



ARIZONA

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Office of Pest Management

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Ellis M. Jones
Acting Director

ADVISORY COMMITTEE MEETING WEDNESDAY, July 14, 2010 10:00 A.M.

Minutes

I. Call to order 10:06a.m. (Chairman Etheridge) Committee Member Roll Call

Committee Members present: *Kevin Etheridge, Ken Fredrick, Nate Tamialis, Doug Seemann and Carmella Ruggiero*

Committee Members absent: *Jack Latham*

Staff present: *Ellis Jones, Vince Craig, Hugo Pulido, Charmayne Skow, Robert Tolton and Jennifer Baker*

II. Approval of Minutes

a) May 12, 2010

MOTION: To approve the minutes by Doug Seemann
Seconded by Kevin Etheridge

VOTE: 4-0 Motion carried (*Ken Fredrick was not present for the vote*)

III. OPM Updates and Reports

a) Agency Update (Mr. Jones)

1. Agency Snapshots (Handouts)

Mr. Jones stated one of our goals is to reduce our dependence on TARF fees and the fees related to them. In the past our revenue was 80% of TARF fees, at present it is about 50%. Mr. Jones feels with the upcoming renewal period we will exceed these figures with renewal fees accounting for more than 50% of the revenue.

Mr. Tolton stated that in the month of June there were a few lost licensees due to failure to renew, however it should pick up during FY2011. Mr. Seemann asked if we are finding that individuals with QP's are letting their applicator license lapse. Mr. Tolton stated QP holders are not letting their applicator license lapse. Mr. Seemann asked how this year's figures compares to last years. Mr. Tolton

stated we are gaining roughly 100-200 people per year. However, we did see a small drop off in renewals, but that should increase. Also, there is an increase in applicators who are applying for there QP license. Mr. Jones then stated that the original house bill proposed doing away with the QP license, however that measure was removed.

Mr. Jones stated that most complaints that are filed do not end up going to administrative hearing but rather are settled by consent agreements, which helps to reduce expenditures.

Mr. Pulido stated in the month of June we have declined in the number of online TARF's submitted. Paper TARF submissions have also decreased; because companies are submitting there TARF's via e-TARF. Mr. Etheridge deduces that it still appears that TARF fees are representing 70% of the revenue. Mr. Jones stated that civil penalties are included as revenue however the the monies received from civil penalties goes directly to the general fund. Mr. Etheridge requested a comparison of last years numbers in order to determine if there has been a change. Mr. Fredrick says it appears that revenues are lower then expenditures according to the snapshot. Mr. Jones stated that the Office of Strategic Planning and Budget, Governor's Regulatory Review Council, and Joint Legislative Budget Committee ensure no agency is conducting business in the negative. Ms. Skow said we need to remember that it does not capture the other renewals, the decrease in employee salary, and the mandatory furlough days. However, the new fiscal year will have these changes and will reflect the changes and will show a decrease in expenditures. Mr. Tamialis reiterates that even though we are seeing higher expenditures this will decrease.

2. Legislator Request

Mr. Jones stated there is an annual report that is due August 15th. Mr. Fredrick inquired if the impending auditor general audit is separate from the previous one. Mr. Jones stated yes and they will be arriving on Friday. It has been stated that OPM is light years ahead of many other states, but that there is still room for change. Once the auditor general finishes their report it will be available on the website and Mr. Jones encourages individuals to make recommendations and comments on what the industry feels should happen to the OPM.

3. 5-Year Rule Review

Mr. Jones stated we are currently attempting to change some rules. OPM is being asked to review all the rules and give an explanation as to why each rule should be kept or discarded. Some of the rules need to be changed, but in order to do this the original rule would need to expire before a change can be made. This process takes roughly 3 months. Therefore, there would be a period of time a rule would not exist. Also, if we let the rules expire we cannot put in any rule changes unless we obtain a concession, due to the current moratorium. Mr. Seemann asked if instead of making a new rule can we extend a rule. Mr. Jones stated no matter what we are still being required to justify each current rule so the work is still being done. Mr. Seemann asked if there is a spreadsheet simplifying all the rules. Mr. Jones stated that there is not currently a spreadsheet. The plan however is to review at each rule and make statements and then send it out. That is easier then getting input initially. So when we receive the feedback it can be opened up for discussion. Mr. Tamialis asked it

there was a projected time when rule changes could occur. Mr. Jones stated the moratorium extends through FY2011.

b) Compliance/Enforcement (Mr. Craig)

1. Adjudicated Complaint Summary (Handout)

Mr. Craig stated individuals can currently visit our website and view signed consent agreements. He also stated OPM would be losing an inspector today, but would not be filling the vacant position. Mr. Fredrick asked which inspector was leaving and Mr. Craig responded that Mr. Jason Vogt was leaving. Mr. Seemann inquired as to how the school and daycare inspections are going. Mr. Craig stated that has not gone into effect yet and are waiting on EPA to approve our contractual agreement with them. In the month of May there was one school inspection, because a misuse was involved, which was referred to OPM by EPA. In the month of May there were 15 childcare inspections. Mr. Craig foresees we will be focusing on schools, nursing homes, etc. contingent upon what the EPA responds with. Mr. Seemann inquired if this project would also include charter schools, Mr. Craig responded saying yes it would include charter schools. Mr. Craig stated that a standard cover letter would be provided to the schools upon inspection. Mr. Seeman inquired about any feedback from the schools, child care facilities, and hospitals. The only negative feedback received involves a small number of child care facilities being uncomfortable with a man, albeit a state employee, coming into the child care facility. Mr. Seemann asked if these facilities are aware of the rules. Mr. Craig responded stating he is confident these facilities are aware of the rules they are required to follow, we are merely there to insure they are following the already established rules.

c) Licensing (Mr. Tolton)

1. Business Licenses issued during May 2010

Business Name	Business Licensee	Qualifying Party
3 Bees Pest Control, LLC.	3 Bees Pest Control, LLC. – Heidi Breunig & Christopher North	Christopher North
Assassin Pest Control	Christopher Gene Anderson	Christopher G. Anderson
Bounty Hunter	Oby Allen Dunn	John F. Saxton, Sr.
Extermador Pest Control, PLLC.	Extermador Pest Control, PLLC. – McGary Bays	McGary Bays
Mister Bugman	Mister Bugman, LLC. – James Daley, II.	James Daley, II,
PalmValley Golf Club	Golden Buffalo Golf Properties, LLC. – Steve Kerr	Steve Odom
Sanctuary Golf Course at WestWorld	West World Golf Course, LLC. – Suncor Golf, Inc.	Paul Schieffer
Silver Greek Golf Club	Silver Creek Golf Club, LLC. – names AUR	John Kennedy
Summitt Eco Services	Summit Eco Services, LLC. – Arthur Chandry	Arthur Chandry

Mr. Tamialis inquired as to whether or not Mister Bugman would be carrying the previous Mister Bugman’s warranties. Mr. Tolton stated they would be honoring those warranties. Mr. Etheridge asked if the purchaser is required to carry the warranties when buying a corporation. Mr. Tolton responded yes, however this company is a sole proprietorship and not a corporation. Mr. Tolton added that

the OPM does not have the authority to preside over civil matters. Mr. Etheridge stated he recalled a company closed and then reopened under a new name and offered warranties to the prior companies warranty holders for a fee. Mr. Tolton stated that there was an instance where a company closed its doors and an existing company offered warranties to the previous company's warranty holders. Mr. Etheridge stated that he would like OPM to reevaluate that specific rule.

2. Business Licenses issued during June 2010

Business Name	Business Licensee	Qualifying Party
Acme Pest Control	Acme Pest Control, LLC. – Eric Reynolds	Eric Reynolds
CTR Pest Control	Russell O'Haver	Russell O'Haver
Daisy Mountain Pest Control	Dennis Thrasher	Dennis Thrasher
Desert Eco, LLC.	Desert Eco, LLC. – Scott & Patricia Mishler	Scott Mishler
Dynamic Pest Solutions, LLC.	Dynamic Pest Solutions, LLC. – Donald & Susan Waggoner	Donald Waggoner
LLL Weed Control, LLC.	LLL Weed Control, LLC. - John Hunt & Shauna Darr	John Hunt
Primera Pest Management	Custom Pest Services, LLC. – Alex & Mary Ramos	Alex Ramos
Seville Pest Control	San Tan Valley Pest Control, LLC. – Daren & Emily Hunsaker	Jason Connolly
Silver Mountain Landscaping	Arely Molinar	Joseph Gonzalez
The Other Guyz Pest Management	The Vroman Group, LLC. – Patrick Vroman	Christopher Johnston

3. 2011 Applicator License Renewals - The OPM mailed approximately 7166 Applicator License Renewals this year. It received and processed 6410 renewals (4749 online, 1661 on paper).

Mr. Tolton stated that the OPM sent out a secondary letter for renewals that appeared to be beneficial. Mr. Seemann said he appreciated the action.

d) Accounting (Ms. Skow)

Mr. Fredrick inquired as to when the BRB (Budget Reconciliation Bill) would expire. Ms. Skow stated that the BRB would carry through FY2011.

e) Information Technology (Mr. Pulido)

Mr. Tamialis asked if OPM has received any feedback in regards to the SCECE website, Mr. Pulido responded stating we have received positive feedback. Also, online registration is starting to pick up. Historically the bulk of registrations occur at the last minute which we believe will hold true for this SCECE as well.

IV. Review, Discussion, and Possible Action on:

a) State Agency Review of Continuing Education Requirements (Mr. Jones)

Mr. Tamialis said OPM should focus on what we want to do and not focus on what others are doing. Mr. Jones said we are trying to determine whether a fee should be charged for reviewing courses. Mr. Tolton said we are considering changing the

renewal time when OPM re-evaluates the rules and also what constitutes continuing education. Mr. Jones would like a recommendation from the committee. Mr. Seemann recommends agendaing for next meeting. Ms. Christy Davey asks how many CE providers there are currently. Mr. Seemann said this would also include companies. Mr. Jones stated that reviewing CE applications is time consuming. The intent is to create additional revenue in order to reduce TARF fees. Ms. Lisa Gervase stated that as of January there were 181 CE providers and 81 had current courses. Also, she stated Univar currently 129 courses available courses. Mr. Jones posed the question as to whether we should charge for the course or for the company. Ms. Davey commented by saying that some entities use a 3rd party for a course and asks why that individual would want to pay for teaching the course. Mr. Seemann said we would be focusing on a new group and that EPA requires us to provide courses. Dr. Pfeiffer stated that the Arizona Revised Statute states that the OPM may provide CE courses, may, not shall provide courses. Dr. Pfeiffer said you can't mandate something you would be competing against. Mr. Etheridge said he conducted some research and found that courses are regulated by rule and licensees are required to attendee courses that meet specific standards. Mr. Seemann said the validity of the course would be completed through an audit. Mr. Jones commented by saying then that each course is verified after the fact. Mr. Seemann said that if a course does not pass audit then it would be required to change.

b) Substantive Policy 2007-001 (*Whether persons who use devices for pest management need to be licensed, whether persons who provide general information or perform sales work need to be licensed*) (Mr. Craig)

Mr. Craig said you can complete pest management work without a license as long as you do not make identifications, advertise, or use pesticides. The wisdom of the policy came into play when there was a misconception that SPCC is out to get people, which was false. The wisdom of the policy comes into play because the public and environment are not being harmed. Lately there has been feedback to abolish or modify this policy. The OPM does however take issue with individuals using a device, because EPA states you shall not misuse a device. Mr. Craig stated that his team has come up with a policy that would allow those that do exclusionary work, however those that use devices that eradicate/kill pest or identify a pest would require a license. Mr. Seemann listed some practices that he believes would require a license such as mold remediation. Mr. Etheridge said OPM should do away with this policy and requests that the PMAC make a motion to recommend that the OPM do away with this policy. Mr. Craig stated that this agency does not have jurisdiction over mold remediation. Mr. Tolton said we only license individuals that inspect for fungi and added that the Board of Technical Registration has jurisdiction over mold remediation. Mr. Craig said caution should be used before motions are made, because at times it could appear individuals are trying to keep others out of the industry. We should focus on the issue as to whether it affects the public or the environment. Mr. Craig said individuals who conduct sales work or offer general information should not be licensed; only those that make identification. Ron Elkins from the City of Phoenix had questions about individuals perform sales work or provide general information and whether they need to be licensed. Mr. Craig said those folks are not required to be license, really don't need to be licensed and provided examples of why they don't need to be licensed. Mr. Etheridge brought up the fact that Home Depot has chemicals within reach of children, which is a violation of the label. Mr. Craig stated that EPA says that is only valid once the product

leaves the retail store. Dr. Pfeiffer said how can you regulate an individual when they use a hoe on weeds? Mr. Etheridge stated that we should use common sense when reviewing these issues. Mr. Seemann asked shouldn't any device used for exclusion be under OPM's umbrella. Mr. Etheridge calls for a motion. Mr. Craig said the only individuals that can work without a license are those who are using a device that is not registered with EPA, using a device for exclusionary work only and not making identifications or recommendations. Mr. Seemann asked should we change the word device to materials. Mr. Craig rebutted saying the word device is in rules. Mr. Jones wants us to table this topic.

MOTION: To use verbiage provided by Vince Craig
Seconded by Carmella Ruggiero

VOTE: 4-1 Motion carried (*Doug Seemann opposed*)

V. Call to the Public (Chairperson) –

TJ Hammer said she has a pest control company in access on 600 for sale. Also, she has information in regards to a business in the North for sale.

VI. Communication with Advisory Committee Members (Chairperson) – *No Response*

VII. Scheduling of Future Meetings (Mr. Jones)

Several members of the PMAC that the meetings be moved to the third Wednesday of the month rather than the second.

a) September 15, 2010

VIII. Adjournment- Meeting adjourned at 11:54 a.m.