

DRAFT MINUTES

Virginia Pesticide Control Board
Oliver Hill Building, 102 Governor Street, Richmond, VA
October 15, 2009

The Pesticide Control Board (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; Dr. Penelope Fenner-Crisp; Richard Nunnally; Robin Rinaca; Mark Tubbs; Liz White; Joe Wilson; Dr. Wondi Mersie (represented by Dr. Asmare Atalay); and Dr. Alan Grant (represented by Dr. Michael Weaver). The following Board members were absent: Carl Garrison, III and Linda Wallace.

The following staff members were present: Todd P. Haymore; Donald G. Blankenship; Andres Alvarez; Liza Fleeson; Douglas Edwards; Joe Dictor; Vickie Rengers; Micah Raub; Jeffrey Rogers; David Townsend; Elaine Lidholm and Rhonda Bates.

Others present: The Honorable Bernard Henderson, Deputy Secretary of the Commonwealth; John Horsley, Terminix; Laurie Coulter and Buck Tharpe, VA Crop Production; Don Goff, Chesapeake Public Schools; Marlene Larios, Telamon Corporation; Steve Chidsey, Hanover County Chief of Public Works Operations; Donna Pugh Johnson, VA Agribusiness Council; Barbara Cruickshank, VA Nurses Association; John Cruickshank, Sierra Club; Lin Diacont, VA Green Industries Council; and Susan Nessler, VA Tech.

CALL TO ORDER

Chairman Boshier called the meeting to order.

DETERMINATION OF A QUORUM

Chairman Boshier announced that a quorum was present.

PUBLIC COMMENT

Barbara Cruickshank, RN, VA Medical Center, spoke about House Bill 1836 of the 2009 session of the Virginia General Assembly, regarding integrated pest management (IPM) on school property. She stated she came before the Board to advocate for IPM in schools because that is the best way to prevent pesticide exposure to children, and listed various diseases affecting children today which she indicated may be attributed, in part, to pesticide exposure. Ms. Cruickshank indicated that the data she referenced is available on the EPA and CDC National Institute for Health web sites. She asked the Board to join with the VA Nurses Association and the VA Sierra Club in adopting a precautionary approach to decrease children exposure to pesticides.

John Cruickshank, Vice Chair, VA Sierra Club, also spoke about HB 1836. Having worked for over 35 years as a public educator, he has seen drastic changes in the health of children. He stated that schools need to be educated regarding pesticide application, and that it is extremely important that the Board develop strong guidelines to encourage schools to be very cautious in the application of pesticides.

APPROVAL OF MINUTES

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

GENERAL ROLE OF BOARD MEMBERS

Deputy Secretary of the Commonwealth Bernard Henderson spoke before the Board on the role of the Board and its members. Mr. Henderson indicated that as a policy board, the PCB's job is to develop and implement requirements and adjudicate violations of laws and regulations related to pesticides. He encouraged board members to understand the responsibilities the board has under the Code of Virginia, and made particular reference to the Administrative Process Act, the Freedom of Information Act, and the Conflict of Interest Act. Mr. Henderson commented that boards are public bodies and that board members are public servants. Everything that is done as an individual board member, and collectively as a board, is open to public scrutiny. He also remarked that few other boards have the ability, as the PCB does, to formulate policies that impact current and future generations of Virginians and also protect Virginia's natural resources. Mr. Henderson entertained questions from board members; he indicated that authority over the monies in the Pesticide Control Fund rested with the Commissioner of VDACS.

COMPLIANCE ACTIVITIES FOR THE QUARTER

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

UPDATE ON STATUS OF REGULATORY ACTIONS

Ms. Fleeson provided an update on the status of the NOIRA for the Pesticide Container/Containment regulations. The notice has gone through review at the Department of Planning and Budget and the Secretary's Office, and was approved by the Governor's office in early October.

Staff recommended that the Board authorize the withdrawal of two notices of intended regulatory action. Ms. White moved that the Board withdraw Notices of Intended Regulatory Action appearing in *The Virginia Register of Regulations* on November 28, 2005, to amend 2 VAC 20-20, Rules and Regulations for Enforcement of the Virginia Pesticide Law, and to promulgate 2 VAC 20-25, Rules and Regulations for the Registration of Pesticides and Pesticide Products under Authority of the Virginia

Pesticide Control Act. Dr. Brown seconded. Motion carried unanimously. Staff plans to return to the Board with a recommendation to publish new NOIRA's at a future date.

RECORDKEEPING FOR OUT OF STATE BUSINESSES

Mr. Edwards reported to the Board on an initiative undertaken by staff to assure that those pesticide businesses based outside the Commonwealth are in compliance with Virginia's pesticide application record keeping provisions. After a brief review of certification, licensing and record keeping requirements of the Act and regulations, Mr. Edwards reported on the process being followed. There are approximately 420 licensed pesticide businesses which have their headquarters outside Virginia but whose technicians do work at Virginia locations. One third of these companies are being contacted via letter each year and asked to submit copies of application records for applications made within Virginia. These records are then analyzed to determine compliance with Virginia's record keeping requirements and also reviewed for compliance with certification and label requirements. Of the 67 analyses completed to-date, 39 revealed deficiencies in record keeping, nine revealed uncertified applicators and one revealed an apparent use in conflict with label requirements. These cases have been referred to the compliance manager for review.

CERTIFICATION EXEMPTION FOR GOVERNMENT EMPLOYEES

Ms. Fleeson referenced the Board's instruction to report on the impact of exempting from certification employees who utilize 25(b) products as requested in a letter from Hanover County. After the July meeting, a similar request was also received from Central Virginia Waste Management Authority. Both requests will be treated as petitions for rulemaking in accordance with the provisions of § 2.2-4007 of the Code of Virginia. Staff will provide a recommendation to the Board at the January 2010 meeting.

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 Pesticide Safety Education In-Service Workshop held October 7-8, in Roanoke, VA was a success. A detailed recap of the training is provided in his written report distributed to Board members. Dr. Weaver stated that the new MOAs, which provide continued support of critical activities as outlined in his report, are in place. Chairman Boshier asked Dr. Weaver and Ms. Fleeson to provide the Board an executive summary of the MOA between the Board and VDACS and VA Tech at the January 2010 meeting.

Ms. Nessler gave a summary of the progress made producing manuals this quarter. Along with other revisions and reprints, she reported that two new manuals are ready for release – Category 7A *General Pest Control* and Category 2 *Forest Pest Control*. The manual order form will be updated accordingly.

EXECUTIVE SECRETARY'S REPORT

Ms. Fleeson introduced Jeffrey Rogers, who was promoted to the Environmental Program Planner position. She also announced that Rebecca Stephenson filled the Administrative & Office Specialist wage position; both positions were vacant over a year. OPS received a grant from EPA Region III for FY10, as well as discretionary funding, with which a bedbug outreach education project is planned. She directed attention to a letter from EPA Region III regarding the results of a mid-year review assessing OPS' performance. Ms. Fleeson congratulated Jeffrey Rogers and Charles Magolda, who were awarded the Investigation of the Year Award at the US EPA Region III Pesticide Inspector's Workshop held October 5-9 in Ocean City, Maryland. Jeff and Charles were recognized for their outstanding collaborative effort in an investigation of the death of a companion animal in Highland County. US EPA Region III consists of the states of Virginia, West Virginia, Pennsylvania, Maryland and Delaware along with the District of Columbia. Finally, as directed by the Board at the last meeting, Ms. Fleeson referenced a sample letter sent to registrants of currently registered termiticides in Virginia requesting soil residue studies.

DEPUTY COMMISSIONER'S REPORT

Mr. Blankenship reported that the Agency's budget reductions resulted in twelve layoffs. The general fund reductions are approximately 21% of our Agency budget and will carry forward into the next biennium. VDACS eliminated 25 vacancies and transferred 22 positions to non-general funds. VDACS is finding new and different ways to do things by restructuring and reorganizing.

ADJOURNMENT

Meeting adjourned at 12:10 p.m.

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