

**FINAL MINUTES  
PESTICIDE CONTROL BOARD MEETING  
JULY 17, 2003**

The Pesticide Control Board meeting was held at 9:00 a.m. in the Washington Building, Richmond, VA, Donald Fritz, Chairman, being in the chair, and the Secretary being present.

The following Board members were present: Donald Fritz; Scott Mayausky; Joseph Wilson; James Garner; Dr. John Munday, Jr.; and Mark Tubbs. The following Board members were absent: Dr. William Bosher; Thomas Saunders; Lynn Gayle; Dr. Lorenza Lyons (represented by Dr. Asmare Atalay); and Gregory N. Brown (represented by Dr. Michael Weaver).

The following staff members were present: Dr. Marvin Lawson; Daniel Schweitzer; Marshall Trammell; Liza Fleeson; Carlton Courter; Robert Bailey; Anton Goodwyn; Kathy Dictor; Reba Gilliam; Bobbie Lee; Marion Horsley; and Rhonda Bates.

Others present: Liz White, VA Horticulture Society; Billy Walls, Consultant; Laurie Coulter, Dow AgroSciences; Don Goff, Chesapeake Public Schools; John Curry, Orkin; Sam Hamilton, VA Agribusiness Council; Sherri Smith and Julie Jones, VA Health & Environment Project; Joseph Dodson; and Dana Beegle, VA Tech.

**CALL TO ORDER**

Chairman Fritz called the meeting to order.

**DETERMINATION OF A QUORUM**

Chairman Fritz announced that a quorum was present.

**APPROVAL OF MINUTES**

Mr. Wilson moved to adopt the minutes of the April 17, 2003 Board meeting. Dr. Munday seconded. The motion carried unanimously.

**PROGRESS REPORT ON SCHOOL IPM TRAINING**

Marshall Trammell presented the progress report in the absence of Dr. Dini Miller.

**STATUS OF PESTICIDE APPLICATOR SAFETY TRAINING PROGRAM**

Dr. Weaver and Dana Beegle provided an update on the status of the manual development and pesticide applicator training programs.

**CRITERIA FOR REGISTERED TECHNICIAN EXAM PROCTORSHIP**

Mark Tubbs reported the findings and recommendations of the ad hoc committee appointed to explore the problems in the registered technician proctor program.

After a lengthy discussion the Board voted on the four recommendations presented by the committee.

Mr. Tubbs moved that effective immediately, no new proctors be authorized. Mr. Wilson seconded. The motion carried unanimously.

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Mr. Tubbs moved that proctors who have not administered an exam within the past 12 months be removed from the list of authorized proctors and all examination materials be retrieved from these proctors. Dr. Munday seconded. The motion carried unanimously.

Mr. Tubbs moved that staff explore options for expanding testing opportunities. Mr. Wilson seconded. The motion carried unanimously.

Mr. Tubbs moved that staff begin the process of amending the Pesticide Applicator Certification Regulation, 2 VAC 20-51. Among other appropriate and necessary amendments, the Board specifically wishes to repeal §2 VAC 20-51-50 B. which permits commercial applicators to apply for authorization to proctor the registered technician exam. Mr. Garner seconded. The motion carried unanimously.

### **AMENDMENTS TO 2 VAC 20-40, RULES AND REGULATIONS GOVERNING LICENSING OF PESTICIDE BUSINESSES OPERATING UNDER THE AUTHORITY OF VIRGINIA PESTICIDE CONTROL ACT**

Daniel Schweitzer reported that the Attorney General's Office (AG) had advised staff that the amendment to 2 VAC 20-40-70 was in conflict with 2 VAC 20-51-210 in regards to record keeping requirements for commercial applicators not for hire and that the AG was not in a position to issue a letter of assurance for 2 VAC 20-40. Staff recommended amending 2 VAC 20-40-70 to require that pesticide businesses keep records of all pesticide applications. Approval was required from the Board to proceed with filing the proposed regulations.

It was moved by Mr. Garner, seconded by Mr. Tubbs and passed unanimously that staff proceed with the proposed amendments as discussed to 2 VAC 20-40, *Rules and Regulations Governing Licensing of Pesticide Businesses Operating Under Authority of the Department of Agriculture and Consumer Services Operating Under the Authority of the Virginia Pesticide Control Act* and file with the Virginia Registrar of Regulations and with any other entity, any and all necessary regulatory documents related to amending such regulation.

### **DISCUSSION OF PESTICIDE PROGRAM BUDGET**

Dr. Lawson provided an update on the fiscal outlook of the pesticide program. Chairman Fritz directed staff to present several budget scenarios at the January 2004 meeting. Mr. Garner suggested that staff explore moving fees established by the Board from the regulatory process to the statutes/codes.

### **ENFORCEMENT ACTIVITIES FOR THE QUARTER**

Liza Fleeson provided a brief summary of enforcement activities for the quarter.

Ms. Fleeson directed the Board to a handout of a draft revision of the *Administrative Procedure for Processing Violations For Civil Penalty Assessment and Actions on Certificates, Licenses, and Registrations* which required Board approval. Mr. Garner moved to accept the revisions as presented. Mr. Mayausky seconded. The motion carried unanimously.

Chairman Fritz appointed three new members to the Enforcement Committee – Scott Mayausky, Chair; James Garner; and Mark Tubbs. He thanked Dr. John Munday, Joe Wilson, and Thomas Saunders for a job well done during their time as committee members.

### **DISCUSSION OF CIVIL PENALTY COLLECTION PROCEDURES**

In an ongoing effort to collect past-due civil penalties, Robert Bailey presented a brief overview of the current collection procedure and staff's proposed changes. Staff recommended that the Board consider adopting the proposed guidelines for collecting past-due civil penalties once the state collections process has been exhausted. Mr. Wilson moved that staff send notices of suspension of license to firms/individuals if the civil penalty is 60 days past due and not in the appeal process. Dr. Munday seconded. The motion carried unanimously. Mr. Wilson also suggested that staff explore advertising suspensions in the form of a legal notice.

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Dr. Munday moved that staff insert in the notice of violation the sentence "Please note that Section 3.1-249.63(D), Code of Virginia (1950), as amended, requires that your license, or your applicator certificate, or both, be suspended if this civil penalty is not paid within 60 days. Failure to pay this civil penalty within 60 days will result in the automatic suspension of your license and/or your applicator certification by this office." Dr. Munday further moved that the Board authorize staff to reinstate any certificate or business license upon which such civil penalty has been paid in full. Mr. Mayausky seconded. The motion carried unanimously.

### **COMMISSIONER/DEPUTY COMMISSIONER REPORT**

Commissioner Courter reported that Dr. Lawson was promoted to Director of the Division of Consumer Protection and that his former position as Program Manager in the Office of Pesticide Services has been advertised and closed.

### **PROGRAM MANAGER'S REPORT**

Dr. Lawson introduced to the Board, Anton Goodwyn, OPS' Portsmouth Pesticide Investigator.

Dr. Lawson reported that EPA has been asked to restore funding to the safety education program. He stated that there have been some administration changes at EPA, notably the appointment of Steve Johnson as Acting Deputy Administrator, who came up through the pesticide ranks – Office of Pesticide Programs. Dr. Lawson directed attention to copies of EPA guidance that addresses conflict between FIFRA and the Clean Water Act. This guidance will be published in the federal register for public comment and is subject to change.

Dr. Lawson stated that David Boose has been hospitalized, is now home and back at work.

OPS hosted a visit, at the request of EPA, of pesticide control officials from Central America and Peru at Village Farms and Ingleside Nursery.

A public hearing regarding fee regulations will be held during the October Board meeting in Fredericksburg.

### **CHAIRPERSON'S REPORT**

Chairman Fritz reported that Ruth Brown, Health Manager, Rural Family Development Program of the VA Council of Churches, has been appointed to the Board replacing Dr. Robert Satcher, Sr. Dr. William Boshier and Mark Tubbs were both reappointed to the Board.

### **ADJOURNMENT**

Meeting adjourned at 12:45 p.m.

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