

Minutes
Pesticide Advisory Committee (PAC) Meeting
January 27, 2014

Present: PAC Members: Leonard Felix, Scott Armbrust, Ken Gerdes, Thia Walker, Joyce Van Horn, Tina Booten, Colorado State Attorney General representative David Joeris, and Colorado Department of Health and Environment representative Leah Colton and John Nieland; EPA (*Environmental Protection Agency*) *Region 8* representatives David Golden; *Interested Public Guest Angela Medbery; Bryan Jameson, DORA*; and Colorado Department of Agriculture (CDA) representatives: Mitch Yergert, John Scott, Laura Quakenbush, Matt Lopez, Mike Rigirozzi and Mary Jo Dennis.

Committee Chairperson Leonard Felix opened the meeting at 9:25 a.m. with introduction of the attendees.

CDPHE/CO PGP Update

John Nieland, CDPHE

The stakeholder meetings were finished with in November and in December 2013. Part of the discussion focused on less restrictive language. The permit for 2014 was extended.

John will write the new permit for 2015 with the notice going out in March or April. The public has one month to adjudicate. The 2015 permit will be issued September-October 2014 and will be effective January 2015. EPA compliance requires the permit 10 days prior.

John is attempting to get the railroad people on board. He needs clarification about these areas next to the railway if they are called "ditches?" Leonard commented that the railroads only make applications to the tracks. Railroads follow rivers but they are engineered with culverts to go under the tracks.

John mentioned that he had received a call from Senator Bennett who has personal interest in PGP. They discussed the survey and the Farm Bill. PGP should make it.

Seventy-one or seventy-two permits have been accepted. Mr. Nieland's task will be working on compliance and enforcement of NPDES.

CDA Update – CDA Staff

Emerald Ash Borer

Mitch Yergert, CDA Division Director

In northeast Boulder, tree samples (peeled branches) were taken from ten one mile grids. EAB was identified in five of the ten grids. It is a struggle to determine where the EAB are because they do not have pheromones. Quarantine is in place and we are getting compliance agreements with tree companies and waste management companies.

Treatment options have been identified as: soil injections – systemic; expensive trunk injections. We are putting together a decision guide to help home owners in determining their plan of action. Cities and counties are concerned about cost and how to manage the EAB.

Thia Walker mentioned that Whitney Cranshaw is working on a document, pollen collecting in urban environments. He needs \$25 to \$30K for the study. He needs funding ideas but he is not seeking funds from chemical companies. The applicator community has been supportive.

John Nieland inquired about who authorizes pest emergency status. Dave Joeris said it may be at the county, state or federal level. Dave will research and follow-up.

CDA Location Move

Mitch Yergert

The goal for the move to the new location at 305 Interlocken is April 1st. With new phone numbers and new address, a written notice will be sent by whoever is affected. The location is just north of the Rocky Mountain Regional Airport (formerly Jefferson County Airport) and south of highway 36 (sometimes referred to as the Boulder Turnpike).

Worker Protection Standards Workgroup

Mike Rigirozzi, CDA Enforcement Specialist

Mike is still in the process of coordinating a WPS workgroup. He needs nursery growers added to the workgroup to discuss WPS issues. Mike will release a notice when the workshop is ready to begin discussions.

Thia Walker and Mike will work together on this project. Thia will make a few presentations to talk about WPS.

2013 Enforcement Statistics

Matthew Lopez, CDA

Matt presented enforcement statistics for January 1 through December 31, 2013.

Cease and Desist Order to Businesses included: 8 CDOs for unlicensed businesses; 2 improper use of pesticides; 2 using RUPs as a Limited Commercial Applicator without registering; and 1 using RUPS as a public applicator without registering.

CDOs to individuals or Agricultural Establishments included: 20 CDOs to Ag establishments for WPS violations; 13 to individual citizens for improper use (improper mothball use was a recurring issue); and 3 using RUPs as a Private Applicator without a license. Mothballs that are used for repelling snakes or foxes are required to follow label instructions as set forth by FIFRA and PAA. Pesticides are defined in regulation as what mitigates, repels or controls pests.

Complaints are prioritized as: Human Endangerment; Animal Endangerment; Property or Environmental Endangerment; and Rule Violation. Lawncare applications generated most complaints. This could be private homeowners or commercial complaints because turf is more visual. The highest number of complaints were regarding drift. Lawncare application cases were the most resolved complaints with outdoor vertebrate applications coming in second.

Of the 52 cases that were resolved, 26 cases were due to lack of evident or a determination that no violations occurred. The remainder received enforcement action.

Thirty-two violations were issued in 2013. Twenty-nine of these were given to agricultural establishments for WPS related issues, five violations were for not complying with rules, one violation was for record keeping issues.

John Scott asked PAC members for any suggestions to identify unlicensed applicators for the upcoming "blitz."

C&T Program Update

John Scott (CDA), Thia Walker (CSU)

Agricultural Weed Control Study Guide Development

Thia Walker

Jonathan Handy and Thia invited six applicators to join the development group. As a result, the draft should go to Jonathan for review next week. The following week, the workgroup will have an opportunity to review the guide. The guide will go back to Thia to begin writing. The deadline goal for completion is September 2014.

Potato Storage Category

John Scott

John has been contacted by the potato industry regarding the Stored Commodity Treatment category with the intent to have discussion to “split” the category for “potato storage” for sprout-nip applications. A sprout inhibitor is used to preserve the potato.

The current issue is how to “split” the category; are applicators who are currently licensed in the Stored Commodity category “grandfathered in” or do we actually begin testing.

This suggested that a group from the industry meet about May and make proposed changes to the study guide. The group will split out specific questions and identify questions for experience.

Marijuana Rule Implementation

John Scott

There are not enough resources for additional inspections. The Governor has issued an Executive Order for marijuana Rules sometime after May 2014. The Governor has tasked CDA with developing a list of products that would not be in violation for use on marijuana. There are no crop tolerance data on marijuana. This is no research on transference of pesticide through usage of the product. There are no pesticides currently that apply specifically, and technically, to cannabis.

CDA will maintain a list of products that will not be a violation to use on marijuana. CDA will be developing this list based on criteria derived from discussions with EPA. The criteria is based on label language that is very broad and does not prohibit use on marijuana and the active ingredient is except for tolerances.

Washington State has established a list its own list of products based on similar criteria.

Program Update

John Scott

Jonathan Handy is the new Certification and Training Coordinator. Jonathan came from ICS Fertilizer section.

Pesticide Applicator ID Card Implementation

John Scott

CDA has begun issuing plastic photo ID cards for licensed pesticide applicators. The goal help dealers to better verify licensed applicators.

There are several opportunities for applicators to have their photo taken. Applicators can “walk-in” testing locations around the state. Cameras will also be available at various continuing education workshops. Private Applicators can send a passport-type photo (or a head-shot with a smart phone) along with the license renewal form. The goal is for all Private Applicator licensees to have a photo ID issued over the next 6 years.

Metro Institute Examination Statistics

John Scott

Since changing to Metro Institute computer based exams, comparison of pass/fail statistics indicate that the passing rate was higher in 2013 than in 2012. Overall, there were percentage of passed exams with fewer attempts.

The General core exam is scheduled to have pictures for pest identification and graphs in 2014.

Leonard suggested that the schedule and test process needs to be defined more clearly. Thia also mentioned that the extension office personnel need more training in proctoring exams.

Label Language: Pollinator Label Language Update

John Scott, CDA

EPA released new Pollinator Protection Labeling language on August 15, 2013. Label language has raised concern regarding restrictions in rangeland pest applications while plants are flowering. Exemptions have been requested for the non-agricultural pollinator language.

The EPA Public Response notice is coming anytime now and will have a 30-90 day time frame to comment on pollinator language. AAPCO/SFIREG and ASPCRO are submitting comments and requesting guidance.

An area of concern is the need for clarity of the terms Pollinator versus Bee in the Protection of Pollinators Box. ASPCRO has concerns using the word “pollinator” in any portion of the label will imply to the applicator, general public and beekeepers that the label restrictions apply and extend to all pollinators. Pollinators include many species of insects, birds, bats and in some cases other animal species. This concern could be partially addressed with language in the Pollinator Protection Box stating the box is advisory only.

Please inform your industry this is coming and strongly urge their immediate response.

Proposed Rule and Sunset Changes

John Scott, CDA

Device Rule – Update on Status of Rule Process

The hearing is scheduled for Tuesday, January 28, 2014.

Review of CDA Proposed PAA Sunset Recommendations

Recommendations include:

- 1) 35-10-107-16 – Remove “post marked” since the CDA is going to an electronic system
- 2) 35-10-106-1A – Insurance requirements
Remove “must submit Notification of Cancellation of insurance policies”
Change to “applicator” needs to provide proof of liability insurance.”
- 3) 35-10-117-A - “unlawful acts performing application outside of category”
For clarification, add “in their category license they are performing”
- 4) 35-10-117-(1) - “Unlawful Acts” Like to add “Violation not to maintain your license”
(Statute or Rule?)
- 5) 35-10-119-(1) - Make it a violation to impede, harass or attack our staff.
Inspectors need protection when meeting people with anti-governmental attitude.
- 6) 35-10-125-(2) - would like to add to PAC a Private Applicator representative
Heavily involved in WPS.

Leonard Felix suggested adding “false reporting as a violation with penalties.”

John Scott cited 35-117-(1)-(f)(I). It is unlawful to make false, misleading, deceptive, or fraudulent representations.

With no further discussion the meeting was adjourned at 1:40 p.m.
Respectfully submitted to and edited by John Scott.