

FINAL MINUTES
PESTICIDE CONTROL BOARD MEETING
APRIL 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; Thomas Saunders; James Garner; Dr. John Munday, Jr.; Lynn Gayle; Dr. Robert Satcher, Sr.; Dr. William Boshier; and Mark Tubbs. The following Board members were absent: 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; Liza Fleeson; Donald Blankenship; Robert Bailey; Kathy Dictor; Vickie Rengers; Bobbie Lee; Elaine Lidholm; and Rhonda Bates.

Others present: Liz White, VA Horticulture Society; Billy Walls, Consultant; Laurie Coulter, Dow AgroSciences; Don Goff, Chesapeake Public Schools; Tom Tracy, VA Turfgrass Council; David Boose, VA Pest Management Association; Ed Whiting, U.S. Pest Control; John Horsley, Terminix; Lin Dimcont, Lin's Landscaping; Dana Beegle, VA Tech.

CALL TO ORDER

Chairman Fritz called the meeting to order.

DETERMINATION OF A QUORUM

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

APPROVAL OF MINUTES

Mr. Saunders moved to adopt the minutes of the January 16, 2003 Board meeting. Dr. Munday seconded. The motion carried unanimously.

PUBLIC COMMENT PERIOD

Tom Tracy, VA Turfgrass Council, commented on the proposed changes to the proctor program and the adverse affect this will have on the industry.

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

Kathy Dictor presented to the Board guidelines drafted to control the registered technician proctor program. Industry representatives were given an opportunity to comment. After much discussion, Chairman Fritz suggested tabling the issue until the July Board meeting. He appointed an ad hoc committee composed of Dr. Robert Satcher, Chair; Mark Tubbs; David Boose; Tom Tracy; and Sam Hamilton to explore in-depth where the problems really are. He directed the committee to work closely with OPS staff.

MEMORANDA OF AGREEMENT WITH VA TECH FOR PESTICIDE APPLICATOR CERTIFICATION TRAINING

Chairman Fritz reported that the three MOUs – Pesticide Applicator Training Manuals, Pesticide Applicator Certification and Pesticide Applicator Training – currently in place between the Pesticide Control Board, VDACS and VA Tech will not undergo reduction in funding as there were no further cuts to VDACS' budget. He recommended that the new MOUs be accepted with the restored funding. Mr. Wilson moved to accept the recommendation. Mr. Mayausky seconded. The motion carried unanimously.

ENFORCEMENT ACTIVITIES FOR THE QUARTER

Dr. Munday presented the recommendations of the Enforcement Committee in three cases which required Board approval.

In the case involving an adjudicative conference held at the request of Sleepy Lake Homeowners' Association-Case 10446, Dr. Munday moved that the Board not accept the recommendation of the Adjudicative Conference Officer to dismiss the Notice of Violation, and to reaffirm the decision made in October for a violation with a reduced penalty of \$400. Mr. Garner seconded. The motion carried unanimously.

In case numbers 13941 and 13943 involving Cape Fear Chemicals, Dr. Munday moved to accept the decisions by the Fact-Finding Conference Officers to reduce the penalties from \$280 to \$160 in both cases. Mr. Wilson seconded. The motion carried unanimously.

DISCUSSION OF CIVIL PENALTY COLLECTION PROCEDURES

Robert Bailey and Liza Fleeson reviewed the current state civil penalty collection procedure and presented a proposed process for the Board's approval. Mr. Garner moved to accept the Proposed Civil Penalty Collection Process. Mr. Saunders seconded. The motion carried unanimously. Mr. Wilson suggested that staff explore the possibility of developing a process for placing a bank lien against a bank account for uncollected penalties.

COMMISSIONER/DEPUTY COMMISSIONER REPORTS

Mr. Blankenship reported that some funds were restored to VDACS' budget during the veto session of the General Assembly. He mentioned that VDACS has been quite involved with homeland security activities with various federal agencies, including the animal, plant health and inspection service and the federal/state meat inspection service. A new Veterinary Specialist position will be established in the Animal, Plant and Food Industry Services Division to focus on agriculture security.

Mr. Blankenship stated that the interviewing process for the Director of the Division of Consumer Protection should be completed soon.

PROGRAM MANAGER'S REPORT

Dr. Lawson reported that the Board proposed amendments to 2VAC 20-30, Rules and Regulations Governing Pesticide Fees, at the January meeting. The Office of the Attorney General has issued a letter of assurance indicating that the Board did have the authority to promulgate such regulations. The proposed regulation will be submitted for publication on the

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Regulatory Town Hall and in the Virginia Register. The Board should consider having a public hearing on this regulation during the July 17 Board meeting.

At the same meeting, the Board also proposed amendments to 2VAC 20-40, Rules and Regulations Governing Pesticide Businesses. The Office of the Attorney General determined that there was a conflict with another regulation, and as these comments were received too late for the Board to consider changes to the proposed regulations at this meeting, a waiver of the time frame has been requested. The waiver has been approved by the Department of Planning and Budget and the Secretary of Commerce and Trade. Approval of the waiver request by the Governor is pending.

Dr. Lawson stated that there has been an increase in the number of cases of toxic indoor mold reported across the U.S. Professional pest control operators have been called upon to control infestation of mold, but (i) many are not qualified to regulate indoor mold; (ii) many control operators are poorly trained and qualified to deal with mold (especially the ability to identify the mold); (iii) there is a lack of efficacy testing of products currently being used to control toxic molds. The Commonwealth of Virginia will begin reviewing the current trainings and certification programs to determine what steps need to be taken to better equip pest control operators to effectively control indoor mold using an Integrated Pest Management approach.

Dr. Lawson also reported that the USDA anticipates that soybean rust, an airborne fungal pathogen that is highly devastating to soybeans, will reach the U.S. shores within two years. There are no fungicides currently registered for the control of soybean rust in the U.S., however, the EPA is working with a group of states to make available several fungicides under a FIFRA §18 exemption.

An international effort has been initiated to provide a consistent and coherent approach to evaluating the hazards of chemicals, and providing information on these hazards and associated protective measures to users or those who may be exposed. This effort, designated as the Globally Harmonized System (GHS), includes the development of harmonized criteria for the definition of physical hazards, health hazards and environmental hazards. The GHS will also address how labels and safety data sheets should be used to convey information. As a result, there will be some changes to current labels including new or revised signal words and symbols.

CHAIRPERSON'S REPORT

Chairman Fritz directed staff to present a revenue report to the Board at the July meeting.

ADJOURNMENT

Meeting adjourned at 12:27 p.m.

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