



Arizona Department of Agriculture

Office of Pest Management

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NOTICE OF PEST MANAGEMENT ADVISORY COMMITTEE MEETING

Tuesday, July 23, 2013, 10:00 A.M.

**Arizona Department of Agriculture
1688 W. Adams Street, Phoenix, AZ 85007
Room 206**

MINUTES

The following minutes are for the meeting held on Tuesday, July 23 2013, in Room 206 at 1688 West Adams Street, Phoenix, AZ 85007 (The Department of Agriculture Building)

I. 10:00 A.M.: Call to Order (Chairperson)

a) Committee Roll Call (Ms. Cochran) –

Present:

Chairperson Kevin Etheridge, Ken Fredrick, Andrew Witcher (10:07am), Douglas Seemann (10:01am), Robert Wagner, Jack Latham(via telephone), Staff, and Audience/Industry Members

Absent:

Carmella Ruggiero (due to illness)

II. Approval of Minutes

a) June 18, 2013

MOTION:

To approve minutes by Mr. Jack Latham

Second by Mr. Ken Fredrick

VOTE:

4-0

III. OPM Updates and Reports

a) Budget (Ms. Houseworth)

1. Current Financial Report (handout)

Ms. Houseworth states the books have not officially closed for the end of the fiscal year, they will close this Friday (July 26, 2013); however, the June cash flow handed out today should reflect the final numbers for Fiscal Year 2013. She points out that the most significant item is the balance, which is just under 2 million dollars; this is higher than discussed the last time a meeting was held. She continues on to state there were

significant revenues (both TARF and licensing) that came in during June and in the 13th month. She informs the committee the new fiscal year will start with that balance. Ms. Houseworth addresses that fact because of the changes in the licensing period (with the new law), that balance will be used to carry the agency forward to the next renewal, in May. Chairman Kevin Etheridge asks if there are enough funds to carry the agency thru to the next renewal. Ms. Houseworth states the funds are definitely sufficient to carry through. She continues to state revenues next year are projected to be just slightly higher than the expenditures.

Chairman Kevin Etheridge asks if there are any questions or comments. None are given. Chairman Etheridge calls attention to Mr. Douglas Seemann's presence, having arrived after the commencement of the meeting.

b) Compliance (Mr. Craig)

1. Questions on Snapshot

a) June 2013 (handout)

Mr. Vince Craig calls attention to the new section added to the Snapshot. He goes on to inform the committee that the new section contains the suspension and revocation box. Mr. Craig states every month he will be compiling lists of individuals' licenses that are suspended or revoked due to disciplinary action connected with a case. Mr. Craig goes on to describe "Outreach" as mandatory training for individuals instead of going through the disciplinary action process.

2. Industry Correspondence

b) Adjudicated Cases

Mr. Craig continues on to state there are no adjudicated cases for the month of June. For clarification, Mr. Craig defines adjudicated cases as cases that are completely wrapped up, from start to finish; the individual has paid any and all fees. He continues to say there were cases investigated in June but none were adjudicated. Mr. Etheridge asks if Mr. Craig tracks the number of cases each year to compare to the previous year. Mr. Craig states yes; he goes on to say there were 2753 inspections for FY13. Mr. Craig informs the committee the yearly goal is 3000 inspections; during this FY, there was more focus on pesticide use inspections than vehicle inspections. He continues to say inspectors only do vehicle inspections on brand new vehicles and if there are apparent issues on the vehicle. Mr. Etheridge asks how many inspections were done in FY12. Mr. Craig states it was at least twice the amount from FY13. Mr. Robert Wagner asks if the goal is still to do annual office inspections. Mr. Craig says an office is inspected at least once every two years. Mr. Craig goes on to state that during those inspections, in the upcoming FY, opportunity will be taken to educate the applicators and staff on the new laws and rules. Mr. Ken Fredrick asks if schools are still being inspected. Mr. Craig states they are. Mr. Jack Peterson states investigations will still be done, as the OPM will surely still receive complaints. Mr. Peterson goes on to say that those individuals who have had or will have their licenses suspended or revoked have failed to comply with an agreement made with the OPM to rectify their situation, thus resulting in a suspended or revoked license. Mr. Robert Wagner asks if there is a time period placed on the suspension. Mr. Craig states if they complete their agreement it will be shown to the acting director and when the director approves they can resume business.

c) Licensing (Mr. Tolton)

1. Questions on Snapshot

- a) June 2013 (handout)

2. Industry Correspondence

- a) **2014 Applicator License Renewals – the OPM received and processed 6608 applicator license renewals this year (88% all possible). 5305 or 80% were submitted online. Unfortunately, 135 or 2% of the 6608 were subject to late fees. Sadly 877 failed to submit their license renewal during the 3 months available to them and must reapply as new applicants should they desire to become licensed again.**

Mr. Douglas Seemann asks if it is typical to lose that many applicators. Mr. Robert Tolton states it is a pretty typical number, but there were slightly more lost this year than last; more individuals also renewed this year.

3. Business Licenses issued during June 2013

	Business Name	City	Business Licensee	Qualifying Party
1	AFFORDABLE PEST SERVICES	SAN TAN VALLEY	MICHAEL OLANDER	MICHAEL P. OLANDER
2	DESERT MOON PEST CONTROL	SUN CITY	KELLY J. ALEXANDER	COLTON T. ALEXANDER
3	HAPPY HOME INSPECTIONS, LLC.	GOODYEAR	HAPPY HOME INSPECTIONS, LLC.	MIGUEL BRAMBILA
4	HIGH COUNTRY PEST CONTROL, LLC.	FLAGSTAFF	HIGH COUNTRY PEST CONTROL, LLC.	DEAN P. WELLS
5	SUN VALLEY PEST & TERMITE CONTROL	SCOTTSDALE	SUN VALLEY PEST & TERMITE CONTROL, LLC.	KEVIN B. DEWITT
6	TRUE VALUE PEST CONTROL	MESA	THOMAS E. TREADWAY, JR.	THOMAS E. TREADWAY, JR.
7	VINDICOR PEST & WEED MANAGEMENT	MESA	VINDICOR PEST & WEED MANAGEMENT, LLC.	JACOB W. BRIMHALL
8	GREENTECH PEST CONTROL, LLC.	MESA	GREENTECH PEST CONTROL, LLS.	DUSTIN A. WRIGHT
9	SALINE PEST MANAGEMENT, INC.	TAYLOR	SALINE PEST MANAGEMENT, INC.	DONALD V. SALINE

d) Activities (Mr. Peterson)

- a. None

e) Draft Rules Package Review (Mr. Etheridge)

Mr. Etheridge states at the last meeting there was a motion made to move forward with the changes in the rules that needed to be made. After some discussion, it is decided that only the changes will be reviewed in today's meeting.

Mr. Peterson reviews the changes that the PMAC has requested:

R4-29-201(C)(2). Changed to convey that an applicator wishing to broaden to any unlicensed category shall be licensed within 30 calendar days after beginning work in that category.

R4-29-211(D). Changed the examination attempts from 3 times in a year to 3 times in a 6 month period. Mr. Peterson goes on to state this makes people have to be prepared to test.

Ms. Linda Harrington asks for clarification on the 6 months timeframe; does the 6 month time frame start at the application time or when the actual 1st test is taken. Mr. Tolton states the application for a Certified Applicator License will be open for 360 days as opposed to the current 180 days. Mr. Tolton goes on to say the time frame for the 6 months, in which to attempt the test 3 times, begins when the 1st test is taken. Mr. Seemann offers comment by saying it is then best to make sure an applicant tests within the first 6 months so the next time they are able to test they wont have to reapply due to the application closing.

R4-29-216. Mr. Peterson discusses retroactive CEU and informs the committee that it is not something the OPM would encourage, but the OPM does have the ability to give credit with the way the language is written if need be.

R4-29-306 (B). Mr. Peterson informs the committee the ability to send pesticide application (pesticide applications at customer sites) information to customers electronically has been incorporated into this section. Mr. Peterson asks if it is going to be provided electronically whose responsibility is it. He states he feels it is the responsibility of the QA (QP). Mr. Fredrick states everything in his office is done through email. Mr. Fredrick states once the information is posted it is sent to the customer automatically. Chris Gillies of Terminix states both parties should be held responsible. Mr. Fredrick states the applicator is responsible to fill out the paperwork, but it is ultimately the QPs responsibility to make sure the information gets to the consumer. Mr. Etheridge states even though the responsibility is delegated to the applicator it is still ultimately the responsibility of the QP and business. Mr. Latham says he agrees, the QP is ultimately responsible for everything, although some responsibility needs to be placed on the applicator. Mr. Seemann comments that in a large company a QP can't be looking at every individual treatment and information sheet filled out and submitted. Mr. Craig states if the applicator does not have the capability to send the electronic files the current language places all the responsibility on the applicator. Mr. Seemann says it should just be listed as some sort of joint responsibility between the applicator and the QP. Mr. Etheridge states if a technician gets sited he has the opportunity to prove that he properly trained and equipped the applicator to properly do the job. Mr. Peterson offers perspective by stating 85% of the pest control companies are small and the applicators may not have the ability to send the files electronically. Mr. Peterson wants to make it clear that the QA is in focus and they are not renting their QP. Public audience member Kelly Denny asks what the term "immediate" means in regards to the timing in which notification to a customer, after a chemical application takes place, occurs. Mr. Peterson states "immediate is immediate"; notification by means of an electronic method was never intended to change or affect the timing of the notifications. Tim Goeringer says the hand held device makes it much simpler to do the applications and get accurate complete information because the hand held devices will not let the applicator submit the forms without checking every box for the inspection/treatment of the property. Mr. Peterson offers comment on his wishing to drive the importance of the QP/QA involvement in the business and not have applicator's end up solely responsible for something in which the QP/QA is required to be involved. Mr. Etheridge states he didn't feel there was an issue from the PMAC to change it. Chris Gillis of Terminix, states he doesn't see the difference in paper versus electronic; it always falls back on the QP if the applicator does not do their job.

R4-29-308(H). Mr. Peterson calls attention to this change to explain it being added to ensure that no building/home is overlooked. Mr. Fredrick asks if the warranty started with the initial treatment and what would happen when there is no record of pretreatment but there was record of post treatment in the OPM TARF system. Mr. Peterson states that this is what we want to avoid. Linda Harrington asks if the warranty is not able to be issued until the final grade is completed. Mr. Peterson asks how it's done now. Ms. Harrington says it

depends on the builder. Mr. Craig states that a lot of companies start the warranty when they complete the pretreatment; very few companies start the warranty after the final grade because if it happens to be a custom home, the final grade may not be done until a year or two later. Mr. Etheridge states that the warranty starts when you treat the main floor. Mr. Craig states the warranty is not issued until final grade is completed, based on the language. Mr. Casey Cullings states R4-29-309(B) references this issue; it states "A business licensee that provides a subterranean termite treatment warranty shall ensure that the effective date of the warranty is the date on which treatment begins." Mr. Latham states previously the builder wanted the companies to come out and pretreat the garage then wanted a warranty for the whole house; how would this situation fall into the language. Mr. Latham goes on to ask if the companies could be able to issue warranty for garages only. Mr. Etheridge explains he does not feel they can be issued a pretreat warranty if only the garage is treated. Mr. Latham states he feels that the builders need to be told they cannot do a pretreatment on just the garage. Mr. Etheridge states it is covered under new construction treatment. Mr. Latham states that the majority of the pretreatments in the geographic location where he works, have, then, been done illegally. Mr. Peterson states that they were not done illegally, but it will/can affect existing warranties for these locations. Mr. Craig states he hasn't heard of any pretreatments that were incomplete or where the house/building was skipped completely. Mr. Witcher asks if a warranty could not be issued until the final grade is done, or does the warranty start at initial treatment. Mr. Peterson references R4-29-309(B), as mentioned by Mr. Cullings earlier in the discussion. Mr. Etheridge states he reads the rule as an "issue date" of the warranty not the actual warranty date. Mr. Seemann states the issue with pretreating then giving/granting the warranty 2 years later is that some chemicals are only good for 5 years, per EPA testing. Mr. Witcher states some builders want the warranty certificate right away and do not want to wait for the final grade to be done to be given the warranty certificate. Mr. Casey Cullings states the concern is the builder doing a pretreatment then never doing a final grade. Mr. Cullings goes on to say if a warranty is issued immediately on a pretreatment but a final grade is never performed, then the treatment is incomplete. Mr. Seemann states the warranty should indicate that validity of the warranty is subject to the completion of the final grade. Ms. Linda Harrington states their company has a system for catching the final grades that need to be completed; the builder wants the warranty so they can close on the house. Mr. Witcher states the company is still liable to get the final grade done. Mr. Seemann states the concern is when does the warranty get issued and when does the time frame start? Mr. Peterson states the issue is not wanting to hold up the sale of the house by refusing to issue the warranty. Mr. Fredrick asks if there was a way, through the TARF system, to set up a flagging system that would let the office know if the final grade had not been completed in 365 days. Mr. Craig states anything is programmable. Mr. Peterson says that a review of the database is possible. Mr. Etheridge states the termite warranty is to close and fund the house. Mr. Craig says, in essence, the phrase "including a final grade treatment" can be removed from R4-29-308(H) because R4-29-308(F) already states that if you do a pretreatment or a new construction treatment, a final grade treatment must be done. Chairman Etheridge asks, "Does that make everyone in the room happy?" A consensus is reached by the committee to employ Mr. Craig's recommendation.

R4-29-306(A)(7) & 501(b)(7)....these address the amount of active ingredient. Language was changed. Dr Pfeiffer states his concern was it is hard to calculate the percentage; he explained the new language makes it easier.

Removed looking at the w-2 tax records

MOTION:

To accept the rule package as revised by Mr. Robert Wagner

Second by Mr. Andrew Witcher

Mr. Peterson states there will still be things being changed as the OPM is getting everything clarified. Mr. Peterson says, obviously, the office wants to provide full disclosure, and there will still be wording changes in the document. Mr. Peterson does want everyone to realize there will be some wording changes, but it should not affect anything. Mr. Seemann states they are purely advisory. Mr. Etheridge asks if Mr. Peterson was recommending an additional meeting. Mr. Peterson states, no, he was not recommending that. Mr. Peterson goes on to state the wording changes should not change the rules.

VOTE:

6-0

IV. Call to the Public (Chairperson) – *Mr. Kevin Etheridge states this will be his last meeting as chairperson. He expresses his pleasure to have served the industry.*

V. Communication with Advisory Committee Members (Chairperson) – *None*

VI. Scheduling of Future Meetings (Chairperson/Acting Director)

a) *None scheduled.*

VII. Adjournment – *11:03am*