

FINAL MINUTES

Virginia Pesticide Control Board
Oliver W. Hill, Sr. Building, Richmond
January 15, 2009

The Pesticide Control Board met at 9:00 a.m. at the Oliver W. Hill, Sr. Building, Richmond, VA. Presiding members were Donald Fritz, Chairman and Liza Fleeson, Secretary.

The following Board members were present: Dr. William Boshier; Dr. George Brown; Donald Fritz; Richard Nunnally; Robin Rinaca; Liz White and Joe Wilson. The following Board members were absent: Carl Garrison, III; Mark Tubbs; Linda Wallace; Dr. Alma C. Hobbs; and Dr. Sharron Quisenberry (represented by Dr. Michael Weaver).

The following staff members were present: Liza Fleeson; Don Blankenship; Douglas Edwards; Joe Dictor; Kathy Dictor; Micah Raub; Marion Horsley; and Rhonda Bates.

Others present: Jack Horsley, Terminix; Karen Boniface, BASF; Jeff Johnson, Andrea Coron and Kristin Coron, VPMA; Laurie Coulter, Dow AgroScience; Jim Fredericks, Home Paramount; Gena Lupini, Loyal Termite and Pest Control; Wayne Surles, WS Associates; Jason Leonard, Forshaw Distribution; Jim Lincoln, Orkin, Inc.; Pete Smith, Dodson Brothers Exterminating Company; Beth Duncan, Exterminating Unlimited, Inc.; Hilary 'Buz' Jones, III, Absolute Pest; George Schulz, Better Termite & Pest Control; Don Lenegar, ABC Termite and Pest Control; and Susan Nessler, VA Tech.

CALL TO ORDER

Chairman Fritz called the meeting to order.

DETERMINATION OF A QUORUM

Chairman Fritz announced that a quorum was present.

PUBLIC COMMENT

Laurie Coulter, VACPA, voiced concerns regarding the pesticide applicator training manual publication timeframes and proctoring exams. She requested, on behalf of VACPA, that the DMV and VDACS have a formal memorandum of agreement whereby the most current exams are available to the public. The VACPA Board ask that the exams for the most current manual be available at DMV within nine months of being completed and available for purchase by the public.

APPROVAL OF MINUTES

Ms. White moved to adopt the minutes of the October 16, 2008, Board meeting. Dr. Brown seconded. The motion carried unanimously.

COMPLIANCE ACTIVITIES FOR THE QUARTER

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

Ms. Rinaca presented case 32290-Graham's Exterminating Services where the hearing officer reduced the civil penalty from \$1200 to \$640. Because the penalty was adjusted more than 25%, the action requires consideration by the Board. Ms. Rinaca moved to accept the recommendation of the hearing officer. Dr. Brown seconded. The motion carried unanimously.

MANUAL & EXAM DEVELOPMENT

Ms. Nessler provided the Board with an in-depth presentation on pesticide applicator training manual and exam development. For each category manual, a committee (authors, contributors, and/or reviewers) identifies the target audience, core concepts, objectives, competency skills, content, and scope. Each author or contributor is informed that the manual will dictate exam content. The authors review all exam questions after the manual is complete and first draft of the exam is developed. Ms. Nessler outlined seven steps in the exam production, noting that the time required for each step varies considerably, depending on manual length, the degree to which the manual changed, the condition of the current exam, and the workload of the people involved in each step. Board members questioned if some aspects of the process could be expedited. Chairman Fritz directed staff to identify possible glitches in steps one, two, three and seven and present to the Board at the April meeting.

UPDATE ON STATUS OF REGULATORY ACTIONS

Ms. Dictor discussed 'housekeeping' changes to four regulations affected by title changes from 3.1 to 3.2 when the laws of Virginia were recodified. Staff recommends that the Board adopt the changes.

Dr. Brown moved that the Pesticide Control Board, through an exempt regulatory process, adopt the amendments to Code citations in 2 VAC 20-20 (the Enforcement Regulation), 2 VAC 20-30 (the Fee Regulation), 2 VAC 20-40 (the Pesticide Business License Regulation), and 2 VAC 20-51 (the Certification Regulation), as presented by staff, and that the Board direct staff to take any and all actions necessary to give effect to these motions. Ms. White seconded. Motion carried unanimously.

PRIORITIZED PROJECTS FOR 2009

Ms. Fleeson presented a comprehensive list of potential projects for use of pesticide funds in 2009. In priority order the projects are: 1) pre-treatment termiticide soil residue standards; 2) outreach to lawn and landscape industry; and 3) pesticide use survey.

Mr. Wilson moved that the Board support the projects presented by staff. Mr. Nunnally seconded. Motion carried unanimously.

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 highlighted the impact data from the 15th annual Pesticide Safety Education In-Service Workshop held in October 2008. He pointed to the increase in users enrolled in the registered technician (RT) online course. They can practice for the RT exam by completing 12 different tests corresponding to chapters in the Virginia Core Manual.

Ms. Nessler reported that one training manual was reprinted and that several new manuals have been completed. The Core manual has been revised and the first draft of revised certification exam is under way.

EXECUTIVE SECRETARY'S REPORT

Ms. Fleeson stated that the two vacant positions in OPS will not be filled in the near future. The federal container containment regulations go into effect the first half of 2009. OPS has conducted in-house training on requirements of the container containment regulations which were attended by field investigators, as well as members from EPA Region III. The field staff has begun compliance assistance visits with those facilities subject to containment regulations. All past-due civil penalties that remain uncollected, totaling \$75,500, have been submitted to the Department of Taxation debt set-off program.

Ms. Fleeson shared with the Board a letter received in OPS from complainant, Mr. Paul Vanzandt, regarding two specific cases that OPS processed. In case 31560 involving a misuse at a golf course, Mr. Vanzandt alleged he was exposed to pesticide when pesticide applied to tees hadn't dried when play commenced. After investigating the complaint, a civil penalty was issued to the golf course, the fine was paid and the case was closed. Mr. Vanzandt believed that the applicator in case 31560 failed to comply with the provisions of 2 VAC 20-51-170 of the Regulations Pursuant to the Virginia Pesticide Control Act by not reporting this as an accident or incident. OPS staff concluded that the pesticide application did not meet the intent of this portion of the regulations and did not require the applicator to submit such a report.

Ms. White moved that the Board affirm the action taken in case 31560 by OPS staff in accordance with the Pesticide Control Act. Mr. Wilson seconded. Motion carried unanimously.

In case 33983, Mr. Vanzandt again alleged that after a pesticide application, play commenced on the golf course without allowing the tees to dry and that both the investigative and analysis effort put forth from VDACS was insufficient. This case is under review by the Environmental Protection Agency and its results will be sent to Mr. Vanzandt.

DEPUTY COMMISSIONER'S REPORT

Mr. Blankenship reported that the General Assembly session has begun and one of the important items VDACS is dealing with is the budget with a 3.2 million dollar budget reduction for FY 2010, in addition to a 3.6 million dollar reduction for the current fiscal year. The largest reduction category is in personnel, where VDACS is eliminating 15 vacant positions; laid off four persons; and transferred ten positions from general fund to non-general fund programs. Motor fuel formulation has impacted VDACS regulations and a bill has been submitted to incorporate the national standards. He stated that an Ag impact study resulted in an updated Ag facts brochure, which he distributed to all Board members.

NEW BUSINESS

Mr. Wilson stated that HB 1836 introduced by Delegate David J. Toscano was referred to the Committee on Education. This bill directs the Department of Education to make information available to school boards on integrated pest management programs that address the application of chemical pesticides and other pest control measures on school property. Mr. Wilson's concern is the Board should be working with the Committee. Ms. Fleeson informed all that an amendment to the language in the bill has been submitted and the Board will be provided a copy.

ADJOURNMENT

Meeting adjourned at 12.29 p.m.

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