

**MINUTES
PESTICIDE CONTROL BOARD MEETING
APRIL 18, 2002**

The Pesticide Control Board meeting was held at 9:00 a.m. at the Eastern Shore Agricultural Research & Extension Center in Painter, VA, Donald E. Fritz, Chairman, being in the chair and the Secretary being present.

The following Board members were present: Donald Fritz; Dr. John Munday, Jr.; Joseph Wilson; Lynn Gayle; Dr. Robert Satcher, Sr.; Joel Artman; and Scott Mayausky. The following Board members were absent: Thomas Saunders; James Garner; Dr. William Boshier, Jr.; Dr. Lorenza Lyons (represented by Dr. Asmare Atalay); and Dr. Louis Swiger (represented by Dr. Michael Weaver).

The following staff members were present: J. Carlton Courter, III; Donald Blankenship; Markos Mulugeta; Dr. Donald Butts; Dr. Marvin Lawson; Marshall Trammell; Daniel Schweitzer; Gary Young and Rhonda Bates.

Others present: Sherri Smith and Julie Jones, VA Health & Environment Project; Liz White, VA Horticulture Society; and Dana Beegle, VA Tech.

CALL TO ORDER

Chairman Fritz called the meeting to order.

DETERMINATION OF A QUORUM

Following the roll call, Chairman Fritz announced that a quorum was present.

APPROVAL OF MINUTES

Dr. Munday moved to adopt the minutes of the January 17, 2002 Board meeting. Mr. Artman seconded. The motion carried unanimously.

PUBLIC COMMENT PERIOD

Sherrri Smith, VA Health & Environment Project, complimented the Board on the enlightening and educational tour of the Eastern Shore and thanked all for allowing her to come along. (Members of the Board and staff visited Taylor-Fulton Peerless Farm, Cherrystone Aqua Farms and saw a Demonstration of Aerial Application Equipment on April 17, 2002).

COMPLIANCE/ENFORCEMENT UPDATE

Dr. Lawson summarized the compliance activities for the past quarter. He reported that twenty-three cases had been reviewed, resulting in the issuance of one cautionary letter, eight warning letters and 30 civil penalties totaling \$18,650.

Four Fact-Finding Conferences were held during this time period. In three of the cases, the hearing officer upheld the original civil penalty, however, in the fourth case, the hearing officer reduced the civil penalty. Since this reduction was less than 25%, further action by the Board was not required.

James River Grounds Management, Inc. has requested an adjudicative conference. A conference hearing officer from the list maintained by the Supreme Court of Virginia has been obtained and a conference is scheduled for May 7, 2002 in Richmond.

Dr. Lawson presented a compliance trend analysis of the last three years from 1999 through 2001.

STATUS OF PESTICIDE APPLICATOR SAFETY TRAINING PROGRAM

Dr. Weaver gave the floor to Dana Beegle who presented the pesticide applicator training manual development update to the Board. Ms. Beegle referred Board members to the status report overview handout. She reported that both the *Vertebrate* and *Aquatic Pest Control* manuals have been completed, printed and the final copies are in the distribution center. The exams are ready and the PKATS version of the exams are almost complete.

The *Fumigation (Non-ag)* manual is completed, but awaiting final printing; and VA Tech has not yet received the draft of the *Fumigation (Soil & Ag)* manual. Ms. Beegle circulated the *Aerial Pest Control* final draft among the Board members.

Dr. Weaver reported that the 2002 Train-the-Trainer Workshop will be held on November 6 and 7. He stated that VA Tech, EPA and VDACS will conduct a training course for investigators in Roanoke, September 23-26, 2002.

COMMISSIONER/DEPUTY COMMISSIONER REPORTS

Commissioner Courter expressed his thanks when congratulated by Chairman Fritz on his re-appointment. He reported that he's been busy with the avian influenza and the devastating impact it has had on Virginia's poultry industry.

The Commissioner reported on VDACS' recent budget situation. The General Assembly reduced the planned 7% and 8% cuts for FY03 and FY04, respectively, to a 4% reduction in each of the fiscal years. However, the General Assembly approved the utilization of approximately \$960,000 of pesticide funds to balance the Department's budget in the first year of the biennium (FY03).

Commissioner Courter introduced Markos Mulugeta, VDACS' new Deputy Commissioner, to the Board.

Mr. Blankenship reported that cuts/layoffs still face VDACS in the second year biennium. The funds from the pesticide product registration will make up the reduction in the first year only. Mr. Blankenship stated that there was no legislation impacting VDACS during the legislative session. He reported that Virginia received about \$1.1 million in a USDA block grant program directed toward promoting specialty crops. The VA grown promotion in July and promoting VA's apples in Mexico are among some of the projects under this grant.

PROGRAM MANAGER'S REPORT

Dr. Lawson informed the Board that recognition plaques had been sent to Jewel Brown Turpin and Sherry Shelton.

He reported that in response to the proposed Spray Drift PR Notice from EPA, a letter was developed and sent incorporating comments received from some Board members. He noted that the definition of spray drift in the PR Notice is very important. EPA has received a large number of comments on this issue.

Last year the Ninth Circuit Court indicated that pesticides applied to a body of water is covered under the Clean Water Act and a NPDES permit is required. EPA said that the Ninth Circuit Court decision affected the ninth circuit only, not the other circuits in the U.S. Last month, EPA issued a policy decision stating that a NPDES permit is not required when applying herbicide to an irrigation ditch to maintain the outflow. According to EPA, aquatic applications of herbicides in accordance with the label will be regulated under FIFRA and not the Clean Water Act. This decision was written in very narrow language, so other issues haven't been addressed. OPS will have to continue to monitor this.

Dr. Lawson stated that in an effort to explain certification requirements to the general public, OPS has developed informational posters to display at points-of-sale in stores that stock lawn care supplies. Pesticide Investigators took a sample poster along in their daily activities and found the response from store managers to be positive. Several members of the Board offered suggestions to enhance the effectiveness of the poster.

Dr. Lawson reported that there are concerns regarding the integrity of the written pesticide exams provided by VDACS. Maybe the Board will consider testing entirely through PKATS.

Dr. Lawson informed the Board that OPS will host the EPA Region III Inspectors Workshop at the Hotel Roanoke in Roanoke, VA, October 7-11, 2002. Also, VA Tech will host a PIRT course for pesticide investigators at the Hotel Roanoke in Roanoke, VA, September 23-26, 2002.

Dr. Lawson reported that there are concerns regarding the late submission and incomplete packaging of Section 18 applications. OPS is working on getting the word out to agricultural producers about the importance of timely submission.

Dr. Miller submitted the first progress report on the IPM in schools project.

CHAIRPERSON'S REPORT

On behalf of the Board, Chairman Fritz thanked Mr. Gayle for the informative tour of his tomato plasticulture farm and for the gift baskets he provided for everyone.

At the January Board meeting, Chairman Fritz tasked staff to develop a strategy for re-establishing the enforcement committee. Chairman Fritz stated that Board members should become more enlightened in helping to manage the use of pesticides in the state of Virginia. One way of accomplishing this is by re-establishing the enforcement committee to give oversight on enforcement actions. Staff developed an outline detailing the thought process and the procedure to guide the committee. The committee members will be rotated annually, giving all Board members deeper exposure to what staff deals with. Staff will provide each member of the committee copies of the complete file for all enforcement actions that require concurrence of the Board and copies of summaries of all other enforcement actions. The recommendations for any changes to actions taken to civil penalties will be the committee's responsibility. The committee will be representative of the different chairs of the Board. Chairman Fritz appointed Dr. Munday, Mr. Wilson and Mr. Saunders to the first committee, with Dr. Munday chairing the committee.

Dr. Munday had concerns regarding scheduling prior to the Board meeting. Dr. Lawson offered to provide a laptop and portable printer to assist the committee with their summary of cases for distribution to Board members.

Chairman Fritz asked staff to report to the Board in July on what kind of reserve fund will make the Board whole over the next five years.

Chairman Fritz recommended that Dan Schweitzer show the efficacy of continuing the pesticide disposal program at the October Board meeting.

ADJOURNMENT

Meeting adjourned at 12:17 p.m.

(For further detail, taped minutes of the meeting are on file at VDACS and can be accessed by calling 804/371-6558).