

DRAFTMINUTES

Pesticide Control Board
Oliver Hill Sr. Building, Richmond, VA
January 21, 2010

The Pesticide Control Board (Board) met at 9:00 a.m. at the Oliver W. Hill Sr. Building, Richmond, VA. Presiding members were William C. Boshier, Jr., Chairman and Liza Fleeson, Secretary.

The following Board members were present: Dr. William Boshier; Dr. George Brown; Dr. Penelope Fenner-Crisp; Carl Garrison, III; Richard Nunnally; Robin Rinaca; Mark Tubbs; Linda Wallace; Joe Wilson; Dr. Wondi Mersie (represented by Dr. Asmare Atalay); and Dr. Alan Grant (represented by Dr. Michael Weaver). The following Board members were absent: Liz White.

The following staff members were present: Andres Alvarez; Liza Fleeson; Joe Dictor; Kathy Dictor; Vickie Rengers; Micah Raub; Jeffrey Rogers; Elaine Lidholm and Rhonda Bates.

Others present: Steven P. Jack, Assistant Attorney General; John Horsley, Terminix; Laurie Coulter and Buck Tharpe, VA Crop Production; Don Goff, Chesapeake Public Schools; Lindsay Snoddy, Albemarle County Public Schools; Nick Zetts, Telamon Corporation; Steve Chidsey, Hanover County Chief of Public Works Operations; Matt Crabbe, NEAAA; Andrea Coron and Kristin Coron, VPMA; Randy Buchanan, Virginia Mosquito Control Association; and Dr. Dini Miller and Susan Nessler, VA Tech.

CALL TO ORDER

Chairman Boshier called the meeting to order.

DETERMINATION OF A QUORUM

Chairman Boshier announced that a quorum was present.

PUBLIC COMMENT

Matt Crabbe, aerial applicator, expressed concern regarding Virginia's requirements for aerial applicators. He requested that Virginia set a standard to include an apprenticeship for actual aerial application. Chairman Boshier requested that Mr. Crabbe submit his request in writing in order to document Mr. Crabbe's specific recommendation to the Board. He also requested that Mr. Crabbe indicate in his request the name of the organization he is representing. Director Alvarez offered that staff would prepare an analysis and report to the Board at the next meeting including requirements of other states or state agencies related to apprentice programs similar to that which Mr. Crabbe was referring.

APPROVAL OF MINUTES

Mr. Wilson moved to adopt the minutes of the October 15, 2009, Board meeting. Dr. Brown seconded. The motion carried unanimously.

ROLES AND RESPONSIBILITIES OF THE PESTICIDE CONTROL BOARD

Assistant Attorney General Steven P. Jack spoke before the Board on the role and responsibilities of the Pesticide Control Board and its members. Mr. Jack discussed the general powers and duties of the board – the broadest being to adopt regulations. Other significant powers and duties of the Board include the case decision process, establishing priorities, contracting for research projects and entering into agreements with other agencies or other private industries to promote policies and enforce the provisions of the Virginia Pesticide Control Act. Mr. Jack indicated that the powers and duties of the Board are subject to the Administrative Process Act. Mr. Jack briefly discussed use of the Pesticide Control Fund. The Board does have the authority to expend funds in the execution of its powers and duties, however, the Commissioner must approve the expenditure. The fund is operated by VDACS and the Commissioner is authorized to charge administrative costs to the Pesticide Control Fund, however, may not utilize these funds for other Agency programs. The Governor and General Assembly have authority to utilize the monies in the Pesticide Control Fund. Mr. Jack entertained questions from board members. The Board indicated their desire for an informal opinion regarding the use of the pesticide funds, specifically, where does the authority for expenditure of the funds ultimately rest? Mr. Jack explained the mechanism to request an informal opinion by the Attorney General's Office.

HB 1836 – GUIDELINES FOR INTEGRATED PEST MANAGEMENT ON SCHOOL PROPERTY

Dr. Miller presented a draft of the guidelines for integrated pest management (IPM) in schools. She introduced Lindsay Snoddy, Environmental Compliance Manager of Albemarle County Public Schools, who will work on the guidelines with her. Ms. Snoddy commented that Dr. Miller helped Albemarle County with the IPM conversion process about two and a half years ago, and that it has been a very good program. Eighteen school districts practice IPM within the state. The guidelines will be forwarded to the Department of Education for review. The Board intends to review the guidelines at the April 15 meeting.

COMPLIANCE ACTIVITIES FOR THE QUARTER

Mr. Dictor provided a summary of enforcement activities for the quarter.

Mr. Tubbs, Chair of the Enforcement Committee, presented one case to the Board for approval where the hearing officer adjusted the penalty greater than 25%. In case 38339 involving Reliable Lawn Care, Mr. Tubbs moved to accept the hearing officer's recommendation to reduce the \$200 civil penalty to \$120. Mr. Nunnally seconded. The motion carried unanimously.

UPDATE ON STATUS OF REGULATORY ACTIONS

Ms. Dictor reported that the NOIRA for the Virginia Pesticide Container/Containment regulation was published in the Virginia Register on December 7, 2009, and the comment period ended January 6, 2010. No comments were received.

CERTIFICATION EXEMPTION FOR GOVERNMENT EMPLOYEES

Ms. Dictor presented the request for exemption from certification for certain government applicators by Hanover County and the Central Virginia Waste Management Authority. Both specifically requested an exemption from certification for employees utilizing 25(b) pesticides for personal protection. This petition for rulemaking was posted on the Virginia Regulatory Town Hall and published in the Virginia Register for comments. The Board has the option to grant or deny the petitioners' request. Staff recommended granting the current petition as it stands and authorizing staff to develop language to amend the regulation to expand the scope beyond the petition to include more pesticides.

Ms. Rinaca moved that the Pesticide Control Board grant the petitioners' request and that the Board direct staff to post this decision on the Virginia Regulatory Town Hall and publish it in the Virginia Register. Mr. Wilson seconded. Motion carried. One abstention.

Mr. Nunnally moved that the Pesticide Control Board direct staff to develop the language that would amend 2 VAC 20-51-60 to allow exemption from certification for certain government employees who utilize FIFRA 25(b) minimum risk pesticide products or other properly labeled general use pesticides when the only intended use of those products is to prevent immediate personal harm from stinging or biting insects. Dr. Brown seconded. Motion carried. One abstention.

CONTAINER AND CONTAINMENT REGULATIONS

Mrs. Dictor reported that the Notice of Intended Regulatory Action (NOIRA) for this regulation was published in the Virginia Register on December 7, 2009. The comment period for this NOIRA was closed on January 6, 2010. Mrs. Dictor reported that no comments were received. Staff will now begin work on preparation of the specific regulatory language. When that is developed it will be brought to the Board for consideration at a future meeting.

MEMORANDUM OF AGREEMENTS WITH VPI&SU FOR PESTICIDE APPLICATOR TRAINING, TRAINING MANUALS AND CERTIFICATION

Ms. Fleeson and Dr. Weaver presented an overview of the Memorandum of Agreements (MOA) between Virginia Tech, Virginia Pesticide Control Board and the Virginia Department of Agriculture and Consumer Services. The MOAs were initiated in 2000. The current MOAs comprise three separate agreements for a three-year period – *Pesticide Applicator Training, Pesticide Applicator Training Manuals and Pesticide Applicator Certification*. The current total funding level is \$265,000 per year and payment is made quarterly on a cost reimbursement basis. Dr. Weaver elaborated on the use of the funds, which include personnel; media production; train-the-trainer; private applicator courses; online courses and exam development.

STATUS OF PESTICIDE APPLICATOR SAFETY TRAINING PROGRAM

Dr. Weaver and Susan Nessler provided updates on the status of manual development and on the pesticide applicator training programs. Dr. Weaver reported that the Pesticide Safety Education In-Service Workshop planning committee will meet again this spring to plan the 2010 workshop. They have signed contracts with the Hotel Roanoke to meet there September 8-9, 2010 and September 7-8, 2011. He added that by signing the contracts at this time they were able to reduce the cost significantly by holding rates at current per diem and facilities pricing. He reported that a major revision of the VTPP website – online was completed this quarter.

Ms. Nessler gave a summary of the progress made producing manuals this quarter. Seven manuals were reprinted, three manuals are in progress and two exams were released. She noted that a two-page manual insert “How to Pass the Certification Exam” will be included in all training manuals, to better prepare applicators to pass exams. It will appear in the *Wood Destroying Organisms* manual which is the next to be published.

STRATEGIC PLANNING SESSION

Chairman Boshier appointed Joe Wilson, Robin Rinaca and Richard Nunnally to serve as a strategic planning committee. The first planning session is scheduled to coincide with the April board meeting. Joe Wilson suggested that the Board utilize a mediator during the strategic planning session. Dr. Boshier requested that the Board provide him with any suggestions for structured facilitation. Dr. Boshier reiterated the purpose of the upcoming session and his desire for the Board to determine what activities the Board wishes to undertake in the future within the parameters established by the Virginia Pesticide Control Act.

EXECUTIVE SECRETARY’S REPORT

Ms. Fleeson reported that a temporary employee has been hired to assist in the Certification, Licensure, Registration and Training unit of Pesticides. The hiring packet for the pesticide investigator position in Harrisonburg has been sent forward. She mentioned two VDACS merit awards presented to OPS staff. The team award went to the enforcement investigators as well as Rhonda Bates and Barbara Elliotte for their work on the container containment program. The managerial/supervisory award went to Doug Edwards for motivating his staff, providing excellent customer service and his part in the container containment program. She noted that the 2009 national issues report has been condensed and will start fresh in 2010 with up-to-date issues. Finally, she stated that Micah Raub, Worker Protection and Product Registration Coordinator, attended the Agricultural Medicine Course for Occupational & Environmental Health for Rural Health Professionals which covers agricultural pesticides and health, use of personal protective equipment, migrant worker health issues, and effective pesticide outreach and education. Micah successfully passed two examinations at the end of the course.

DIRECTOR'S REPORT

Mr. Alvarez reported that Commissioner Todd Haymore has been appointed Secretary of Agriculture and Forestry and that Deputy Commissioner Don Blankenship has retired. There are three bills of interest to the Board – Senate Bill 197 which expands on the IPM in schools concept; Senate Bill 582 which deals with label requirements on fertilizers; and Senate Bill 583 which regulates the application of fertilizer and pesticide on impervious surfaces.

CHAIRMAN'S REPORT

Chairman Boshier requested that letters of recognition from the Board be sent to OPS award recipients. He also requested that any bills affecting the Board be communicated to them prior to the next meeting.

ADJOURNMENT

Meeting adjourned at 12:56 p.m.

(For further detail, taped minutes of the meeting are on file at VDACS and can be accessed by calling 804/225-2223.)