



# Arizona Department of Agriculture

## Office of Pest Management

1688 W. Adams Street, Phoenix, Arizona 85007  
(602) 255-3664 FAX (602) 542-0466

[www.azda.gov](http://www.azda.gov)

### NOTICE OF PEST MANAGEMENT ADVISORY COMMITTEE MEETING

**Tuesday, June 18, 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, June 18, 2013, in Room 206 at 1688 West Adams Street, Phoenix, AZ 85007 (The Department of Agriculture Building)

#### **I. 10:01 A.M.: Call to Order (Chairperson)**

##### **a) Committee Roll Call (Ms. Cochran) –**

*Present:*

*Chairperson Kevin Etheridge, Ken Fredrick, Carmella Ruggiero, Douglas Seemann, Robert Wagner, Andrew Witcher (arrived 10:25 am), Jack Latham (arrived 10:26 am) Staff, and Audience /Industry Members*

*Absent:*

*None*

#### **II. Approval of Minutes**

##### **a) April 10, 2013**

*MOTION:*

*To accept the minutes by Ken Fredrick*

*Second by Carmella Ruggiero*

*VOTE:*

*5-0*

#### **III. OPM Updates and Reports**

##### **a) Budget (Ms. Houseworth)**

##### **1. Current Financial Report (handout)**

*Ms. Louise Houseworth stated the projected balance of the fund is still projected to be over 1.8 million at the end of the fiscal year. Chairperson Etheridge asked if the 1.8 million was going to be a carry forward balance from this fiscal year to next fiscal year. Ms. Houseworth stated his understanding was correct. Chairperson Etheridge asked if there was any fear of having funds swept. Ms. Houseworth stated it is always a concern,*

*however with the reduction in the new TARF fee it will bring down the fund balance. Mr. Etheridge stated the high fund balance would also help get the agency through to the next renewal since all of the renewals would be moved to May.*

**b) Compliance (Mr. Craig)**

**1. Questions on Snapshot**

*Mr. Vince Craig explained if there were any unusual records on the snapshot it was marked with an asterisk (\*) and a table was created to show more detail. He stated there were 40 inquiries during April and May. He indicated that half of the inquiries were due to lack of insurance. He explained when a company is still working without submitting proof of insurance an investigation is opened to help them get in compliance. Mr. Craig stated there were 4 license revocations. He stated because the revocations are unusual he Made reference to the license holders whose licenses had been revoked and the allegations associated with the revocations. Mr. Craig stated the agency made a commitment to limit the amount of CE, but the outreach is when the agency is contacted to help explain the laws and rules.*

*Mr. Harvey Logan, with Western Exterminator, asked whose license is revoked if an individual or company is performing unlicensed work. Mr. Craig stated there would be no license to revoke. He stated the 4 license revocations listed on the snapshot were 2 Applicators and 2 Qualifying Parties.*

**a) April 2013 (handout)**

**b) May 2013 (handout)**

**2. Industry Correspondence**

**a) Adjudicated Cases**

**c) Licensing (Mr. Tolton)**

**1. Questions on Snapshot**

*Mr. Robert Tolton stated the numbers of applications under Applicators are large for April and May because the number of license renewal applications received were included in those numbers.*

**a) April 2013 (handout)**

**b) May 2013 (handout)**

**2. Industry Correspondence**

**a) 2014 Applicator License Renewals – 6468 (86%) of the 7491 mailed Applicator License Application were submitted by May 31<sup>st</sup>. 5187 (80%) of the 6468 submitted Applicator License Renewal Application were submitted via RenewEZ. Late fees took effect on June 1<sup>st</sup> and will run through July 1<sup>st</sup> (due to June 30<sup>th</sup> being a Sunday).**

*Mr. Tolton stated as of June 18, 2013 6555 renewals have been processed. He stated of the renewals that were received 5255 of them (80%) have been processed online only 77% processed online last year. He explained there were still 953 applicators who had not yet renewed. He indicated roughly 75 renewals have been submitted since June 1<sup>st</sup>. Mr. Tolton stated a notice of the individuals who had not yet renewed had been posted on the website and sent to the listserv.*

**3. Business Licenses issued during April 2013**

	Business Name	City	Business Licensee	Qualifying Party
1	AESTHETIC ENVIRONMENTS, LLC	VAIL	AESTHETIC ENVIRONMENTS, LLC	KENNETH SUGARMAN
2	CTC CONTRACTING, LLC	MESA	CTC CONTRACTING, LLC	DEREK JUDD
3	DAVE'S PEST MANAGEMENT	AVONDALE	DAVID ALBERTO HEREDIA	DAVID HEREDIA
4	HIGH VALLEY WEED CONTROL, LLC	PRESCOTT VALLEY	HIGH VALLEY WEED CONTROL, LLC	GALE BUNDRICK
5	HOME SHIELD	SURPRISE	ROBERT JAMES ISHMAEL	RICHARD JAMES
6	KILLZONE PEST CONTROL	QUEEN CREEK	KILLZONE PEST CONTROL, LLC	KENT MCCLENDON
7	NEW TECHNOLOGY SOLUTIONS	MONTICELLO, UT	JAMES RAMON MELENDEZ	JAMES MELENDEZ
8	PRECISION CARE, LLC	SURPRISE	PRECISION CARE, LLC	JESSIE HAGAN
9	SAFE HOMES PEST SERVICES, LLC	SURPRISE	SAFE HOMES PEST SERVICES, LLC	VICTOR WHITE
10	SOLSTYS ENVIRONMENTAL, LLC	TUCSON	SOLSTYS ENVIRONMENTAL, LLC	BRADLEY STEARS
11	VALLEY RODENT PROOF, LLC	FOUNTAIN HILLS	VALLEY RODENT PROOF, LLC	JERRY VANCE
12	ZONA PEST CONTROL, LLC	WILLCOX	ZONA PEST CONTROL, LLC	TIMOTHY GIBBONS

#### 4. Business Licenses issued during May 2013

	Business Name	City	Business Licensee	Qualifying Party
1	CHIEF PEST CONTROL, INC	YUMA	CHIEF PEST CONTROL, INC	CLAUDIA JONES
2	DOS AMIGOS PEST SOLUTIONS, LLC	PHOENIX	DOS AMIGOS PEST SOLUTIONS, LLC	RAUL CARRASCO
3	HOMEGUARD PEST MANAGEMENT, LLC	CHANDLER	HOMEGUARD PEST MANAGEMENT, LLC	WESLEY MULLENAUX
4	NEUTRAL ZONE PEST MANAGEMENT, LLC	SUN CITY	NEUTRAL ZONE PEST MANAGEMENT, LLC	CHARLES GILBREATH
5	PEST MANAGEMENT SOLUTIONS, LLC	PEORIA	PEST MANAGEMENT SOLUTIONS, LLC	CHARLES MURDOCK
6	SCORPION SPECIALISTS, LLC	GILBERT	PRO ADVANTAGE, LLC.	CHRISTOPHER O'BRIEN
7	SREJIC PEST SOLUTIONS, LLC	PEORIA	SREJIC PEST SOLUTIONS, LLC	ANDREW SREJIC

#### d) Activities (Mr. Peterson)

##### a. Status of Legislation pertaining to Task Force recommendations

#### e) Draft Rules Package (Mr. Peterson)

*Chairperson Etheridge explained the legislative session closed the week prior. He stated the Senate bill 1290 goes into effect 90 days after the close of legislation, which is projected to be September 13, 2013. He stated the advisory committee has a rule package that will help explain the rule package. He indicated he believed staff was seeking the advisory committee to vote to adopt the rule package. Mr. Jack Peterson stated statute was made written broad and details explaining the statutes will go into the rules. He indicated his goal was to have the rule package completed so that it can go into effect when the statutes do. Chairperson Etheridge stated his goal was also to have the rules completed by September 13, 2013. Mr. Logan asked if a public hearing had to be held in order to adopt the rule package. Mr. Peterson stated currently the agency has exempt rule making process. Chairperson Etheridge explained the agency is exempt from the regular rule making process for 12*

months due to the statutes being changed. Mr. Logan asked if it went back to the regular rule making process at the end of the 12 months. Chairperson Etheridge indicated he believed it would.

#### Article 1

The PMAC members discussed the definition of Pretreatment written under R4-29-101. They determined the way it was currently written in the proposed rules was sufficient.

Mr. Cullings indicated there are some places within the rules where italicized words appear and those parts of the language are direct quotes from the statutes.

Mr. Seemann asked, in regards to R4-29-102, if fungus inspections and treatments would fall under the regulation of OPM. He indicated he felt it may need to be clarified in rule as to whether or not the industry should be performing pest management services in regards to fungus. The PMAC discussed Mr. Seemann's concerns and determined the language did not need to be changed. Chairperson Etheridge indicated it was his understanding that the Task Force recommendation was that the agency not regulate fungus treatments or inspections.

Mr. Fredrick asked if both the Applicator Application fee listed under R4-29-103 and the Applicator Renewal fee were the same. Mr. Peterson stated they both cost the same. Mr. Peterson explained it was changed and made the same to simplify the fees.

Mr. Fredrick asked if a supplemental treatment to a property has to be TARFed if, for example, a structures patio is treated by the company who did the pretreatment. Mr. Peterson it would have to be submitted as a TARF but there would be no fee.

Mr. Fredrick asked if the OPM is able to comply with the time frames listed under R4-29-107. Mr. Peterson stated the staff was able to meet or exceed all time frames. He explained OPM usually far exceeds the time frame but the time frame is required by law to be set up.

#### Article 2

Mr. Peterson stated currently there is a 90 day exemption that allows individuals to work for 90 days after registration while unlicensed. He stated his concern is after an individual becomes licensed they still have 90 days to work in categories they are not currently licensed in, according to the proposed rule under R4-29-201. He explained there is currently no way to track when their 90 days in a new category starts. He explained he is concerned that an individual may continue to work unlicensed in different categories for an undetermined amount of time. He suggested the possibility of having the individual register for the category they will be working in prior to performing services within that category. He explained that it would help keep track of when an applicators 90 days of working in a new category started. The PMAC discussed the different possibilities of how to best track an applicators 90 days. The PMAC expressed concerns about companies not following the rules and registering their employees for new categories until they were to get caught working unregistered. Chairman Etheridge recommended to keep the rule as written and if the agency were to see the rule being abused by the industry to bring the issue before the PMAC to address it.

Ms. Ruggiero asked if the changes in the proposed rules had been sent to everyone in the industry who may be effected by them. Mr. Peterson stated the proposed package was sent to everyone on the PMAC listserv. Mr. Cullings stated most of the rules are identical to what

*the Task Force recommended. He explained anyone receiving information that was being sent out regarding the Task Force should have seen most of the rules.*

*Mr. Chris Gillies, with Terminix, stated he did not understand the purpose of the 90 day rule. He explained this is the only state he is aware of that gives a 90-day "free ride". Mr. Tolton explained the 90 days was to allow for training and to give the employer an opportunity to see if the company wanted to maintain the employee. He explained currently if an individual were to broaden into an additional category they are given 30 days. Mr. Peterson stated from a regulatory stand point it was easier to not allow 90 days for anyone who was not a new applicant. Mr. Seemann stated he recommended licensed individuals not be given additional time to work in categories they do not hold. Mr. Latham stated his concern with licensed individuals not being given any additional time to work in other categories prior to becoming licensed is hands on training would be illegal. He explained, especially in regards to termites, he believed the applicators need hands on training and to be able to apply pesticides as a part of their training. Mr. Craig suggested to change the language to only allow 30 days for applicators who are broadening. Mr. Latham indicated he agreed with Mr. Craig's suggestion. Mr. Witcher suggested requiring licensed individuals to be under immediate supervision when broadening into any category for 90 days or until they become licensed. Mr. Peterson agreed with Mr. Witcher's suggestion. Ms. Linda Harrington, with S.O.S. Exterminating, explained she felt the PMAC had good ideas, but putting more restrictions on supervision would only make things more difficult for those who already follow the rules. She stated those that currently don't follow the rules still wont and she feels it would not make a difference. Mr. Fredrick stated the industry is used to the "30 day window" and he does not see a reason for it to change. Mr. Witcher amended his recommendation to change the language to allow new applicants to have 90 days and broadening applicants to have 30 days.*

*Mr. Latham stated, in regards to the language in R4-29-203, he did not believe the minimum age should be 18. He indicated there are companies in rural areas that are family run businesses that have their kids or grandkids working for them. He stated he did not understand why someone would have to be 18 years old in order to preform pest management services and become licensed. Mr. Fredrick stated after the discussion of the minimum age being set at 18 in the Task Force meeting he called his insurance company, and they told him to not allow his minor children to apply pesticides because it is a liability. He stated it is ok for them to be laborers. Mr. Peterson stated there are 2 reasons the minimum age is being put in place. He explained those reasons are insurance rates will "sky rocket" and second is because they are minors. He further explained from a regulatory standpoint it makes it very difficult because the agency cannot talk directly to the applicator for legal reasons. Mr. Latham asked if anyone under 18 is currently licensed would they be able to stay licensed. Mr. Peterson stated they would be able to keep their license. Mr. Seemann asked how many minors are licensed. Mr. Tolton stated he was not sure of the exact number but the youngest individual to become licensed was 13.*

*Mr. Latham asked for clarification on the Qualifying Party (QP) versus the Certified Qualified Applicator (QA) mentioned under R4-29-204. Mr. Tolton explained the QA will be an active license that you can perform pest control services under, however you are not the responsible party for a business. He stated a QA is essentially the same as what an inactive QP is now, but it allows you to preform work just as an applicator. He stated the QP would be the individual taking on the role of being the responsible party for the business. Mr. Seemann stated it would eliminate holding both a QA and a CA license assuming you have the same categories in both. Mr. Darrell Ennes, with Terminix, asked if the QA could*

become the QP for a business. Mr. Tolton explained that you would activate a QA to a business and that would make them a QP. Mr. Anthon Scarfo, with Phoenix Union High School District, asked if schools were only required to have CA's on staff. Mr. Peterson explained that school districts would need to have a QA on staff, but are not required to have a business license or QP. Mr. Scarfo stated he felt all political subdivisions should have QA's on staff because there are places that they treat, such as parks, that children are present at just as much as schools. Mr. Latham asked if QA's and QP's would be renewed in May along with the Applicator licenses, and would it no longer be required to hold and renew both licenses. Mr. Tolton stated as of July 1, 2013 the expiration dates of all licenses will be moved to May 31<sup>st</sup>. He explained an individual who held all the same categories as both a CA and a QA could let choose to not renew their CA license and just hold a QA license as it would allow them to preform pest control services as an applicator. He further explained if an individual held more categories as a CA then they did as a QA they would want to keep both licenses and renew them in order to be able to perform work in the categories they are licensed in.

Mr. Wagner asked if all applicator registration, mentioned under R4-29-207, would be handled electronically. Mr. Tolton stated it would be primarily electronic but there will also be an option to submit it on paper as well.

Mr. Fredrick asked, in regards to R4-29-208, if an individual could choose to switch to a 2 years renewal for their applicator license at any time. Mr. Peterson explained it would be the choice of the licensee. He further explained you would have to obtain the 12 hours within the previous certification period. He stated any excess CE an individual obtains during a certification period would not be carried forward.

Mr. Latham asked if his understanding of R4-29-209 that all licenses would be renewed in May was correct. Mr. Tolton indicated Mr. Latham's understanding was correct.

Mr. Latham asked if the 30 day broadening correction discussed earlier in the meeting should be moved R4-29-210. Chairperson Etheridge stated if motion to approve is done then there will be a recommendation to make the correction to the broadening to 30 days.

Mr. Wagner asked if the rules regarding the examination, listed under R4-29-211, were the same as the current rules. Mr. Peterson stated it was new language. Mr. Latham asked why the testing was being limited to 3 times within a year. He explained some people are knowledgeable but just not good test takers. Mr. Peterson stated this rule was changed under the Department of Agriculture because an individual took a test repeatedly until he passed after many failed attempts. He explained the agency decided there had to be a limit set. Mr. Latham stated he did not agree with limiting it to 3 times in a year. He stated it would seem more reasonable to limit it to 1 time a month. Mr. Wagner stated he agreed with Mr. Latham. Ms. Harrington stated she works with each technician before they go and test, but some of her technicians are dyslexic and it is hard for them to pass a test. Mr. Peterson informed her if there were documentation submitted as to an individual being dyslexic there would be special accommodations made for them. He explained it is required by law for those accommodations to be made. Chairperson Etheridge stated he would recommend 3 times within 6 months. Mr. Tolton stated it was written as 3 times within a year because the application is open for a year. He explained to make it 3 times in 6 months would require the application to only be open for 6 months. Mr. Peterson stated he felt it could be set up to where the application were open for a year but the applicant was only allowed to take the test 3 times every 6 months for a total of 6 times from the approval of the application. Mr.

*Wagner recommended the wording be reworded, upon a motion passing to accept the rule package, to state 3 times in 6 months. Mr. Latham seconded Mr. Wagner's recommendation.*

*Mr. Fredrick asked, in regards to R4-29-212, if other states had reciprocity for pest control licenses. Mr. Peterson stated some other states did have reciprocity. Mr. Wagner asked what the intent was for reciprocity. Mr. Peterson indicated the intent was to have reciprocity with any state that has an approved program. Mr. Seemann indicated he recalled it being stated previously that the intent was to give reciprocity for the national core exam but not the state portion. Mr. Peterson stated the intent is if an individual holds a category in another state that is similar to a license category in Arizona then they would be given credit for that license. Mr. Wagner explained his concern is that it would open the door for anyone who held a license in another state to come to Arizona and open a business. Mr. Gillies stated while he was able to obtain licensure through some states through reciprocity, it is also stated in state law that if he were to take up residency in that state he would have to go through the licensing process and test just like anyone else. Mr. Gary Christian, ESD Licensing Manager, stated it works the same way for Department of Agriculture licensing. He explained if an applicant intends to become a resident of Arizona they must test. Mr. Peterson asked if the PMAC would prefer to have reciprocity for the National Core Exam but not the categories. Mr. Wagner stated he would recommend having reciprocity for the core exam but not the categories. Mr. Tolton indicated if the agency had reciprocity for the core exam and individual would still be required to take a laws and rules exam.*

*Mr. Fredrick asked if it was necessary to report a fee for Continuing Education courses given as requested in R4-29-216. Mr. Peterson stated the reason for inquiring about the fee is the industry often asks if there are fees associated with courses. He explained having the information allows us to better inform the industry.*

*Mr. Seemann asked if OPM would accept retroactive applications to receive credit for courses not previously approved. Mr. Peterson stated we currently do and he does not see why we could not accept them.*

### *Article 3*

*Mr. Peterson stated R4-29-301 (G) would probably be reworded. He explained he believed it was supposed to say special local need label and section 3 label.*

*Mr. Seemann asked, in regards to R4-29-304, how the agency would enforce these rules for someone the agency doesn't regulate. He asked how the agency could require them to put a sign on their vehicles. Mr. Cullings stated the agency does regulate them, they just are not required to be licensed. Mr. Seemann asked if they will be notified that they are regulated. Mr. Craig stated OPM will have to address notifying the companies by way of Compliance Assistance. He explained when companies are encountered a complaint will be opened. Mr. Seemann feels they need to be registered but not licensed. Mr. Craig stated it would be too difficult to require them to be registered. Mr. Latham asked if there will be a minimum lettering size on the truck to show they are not a licensed pest control company. He indicated his concern is it would be so small it would not be seen. Mr. Cullings stated the rule requires it to be "prominent". Mr. Seemann asked what is defined as prominent. Mr. Cullings stated it would be a case by case basis.*

*Mr. Fredrick asked if his understanding that a treatment ticket could be provided to a home owner as long as there is a something provided in writing by the home owner stating it is*

acceptable was correct pursuant to R4-29-306. Mr. Peterson stated that was correct. He explained that this rule was written so that the industry would clearly know this was acceptable. Mr. Fredrick stated he understood that it could be done but he did not understand why he would have to have a document in a file from the individual stating it was acceptable for the company to do this. Mr. Seemann stated it could be as simple as sending the customer an email asking if emailed records were acceptable and the customer responding stating it was. Mr. Gillies asked if each customer would be required to give approval to receive emails rather than paper records. Mr. Peterson indicated that one approval would be needed for each customer. Mr. Craig stated the reason this rule was created was to protect the industry because there have been many complaints from consumers complaining that they never received any records or notifications. Ms. Ruggiero stated the golf course industry has the consumers choose how they want to be notified. Mr. Dave Burns, with Burns Pest Elimination, stated it would be a burden to store a document for each customer. Mr. Peterson explained the approval could be done via email. Mr. Burns stated it still had to be stored and it would still be difficult to store that large of a quantity of documents. Chairperson Etheridge asked if an investigation is being done if the consumer is asked if they gave the company authority to notify them electronically. Mr. Craig stated the questions of if the record was left with the consumer is ever asked unless the consumer contacts the agency and complains that the company did not leave a record. Mr. Gillies indicated Terminix uses a hand held device to obtain a signature from the consumer and on the device they indicate how they want to receive their records. Mr. Burns stated he would be able to prove he sent an electronic version. Mr. Peterson stated there have not been many issues with electronic notification and it will be amended to not require approval from the consumer.

Based on discussion the PMAC and Staff determined there will be modifications made to R4-29-308(G)(2).

Mr. Fredrick stated R4-29-309(C) makes it sound like you have to retreat the whole structure instead of just the infestation. Mr. Peterson stated after 3 infestation issues the entire structure has to be retreated.

#### Article 4

Mr. Latham stated, in regards to R4-29-403, a QP for a business would not be able to take a vacation longer than 14 days. Mr. Peterson stated there was some enforcement digression. He stated the facts of the situation would be looked at and if it were determined the QP were not trying to intentionally not follow the rules there would be leniency.

#### Article 5

Mr. Wagner asked for clarification on R4-29-501(D) as to whether it was referring to pesticide container disposal or pesticide disposal. Mr. Peterson stated it was pesticide disposal.

Mr. Latham asked if there was a specific amount of training required under R4-29-502. Mr. Peterson stated it would be required as much as it would take to properly train, equip, and supervise the applicators.

R4-29-503

*Mr. Fredrick stated under R4-29-503 it states employers are required to keep employees tax records. He asked if a company is currently required to keep the W-2 records. He explained his concern with keeping tax records was that it would be a privacy issue. Mr. Peterson asked Mr. Craig if the purpose of this rule was to show that and individual was an employee. Mr. Craig stated it was to verify employment as well as the date of hire. Mr. Latham stated W-2s do not show the date of hire, it only shows the amount of money earned. Mr. Craig asked how the industry envisions an inspector determining whether an individual is an actual employee of a business. Mr. Seemann stated the inspector should be able to determine if they are an employee because they will be required to register as an employee through OPM. Mr. Burns stated he felt the PMAC might want to seek legal advice about privacy acts. He explained legally businesses can not release the amount an employee was paid, any medical history, or insurance information. Mr. Peterson asked if there is a possibility for a W-2 to be forged. Mr. Latham stated that blank W-2 forms could be purchased and forged. Mr. Tolton stated for privacy reasons documents could be redacted to protect the employees. Mr. Peterson indicated it was currently not a large issue and that this section could be removed.*

*Mr. Wagner asked, in reference to R4-29-505, where the list of products on the Ground Water Protection List would be made available to the industry. Mr. Peterson stated it would be available on the OPM website. He explained there is a potential for the list to change. He stated if a product is not detected for 5 years it would be removed and there was potential for products to be added to the list as well. Mr. Wagner asked how the industry would be notified of changes to the list when they occur. Mr. Peterson indicated changes are only made once a year and the changes are published January 1<sup>st</sup> of every year. He stated it would be a part of the outreach education and notifications would be sent through the listserv. Mr. Seemann stated he felt it would be beneficial to have as a supplement sent out with the renewal.*

#### *Article 6*

*Mr. Fredrick asked if there would be any exception to the 24 hour rule for records requests, mentioned under R4-29-601, if the QP was unavailable. Mr. Peterson indicated there would be leniency, but also stated in the case of an emergency where the agency needed the information right away someone else would have to act as the responsible party and obtain the records requested.*

*Mr. Craig stated, in regards to R4-29-606, if anyone wanted to see any of the older records that show how the calculation sheets work he could show a copy to anyone interested.*

*Mr. Latham asked if there had been provisions made for an individual who had been sent into active military duty who was unable to renew their license. Mr. Tolton stated it had been addressed under R4-29-208(C)(4).*

*MOTION:*

*To recommend the staff to move forward with the rule package with the recommended changes by Robert Wagner*

*Second by Doug Seemann*

*Ms. Ruggiero feels the PMAC should give time for industry and others to review the package before making a motion and recommendation to OPM. Mr. Seemann stated he felt staff should make the recommended changes first then send it out to PMAC and industry for*

review before making a motion. Mr. Cullings stated the law that allows all of the rule making to be done does not go into effect until September 13, 2013. He explained the plan is to get all the rules in order and make them effective the same day the laws go into effect. Mr. Scarfo agrees with Ms. Ruggiero. Chairperson Etheridge stated PMAC is advisory, and OPM staff does not have to take the recommendations. He asked Ms. Ruggiero if her intent was to ask the PMAC to postpone making a recommendation. Ms. Ruggiero wants to make sure that everyone who the rules are going to affect are comfortable with the changes. Mr. Fredrick stated he understood Ms. Ruggiero's concern, but he explained he felt all of the information on the proposed changes would be shared within the industry in order to receive feedback prior to the changes taking effect.

*Motion withdrawn by Robert Wagner*

*Second withdrawn by Doug Seemann*

**MOTION:**

*To be provided a final draft of the proposed rules with the recommended changes made and to make a motion regarding the rules after a final review by Jack Latham*

*Second by Andrew Witcher*

Mr. Fredrick stated he doesn't think that anyone who is going to be affected by the changes in law and rule do not know it is coming. Mr. Peterson stated the agency has to move forward with the rule package to get them into their finalized form. He also stated compliance staff has already started putting together outreach efforts.

Mr. Fredrick asked how much of a grace period would be given to the industry to comply with the changes. Mr. Peterson stated he believed it would take until the end of May 2014 to ensure everyone in the industry is knowledgeable about what is required. He indicated a lot of outreach would be done through compliance assistance.

*Motion withdrawn by Jack Latham*

*Second withdrawn by Andrew Witcher*

Mr. Peterson asked what the time frames were for the exempt rule making process. Mr. Cullings stated the exempt rule making process will allow OPM to make the rules official upon the effective date of the laws. He stated the rules become official by signature of the director. He explained once it has been signed by the director the agency would be required to submit the rule package to the Secretary of State. He indicated approximately 3 weeks after submitting it to the Secretary of State it would be published. He explained the published version would look similar to the current rule package hand out with all of the strikethrough, underline, and changes. He stated OPM would make a "clean copy" immediately available to people. He indicated the Secretary of State would eventually publish a clean copy of the rules, but it could take as long as a year.

**MOTION:**

*To recommend staff move forward with the rule package with the recommended changes by Robert Wagner*

*Second by Seemann*

VOTE:

7-0

- f) **Draft Substantive Policy Statement: License & Registration Exemptions**
- g) **Draft Substantive Policy Statement: Political Subdivision Applicator 90-Day Exemption**
- h) **Draft Substantive Policy Statement: A.R.S. § 32-2326 and Suspensions**
- i) **Draft Substantive Policy Statement: Initial Corrective Treatment TARFs**
- j) **Draft Agency Guidance Document: Devices**
- k) **Draft Agency Guidance Document: Applicator Registration**

*(The discussion of the substantive policy and guidance documents occurred prior to the discussion of the proposed rules.)*

*Mr. Peterson asked Mr. Cullings to address the substantive police and guidance documents. Mr. Cullings explained the purpose of a substantive police is to explain the agency's interpretation or approach to the law. He stated when going through legislature there were a few statutes that needed clarification. Mr. Cullings stated the guidance documents are to help explain the laws in "plain English". He explained all of these documents are just proposed documents but if they are adopted they would go into effect at the same time the new statutes take effect, September 13, 2013. Mr. Cullings stated if there are any issues with understanding the language to let him know so that it is able to be clarified. Mr. Bard asked what the effective date was. Mr. Peterson stated it would be when the legislation went into effect September 13, 2013.*

MOTION:

*To adopt policy and guidance documents by Ken Fredrick*

*Second by Doug Seemann*

VOTE:

5-0

**IV. Call to the Public (Chairperson) – None**

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

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

- a) *July 23, 2013 at 10:00 A.M.*

**VII. Adjournment – 12:47 P.M.**