

**MICHIGAN DEPARTMENT OF AGRICULTURE AND RURAL DEVELOPMENT
PESTICIDE ADVISORY COMMITTEE
Geagley Laboratory, Gordon Guyer Room
1615 S. Harrison Road
East Lansing, MI 48823
MEETING MINUTES
October 18, 2013**

PRESENT:

Brian Rowe, Chairperson, Michigan Department of Agriculture & Rural Development, PPPM
Joe Bondra, Michigan Aquatic Managers Association
Elaine Clapp, Michigan Occupational Safety & Health Association
Bob England, Licensed Outdoor Commercial Applicators, Eradico Services
Kay Fritz, Michigan Department of Agriculture, Toxicologist
Amy Frankmann, Producers of Agricultural Commodities, Michigan Nursery & Landscape Association
Alyson Howe, Farmworker Legal Services Representing Farm Employees
(for Kara Moberg)
Russ Ives, Michigan Pest Control Association, Rose Pest Solutions
Gary King, Michigan Department of Agriculture & Rural Development, PPPM Enforcement
Tina Reynolds, Non-governmental Organizations for Environmental Preservation, Michigan Environmental Council
Mike Schiffer, Licensed Aerial Applicators
Abby Schwartz, Michigan Department of Community Health, Environmental Health
John Stone, Pesticide Safety Education Program, Michigan State University Extension
Mark Varner, Agricultural Chemical Industry, Bayer Crop Science
Amanda Whitesell, Michigan Department of Environmental Quality, Water Resources Division

CALL TO ORDER:

Brian Rowe called the Pesticide Advisory Committee meeting to order at 9:30 a.m. on October 18, 2013. Kay Fritz, toxicologist with Michigan Department of Agriculture and Rural Development was welcomed; committee members introduced themselves.

APPROVAL OF JULY 19, 2013 MEETING MINUTES:

With the addition of Tina Reynolds as an attendee at the July meeting, the motion was made to approve the minutes by Russell Ives. Seconded by Joe Bondra. Motion carried. The meeting minutes will be added to the Pesticide Advisory committee website with the noted change.

SHARED RESPONSIBILITY:

Edits to the shared responsibility document discussed at the July meeting were made and updated drafts were dispersed. The date at the top of the draft is incorrect and should be 9/25/2013.

Brian Rowe shared the document with staff at the PPPM lead worker meeting. Two main concerns came from the lively discussion at the meeting.

1. Two different versions of the contract should be created: Agricultural and Non-ag.
2. Lead workers are concerned that companies can advertise services and say that they will sub-contract and then do it themselves. It would increase the workload for the inspectors

having to investigate companies advertising or “holding themselves out for business” while not holding a business license.

Break this into two documents with category of licensing information to differentiate the two.

Mike Schiffer states that in regards to splitting the document into two pieces, this is a document that his company will use as a guidance document for the company that he is working with. Russell Ives agrees that the document should be used as a guidance document to insure that all the main points are decided upon in their individual contracts.

According to Mike Schiffer, his legal counsel reviewed the document and found that it was acceptable except for one concern over Company A giving the maps to the properties. Is Company A then liable for enforcement action if the maps are wrong? There didn't appear to be any clear directive that indemnified Company B in the contract. According to Brian Rowe, if company A was responsible for giving the map to Company B and it was wrong, MDARD would not hold Company B responsible for that work. However, MDARD would not have the authority to enforce violations for Company A unless they are holding themselves out to be in the business in which case they would be in violation for being an unlicensed business.

Elaine Clapp interceded that companies are not prohibited from adding additional information that clearly states that company A would be held liable if the information was incorrect. This would then give Company B a legitimate civil suit.

Final determination is that the documents can be modified to fit the companies' needs as long as they are in accordance with the regulations.

Advertising.

Field staff were in agreement that allowing an unlicensed business to advertise would create a large amount of work for field staff. Since MDARD has already lost a case before an administrative law judge stating the pruning of trees controls pest and pulling weeds is weed control, there is a fear among MDARD field staff that unlicensed companies will misuse the document.

Tina Reynolds recommended that MDARD looks at an administrative rule change that would regulate businesses that hold themselves out for business as a pesticide applicator and require them to be licensed. Discussion ensued regarding the requirements now required for business licenses, the amount of work that non-licensed businesses advertising would cause, concern over the health and safety of the applicators as well as the uneducated consumers, and the importance of keeping up to date on current pesticide labels, regulations, etc.

Brian Rowe suggested that MDARD hold the stance that you cannot hold yourself out for business (i.e. advertising) until the regulations are changed.

Russell Ives brought up a concern regarding the wording on page 2, item 6: Should it be reworded as “Company B and/or Company A to provide...” instead of requiring both companies to provide the documentation to the customer? Brian Rowe clarified that both companies are agreeing to provide it not that both companies have to provide it. Reword to: “(fill in the blank with company name) will be the authorized agent...” Or “Company A and Company B agree that the following information will be provided to the customer...”

At this time, the general consensus of the committee is to recommend moving forward with this document once separated into Ag and Non-Ag without regulating advertising, informing the companies through trade journals, trade shows, MDARD website and move forward with a change in regulation.

The final version will be set up in two formats. Brian Rowe will draft a cover letter for the director. The sideboards will be as follows:

Reference the importance of informing customers of the licensed subcontractor and that only the licensed subcontractor may perform the pesticide application. Recommend to the director that PPPMD formalize the elements contained within the contract document by amending Regulation 637.

Elaine Clapp reminded the committee that this document is not an enforceable rule; this document is a guidance document to assist in building a case towards enforcing a rule/regulation. Under Regulation 637, Rule 12, MDARD already has provisions for transfer of services. Those provisions are identified within this document.

Brian Rowe will draft a cover letter from the committee to the director once the document is split. The document will be sent to the committee members once split and a final vote will be made at the January 17, 2014 meeting.

This document was shared at the Michigan Agricultural Aviation Association meeting and members supported the idea. Some attendees from outside the state requested copies to take home and discuss with their own state departments. Mike Schiffer thanked MDARD and the committee for their work on the document.

BED BUG HEAT TREATMENTS:

Draft minutes of the PAC subcommittee discussion were distributed and Brian Rowe reviewed the points of the discussion.

It is important to have a qualified dog and handler inspection team and that the team be certified. It is recommended that the team is certified annually by a qualified third party certifying agent. Maryland's law required certification of the team and requires a consultant's license. It is recommended that the handler has knowledge regarding structural pests in order to make recommendations for treatments; therefore, handlers should be certified in 7A as well.

The subcommittee recommends that a non-pesticide related license be issued for those persons performing pest management activities and that 2 seasons (i.e. years) of verifiable experience should be an acceptable amount of time to get a "license". Companies currently using dog/handler teams could be grandfathered in.

Russell Ives questioned whether this would be a separate license or an add-on for the current business licensing. According to Brian Rowe, the idea is to create a second license requirement. In doing so, any enforcement related to the dog/handler team would not affect the pesticide applicator business license activity.

While heat is a very effective bed bug treatment, MDARD cannot regulate it's use as it is a device and not a pesticide application. The workgroup recommends regulating some devices such as heat treatment to legitimize the use of heat treatment and place some regulatory controls on their use.

Elaine Clapp recommends that bed bug treatment be regulated to help protect the public as bed bugs and consumer protection is a public health problem, especially among seniors. Efficacy of the treatments will not be something regulated by MDARD per Brian Rowe; this is a dispute that belongs in civil court.

The subcommittee will gather one additional time to draft a formal recommendation document and bring that back to the committee for approval to make recommendation to the director. Concern was expressed over the revenue/expenditures to the MDARD for this program.

COMMITTEE REPORTS:

Pesticide Use Investigations: Gary King provided report in regards to Enforcement. There were some omissions that were not added into the main tracking system just recently discovered. Brian Rowe will provide an updated copy of the report via email to the committee. In the 3rd quarter, there were 68 complaints with 52 of those complaints being closed within one to two weeks. PPPM has a 90 day target for closing out complaints; MDARD is collectively closing cases faster. This year pesticide inspectors have handled 250-300 complaints.

MSU Pesticide Safety Education Program: John Stone reviewed the report that was prepared for the committee. According to the reports from John Stone, 25% of the people renewing pesticide certification choose to do so using recertification credits. A training schedule was distributed for those interested.

MSUE is being recognized by industry for their importance to the industry. Recently, industry provided \$1mil to support grants to pesticide safety education programs nationwide. MSUE will apply for a grant to help develop materials and become more budgetary self-sufficient.

Gary King suggested that IPM training would be a great niche for MSUE to fill with the additional revenue. Currently, PPPMD maintains a list of IPM trained individuals. MPMA does do satellite training programs for IPM. It is open for anyone that needs IPM training and attendance is recorded.

Michigan Department of Community Health: Abby Schwartz noted that extra categories of cases from national level are being reported; the actual number of occupational cases has not gone up. Currently, Abby is working on the 2012 annual report. Disinfectants are increasing in number of cases being reported. Diagnostic codes are requested from the hospital when reports are made; however in 2012 the diagnostic code for agricultural accidents was discontinued. Many of the reports come direct from poison control resulting in a larger number of homeowner disinfectant use reports.

Tina Reynolds brought up a concern voiced before regarding the role that the State and industry play in educating people regarding safe use of homeowner products as most do not consider them traditional pesticides.

West Nile virus info was prepared and has been distributed as well as being posted on the web.

SCHEDULED MEETING:

2014 meeting schedule was discussed. Proposed meeting dates are:

January 17

April 18

July 18

October 17

An email with confirmation of the dates will be sent as soon as room is reserved.

ADDITIONAL TOPICS:

Discussion is needed for Webinar recertification credits with specific attention towards:

Is the person who is taking the webinar the person who is certified?

How is the training measured in regards to understanding of materials covered?

Should there be guidelines for the webinar?

Add Webinar recertification credits to the agenda for the January 17, 2014 meeting.

ADJOURNMENT:

The meeting was adjourned at 12:05 pm.