

FINAL MINUTES

Pesticide Control Board
Oliver Hill Building, Richmond, VA
April 16, 2009

The Pesticide Control Board met at 9:00 a.m. at the Oliver W. Hill 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; Mark Tubbs; Linda Wallace; Liz White; Joe Wilson; Dr. Alma C. Hobbs (represented by Dr. Asmare Atalay); and Dr. Sharron Quisenberry (represented by Dr. Michael Weaver). The following Board members were absent: Carl Garrison, III.

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

Others present: Jack Horsley, Terminix; Laurie Coulter, VA Crop Production; Jim Fredericks, Home Paramount; Tony Banks, VA Farm Bureau; Don Goff and Lamar Seadrow, Chesapeake Public Schools; David Boose, Pestmasters; Marlene Larios and Luis Coral, Telamon Corporation; Katie Frazier, VA Agribusiness Council; Lin Diacont, VA Green Industry Council; and Susan Nessler, VA Tech.

CALL TO ORDER

Chairman Fritz called the meeting to order.

DETERMINATION OF A QUORUM

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

PUBLIC COMMENT

Lin Diacont, VA Green Industry Council, spoke regarding unlicensed applicators in the lawn care industry noting the potential for that number to increase greatly with the downturn in the economy. He stated that the industry wanted to work with the Board in reaching those unlicensed persons so that the industry can maintain its professionalism.

APPROVAL OF MINUTES

Ms. White moved to adopt the minutes of the January 15, 2009, 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.

Mr. Tubbs presented five cases where the penalties were adjusted more than 25% thus requiring consideration by the Board:

In case 33662-Royal Fumigation, Inc., the hearing officer reduced the civil penalty from \$800 to \$520. Mr. Tubbs moved to accept the recommendation of the hearing officer. Dr. Brown seconded. The motion carried unanimously.

In case 33684-Southern States Gloucester Service, the hearing officer abated the \$800 penalty. Mr. Tubbs moved to accept the recommendation of the hearing officer. Dr. Brown seconded. The motion carried unanimously.

In case 34933-Ace Lawn Care, LLC, the hearing officer reduced the civil penalty from \$800 to \$480. Mr. Tubbs moved to accept the recommendation of the hearing officer. Dr. Brown seconded. The motion carried; one nay.

In case 34936-Dodson Brothers Exterminating Co., Inc., the hearing officer reduced the civil penalty from \$1,200 to \$400. Mr. Tubbs moved to accept the recommendation of the hearing officer. Dr. Brown seconded. The motion carried unanimously.

In case 34937-Dodson Brothers Exterminating Co., Inc., the hearing officer reduced the civil penalty from \$4,800 to \$2,400. Mr. Tubbs moved to accept the recommendation of the hearing officer. Dr. Brown seconded. The motion carried unanimously.

UPDATE ON STATUS OF REGULATORY ACTIONS

Ms. Dictor reported that actions taken by the Board in January regarding 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) were published in the Virginia Register February 16 and became effective March 18. New booklets and brochures incorporating those amendments have been ordered.

EXAM DEVELOPMENT PROCESS

Ms. Dictor stated that in response to Board direction to expedite critical points (specifically steps one, two and seven) in the exam development process, staff has implemented the following. In step one where the original pool of exam questions are developed based on a new manual, staff opted to increase funding to devote more time to this process via the Memoranda of Agreements. In step two where the manual writers actually review questions for content, and step seven where VDACS deals with DMV, staff concluded that these will likely resolve themselves based on things happening this year.

TERMITICIDE RESIDUE STANDARDS PROJECT

Mr. Edwards presented a potential project for use of pesticide funds. The goal of this project is to establish soil residue levels that can be used for action points for compliance decisions for all soil applied termiticides and which will be scientifically and legally defensible. The existing standards were developed by the Association of Structural Pesticide Control Regulatory Officials (ASPCRO) and adopted by the Board for a number of products, but only one of those products is still in common use. Last year, OPS conducted 119 pre-treatment inspections and collected 101 samples, of which 67 were for products that had no residue standards, hence the need for new standards. This project would allow for a variety of locations around the state for testing; 30 foundations at each of four sites; soil sampling in accordance with ASPCRO guidelines done by OPS Investigator; samples taken to DCLS lab; and complete statistical analysis of results. Mr. Edwards stated that the cost estimate for this project is \$316,000, with a time frame of one year for completion. Much discussion ensued, after which Mr. Nunnally moved that staff go forward with the outline of the termiticide residue project as presented and that staff bring a detailed plan to the July meeting. Dr. Atalay seconded. Mr. Wilson amended the motion adding that staff examine the actions of other states in this area. Dr. Boshier suggested that staff also look at multiple protocols for presentation in July. Amended 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 reported that a new memorandum of agreement has been signed which will continue cooperation with the Board and VDACS through January 2012.

Ms. Nessler reported that five manuals were reprinted this quarter; five manuals are complete, but exam production has not begun for these; and four certification exams are in progress. The current Core exam is available for use with the revised Core manual.

EXECUTIVE SECRETARY'S REPORT

Ms. Fleeson stated that the green light has been given to fill the two vacant positions in OPS. She also said that the federal container containment program compliance assistance visits are complete and an

overview of the results will be presented to the Board at the July meeting. She reported that a project that began in 2004, hosted by Purdue University, called Accepted Labels State Tracking and Repository (ALSTAR) system provides for secure data management application and allows for an exchange of information between registrants and states. This year, Richmond will host the ALSTAR meeting on April 29 through May 1, coordinated by Micah Raub. Staff will benefit from training on the system. EPA Region III will conduct a mid-year onsite review of OPS programs funded by the Pesticide Performance Partnership Grant during May 18-20. Ms. Fleeson directed the Board's attention to a letter to them from Pam and Bill Ward regarding a termiticide application. Ms. Fleeson then gave the floor to Micah Raub who introduced Luis Coral of Telamon. Mr. Coral, who comes from VA State University as a research lab specialist, replaces Marlene Larios as the Pesticide Safety Trainer.

DIVISION DIRECTOR'S REPORT

Mr. Alvarez reported that \$800,000 was transferred from OPS budget as part of the Agency's most recent budget reduction strategies. He stated that the Office of Consumer Affairs also had \$850,000 in non-general funds transferred as well. Budget actions are available at the Department of Planning and Budget web site. Mr. Fritz said that in the future the Board should request that the Board Chair be a part of the dialogue and negotiations when budget discussions and decisions are made, because the chairman can't effectively represent the Board otherwise. Mr. Alvarez provided an update on the activities of the technical advisory committee that is assisting VDACS in the drafting of regulations for the certification of individuals who apply fertilizer to non-agricultural land stating that they met three times.

NEW BUSINESS

The Board discussed H.R. 875: Food Safety Modernization Act of 2009 and moved to communicate its opposition to this bill through a letter from the Board Chair to VDACS Commissioner Haymore, and that copies be shared with the appropriate legislative committee. Ms. White seconded. Motion carried unanimously.

Chairman Fritz closed the meeting by asking all to observe a moment of silence in memory of the VA Tech tragedy two years ago today.

ADJOURNMENT

Meeting adjourned at 12:30 p.m.

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