencing really solid growth. (Inaudible) will affect all aspects of what we do, from greenhouse production, field production and landscape. The other one is water usage regulation, which for the past three years has just been this huge issue in terms of how it affects us as growers and also retailers and consumer demand. Ms. Card reported getting ready to start pollination or gearing up at this point in the year. On the neonics bill for beekeepers, Ms. Card mentioned neonics are bad, and many people feel that if neonics are banned, then something as bad or worse will take its place for bees. However, neonics kill bees, and so do many, many other pesticides and mycocides and fungicides and things of that nature. However, as a member of the Apiary Committee and the Farm Bureau Ms. Card said they are trying to put together some best management practices and become more of a partnership with all of their farmers in trying to build more cooperative partnerships. Ms. Sapienza-Grabski reported that the Mass. Assoc. of Ag Commissions is having a meeting on February 24th in Holliston. The two topics that are being discussed are forestry and talking about a forest stewardship plan. Another topic to be reviewed is trespassing, and Mike Botelho is going to talk about FSMA. Some farmers out in Western MA in this area are having issues with trespassers. They're concerned about safety and FSMA and the interrelationship. Ms. Williams mentioned the passing of Mr. Henry Gillet right before Christmas last year and the impacts to the dairy and nursery industry. Regarding the dairy tax credit, the industry does not have any down time. The sustained incredible cold was a real blow, a real hardship for a lot of farmers and a lot of animals. Mr. Dabney seconded Ms. Williams's comments on the cold weather and the passing of Mr. Gillet. From a grower's perspective, especially with greenhouses, it is a nightmare with the cold weather. The cost of refueling the heaters is vastly greater than it has been for some time, not to mention the fact that we suffered from a temporary freeze in the house and that was devastating. There were so many broken pipes, it was a nightmare. Mr. Gillet's passing has left a huge hole in Mr. Dabney's industry, and that is very sad. From a local perspective in Mr. Dabney's area, they are hoping that in May and June to have grand opening of a new USDA registered slaughterhouse.
8. **Neonicotinoids/MDAR's Position:** Mr. Smolak mentioned most this topic was covered earlier. However, going back to something Ms. Card said about the neonics, one of the things is the concept you spray neonic and it just kills the bees. It doesn't just kill the bees. It's a neurotoxin. Its half-life is five to seven years. It's water soluble. It gets into the food chain, and as it works, it compounds. And the problem isn't the bees only; the problem also is with the local fauna, all the soil sort of types of things, because this also is devastating to it. So it likens back to things like Rachel Carson's Silent Spring with DDT or asbestos or some of these things, and somebody has to pay attention to this because this could be really bad. Recently Mr.

Smolak saw a study where they had tested honey from all over the world. This has shown up in three-quarters of the honey now. If people don't think that's a problem that is a huge problem. And so we have got to start looking at the science, get the politics out of it, and look to see what the real situation is and then come to some consensus and see what we can do. So with that in mind, Mr. Smolak reported monitoring it, but would like to see the Department take a very heavy stand about this at some point. Commissioner Lebeaux noted that MDAR is very mindful of it. Certainly if there's a formal position to be taken, it's not a position of the Department; it's a position of the administration.

9. **Election of a Chairperson: Action Taken:** Mr. Dabney nominated Ms. Abrams as Chair. Ms. Williams seconded the motion. **Discussion:** Ms. Abrams asked if there were any other nominations. Ms. Sapienza-Grabski nominated Mr. Chase for Chair. Mr. Vadnais moved for the nominations to be closed. Chair Abrams closed the nominations. Roll Call Vote: Ms. Williams – Ms. Abrams, Mr. Vadnais – Ms. Abrams, Ms. Sapienza-Grabski – Mr. Chase, Mr. Smolak – Ms. Abrams, Ms. Leab – Ms. Abrams, Mr. Dabney – Ms. Abrams, Ms. Carr – Ms. Abrams, Ms. Taylor – Ms. Abrams, Ms. Harvey – Ms. Abrams, Ms. Card – Ms. Abrams, Chair Abrams – voted for herself. Ms. Abrams received 10 votes and Mr. Chase received 1 vote. The Board voted Ms. Abrams as Chair.

Election of a Vice Chairperson: Action Taken: Ms. Leab nominated Ms. Williams. Mr. Dabney seconded the motion. **Discussion:** Mr. Vadnais closed the nominations. Roll call vote: Ms. Williams – Aye, Mr. Vadnais – Aye, MS. Sapienza-Grabski – Aye, Ms. Leab – Aye, Mr. Dabney- Aye, Ms. Carr – Aye, Ms. Taylor – Aye, Ms. Harvey – Aye, Ms. Card – Aye, Chair Abrams – Aye. The Board unanimously voted Ms. Williams for Vice Chair.

10. **Other Business:** Mr. Smolak requested for the next agenda see if Land for Good could present to the Board. Other states are far ahead of MA in terms of linking farms and farm properties with potential farmers like Farm Link. Ms. Sapienza-Grabski mentioned the electronic logging device mandate at the federal level, whereby the comment period is open right now and asked if MDAR has anything on the website. Commissioner Lebeaux responded that he doesn't believe there is anything on the website and asked Ms. Sapienza-Grabski if she could send a link to which she agreed.
11. **Date, Time and Location of Next Meeting:** The Board had a brief discussion about the start of meetings before going back to 10am and perhaps adjusting the start time depending on location. Ms. Leab offered to host the next meeting in March at her farm in Hancock. It was determined Ms. Bouchard would survey the Board to see if the Board could get a quorum to report to Hancock. The Board also rescheduled its July 11th meeting to July 18th as the Commissioner will be away on the 11th.
12. **Adjournment:** Mr. Smolak made a motion to adjourn. Mr. Dabney seconded the motion. The Board adjourned the meeting at 12:25pm.

January 18, 2018

To: Board of Agriculture, Commissioner Lebeaux, Asst. Commissioner Jason Wentworth,
Secretary Alisha Bouchard

From: Laura B. Abrams – Chair

RE: Open Meeting Law

All Board Members have been told to submit to Alisha and myself any topics that should be included on the agenda.

Open Meeting Law Guide – What information must meeting notices contain?

“Meeting notices must be posted in a legible, easily understandable format; contain the date, time, and place of the meeting; and list all topics that the chair reasonably anticipates, 48 hours in advance, will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting.”

In the past, Laura Sapienza-Grabski has chastised the Department for not accurately posting meetings. I would say, that on at least two occasions, Laura is the one who might be violating the open meeting law by not informing the Secretary or Chair as to items that should be on the agenda. Thereby, leaving fellow Board Members unprepared and the public unaware of the discussions taking place.

The first instance was bringing typed out amendments to H441 Promote the Care & Well-Being of Livestock and H3321 – Farm Training in Mass. Clearly to be that prepared for a meeting was thought out ahead of time leaving the Board no time to prepare. Therefore, these had to be postponed to the next meeting to give members time to study the Bills and the proposed changes.

The second, was this past meeting on November 8, 2017 when the two Bills from above were on the agenda. Under New Business, Laura Sapienza-Grabski brought up the Farmland Advisory Panel and a lengthy discussion followed. Laura had a memo that she had typed out, a copy of the Agenda of the APR subcommittee of the FAP, a letter from Winton Pitcoff, and a list of the members of the FAP. (There were not enough copies for all board members). Following the meeting, other board members expressed concerns about this situation including the fact that the APR and ALPC discussion were brought up only after the two ALPC members on the Board had to leave.

I would suggest that both of these items should have been on the Agenda for Ag Board members and the public to appropriately prepare and/or attend.

I trust in the future, this will not happen again and all topics of discussion will be on the agenda. (Other than last minute notifications)

MASSACHUSETTS BOARD OF AGRICULTURE

c/o MA Department of Agricultural Resources, 251 Causeway Street, Suite 500, Boston, MA 02114

Honorable Representative Jeffrey Sanchez, Chair
House Committee on Ways and Means
24 Beacon Street, Room 243
Boston, MA 02133

January 24th, 2018

Dear Representative Sanchez,

At the Board of Agriculture's meeting on Thursday, January 18th, 2018, the Board voted to respectfully recommend the following changes to Bill HB4050, An Act to Promote the Care and Well-Being of Livestock:

- Section AA: By a unanimous vote of 10 to 0, the Board of Agriculture recommends Section AA of Bill HB4050, be amended as follows:
 - A representative of a family farm experienced in the raising of cattle, appointed by the Commissioner;
 - A representative of a family farm experienced in the raising of swine, appointed by the Commissioner;
 - A representative of a family farm experienced in the raising of horses, appointed by the Commissioner;
 - A representative of a family farm experienced in the raising of goats, sheep and other ruminants, appointed by the Commissioner and;
 - A Buy Local representative be replaced by a representative from the Board of Agriculture, appointed by the Board of Agriculture.

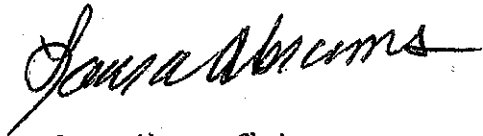
STRIKE: "Upon establishment, at the first official meeting thereof, the Commission shall examine practices relating to battery cage hen operations, swine gestation crates and veal crates and determine the appropriate actions to undertake. The Commission shall examine whether bans, regulations, guidelines or other measures, if any, are necessary or appropriate relative to such practices within the Commonwealth. Subsequent to addressing these topics,"

KEEP/AMEND: "The Commission shall examine (strike "additional") practices and topics at the request of any two members. All meetings shall occur in accordance with state open public meeting requirements and efforts shall be made to ensure meetings are held at a variety of geographic locations throughout the state."

In addition, the Board of Agriculture voted unanimously to support Bill H3321 Farm Training in Massachusetts, as written.

Thank you for your consideration of the Board's recommendations.

Sincerely,

A handwritten signature in black ink, appearing to read "Laura Abrams". The signature is fluid and cursive, written over a light blue horizontal line.

Laura Abrams, Chair
Massachusetts Board of Agriculture

cc: Representative Stephen Kulik
Secretary Matthew Beaton
Commissioner John Lebeaux

MASSACHUSETTS BOARD OF AGRICULTURE

c/o MA Department of Agricultural Resources, 251 Causeway Street, Suite 500, Boston, MA 02114

DRAFT

Honorable Representative Jeffrey Sanchez, Chair
House Committee on Ways and Means
24 Beacon Street, Room 243
Boston, MA 02133

January 18th, 2018

Dear Representative Sanchez,

At this time, please accept this amended letter on behalf of the Board of Agriculture. On November 21st, 2017 in the attached letter to Senator Gobi and Representative Pignatelli, the Board of Agriculture respectfully sent its recommendations for changes to Bill H441 (now HB4050) Promote the Care and Well-Being of the Livestock. However, the Board recently identified errors in its original letter. Therefore, below please find the full list of recommendations from the Board of agriculture.

At the Board of Agriculture's meeting on Wednesday, November 8th, 2017, the Board voted to respectfully recommend the following changes to Bill HB4050 Promote the Care and Well-Being of Livestock:

- Section AA: By a unanimous vote of 10 to 0, the Board of Agriculture recommends Section AA of Bill HB4050, be amended as follows:
 - A representative of a family farm experienced in the raising of cattle, appointed by the Commissioner;
 - A representative of a family farm experienced in the raising of swine, appointed by the Commissioner;
 - A representative of a family farm experienced in the raising of horses, appointed by the Commissioner;
 - A representative of a family farm experienced in the raising of goats, sheep and other ruminants, appointed by the Commissioner and;
 - A Buy Local representative be replaced by a representative from the Board of Agriculture, appointed by the Board of Agriculture.

- Section CC: By a unanimous vote of 10 to 0, the Board of Agriculture recommends Section CC of Bill HB4050, be amended by striking out the two sentences that reads:

STRIKE: "Upon establishment, at the first official meeting thereof, the Commission shall examine practices relating to battery cage hen operations, swine gestation crates and veal crates and determine the appropriate actions to undertake. The Commission shall examine whether bans, regulations, guidelines or other measures, if any, are necessary or appropriate relative to such practices within the Commonwealth. Subsequent to addressing these topics,"

KEEP/AMEND: "The Commission shall examine (strike "additional") practices and topics at the request of any two members. All meetings shall occur in accordance with state open public meeting requirements and efforts shall be made to ensure meetings are held at a variety of geographic locations throughout the state."

In addition, the Board of Agriculture voted unanimously to support Bill H3321 Farm Training in Massachusetts, as written. Thank you for your consideration of the Board's recommendations.

Sincerely,

Laura Abrams, Chair
Massachusetts Board of Agriculture

cc: Representative Stephen Kulik
Secretary Matthew Beaton
Commissioner John Lebeaux

HOUSE No. 4050

The Commonwealth of Massachusetts

**In the One Hundred and Ninetieth General Court
(2017-2018)**

An Act to promote the care and well-being of livestock.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 128 of the General Laws, as appearing in the 2008 official edition,
2 is hereby amended by inserting the following new sections:-

3 Section AA. The Commissioner shall establish a Livestock Care and Standards
4 Board consisting of 13 members, of which the Commissioner, or his designee, shall be a member
5 and chair. Additional members shall include: a representative of the Massachusetts Veterinary
6 Medicine Association, appointed by the Board of Directors of that organization, who is
7 experienced in the care and keeping of livestock; a large animal veterinarian, appointed by the
8 Governor, who is experienced in the care and keeping of livestock,; a representative of the
9 Department of Public Health, assigned by the Commissioner of Public Health, who is
10 knowledgeable in the areas of zoonotic disease and food safety; a representative of a
11 Massachusetts Society for the Prevention of Cruelty to Animals; a representative of the Animal
12 Rescue League of Boston; a representative of the Massachusetts Farm Bureau Federation; a
13 representative of the Massachusetts chapter of the Northeast Organic Farming Association;
14 representative of a family farm involved in the raising of poultry, appointed by the

- *Healthy Incentives Program - Overview and Update*

- *Explanation and Update on Joint Rule 10 and Overview of Remaining Important Legislative Dates*
 - *"Ag Estate Tax"* *H3915*

 - *"Neonicotinoid"* *H4041*

 - *Dairy Farm Tax Credit* *H3908*

 - *"Livestock Care and Standards"* *H4050*

 - *Cranberry Bog Renovation Tax Credit* *H4067*

LEGISLATIVE DEADLINES AND SIGNIFICANT DATES

**SECOND ANNUAL
SESSION**

JANUARY 3, 2018

— 1st Wednesday in January of Each Year —

House and Senate convene.

JANUARY 24, 2018

— Within 3 weeks of convening of the General Court —

Governor submits General Appropriation Bill.

FEBRUARY 7, 2018[†]

— 1st Wednesday of February in 2nd Annual Session —

Joint Rule 10 deadline.

Last day for reports to be made from joint committees [except Health Care Financing] (on matters referred to them before the first day of the second annual session).

[†] JR10 Reporting deadline is the 1st Wednesday in February in the Second Annual Session.

LEGISLATIVE DEADLINES AND SIGNIFICANT DATES

MARCH 28, 2018†

— *Joint Rule 10 Day for committee on Health Care Financing* —

APRIL 25, 2018

— *Last Wednesday in April of Each Session* —

Last day to report on Proposals for Amendments to the Constitution.

(Note: In the 2nd year, reports may be made only on measures referred to committees subsequent to Last Wednesday in April of 1st Annual Session).

MAY 1, 2018

— *Tuesday preceding first Wednesday in May* —

Last day to enact Initiative Petitions for changes in Laws.

MAY 9, 2018

— *2nd Wednesday in May of Each Year* —

Last day to call up a late filed Proposal for an Amendment to the Constitution.

MAY 9, 2018

— *2nd Wednesday in May* —

Last day for the House committee on Ways and Means to report the General Appropriation Bill.

LEGISLATIVE DEADLINES AND SIGNIFICANT DATES

TUESDAY, JULY 31, 2018

— *Last day of July of the 2nd Annual Session* —

Last day for Formal Sessions.

NOVEMBER 7, 2018

— *1st Wednesday in November* —

Agency Filings Due by 5:00 P.M. for
consideration in the 191st General Court.

TUESDAY, JANUARY 1, 2019

**TUESDAY PRECEDING THE CONVENING OF A
NEW GENERAL COURT**

— ON THE 1ST WEDNESDAY IN JANUARY OF THE 3RD YEAR —

Last day of Session of the 2nd Annual Session.

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

MATTHEW A. BEATON
Secretary

JOHN LEBEAUX
Commissioner

AGRICULTURAL PRESERVATION RESTRICTION PROGRAM GUIDELINES

**REQUESTS FOR A WAIVER OF THE DEPARTMENT'S
RIGHT OF FIRST REFUSAL FOR PURCHASE OF REAL ESTATE**

- I. PURPOSE:** By obtaining an Agricultural Preservation Restriction ("APR"), it has been and remains the intent of the Commonwealth of Massachusetts to perpetually protect and preserve agricultural lands, to encourage sound soil management practices in accordance with generally accepted agricultural practices, to preserve natural resources, to maintain land in active commercial agricultural use, and to ensure resale of a land restricted by an APR at an affordable price for future agricultural use. From the outset in 1976 a primary goal of the APR Program is to ensure the availability of farmland and that Premises would be sold for its value as a farm, thereby permitting those entering or currently engaged in commercial agriculture to acquire farmland.

A Right of First Refusal ("ROFR") is a right purchased by the Commonwealth as part of the APR that may, in the Department of Agricultural Resources' ("Department") sole discretion, be exercised or assigned in a way best suited to achieve the goals of the program. Recognizing that the ROFR was purchased by the Commonwealth for these very purposes, the Department has a duty, upon the proposed sale of an APR parcel with a ROFR, to weigh its option of exercising or assigning the ROFR in a diligent and effective manner.

- II. DEPARTMENTAL PREREQUISITES TO ISSUING A WAIVER OF A RIGHT OF FIRST REFUSAL:** In order to issue a waiver of a ROFR, the Department must find all of the following:

1. The APR Owner has complied with the terms of the Right of First Refusal;
2. If the Potential Purchaser owns other land subject to an APR, that the Potential Purchaser has not violated the terms of the applicable APR to such an extent that the violation is detrimental to the actual or potential agricultural use of the Premises; while in possession of the land;
3. The Potential Purchaser is a Farmer and has provided a Farmer Resume;
4. The Potential Purchaser has provided a Farm Plan sufficient to demonstrate that the Premises will be utilized to the fullest extent possible for commercial agriculture; and
5. The APR Owner or Potential Purchase has provided a draft deed related to the transfer that references the land is subject to the APR and the property description is identical to the APR Exhibit A, or any APR amendments.

III. DEFINITIONS:

Agricultural Preservation Restriction ("APR"): a perpetual restriction to retain land or water areas predominately in their agricultural farming or forest use, and forbids or limits certain property development rights.

APR Owner: the record title owner of the APR.

Department: the Department of Agricultural Resources of the Commonwealth of Massachusetts, 251 Causeway Street, Suite 500, Boston, MA 02114-2151.

Farm Plan: a narrative that includes, at a minimum, how the Premises will be utilized to the fullest extent possible for commercial agriculture for a five (5) year period including but is not limited to, the following: identification of all land uses on the Farm, crops to be grown, acreage for each crop, livestock to be raised, pasture acreage, use of existing structures on Premises (if applicable), and need for additional structures (if applicable) and timeline for implementation of the plan. The narrative shall include a map or diagram identifying each land use proposed for the Farm.

Farmer: (i) an individual who is engaged in an active agricultural use of land for commercial purposes; and (ii) an entity if the Articles of Incorporation or other corporate documents demonstrate that the purpose of the entity allows for commercial agriculture and the entity has the ability to hold real property; and (iii) an entity whose connected entity (connected by virtue of overlapping corporate officers, partners, or trustees) is organized for the purpose of commercial agriculture.

Farmer Resume: a brief account of the Potential Purchaser's professional farm experience and qualifications. The resume must include details on the acreage of their existing and any prior farming operation, number of employees (if applicable) and the number of years in business.

Premises: the acres of land and buildings and structures thereon that was described in the Exhibit A attached to and incorporated into the APR.

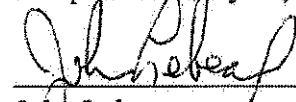
Potential Purchaser: the person or entity who has entered into a bona fide purchase and sale agreement with the APR Owner.

Statement of Interest: Potential Assignee's written response that it desires to receive the Department's assignment and providing proof the Potential Assignee is qualified to receive the assignment.

Waiver: a document in recordable form issued by the Department that waives the Department's right to purchase or assign the right to purchase the Premises.

- IV. **AUTHORITY**: Many APRs prior to June 23, 1994 include a Right of First Refusal which grants, at the Department's discretion, the right to purchase or assign the right to purchase the Premises.

Adopted February 10, 2016



John Lebeaux
Commissioner

THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS



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AGRICULTURAL PRESERVATION RESTRICTION PROGRAM GUIDELINES

ASSIGNMENT OF RIGHT OF FIRST REFUSAL

- I. **PURPOSE:** By obtaining an Agricultural Preservation Restriction ("APR"), it has been and remains the intent of the Commonwealth of Massachusetts to perpetually protect and preserve agricultural lands, to encourage sound soil management practices in accordance with generally accepted agricultural practices, to preserve natural resources, to maintain land in active commercial agricultural use, and to ensure resale of a land restricted by an APR at an affordable price for future agricultural use. From the outset in 1976 a primary goal of the APR Program is to ensure the availability of farmland and that Premises would be sold for its value as a farm, thereby permitting those entering or currently engaged in commercial agriculture to acquire farmland.

A Right of First Refusal ("ROFR") is a right purchased by the Commonwealth as part of the APR that may, in the Department of Agricultural Resources' ("Department") sole discretion, be exercised or assigned in a way best suited to achieve the goals of the program. Recognizing that the ROFR was purchased by the Commonwealth for these very purposes, the Department has a duty, upon the proposed sale of an APR parcel with a ROFR, to weigh its option of exercising or assigning the ROFR in a diligent and effective manner.

II. **PRE-REQUISITES TO QUALIFY FOR AN ASSIGNMENT OF A ROFR:**

- A. In order to assign its Right of First Refusal, the Department must find that the Potential Assignee has:
1. Complied with the terms of the Department's Request for Statement of Interest;
 2. Not violated the terms of any other APR the Potential Assignee's land is subject to such an extent as the violation is detrimental to the actual or potential agricultural use of the premises;
 3. Demonstrated the ability to pay the purchase price and close within the timeframe established in the APRs. This criterion is satisfied by providing satisfactory evidence to the Department of available funds, as follows:
 - a. If purchasing with 100% cash funds, proof of satisfactory availability of funds; or
 - b. If obtaining financing, must provide letter of commitment for financing and satisfactory proof of additional funds required for purchase price; and

- iii. intends to lease the Premises to a Farmer or New Entry Farmer: A) a proposed lease agreement or letter of intent with a Farmer or New Entry Farmer must be provided and, B) the above referenced Farm Plan and Farmer Resume must be prepared by the Farmer or New Entry Farmer;

III. SELECTION CRITERIA FOR ASSIGNMENT TO AN INDIVIDUAL, GOVERNMENTAL OR NON-GOVERNMENTAL NON-PROFIT ORGANIZATION

A. If more than one Potential Assignee satisfies the above criteria, the following additional criteria will be utilized by the Department:

1. Current ownership or leasing of other land subject to an APR;
2. Demonstrated farming history;
3. Ownership of agricultural land; and
4. Proximity of other agricultural land leased or owned.

B. If two or more Potential Assignee's remain equally qualified, the following additional criteria will be considered by the Department: The Potential Assignee's number of Farm acres currently under production.

IV. SELECTION CRITERIA FOR ASSIGNMENT TO A GOVERNMENTAL OR NON-GOVERNMENTAL NON-PROFIT ORGANIZATION

A. If more than one Potential Assignee satisfies the above criteria, the following additional criteria will be utilized by the Department:

1. Current ownership or leasing of other land subject to an APR;
2. Demonstrated farming history;
3. Ownership of agricultural land;
4. Proximity of other agricultural land leased or owned;
5. If a non-profit, number of years of incorporation;
6. If a non-profit, operating budget;
7. Number of qualified staff whose job responsibilities will include overseeing the ownership of the land and compliance with the terms of the APR; and
8. If the town is a co-holder.

B. If two or more Potential Assignee's remain equally qualified, the following additional criteria will be considered by the Department: Since Potential Assignees establishment, current and historic number of farm acres under production.

V. **DEFINITIONS:** As used throughout this Guideline, the words or phrases listed below shall have the following meanings:

Agricultural Preservation Restriction ("APR"): is a perpetual restriction to retain land or water areas predominately in their agricultural farming or forest use, and forbids or limits certain property development rights and uses.

Appraisal: a current (not more than 1 year old) valuation of property by the estimate of an authorized person conducted in accordance with the "Guidelines for Agricultural Appraisals" prepared by the Department and in effect at the time of the Waiver request.

APR Owner: the record title owner of the APR.

Fair Market Agricultural Value ("FMAV"): the combined total of the Fair Market Agricultural Land Value and the Fair Market Agricultural Business Value and the Fair Market Agricultural Dwelling Value.

Financial Plan: a plan, whether narrative or otherwise, that demonstrates the Potential Purchaser can support the operation of the Premises without adversely affecting long term viability of the Premises. Such a plan should, at a minimum, include: a net worth statement, an estimate of start-up costs, identification of costs of production, gross sales and net farm income, and income & expense projections for at least three years.

New Entry Farmer: a Farmer who has less than two years experience managing or owning a Farm.

Premises: the acres of land and buildings and structures thereon that was described in the Exhibit A attached to and incorporated into the APR.

Potential Assignee: the person or entity who responded to the Department's Request for Statement of Interest and has expressed interest in being assigned the Department's Right of First Refusal. If the entity is a corporation or limited liability company, the Department must be provided the articles of incorporation demonstrating the corporation was formed and the nature of the business to be transacted is owning and operating a Farm. If the entity is a partnership, the Department must be provided partnership agreement which evidences partnership was formed for the purpose of owning and operating a Farm.

Potential Purchaser: the person or entity who has entered into a bona fide purchase and sale agreement with the APR Owner.

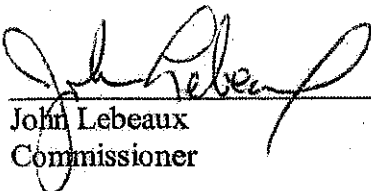
Purchase Price: the price listed for the Premises in the purchase and sale agreement by and between the APR Owner and the Potential Purchaser.

Statement of Interest: Potential Assignee's written response that it desires to receive the Department's assignment and providing proof the Potential Assignee is qualified to receive the assignment.

Waiver: a document in recordable form issued by the Department that waives the Department's right to purchase or assign the right to purchase the Premises.

VI. AUTHORITY: Many APRs prior to June 23, 1994 include a Right of First Refusal which grants, at the Department's discretion, the right to purchase or assign the right to purchase the Premises.

Adopted February 10, 2016



John Lebeaux
Commissioner

AGRICULTURAL PRESERVATION RESTRICTION PROGRAM GUIDELINES
REQUESTS FOR WAIVER OF A RIGHT OF FIRST REFUSAL

Internal Evaluation

APR Name	
APR Address and Town	
Seller	
Buyer	
Date Waiver Request was Received	
Purchase Price	

In order to issue a waiver of a Right of First Refusal ("ROFR"), the Department must find **all** of the following (See APR Program Guidelines: Requests for Waiver of the Department's Right of First Refusal for Purchase of Real Estate dated 2/10/16 for definitions of bolded terms below):

	Criteria	Yes	No	N/A	Comments
1	The APR Owner has complied with the terms of the ROFR				
2	If the Potential Purchaser owns other land subject to an APR, the Potential Purchaser while in possession of the land, has not violated the terms of the applicable APR to such an extent as the violation is detrimental to the actual or potential agricultural use of the Premises				Name(s) of other APR(s):
3	The Potential Purchaser is a Farmer and has provided a Farmer Resume				
4	The Potential Purchaser is a Farmer has provided a Farm Plan sufficient to demonstrate the Premises will be utilized to the fullest extent possible for commercial agriculture and if the Potential Purchaser <i>Farm Plan must include:</i> -five (5) year period <input type="checkbox"/> -identification of all land uses on the Farm <input type="checkbox"/> -crops to be grown <input type="checkbox"/> -acreage for each crop <input type="checkbox"/> -livestock to be raised <input type="checkbox"/>				

	<p>-pasture acreage <input type="checkbox"/></p> <p>-use of existing structures on Premises (if applicable) <input type="checkbox"/></p> <p>-need for additional structures (if applicable) <input type="checkbox"/></p> <p>-timeline for implementation of the plan <input type="checkbox"/></p> <p>-a map or diagram identifying each land use proposed for the Farm <input type="checkbox"/></p>				
4	<p>The APR Owner or Potential Purchase has provided a draft deed related to the transfer that references the land is subject to the APR and the property description is identical to the APR Exhibit A, or any APR amendments</p>				

AGRICULTURAL PRESERVATION RESTRICTION PROGRAM GUIDELINES
REQUESTS FOR ASSIGNMENT OF A RIGHT OF FIRST REFUSAL

Internal Evaluation

APR Name	
APR Address and Town	
Potential Assignee Name	
Potential Assignee is Potential Purchaser	
Date Statement of Interest received	

A. In order to assign a right of first refusal, the Department must find that the Potential Assignee has: (See APR Program Guidelines: Assignment of First of First Refusal dated February 10, 2016 for definitions of bolded terms below):

	Criteria	Yes	No	N/A	Comments
1	Complied with the terms of the Department's Request for Statements of Interest				
2	Not violated the terms of any other APR the Potential Assignee's land is subject to such an extent as the violation is detrimental to the actual or potential agricultural use of the premises				Name(s) of other APR(s):
3	Demonstrated the ability to pay the purchase price and close within the timeframe established in the APRs . This criterion is satisfied by providing satisfactory evidence to the Department of available funds, as follows:				
	a. If purchasing with 100% cash funds, proof of satisfactory availability of funds; or				
	b. If obtaining financing, must provide letter of commitment for financing and satisfactory proof of additional funds required for purchase price;				

<p>4 If an individual, provided a Farm Plan¹ and Farmer Resume sufficient to demonstrate the Premises will be utilized to the fullest extent possible for commercial agriculture for the furtherance of the purpose of the APR and if the Potential Assignee:</p>				
<p><i>Farm Plan must include:</i></p> <ul style="list-style-type: none"> -five (5) year period <input type="checkbox"/> -identification of all land uses on the Farm <input type="checkbox"/> -crops to be grown <input type="checkbox"/> -acreage for each crop <input type="checkbox"/> -livestock to be raised <input type="checkbox"/> -pasture acreage <input type="checkbox"/> -use of existing structures on Premises (if applicable) <input type="checkbox"/> -need for additional structures (if applicable) <input type="checkbox"/> -timeline for implementation of the plan <input type="checkbox"/> -a map or diagram identifying each land use proposed for the Farm <input type="checkbox"/> 				
<p>a. owned or operated a Farm previously, the Farm Plan must additionally include the size of the farming operation (acreage and gross income), and number of years in business; or</p>				
<p>b. is a New Entry Farmer: i) the Farm Plan must list relevant degrees, courses, workshops, education and training, and ii) a Financial Plan must be provided; or</p>				
<p><i>Financial Plan must include:</i></p> <ul style="list-style-type: none"> -a net worth statement <input type="checkbox"/> -an estimate of start-up costs <input type="checkbox"/> -identification of costs of production <input type="checkbox"/> 				

¹ If the Potential Assignee is the Potential Purchaser, the Farm Plan submitted to the Department with the request for Waiver will be considered the Farm Plan for purposes of this policy. The Potential Purchaser may provide the Department with additional information that supplements the Farm Plan, however any additional information proposing new agricultural uses will not be considered.

	<p>-gross sales and net farm income <input type="checkbox"/> -income & expense projections for at least three years <input type="checkbox"/></p> <p>c. intends to lease the Premises to a Farmer or New Entry Farmer: i) a proposed lease agreement or letter of intent with a Farmer or New Entry Farmer must be provided and, ii) the above referenced Farm Plan and Farmer Resume must be prepared by the Farmer or New Entry Farmer.</p>			
5	<p>If a governmental entity, provided a Farm Plan¹ and Farmer Resume sufficient to demonstrate the Premises will be utilized to the fullest extent possible for commercial agriculture for the furtherance of the purpose of the APR and if the Potential Assignee:</p> <p>a. owned a Farm previously, the Farm Plan must additionally include number of years of ownership, the acreage of the farming operation, and number of years in business, name of farmer and Farm business; or</p> <p>b. intends to lease the Premises to a Farmer or New Entry Farmer: i) a proposed lease agreement or letter of intent with a Farmer or New Entry Farmer must be provided and, ii) the above referenced Farm Plan and Farmer Resume must be prepared by the Farmer or New Entry Farmer.</p>			

6	<p>If a non-governmental or non-profit organization or for-profit entity:</p> <p>a. provided Articles of Incorporation or other comparable documents evidencing the purpose of the Potential Assignee allows for owning and operating a Farm and that the mission statement is compatible with the goals of the APR; and</p> <p>b. provided a Farm Plan and Farmer Resume sufficient to demonstrate the Premises will be utilized to the fullest extent possible for commercial agriculture for the furtherance of the purpose of the APR and if the Potential Assignee:</p> <p>i. owned or operated a Farm previously, the Farm Plan must additionally include the size of the farming operation (acreage and gross income), and number of years in business; or</p> <p>ii. is a New Entry Farmer: A) the Farm Plan must list relevant degrees, courses, workshops, education and training, and B) a Financial Plan must be provided; or</p> <p>iii. intends to lease the Premises to a Farmer or New Entry Farmer: A) a proposed lease agreement or letter of intent with a Farmer or New Entry Farmer must be provided and, B) the above referenced Farm Plan and Farmer</p>				

	Resume must be prepared by the Farmer or New Entry Farmer .				
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SELECTION CRITERIA FOR ASSIGNMENT TO AN INDIVIDUAL, GOVERNMENTAL OR NON-GOVERNMENTAL NON-PROFIT ORGANIZATION

A. If more than one Potential Assignee satisfies the above criteria, the following additional criteria will be utilized by the Department:

1. Current ownership or leasing of other land subject to an APR;

a.	Ownership or leasing	3 points
b.	No ownership or leasing	0 points

Potential Assignee's: ___ point(s)

2. Demonstrated farming history;

a.	Farmer	6 points
b.	New Entry Farmer	3 points
c.	Intends to lease to Farmer or New Entry Farmer	0 points

Potential Assignee's: ___ point(s)

3. Ownership of agricultural land; and

a.	If Farmer has historically leased, not owned agricultural land	2 points
b.	If New Entry Farmer has historically leased, not owned, agricultural land	1 point
c.	If not a Farmer or New Entry Farmer, or currently owns agricultural land not subject to an APR	0 points

Potential Assignee's: ___ point(s)

4. Proximity of other agricultural land leased or owned.

a.	Adjacent	3 points
b.	Within 10 miles	2 points
c.	Within 25 miles	1 point
d.	Greater than 25 miles	0 points

Potential Assignee's: ___ point(s)

Total points of Potential Assignee: _____/14 points

B. If two or more Potential Assignee's remain equally qualified, the following additional criteria will be considered by the Department: The Potential Assignee's number of Farm acres currently under production.

Number of acres currently under production: _____