

DRAFT MINUTES

Pesticide Control Board
Oliver Hill Building, Richmond, Va
July 16, 2009

The Pesticide Control Board met at 9:00 a.m. at the Oliver W. Hill 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; Carl Garrison, III; Richard Nunnally; Robin Rinaca; Mark Tubbs; Linda Wallace; Liz White; Joe Wilson; Dr. Alma C. Hobbs (represented by Dr. Asmare Atalay); and Dr. Loke T. Lok (represented by Dr. Michael Weaver).

The following staff members were present: Donald G. Blankenship; Liza Fleeson; Douglas Edwards; Joe Dictor; Kathy Dictor; Vickie Rengers; Elaine Lidholm; Randi Clifford and Rhonda Bates.

Others present: Jack Horsley, Terminix; Laurie Coulter, Buck Tharpe, and Danny Wayland, VA Crop Production; Tony Banks, VA Farm Bureau; Don Goff, Chesapeake Public Schools; Marlene Larios, Telamon Corporation; Marshall Trammell; Wayne Surles, WS Associates; Steve Chidsey, Hanover County Chief of Public Works Operations; and Susan Nessler, VA Tech.

CALL TO ORDER

Chairman Boshier called the meeting to order.

DETERMINATION OF A QUORUM

As newly appointed Chairman, Dr. Boshier requested that each Board member give a brief background of himself and the seat he represents, after which Chairman Boshier announced that a quorum was present.

PUBLIC COMMENT

Danny Wayland, VA Crop Production, stated that his organization is made up of educators, commercial applicators, dealers, technicians and distributors, who all take their role seriously and thus wanted to thank the Board for the tough task they perform. He extended an invitation to the Board to attend their annual meeting January 25-27, 2010 at the Holiday Inn Koger Center.

Steve Chidsey, Hanover County Chief of Public Works Operations, referenced a letter from Hanover County Administrator Cecil R. Harris, Jr., requesting consideration of a regulation to exempt certain government employees who utilize only 25(b) exempt products from the requirements for certification under the Virginia Pesticide Control Act

in emergency situations where there is an imminent personal or public threat from a pest.

APPROVAL OF MINUTES

Dr. Brown moved to adopt the minutes of the April 16, 2009, Board meeting. Ms. White seconded. The motion carried unanimously.

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 35032 involving Asplundh Tree Expert Company, Mr. Tubbs moved to accept the hearing officer's recommendation to reduce the \$1500 civil penalty to \$800. Dr. Brown seconded. The motion carried unanimously.

CONTAINER CONTAINMENT COMPLIANCE ASSISTANCE ACTIVITIES

Mr. Edwards updated the Board on the federal container containment compliance activities over the last few months. Letters were sent to 53 facilities identified as being subject to the federal containment regulations offering to conduct a compliance assistance visit to determine the facility's current compliance status with the federal regulations. Of the 53 facilities visited, five facilities were found to be in full compliance with federal regulations. Post assessment letters were sent to 48 establishments outlining deficiencies and inspection/management requirements.

UPDATE ON STATUS OF REGULATORY ACTIONS

Ms. Fleeson provided information regarding the options available to those states without their own container regulations. States have three options: 1) enforce the federal regulations, using federal credentials; 2) incorporate federal regulations by reference into their own laws; or 3) promulgate new regulations that mirror the federal regulations. Much discussion ensued. Ms. Fleeson requested that the Board authorize staff to file with the Registrar of Regulations for publication in the Register a Notice of Intended Regulatory Action (NOIRA) informing the public of the Board's intention to promulgate this new regulation. Ms. Rinaca moved that the Pesticide Control Board authorize staff to take any and all actions necessary to file, on behalf of the Board, a Notice of Intended Regulatory Action (NOIRA) concerning a new regulation that will be in keeping with the federal Container Containment regulations as presented today. Dr. Brown seconded. The motion carried unanimously.

TERMITICIDE RESIDUE STANDARDS PROJECT

Mr. Edwards addressed questions raised at the April meeting regarding the outline of a potential termiticide residue standards project including what other states doing and

how have they established their standards. To address this, Staff sent a brief survey to the American Association of Pesticide Control Officials (AAPCO) with questions such as do you have soil residue standards in place; if so, do you use those standards as action points for compliance; will you share them with us and explain how you came about creating those levels? Of those that responded as having standards, Nebraska, Delaware and Virginia subscribe to ASPCRO standards. Mississippi and Nevada use a presence/absence standard. Oklahoma and North Carolina have standards for all soil applied termiticides based upon information from the registrant of the expected residue levels at 180 days following a pretreatment application at full label rates. South Carolina developed a standard based on a mathematical equation which takes into account the given volume of soil, volume of termiticide applied and the percentage of active ingredient in solution. Georgia uses a ratio based on the percent of active ingredient in solution applied and California is currently drafting standards. In summation, none of the states are basing action points on residue analysis of soil samples.

Another issue raised by the Board was soil type. In the original research concept presented at the April meeting, staff proposed conducting the sampling of four sites in order to account for various soil types. Subsequent research revealed that this concept is invalid because there are at least 100 different soil types in Virginia and all soil treated in these applications is disturbed.

Staff requested that the Board consider authorizing staff to request specific proposals for this research project. After much discussion, Mr. Wilson moved to table the project pending research of additional information from the registrants. Ms. Rinaca seconded. The motion carried unanimously. Staff was instructed to contact all registrants of currently registered termiticides in Virginia requesting information regarding the expected level of soil residues at 180 days after pre-construction application at full label rates.

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 memorandum of agreement with the Board and VDACS has been renewed and that the Pesticide Safety Education In-Service Workshop will be held again this year in Roanoke, VA.

Ms. Nessler reported that four manuals were reprinted this quarter. The Core manual was revised 2009, printed and sent to extension distribution center in June. Dr. Weaver reported that since early Spring, training manuals may be ordered through a new online ordering system. The old system will be phased out.

EXECUTIVE SECRETARY'S REPORT

Ms. Fleeson stated that two vacant positions have been filled in OPS. She introduced Sheniqua Watson, who was promoted to Certification Specialist, and stated that Jeffrey Rogers was promoted to the Environmental Program Planner position. Ms. Fleeson provided the Board copies of a letter from the Board Chair to VDACS Commissioner Haymore communicating its opposition to H.R. 875: Food Safety Modernization Act of 2009. She directed the Board's attention to two other letters. One letter was from Hanover County requesting exemption from certification of employees who utilize 25(b) products. The Board requested that staff review the request and at the October meeting provide the Board implications of such an exemption. The other letter was from All Seasons Grounds Management requesting training and testing materials in Spanish. The Board requested that staff draft a letter on its behalf stating the Board's long-held position that as the EPA accepted labels are in English, that manuals and exams are also in English. Finally, Ms. Fleeson provided a summary of FY2008-2010 Biennium Budget Reductions for VDACS.

DEPUTY COMMISSIONER'S REPORT

Mr. Blankenship reported that the Agency is working on budget reductions again. He distributed VA Grown brochures emphasizing the interactive web site printed on the front of the brochures. He also reported that fire ant quarantine has been issued for eleven counties in Virginia. Ms. Fleeson added that bedbugs are an emerging national issue.

NEW BUSINESS

Ms. White recommended drafting a resolution acknowledging Don Fritz's leadership and service to the Pesticide Control Board.

ADJOURNMENT

Meeting adjourned at 12:35 p.m.

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