

MASSACHUSETTS PESTICIDE BOARD MEETING

Minutes of the Board Meeting held at the McCormack Building, 1 Ashburton Place on Thursday, March 5, 2015

An informational session commenced at approximately 10:00 A.M. At approximately 10:41 a.m. the Board did meet the minimum number (7) of members present to form a quorum and conduct official business.

BOARD MEMBERS IN ATTENDANCE

John Lebeaux, MDAR Commissioner	Present
Michael Moore, DPH, Food Protection Program	Present
Marc Nascarella, DPH, Designee for Commissioner Bartlett	Present
William Clark (Conservation/Environmental Protection Member)	Absent
Jack Buckley, DFG, Designee for Commissioner Griffin	Absent
Kathy Romero, DEP, Designee for Commissioner Cash	Present
Ken Gooch, DCR, Designee for Commissioner Lambert	Absent
Richard Berman	Present
John Looney	Present
Brian Magee	Absent
Richard Bonanno	Absent
Laurell Farinon	Present

OTHER INDIVIDUALS PRESENT:

David Henley, EMMCP/Suffolk MCD; Lenny Izzo, Health Director, Wellesley; David Flynn, Burgess Pest Control; Ted Burgess, Burgess Pest Control; Bill Siegel, NEPMA; Chris Koczel, Quinn & Morris; Heidi Porter, Health Director, Bedford; Jennifer Murphy, Health Director, Worcester; Jessica Burgess, Esq., MDAR; Hotze Wijnja Ph.D., MDAR; and Steven Antunes-Kenyon, MDAR

DOCUMENT(S) PRESENTED

- Minutes from the Wednesday, December 3, 2014 Board Meeting

A. Introduction of Chairman John Lebeaux, MDAR Commissioner

John Lebeaux introduced himself to the Board. He stated that he lives in Shrewsbury and provided some details of his agricultural background—describing how he managed his family's nursery and landscape business; which, was in operation for some sixty-years on land that was formerly his grandfather's farm. John also has experience serving in the public sector as he was the Administrator for the Town of Princeton.

B. Current Status of Regulations

Lee Corte-Real opened the discussion on regulatory updates. Presently there is a hold or freeze on the promulgation of any new regulations; such that, the new administration is able to conduct a review of all currently proposed changes.

The above described review is affecting the status of proposed regulations – “Under the Direct Supervision of a Certified Applicator”. At this point, the MDAR does NOT have a specific time-frame for when review by the Executive Office of Energy and Environmental Affairs (EEA) will be completed.

C. Overview of the New Catch Basin Larvicide Permit Program

Lee Corte-Real described how the Massachusetts legislature created a new class of pesticide credential known as the “Permitted Catch Basin Applicator.” This credential was created primarily for the abatement of West Nile Virus (WNV). The MDAR is now working to implement the amendments to the Massachusetts Pesticide Control Act and created the required new program.

All “Permitted Catch Basin Applicators” must be employees of the Commonwealth or its political subdivisions and comply with the following:

- Meet the Department defined minimal competency standards;
- Conduct such larvicide treatments under the supervision of an individual whom is license or certified; and
- Maintain records of pesticide use as outlined in the law.

David Henley, Superintendent of the East Middlesex and Mosquito Control Project and the Suffolk County Mosquito Control District, described how the treatment of catch basins is a key part of the response to WNV risks as outlined in the Massachusetts Arbovirus Surveillance and Response Plan. Catch basins are very conducive to mosquito species (*Culex* spp.) that transmit WNV; especially, during periods of warm and dry weather—leading to nutrient rich standing water.

David described how the area, within his two mosquito control programs, includes some 100,000 catch basins. In the past it has proven difficult for him to hire appropriately licensed seasonal applicators within the time-frame needed to effectively treat the catch basins. With the Department's new “Permitted Catch Basin Applicator Program” in place, he hopes to be able to treat targeted catch basins as needed within the optimal time-frame for reducing WNV risks.

In addition cities and town that are NOT members of a State Mosquito Control District / Project will have the opportunity to participate in WNV abatement activities.

Richard Berman stated that the pest control industry works hard each year to contend with the Department's existing examination and licensing requirements and that he does NOT agree that there should be a separate or special process for only “Catch Basin Applicators.”

Richard inquired about the other legislative changes to the Massachusetts Pesticide Control Act and asked whether the MDAR would be issuing such “temporary credentials” as discussed in the amended statute.

Both Jessica Burgess, Esq. and Lee stated that such a “temporary certification, license or permit” could only be issued “upon determination that the applicant has satisfied the criteria established for that certification, license or permit.” For commercial license or certification credentials, the Department may not issue a temporary certification, license or permit prior to receipt of the required proof of insurance and corresponding fees. They further explained that upon receipt, the Department issues the actual license or certification credential as quickly as possible and consequently there is no benefit to issuing a temporary credential for most credential types.

Jessica also explained that the law also requires different criteria for different credential types. What is required for the “Permitted Catch Basin Applicator” is different from that which is required for other credential types. Proof of insurance or payment of fee, for example, are NOT currently required for the “Permitted Catch Basin Applicator”.

Richard also commented that the amended law appears to establish a supervisory role for those with a Commercial Applicator (core) License, which was previously designated only for those with Certification Credential. He further indicated that while he has no objections to the expedited “Permit Program,” the amended law appears to create a double standard between the treatment of the “Permit” and the treatment of other Pesticide License / Certification Credentials.

Laurell Farinon inquired as to how the amended law defines a “catch basin” and whether there might be any concern for the treatment of storm water retention / detention basins by such “Permitted Catch Basin Applicators.”

David Henley responded that it was never the intention of those supporting the “Permitted Catch Basin Applicator” and subsequent amendments to the Massachusetts Pesticide Control Act, to allow such “Permitted Catch Basin Applicators” to treat such detention basins. David also added that he believes such sites, as retention or detention basins, are NOT necessarily good habitat for the targeted *Culex* mosquito species involved in WNV.

C. Updates on the proposed amendments to 333 CMR 13.03 Exclusions from Pesticide Application -- amending the existing regulatory requirements for requesting an exclusion from wide-area pesticide applications

Jessica Burgess, Esq. reiterated that while there is a moratorium on the promulgation of new regulations, the MDAR is working internally and with State Mosquito Control Projects or Districts to develop proposed changes to the regulations that meet the needs of the public and mosquito control districts. She anticipates that the MDAR will have more to share with the Board in the next few Meetings.

D. Updates on Plant Nutrient Regulations, 330 CMR 31.00 Plant Nutrient Application Requirements for Agricultural Land and Land Not Used for Agricultural Purposes

While clarifying that they are not actual “pesticide regulations”, Lee Corte-Real provided an update on the proposed Plant Nutrient Regulations. These regulations seek to further protect the environment by reducing the impacts of phosphorus and other plant nutrients on surface water systems.

Lee described how these regulations completed a public hearing process and necessary Hearing Officer’s Report. Towards the end of the previous administration, the Department forwarded the proposed regulations to the EEA for review and executive level approval. The EEA was not able to complete their review and move the regulations on for promulgation prior to completing their term in office; consequently, the current moratorium is also affecting these new regulations.

Lee indicated that he believes the proposed regulations will receive higher priority for review by the EEA, since there are certain provisions that are especially beneficial to municipalities.

E. Minutes from the Wednesday, December 3, 2014 Pesticide Board Meeting

Chairman John Lebeaux presented the Minutes for the Wednesday, December 3, 2014 Meeting for the Board’s consideration.

Voted: To accept the minutes as prepared for the Wednesday, December 3, 2014 Meeting as written.

Moved: Richard Berman

Second: John Looney

Opposed: 0

Abstentions: 3

Approved: 4 – 0 – 3

F. Next Meeting Date / Location and Adjournment

The next Board meeting is to be in the month of June. A Meeting notice will be sent to the Board upon confirmation of the date and Meeting location.

G. Meeting Adjournment

Voted: To adjourn Thursday, March 5, 2014 Meeting.

Moved: John Looney

Second: Richard Berman

Approved: 7 – 0

Meeting adjourned at 10:51 a.m.