

DRAFT

MINUTES PESTICIDE CONTROL BOARD MEETING OCTOBER 20, 2011

The Pesticide Control Board (Board) met at 9:00 a.m. at the Oliver Hill Building, Richmond, VA. Presiding members were William C. Boshers, Jr., Chairman and Liza Fleeson, Executive Secretary.

The following Board members were present: Dave Black; Dr. William Boshers; Dr. George Brown; Richard Nunnally; Anne Barker-Smith; Liz White; Joe Wilson; and Dr. Alan Grant (represented by Dr. Michael Weaver).

The following Board members were absent: Carl Garrison, III; Robin Rinaca and Dr. Wondi Mersi.

The following staff members were present: Sandy Adams; Andy Alvarez; Liza Fleeson; Jeffrey Rogers; Micah Raub; Vickie Rengers; Tonita Clark; James Atwell; Marlene Bole; Erin Williams; Larry Nichols; Elaine Lidholm and Rhonda Bates.

Others present: Laurie Coulter, Buck Tharpe and Daryl Clay, VA Crop Production; Donna Pugh Johnson, VA Agribusiness Council; Nick Zetts, Telamon Corp.; Dr. Wayne Surles, WS Associates; and Susan Terwilliger, VA Tech.

CALL TO ORDER

Chairman Boshers introduced newly appointed Board members Dave Black (who succeeds Linda Wallace) and Anne Barker-Smith (who succeeds Dr. Penelope Fenner-Crisp). Newly appointed Board members were sworn in by Christie Heath, Deputy Secretary of the Commonwealth. Dr. Boshers then called the meeting to order.

DETERMINATION OF A QUORUM

Chairman Boshers announced that a quorum was present.

The regular meeting of the Pesticide Control Board was adjourned in preparation for the Public Hearing.

PUBLIC HEARING

Chairman Boshier opened the public hearing for comments to the proposed amendments to 2 VAC 20-51, Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act – specifically, Certification Exemption for Gypsy Moth Surveyors and Certification Exemption for Cotton Boll Weevil Surveyors. Ms. Fleeson introduced Erin Williams, Policy & Planning Coordinator, and Larry Nichols, Program Manager of the Office of Plant Industry Services, Division of Consumer Protection. Ms. Williams provided background on the regulatory process. Mr. Nichols presented information on the gypsy moth and cotton boll weevil surveyors' application of the pesticides used in the survey traps. Receiving no comments, Chairman Boshier closed the public hearing.

The regular meeting of the Pesticide Control Board was reconvened.

PUBLIC COMMENT

Daryl Clay, President of the VA Crop Production Association (VACPA), requested a two-year grant in the amount of \$13,049.15 annually, to provide pesticide safety training and recertification information to Certified Commercial Pesticide Applicators. After a brief discussion, Dr. Boshier suggested that the request be added to the agenda after the project proposal presentation.

APPROVAL OF MINUTES

Mr. Nunnally moved to adopt the minutes of the July 21, 2011, Board meeting. Ms. White seconded. The motion carried unanimously.

REGULATORY ACTIONS

Ms. Williams presented background information on the two proposed amendments to 2 VAC 20-51, Regulations Governing Pesticide Applicator Certification Under Authority of Virginia Pesticide Control Act currently under the Board's consideration. In April 2011 the Board received two petitions for rulemaking requesting exemption from certification for gypsy moth surveyors and cotton boll weevil surveyors. At the July 2011 meeting, the Board granted the petitions exempting gypsy moth surveyors and cotton boll weevil surveyors working under the auspices of VDACS from having to hold or obtain

pesticide applicator or registered technician certification. Pursuant to Section 2.2-4006 under the Virginia Administrative Process Act, regulations of the Pesticide Control Board that are adopted pursuant to Clause 6 of Sub-Section C of Section 3.2-3931 of the Virginia Pesticide Control Act are exempt from the requirement of the Administrative Process Act, after those regulations are considered at two or more Board meetings and one public hearing. The required public hearing was held this morning. Today's meeting of the Pesticide Control Board constitutes the first of the two required meetings. The Board will consider a motion to adopt the amendment at the January 2012 meeting.

Ms. Williams discussed 2 VAC 20-60, Regulations for Pesticide Container and Containment Under Authority of the Virginia Pesticide Control Act.

Ms. White moved that the Pesticide Control Board propose the draft Regulations for Pesticide Containers and Containment Under Authority of the Virginia Pesticide Control Act, 2 VAC 20-60, presented by staff and that the Board authorize staff to take any and all actions necessary to have the regulations filed with the Virginia Registrar of Regulations and published in The Virginia Register of Regulations as proposed regulations for public review and comment. Dr. Brown seconded. The motion carried unanimously.

PROJECT PROPOSAL FRAMEWORK

At the July meeting, Chairman Boshier appointed Dr. Fenner-Crisp, Dr. Atalay and Dr. Brown to work with Ms. Fleeson to develop a framework to be used for all proposals (solicited and unsolicited) for funding submitted to the Board. Ms. Fleeson presented the draft framework developed by the committee. Much discussion ensued. Dr. Boshier requested that written comments be sent to Ms. Fleeson and that the final document be presented at the January 2012 meeting.

PROPOSAL: SURVEY OF MULTI-FAMILY HOUSING

It was moved, properly seconded and unanimously passed to continue the discussion of Dr. Miller's project proposal which was tabled at the July Board meeting. Mr. Rogers highlighted several points from said proposal entitled "*Survey of Multi-Family Housing*". Included in the proposed project is development of a web-based survey to determine the demographics of rental properties, both public and private dwellers, which would be most at risk for bed bug infestations, and to quantify the economic impacts bed bugs have on rental facilities. To identify the population most at risk would allow the pest

management industry, safety agencies and extension specialists to focus their bed bug outreach and education efforts on these groups specifically. Data to quantify the economic impact that bed bug infestations have on rental facilities would be available to law makers and other federal and state agencies to make them aware of the financial burden that apartment management companies bear when attempting to eradicate bed bugs. Staff was asked to review the proposal and offer a recommendation at this meeting. Staff recommended funding the proposal. The Board discussed the proposal at length and chose not to fund the project.

VA CROP PRODUCTION ASSOCIATION – REQUEST FOR FUNDING

As a follow-up to Mr. Clay's proposal request during the public comment period, Ms. Fleeson provided additional information regarding certification/recertification for the benefit of the audience and new Board members. In 2010, over 300 courses were reviewed for certification/recertification by the Office of Pesticide Services. Of the approximate 300 courses held, 55 courses were approved for Category 1A, Agricultural plant pest control including the VA Crop Production Association's Annual Meeting. In addition, Ms. Fleeson indicated that a training specialist position is being considered within OPS. Among the duties of this position would be analysis of the current course offerings for certification/recertification. The results of the analysis would provide valuable information to the Board when considering funding of proposals for like courses. Given the absence of this type of historical data, staff does not have the necessary information to make an informed recommendation to the Board to fund the proposal.

Mr. Nunnally moved to fund the Virginia Crop Production Association up to \$5,000 in speaker expenses to assist the Association to provide pesticide safety training and recertification information to Certified Commercial Pesticide Applicators. The motion was properly seconded and passed. There were two abstentions – Ms. White and Dr. Weaver.

CERTIFICATION – CATEGORIES 1A, 1C and 1D

Ms. Rengers presented to the Board a proposed regulation change to applicator certification regulations to unlink Categories 1A-Agricultural plant pest control, 1C-Fumigation of soil and agricultural products, and, 1D-Chemigation. Our current regulations require commercial applicators certified in Categories 1C and 1D to hold a concurrent certification in Category 1A. In January 2012, staff will request the Board move to amend those regulations to no longer require concurrent certification.

COMPLIANCE ACTIVITIES FOR THE QUARTER

Ms. Fleeson provided a summary of enforcement activities for the quarter. Ms. Fleeson also provided background on the following two cases before the Board for consideration – Case 44880 Southern Blue, LLC and Case 45741 Rockingham Memorial Hospital.

Mr. Nunnally moved to accept the hearing officer's recommendation to withdraw the Notice of Violation in case 44880 involving Southern Blue, LLC. Mr. Wilson seconded. The motion carried unanimously.

In case 45741 involving Rockingham Memorial Hospital, Dr. Brown moved to accept the hearing officer's recommendation to reduce the \$280 civil penalty to \$160. Ms. Barker-Smith seconded. The motion carried unanimously.

STATUS OF PESTICIDE APPLICATOR SAFETY TRAINING PROGRAM

Dr. Weaver and Susan Terwilliger provided updates on the pesticide applicator training and manual development. Ms. Terwilliger reported that seven manuals were reprinted, three manuals are in progress and that an audio book project is underway for the Core manual.

EXECUTIVE SECRETARY'S REPORT

Ms. Fleeson updated the Board on personnel issues. She introduced Jim Atwell, Pesticide Investigator for the Wytheville territory, and Marlene Bole, Administrative and Office Specialist III, in the Certification, Licensing, Training and Licensing Unit. She also reported that the Board funded project "*Impact of Pesticides on Honeybees in Virginia*" has begun and the Pesticide Control Board's web site is now live thanks to Micah Raub. Finally, Ms. Fleeson stated that the annual EPA Region III Award for Investigation of the Year was presented to Pesticide Investigators Frank Filipy, Tom Burke, Gary Young and Jeffrey Rogers.

CHAIRMAN'S REPORT

Chairman Bosher requested that the next Board meeting be held on Wednesday, January 18, 2012.

ADJOURNMENT

Meeting adjourned at 12:25 p.m.

(For further detail, an audio recording of the meeting is on file at VDACS and can be accessed by calling 804.225-2223.)