

# MASSACHUSETTS PESTICIDE BOARD MEETING

## ***Minutes of the Board Meeting held at the McCormick BLDG, 1 Ashburton Place, on Wednesday, December 11, 2013***

The meeting was called to order at approximately 9:30 A.M.

### **BOARD MEMBERS IN ATTENDANCE**

Lee Corte-Real, MDAR Designee for Commissioner Watson,	Present
Michael Moore, DPH, Food Protection Program	Present
Martha Steele, DPH, Designee for Commissioner Bartlett	Present
William Clark (Conservation/Environmental Protection Member)	Present
Jack Buckley, DFG, Designee for Commissioner Griffin	Present
Kathy Romero, DEP, Designee for Commissioner Kimmell	Present
Ken Gooch, DCR, Designee for Commissioner Murray	Present
Richard Berman	Absent
John Looney	Absent
Brian Magee	Absent
Richard Bonanno	Absent
Laurell Farinon	Present

The Board did meet or exceed the minimum number (7) of members present to form a quorum and conduct business.

### **OTHER INDIVIDUALS PRESENT:**

Sean Greenhow, Greenhow Inc. / NPMA; Chris Koczela, Quinn and Morris; Ted Burgess, Burgess Pest Management; Marillian Missiti, Buono Pest Control; Stephen Certa, Watch All / Ehrlich; Tara Zadeh, Esq., MDAR; Jessica Burgess, Esq., MDAR; Mark S. Buffone, MDAR; Taryn Lascola, MDAR; Hotze Wijnja, Ph.D., MDAR; and Steven Antunes-Kenyon, MDAR

### **DOCUMENTS PRESENTED**

- Minutes from the Wednesday, September 4, 2013 Meeting;

#### **A. Minutes**

##### **Discussion**

The minutes from the Wednesday, September 4, 2013 Meeting were presented for consideration.

**Voted:** To accept the minutes of the Wednesday, September 4, 2013 Meeting.

**Moved:** Jack Buckley  
**Second:** William Clark

**Approved:** 7 – 0 – 1

**Abstentions:** Michael Moore (Not present at 09/04/2013 Meeting)

**B. MDAR General Counsel Legal Updates and Appeal of NSTAR Right of Way (ROW) Yearly Operational Plan (YOP) for Calendar Year 2013**

Tara Zadeh, Esq. MDAR General Counsel provided clarification of the following:

**RE: Relationship of the Pesticide Board and the Pesticide Board Subcommittee**

Tara Zadeh stated the statutes for the Board and Subcommittee were examined and it is the Department's legal opinion that the Subcommittee is independent of the Board with respect to product registration decisions. She further clarified that the Board cannot direct Subcommittee with respect to product registration decisions or related Subcommittee product registration policies.

The Subcommittee may bring issues before the Board for discussion and consensus building; however, the Board does NOT have the authority to direct the Subcommittee with respect to product registration decisions and related policies.

Michael Moore, Chair of the Subcommittee explained that it was the Subcommittee's desire to bring the Subsurface Termiticide Reclassification Policy before the Board for discussion purposes. This was done in-part to guide Subcommittee policy considerations; such that, any changes might be done in agreement with general consensus of the Pesticide Board.

**RE: Status of Direct Supervision Regulations**

Tara Zadeh stated the review of the draft regulations is complete. EEA has asked the Department to add some 5-definition for clarification. These changes are being made and the draft regulations are on the State's Draft Regulation Tracking System.

**RE: Appeal of NSTAR Right of Way (ROW) Yearly Operational Plan (YOP) for Calendar Year 2013**

Tara Zadeh and Jessica Burgess stated the Department has received appeals to the currently approved NSTAR Right of Way (ROW) Yearly Operational Plan (YOP) for Calendar Year 2013. After reviewing the request for appeal, it is the Department's Legal opinion that due to the complexity of the matter and for efficiency purposes, the matter should be referred to the Division of Administrative Law Appeals (DALA) to appoint a Hearing Officer. There were a number of letters Environmental Health and procedural complaints. The current YOP expires at the end of the current calendar year.

The appeal is to the Board; however, MDAR Legal recommends that the matter be referred to DALA for assignment of a hearing officer. In the interim NSTAR is allowed to carry out the

currently approved YOP. NSTAR has also submitted a new YOP for CY 2014; which, is currently out for review and consideration as part of the normal procedures.

**Voted:** To refer the appeals to the Division of Administrative Law Appeals (DALA) for appointment of a Hearing Officer in the matter.

**Moved:** Jack Buckley

**Second:** William Clark

**Approved:** 8 – 0

### **C. Other Business**

William Clark requested that the Board consider starting its Meetings a bit later at 10:00 a.m. This slightly later start time might help those driving into the City of Boston to avoid peak traffic.

The Board briefly discussed this and agreed that such a start time was perfectly acceptable.

### **E. Meeting Adjournment**

**Voted:** To adjourn the Pesticide Board Meeting.

**Moved:** Jack Buckley

**Second:** Kathy Romero

**Approved:** 8 - 0

The Meeting was adjourned at approximately 10:05 A.M.