

FINAL MINUTES

Pesticide Control Board
Oliver Hill Building, Richmond, VA
October 21, 2010

The Pesticide Control Board (Board) met at 9:07 a.m. at the Oliver W. Hill Building, Richmond, VA. Presiding members were William C. Boshier, Jr., Chairman and Liza Fleeson, Executive Secretary.

The following **Board members were present**: Dr. William Boshier; Dr. George Brown; Dr. Penelope Fenner-Crisp; Carl Garrison, III; 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 member was absent**: Linda Wallace.

The following **staff members were present**: Sandra Adams; Liza Fleeson; Douglas Edwards; Debbie Brown; Jeffrey Rogers; Vickie Rengers; Micah Raub; Elaine Lidholm and Rhonda Bates.

Others present: Donna Pugh Johnson, VA Agribusiness Council; Tom Tracy, VA Turfgrass Council; Laurie Coulter, VA Crop Production; John Horsley, Terminix; Marlene Larious, Telamon; David Stover, East Richmond Beekeepers Association; Travis Sarkees, VA Interactive LLC; and Susan Terwilliger, 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

Mr. David Stover, East Richmond Beekeepers Association (ERBA), requested the Board's assistance in placing a temporary ban on or severely restricting the use of Imidacloprid and other neonicotinoid pesticides in Virginia until further studies are done. The ERBA firmly believes these pesticides pose dangers for the honey bee, for pollination of fruit and other food crops used by humans, and for people themselves.

Mr. Donald Meek, President, VA Crop Production Association, invited each member of the Board to their annual meeting on January 24-26, 2011, to be held at the Holiday Inn Koger Center in Richmond.

APPROVAL OF MINUTES

Dr. Brown moved to adopt the minutes of the July 15, 2010, Board meeting. Mr. Garrison seconded. The motion carried unanimously.

PROJECT COMMITTEE – WEB SITE – CONTENT AND OPTIONS

As requested by the Board at the July meeting, Mr. Raub presented three options for the development, design and maintenance of a Web site to provide information to consumers regarding the safe and proper use of pesticides: 1) Virginia Interactive, LLC; 2) Virginia Tech Pesticide Programs; or 3) a Third Party. Mr. Raub concluded his presentation with staff's recommendation of Virginia Interactive, LLC. Mr. Travis Sarkees, Virginia Interactive, and Dr. Weaver, both contributed to the lengthy discussion which ensued. Mr. Nunnally moved that the Project Committee work with Virginia Interactive, LLC to develop a Web site and come back to the January 2011 meeting with a proposal. Mr. Garrison seconded. The motion carried unanimously.

COMPLIANCE ACTIVITIES FOR THE QUARTER

Ms. Fleeson provided a summary of enforcement activities for the quarter.

Mr. Tubbs, Chair of the Enforcement Committee, presented three cases to the Board for approval. In case 41026 involving John P. Sparrow Asphalt Paving, Inc., Mr. Tubbs moved to accept the hearing officer's recommendation to reduce the \$2,000 civil penalty to \$1,000. Dr. Brown seconded. The motion carried unanimously. In case 41271 involving American Pride, Inc., Mr. Tubbs moved to accept the hearing officer's recommendation to reduce the \$1,160 civil penalty to \$440. Mr. Wilson seconded. The motion carried unanimously. And finally, in case 41428 involving Elizabeth River Lawn and Landscape, Inc., Mr. Tubbs moved to accept the hearing officer's recommendation to abate the \$6,000 civil penalty. Dr. Brown seconded. The motion carried unanimously.

UPDATE ON STATUS OF REGULATORY ACTIONS

Ms. Fleeson updated the Board on Virginia's container/containment regulations. She stated that in July 2009, the Board authorized staff to file a Notice of Intended Regulatory Action (NOIRA) promulgating a new regulation that would be in keeping with the federal Container Containment regulations. The notice to promulgate 2 VAC 20-60 Rules and Regulations for Pesticide Containers and Containment under the Authority of the Virginia Pesticide Control Act, was published, as required, in *The Virginia Register of Regulations* for November 6, 2009. On June 29, 2010, Governor McDonnell issued Executive Order 14, *Development and Review of Regulations Proposed By State Agencies*. This order establishes policies and procedures for review of regulations proposed by state agencies to ensure the efficiency and quality of Virginia's regulatory process. Under this order, an agency must complete the proposed stage within 180-days from close of the comment period. As more than 180 days has elapsed, Ms. Fleeson is now seeking two motions from the Board, one to withdraw the original NOIRA and another to authorize a new NOIRA.

Mr. Wilson moved that the Pesticide Control Board withdraw the Notice of Intended Regulatory Action (NOIRA) appearing in *The Virginia Register of Regulations* for November 6, 2009, to promulgate 2 VAC 20-60 Rules and Regulations for Pesticide Containers and Containment under the Authority of the Virginia Pesticide Control Act. Mr. Garrison seconded. The motion carried unanimously.

Mr. Wilson also 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 compatible with the federal Container Containment regulations. Dr. Brown seconded. The motion carried unanimously.

VIRGINIA'S BED BUG OUTREACH AND EDUCATION PROGRAM

Mr. Rogers presented an overview of the five bed bug forums hosted by the Office of Pesticide Services and funded by the Environmental Protection Agency. The forums provided outreach and education to pest management professionals providing bed bug control services, management associations for multifamily housing, representatives from the travel and hospitality industry, various government agencies, and a host of other special interest groups.

STATUS OF PESTICIDE APPLICATOR SAFETY TRAINING PROGRAM

Dr. Weaver and Susan Terwilliger provided updates on the pesticide applicator training and manual development. Dr. Weaver reported that the highly successful Pesticide Safety Education In-Service Workshop was held September 8-9, 2010 at Virginia Tech's Hotel Roanoke. The 2011 program is scheduled for September 7-8. He stated that the USDA/EPA Pesticide Applicator Training allocation was reduced from \$28,695 last year to \$22,771 for the coming federal fiscal year. In response to comments at the July Board meeting, Dr. Weaver noted that visible consumer tabs have been added as part of enhancements to the web site.

Ms. Terwilliger reported that six manuals have been reprinted and exam production will begin on two completed manuals.

EXECUTIVE SECRETARY'S REPORT

Ms. Fleeson introduced new Pesticide Investigator for the Harrisonburg area, Debbie Brown. Ms. Fleeson stated that Virginia once again swept the awards at this year's US EPA Region III Annual Inspector's Workshop. The Office of Pesticide Services' (OPS) Pesticide Investigator Charles Magolda (Roanoke) was honored with the Investigator of the Year Award. This is the first Investigator of the Year Award for Charles who won on three previous occasions for Investigation of the Year. Charles was recognized for his continued excellent work in all areas. OPS' Pesticide Investigator Richard Jones (Lynchburg), was honored with the Investigation of the Year Award for his work with a

particularly complex and difficult investigation involving the misuse of a pesticide in a motel. Lastly, Ms. Fleeson reported that soil fumigation label training was held in October for OPS' investigators and additional training will be held for extension agents in November.

DEPUTY COMMISSIONER'S REPORT

Deputy Commissioner Adams reported on the Agency's transition to a new Commissioner and a new Deputy Commissioner, stating that her background in administration and finance and Commissioner Lohr's agricultural background offers a good mix of knowledge. The agency held a strategic planning session in September. A minor reorganization combined the Office of Plant and Pest Services with the Office of Product and Industry Standards' unit of Ag Commodities Program producing the Office of Plant Industry Services. She further stated that 63 localities asked for disaster assistance from the Governor after the drought conditions this summer.

CHAIRMAN'S REPORT

Chairman Boshier thanked Ms. Rinaca for hosting the Pesticide Control Board's visit to the Eastern Shore.

ADJOURNMENT

Meeting adjourned at 12:18 p.m.

(For further detail, taped minutes of the meeting are on file at VDACS and can be accessed by calling 804.225-2223.)