

## **FINAL MINUTES**

Virginia Pesticide Control Board  
Oliver W. Hill, Sr. Building, Richmond, Va  
October 16, 2008

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 and Joe Wilson. The following Board members were absent: Carl Garrison, III; Dr. Alma C. Hobbs, (represented by Dr. Asmare Atalay); and Dr. Sharron Quisenberry (represented by Dr. Michael Weaver).

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

Others present: Jack Horsley, Terminix; Karen Boniface, BASF; Wilmer Stoneman, VFBB; Donna Johnson, VA Agribusiness Council; Laurie Coulter, Dow AgroScience; James Oliver, Monsanto; John McCunley, BASF; Dr. Wayne Surlis, WS Associates; Marlene Larios, Telamon Corporation; Dick Atkinson, VA Soybean Association; Cindy Norwood, Assistant Attorney General; and Susan Nessler, VA Tech.

### **CALL TO ORDER**

Chairman Fritz called the meeting to order.

### **DETERMINATION OF A QUORUM**

Chairman Fritz announced that a quorum was present.

### **PUBLIC COMMENT**

Chairman Fritz introduced Secretary Bloxom who took questions from the Board members regarding the budget. Mr. Wilson expressed concern over the \$800,000 taken from the pesticide funds to offset a deficit in the Commonwealth's budget. He stated that if the Board can't dispense funds in pesticide area, maybe the fees charged applicators should be reduced to prevent a cash reserve. Dr. Boshier stated that the Board should revisit the fee structure and plan appropriately for funds via research, education, etc. Mr. Fritz suggested furthering the discussion under the other business section of the agenda.

### **APPROVAL OF MINUTES**

Mr. Nunnally moved to adopt the minutes of the July 17, 2008, 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.

## **DESCRIPTON OF COLLECTION PROCESS**

Ms. Fleeson presented an overview of the collection process for civil penalties assessed under the VA Pesticide Control Act and pursuant regulations. She noted the presentation was compiled with the cooperation of Kristy McCabe, Accounting Manager and Jennifer Cavedo, Finance Director of VDACS Finance Office.

## **UPDATE ON STATUS OF REGULATORY ACTIONS**

Ms. Dictor stated that the Administrative Process Act (APA) which governs regulation making in Virginia requires every rulemaking body to adopt public participation guidelines (PPG's), which the Board did when originally formed. The APA was amended in the 2008 General Assembly to require that the Department of Planning and Budget develop model public participation guidelines to be used throughout the state. The law requires each rulemaking body adopt these guidelines by December 1, 2008, either by an exempt action or the fast-track process and repeal the existing public participation guidelines in the same regulatory action. Any agency that does not have PPG's in effect by January 1, 2009, cannot initiate any new regulatory actions until the new PPG's are effective. Staff recommends that the Board adopt the model PPG's by exempt action.

Mr. Nunnally moved that the Pesticide Control Board, through an exempt regulatory process, repeal the current Public Participation Guidelines, 2 VAC 20-10, adopt the Public Participation Guidelines, 2 VAC 20-11 – the model guidelines presented by staff – and that the Board direct staff to take any and all actions necessary to give effect to these motions. Dr. Boshier seconded. Motion carried unanimously.

Ms. Dictor gave an update on the significant amendments to 2 VAC 20-51 (Certification Regulation) approved by the Board as Final at the January 2008 meeting. They were released from Executive Branch review in September and submitted to Virginia Regulatory Town Hall and the Virginia Register of Regulations; they were published October 13, which began the final adoption period which ends November 12; and they become effective December 1.

## **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 also reported on the successful completion of the 15<sup>th</sup> annual Pesticide Safety Education In-Service Workshop held at the Hotel Roanoke on October 8 and 9.

Ms. Nessler reported that four training manuals were reprinted and that several new manuals have been completed. The first half of the Core manual has been revised as well as corresponding exam questions.

### **OLD BUSINESS**

As a follow-up to the question raised at the July 2008 meeting – what authority does the locality have to regulate pesticide? – Cindy Norwood, Assistant Attorney General, discussed localities and their authorities. She informed the Board that in the Commonwealth of VA, under Dillon's rule, localities have only the authority the state legislature gives them. A local governing body may not regulate the use of pesticides across an entire locality or on private property. But a local governing body or school board may restrict the types of approved pesticides for use on municipal and school owned property only. The Pesticide Control Board has exclusive authority to regulate pesticides in accordance with Code of Virginia Section 3.2-3907.

### **EXECUTIVE SECRETARY'S REPORT**

Ms. Fleeson reported that the EPA Region III Workshop held October 7-10 in Newport News, VA was hosted by Virginia. Pesticide Investigator Jeff Rogers was awarded "Investigator of the Year" at this workshop. She acknowledged that the Pesticide Safety Educator Workshop was held in Roanoke, VA on October 8 and 9, and listed the recipients of the VCE Recognition awards. Ms. Fleeson stated that the Ag Container Recycling Council held its 100,000<sup>th</sup> collection event; and that the pesticide disposal program concluded this year. The federal container/containment regulations are being worked on in the Policy, Planning & Research Office. She stated that vacant positions in OPS will not be filled in the near future.

### **COMMISSIONER'S/DEPUTY COMMISSIONER'S REPORT**

Mr. Alvarez reported that hurricane Ike disrupted the production of motor fuels in Virginia resulting in a drastic situation in southwest Virginia. Price gouging reports were rampant from early September on but investigations are wrapping up. Senate Bill 135 amended the Fertilizer Act to require the Board of Agriculture and Consumer Services to promulgate regulations governing the application of fertilizers on non-agricultural land. The Ag Board authorized Commissioner Haymore to establish an advisory committee to guide the Agency through the process. Mr. Alvarez stated that Systems Automation will automate old licensing and permitting processes throughout the Division of Consumer Protection.

### **CHAIRPERSON'S REPORT/OTHER BUSINESS**

Chairman Fritz opened the floor for an exchange of ideas for pesticide funds. After much discussion, the Board's consensus was that staff knows what their needs are and can best present ideas for use of funds. Therefore, Chairman Fritz asked staff to present ideas for use of pesticide funds at the January 2009 meeting.

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**ADJOURNMENT**

Meeting adjourned at 11:55 a.m.

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