



Arizona Department of Agriculture

1688 W. Adams Street, Phoenix, Arizona 85007
(602) 542-3575 FAX (602) 542-0466

Meeting Minutes for the Task Force on the Regulation of Structural Pest Management

The following minutes are for the meeting held on May 15, 2012 in Room 206 at 1688 West Adams Street, Phoenix, AZ 85007 (the Department of Agriculture Building)

The minutes for the meeting is as follows:

1. 10:00 A.M. – Roll Call – Jack Peterson, Chairman & OPM Acting Director

Present: Jack Peterson, John Boelts, Lin Evans, Ken Fredrick, Jimmy Fox, Phil Hemminghaus, and Kirk Smith

Absent: Dave Burns & Will Rousseau

2. Current Status of the Office of Pest Management and coordination with the Department of Agriculture, including:

- Listserv Signup – <http://listsrv.azda.gov/> - Jack Peterson

- Changes, updates or other items out of the ordinary

Mr. Peterson stated Mr. Burns had resigned for personal reasons.

Mr. Peterson made a statement reminding all applicator license holders to renew their licenses. He explained that about 45% of applicators had renewed.

3. Topic discussions and possible actions

- Recommendations to date from the TF:

- i. no inactive license requirements – all licenses whether active or inactive have to obtain *Continuing Education Units (CEU)* and pay to continue licensure and certification,
- ii. continue holding OPM CEU classes dealing with laws, rules and keeping persons in compliance,
- iii. discontinue state required criminal background investigations,
- iv. continue *Termite Action Report Form (TARF)* at reduced fee,
- v. business names go through the *Secretary of State* or *Arizona Corporation Commission* and only address when names are misleading, and
- vi. continue the requirement for a *Qualifying Party*

- Review and discussion of overall draft statutory and regulatory language that is prepared to come to final recommendations. Major focus will be on

the draft rule package. In addition the following topics were slated for additional change and discussion.

- i. **Golf courses what regulatory changes will be required**
- ii. **Reporting – review draft language - groundwater**
- iii. **18 - Minimum age for certification**

Mr. Peterson explained the minimum age requirement for certification is being looked at on a national level. He explained that some of the insurance companies do not want to insure individuals who are under the age of 18.

- iv. **What to regulate - devices and people who do not use pesticides**

- v. **Required Criminal background investigations – law required – not state driven**

Mr. Peterson explained that he has been receiving a lot of feedback from the industry. He stated industry wants the agency to require background investigations on all licensed individuals, but they don't want the agency to be the ones performing the background investigation.

- vi. **Qualifying party**

1. **Private registration – business license exemption**
 2. **State agency and political subdivisions – requiring a qualifying party**
 3. **Are the requirements set right? Ability to obtain and broaden**
- **Future deadlines – legislative action in 2013, drafting of legislation and associated rules – other changes that are needed that have not been discussed**

Old Business – task force purpose as laid out in the legislation may be discussed during any discussion items or as separate discussions - the task force shall submit findings and recommendations, relating to OPM including:

- i. **Review of all laws and regulations**

Mr. Evans stated the word "control" was defined, however the word control had been replaced with the word "manage" everywhere except post construction treatment. Mr. Peterson stated the language would have to be looked at and made consistent.

Mr. Smith stated he would like to have the word "attract" added to the definition of "control". He explained a lot of chemicals attract pests as a part of controlling them. He gave the example of pheromones and carbon dioxide.

Mr. Kevin Etheridge, with Contractors Termite and Pest Control, stated he is unsure about the use of the word "grade beams" in the definition of "Final-grade treatment". He stated he felt it would be better to change the language to state "at the exterior of concrete in monolithic construction."

Mr. Smith asked if cold fogging (ULV fogging) should be added to the definition of "Fog or fogging". Mr. Peterson asked if that was not covered under "other generator that forms particles less than 10 microns in diameter". Mr. Smith stated it could be covered under that part of the definition, however he feels there is an over emphasis on thermal fogging. He

suggested getting rid of the “flammable, aerosolizing thermal” piece of the definition. He explained by getting rid of that part, what would be left would cover everything.

Ms. Phyllis Farenga, with It’s Our Turn, stated she feels a Final Grade treatment is unnecessary when in a New Construction treatment situation.

Mr. Smith asked if measurements were going to be metric or standard under fumigant. Mr. Evans stated that metric terminology is not standard on a label.

Mr. Smith suggested adding the word “is” to the definition of “label”. He explained the language would read better if it says “...document that is approved by the EPA and is on or attached...”.

Mr. Smith recommended that in the definition of “MSDS” it be added that OSHA requires a standard for an MSDS. Mr. Peterson stated it probably does not have to be added because the definition refers to the standard, but he explained that it would be looked into.

Mr. Smith recommended in the definition of “Pest” that “insect, bird, mammal, organism” be removed and just leave the definition saying “...vertebrate or invertebrate animal...”.

Mr. Smith stated under the definition of “Pesticide” larvicide is misspelled.

Mr. Smith stated he did not understand why the definition of “Primary service” would only include herbicide. Mr. Robert Tolton, Office of Pest Management Licensing Supervisor, explained it refers to the weed management exemption.

Mr. Smith asked if mosquitoes were going to be covered under category 1 and category 5. Mr. Peterson confirmed that mosquitoes would be covered under both categories. Mr. Smith asked if medical pests needed to be added to category 1. Mr. Fredrick asked what a medical pest was. Mr. Smith replied that examples of medical pests are mosquitoes and bedbugs.

Mr. Smith stated the description of Right-of-way pest management was incorrect because in that category an individual is not always managing invertebrate pests. He gave the example of gophers being a vertebrate right-of-way pest. He asked if the language could be changed to managing pests including weeds to simplify the description. He explained an individual in the right-of-way category may perform management of gophers, rabbits, or ground squirrels. Mr. Peterson stated the category would have to be looked at in order to determine what should be included in the right-of-way category. He explained the goal is to keep it similar to what the federal government currently has in place.

Ms. Farenga asked what category soil fumigation falls under. Mr. Peterson stated soil fumigation falls under the Department of Agriculture.

Mr. Evans asked if the numbers had been run with the new fees to see how that would affect the revenue and the budget. Mr. Peterson stated the amount of revenue would be a little bit less, but at the end of this year the projected end balance will be around \$750,000 and the agency needs to bring that end of year balance down closer to 0. He explained there may need to be adjustments made, but the proposed fees would work for at least a few years if approved.

Mr. Evans asked for clarification on what the Private Owner Registration was. Mr. Cullings stated it was the section for the private owners performing pest management on their own properties. He explained that instead of a private owner obtaining a business license they would just be required to register with the office.

Mr. Boelts asked if there was an estimate of how many Qualifying Parties would have to register with the changes to the political subdivisions. Mr. Peterson stated there is no way to estimate that. He explained that the political subdivisions would be given a grace period in order to come into compliance with the changed laws and rules.

Mr. Smith asked if R4-29-105(E) was allowing the agency to administer its own exams. Mr. Peterson stated that it did allow for that option if there was no testing vendor.

Mr. Smith recommended R4-29-105 (G)(3) and (I) should somehow be combined.

Mr. Smith recommended R4-29-106 (A) have the language "as directed by statute" included in it. Mr. Peterson stated he felt it was ok the way it was.

Mr. Smith stated in R4-29-107 (B)(1) he did not like that if the Department does not complete the administrative review within the specified time frame that the application would be deemed complete regardless of completion status. Mr. Peterson explained that was stated in state law and could not be changed.

Mr. Tolton reviewed the Time-frames table at Mr. Peterson's request. Ms. Courtney Levinus, with Arizona Pest Professionals Organization (AZPPO), stated she felt it should be clarified on the table as to which time frames refer to the agency versus the applicant. Mr. Henry Schnieker, with International Accommodations, indicated that he agreed with Ms. Levinus.

Mr. Smith stated he felt it should be defined as to what a political subdivision is. Mr. Boelts stated it was defined in statute.

Mr. Smith asked if a Qualified Applicator (QA) could qualify more than one political subdivision. Mr. Peterson stated it had to be approved by the director as stated in statute.

Mr. Smith asked if Licensed Hospices could be added to the language of R4-29-201 (C)(4).

Mr. Fredrick asked when an individual would be required to be registered to a business. Mr. Peterson stated they needed to be registered when they start performing pest management work. Mr. Fredrick asked if an employee is hired on a Friday afternoon does a business need to go online and register the applicant over the weekend so they can start pest management work Monday morning. Mr. Peterson stated Mr. Fredrick's understanding was correct.

Mr. Evans asked why individuals were given 90 days to operate as a Certified Applicator without being licensed. Mr. Peterson stated that they are given 90 days to pass the test. Mr. Evans stated it did not make sense to him how an unlicensed individual was allowed to perform all the work of a Certified Applicator. Ms. Farenga indicated it takes 90 days to figure out if an individual is going to work out for your business or not. Mr. Smith stated previously it was abused by the industry that the business would hire an applicant for 90 days and then fire and rehire them to restart their 90 days. Mr. Evans questioned why the agency allows it. Mr. Peterson stated it is a practical method to allow businesses to continue operations and to allow the individual to obtain training and start the licensing process. He explained that it is a common business practice. Mr. Schnieker stated he does not see a good reason to have a 90 day "exemption". He explained that the individual is the one who owns the license and it should be up to the individual to obtain the license before going out and obtaining a job in the pest control industry. He feels it is the individuals' responsibility to obtain the proper license before he works in the pest control industry. Mr. Fred Willey, with Invader Pest Management, stated he disagreed with Mr.

Schnieker because when he hires an applicator he does a background check, a drug test, and anything else he can do within his power to try to find the right person. He stated he is very concerned who he sends to his customers homes. He indicated the individuals spend 1 to 2 weeks in the office studying and training, but he stated "hands on training" is the most effective. He explained he spends a day or two with the individual out in the field, and for the remainder of the time until the individual is licensed a supervisor will go out in the field with them. He stated he wants the individual to get started on the licensing process because that is part of the responsibility. He also stated that he pays for all of the applicator licenses and renewals. Mr. Boelts stated he did not have an issue with the 90 days as long as there was direct or immediate supervision. He also stated maybe there needs to be other stipulations for the 90 days for direct or immediate supervision when handing pesticides. Mr. Cullings stated there are other requirements already in place.

Mr. Smith recommended that wholesale and manufacture representatives should be added to the language of R4-29-201 (E)(2). Mr. Peterson stated that it would be looked at.

Mr. Smith suggested that R4-29-202 (C) include the language "...that is registered to the business." Or "...that is hired by the business." Mr. Peterson stated he is ok with the language for that section in the current draft but that decision would be left up to Mr. Cullings.

Mr. Smith asked if the December renewal was going to be skipped in order to bring the licensing renewal times together. Mr. Peterson stated they would be brought together somehow, but it had not been decided on how that is going to be handled yet.

Mr. Smith asked what the fee would be for a two year renewal. Mr. Peterson stated it would be double the payment of a one year renewal. Mr. Smith asked if the CE hours would have to be taken at any specific point throughout the two year period. Mr. Peterson stated the CE must be acquired within the two year period and it does not have to be gained at any specific time. He stated the only requirement for CE is that the appropriate amount is obtained before the next renewal.

Mr. Smith asked how 24 months of practical experience would be verified from another state where licensure is not required. Mr. Peterson stated that it is a current issue, and the agency would have to come up with a mechanism to deal with it.

Mr. Smith requested R4-29-204 (H) be tabled so that it can be further discussed and worked on. Mr. Peterson agreed it would be good to work on that section. Ms. Farenga agreed with Mr. Smith.

Mr. Smith asked if all individuals who currently hold a Qualifying Party (QP) license will automatically hold a Qualified Applicator (QA) License. Mr. Peterson confirmed that all QP licensees would become QA licensees upon approval of the statute and rule packages.

Mr. Smith asked if his understanding that a QA may not register for more than one political subdivision without the approval from the director was correct. Mr. Peterson stated that he was correct. Mr. Schnieker asked what the criteria for the director to make that judgment would be. Mr. Peterson stated there is no criteria set yet. He explained that it would be done by policy with unique situations. He stated he would like to see a QA at each political subdivision but there will always be unique situations that come up.

Mr. Smith asked if there was going to be a grace period to allow a company to register a new employee. Mr. Peterson responded that the individual needed to be registered before

performing pesticide work. He gave the example of if an individual was hired on Friday and they were going to start pest control work on Monday it needed to be done before they preformed any pest management work on Monday.

Mr. Fredrick asked for clarification about private owners not having a fee for employee registration. Mr. Peterson corrected the language and stated the languages should say "state entity" not private owners. Mr. Smith asked if a political subdivision would still have to pay for license renewals just not the registration of employees. Mr. Peterson stated Mr. Smith's understanding was correct.

Mr. Evans asked why excessive CE credits can be used for the next renewal. He stated it was confusing because for a two year license an individual can obtain CE credits anytime within those two years, but if they have a one year license it is only good for one year. He stated he felt that it needed to be clarified if CE credits were good for one or two years. Mr. Peterson stated that the CE credits are good through the subsequent renewal. Mr. Fredrick stated that things change too quickly to not acquire new CE credits every year. Mr. Hemminghaus and Mr. Smith stated that they agreed with Mr. Fredrick. Mr. Peterson that R4-29-209 (F)(3) would be removed.

Mr. Peterson asked if 15 CE credits was the right number of credits for a QA. Mr. Fredrick stated he does feel that a QA having more responsibility should be required to obtain more CE credits. Mr. Kevin Etheridge, with Contractors Termite and Pest Control, explained he felt it should be 12 CE credits because the Certified Applicator (CA) was required to have 6 CE credits and he feels the QA should have double. Mr. Norman Connolly, with Connolly Pest Management, stated he felt requiring 12 CE credits made more sense than 15 because with 12 an individual can easily take 1 CE credit per month and most companies have a monthly training meeting. Mr. Smith agrees with changing it to 12 CE credits. Ms. Farenga stated she agrees with changing it to 12 as well. Mr. Fredrick asked if there is any way to regulate what CE courses people take to make sure it pertains to the categories that they hold. Mr. Peterson stated this is a national issue and he does not know of a good way to do that. He explained it is up to the individual to obtain the proper credits. Mr. Jack McClure, with Chemtech Supply, expressed concern for the out of state licensees who are unable to obtain their CE because there will no longer be an inactive status. Those licensees have the potential of losing their license. He feels that the inactive status is necessary because without it, if an individual is unable to obtain their CE credits, they will lose their license that they worked hard to obtain and deserve to be able to keep. Mr. Peterson stated that he understood Mr. McClure's concerns, but he emphasized that the process to obtain an applicator license would be much simpler if the proposed packages are approved. Mr. Smith stated he is unsure of anywhere that offers fumigation CE courses. Mr. Peterson stated that it is currently an issue finding fumigation CE courses for the Department of Agriculture as well.

Ms. Farenga asked if R4-29-210 (A) could be revised to include domestic partners or key employee. Mr. Peterson asked if there was a legal definition for domestic partner. Mr. Boelts stated he felt that the state laws about domestic partnerships needed to be researched before that was added.

Mr. Etheridge asked for clarification of what was being proposed in R4-29-211 (D)(2). Mr. Peterson stated that it was being proposed that an individual who held the current B1 category as a QP would be able to test into the B2 category without needing verification. Mr. Etheridge stated he disagreed with that proposal. He explained that just because an

individual knows how to perform work in the management of general pests it does not mean they have any knowledge about the termite control. Mr. Connolly and Mr. Willey agreed with Mr. Etheridge. Ms. Farenga disagreed with Mr. Etheridge. Mr. Peterson stated that the tests are going to be made experience based tests. He explained that they will be more than just book based. Mr. Smith stated he felt there needed to be a basis of how often the tests are reviewed for any revisions or updates that need to be made. Mr. Vince Craig, the Office of Pest Management Compliance Manager, stated if individuals are in favor of the 2 year licensing requirement it would essentially take 4 years to acquire the B1 and B2 categories.

Mr. Smith asked where the 7 day time frame for testing came from in R4-29-212 (D). Mr. Peterson stated that it followed the current structure of testing for the Department of Agriculture.

Mr. Smith asked for clarification of what R4-29-212 (E) meant. Mr. Peterson explained that when an individual tests to become licensed the individual must pass the Core exam and at least one category. Mr. Peterson stated that R4-29-212 (E) meant the Core exam and the category exam must be taken within a year of each other in order to become licensed.

Mr. Evans asked for clarification regarding R4-29-214 (G). Mr. Peterson stated that an individual teaching an approved CE course can obtain 1 hour of CE for each hour taught, but they can only collect CE hours for that course 1 time per year. Mr. Evans stated he had an issue giving the instructor CE credit for teaching.

Mr. Smith stated he would like to see language added to R4-29-214 (E) would make the provider accountable for making sure the attendees are at the class from the beginning to the end. Mr. Peterson stated that in the agricultural industry the providers have a sign in sheet in the morning and a sheet that is given to the individuals at the end of the day to receive credit. Mr. Peterson stated it would be very difficult to make sure the attendees are in attendance for the entire course. Mr. McClure stated that if an individual leaves his course they lose the CE hours. He explained that he draws a line through the individuals name and they don't get their credit. Mr. Peterson agreed that something needed to be implemented to ensure the complete attendance of all those who are obtaining CE hours.

Ms. Farenga asked if training classes on how to use computers for specific business function could count toward CE hours. Mr. Peterson stated that if it was training on how to use a computer he would not give credit for that. Mr. Willey stated he didn't agree with Mr. Peterson because his licensed Applicators use hand held scanners out in the field and his business holds training courses on how to properly use the scanners. He explained that due to the detail of the job that can be reported by using the technology he feels that it should count. Mr. Peterson responded that the goal of the agency is to make sure the industry knows how to properly use pesticides.

Mr. Smith asked if it was possible to have a CE course outline posted on the internet so that individuals could look at that outline and determine whether it is a course they are interested in taking. Mr. Peterson stated that could be handled internally. He explained that he did not feel it had to be put in rule.

Mr. Connolly stated that when CE hours were first required an individual was allowed to obtain 2 hours of CE in something that was not pest control related. He explained that an individual could take a course on management practices. He stated if individuals were allowed to obtain 2 of their 6 hours in a course that was not pest control related it would

probably take care of the individuals wanting to take courses on technology. Mr. Peterson stated it would make it too complex in trying to track and award credits.

Mr. Smith asked if an OPM given CE course had to go through the same review and approval process as any other CE course before it is given. Mr. Peterson stated that all CE courses must be approved.

Mr. Fredrick asked how specific the description of where a pesticide is applied was going to be required by R4-29-302 (A)(2). Mr. Fredrick asked if he lists what product he used outside the structure versus what product he used inside the structure would that information explain enough, or would a specific location of the application of that product be needed. Mr. Craig stated when it comes to restricted use pesticides it has always been specific as to where the product was applied. He explained that if approved it was going to require the same information recorded for the non-restricted use pesticides. Mr. Craig stated this information would be used in a health related issue.

Mr. Smith asked how R4-29-302 (A)(8) was going to be calculated. He explained usually it is calculated by the amount of active ingredient that is applied, not how many pounds of formulated product were used. Mr. Craig explained R4-29-302(A)(8) refers to the total completed amount. He explained he has no issues eliminating the requirement to have that piece of information eliminated from what has to be given to the customer. Mr. Peterson stated R4-29-302 (A)(8) would be removed.

Ms. Farenga stated she felt writing the EPA number on the written notice takes too much time. She stated her company provides work that is more tailored than most companies and to write an EPA number takes up too much time that she could be out providing other services. Mr. Willey stated he disagreed with Ms. Farenga. He explained he had a discussion with some individuals in the fire department and they explained to him they use the EPA numbers if they are ever called in for a "pesticide poisoning". Ms. Farenga stated she disagreed with Mr. Willey's statement because she has dealt with the fire department as well and the only thing they asked for was the active ingredient. She explained that she felt most consumers would not know what the EPA number was and she felt it was unnecessary. She stated she only saw value in writing the EPA number for restricted use pesticides used. She explained she feels for non-restricted use pesticides listing the active ingredient and the brand name should be enough. Mr. Evans asked Ms. Farenga if she felt listing the active ingredient was easier than listing the EPA number. Ms. Farenga responded she did feel it was easier. Mr. Evans stated he felt using a trade name to locate the chemical used would be more difficult than using the EPA number. Mr. Fredrick stated all items listed in R4-29-302 (A) are already pre-printed on the tickets he uses. He indicated his ticket lists all the different materials that the company uses and the pest control technician performing the work is required to mark off each chemical that is used. Mr. Andrew Witcher, with Scorpiontech Termite and Pest Control, stated he has the same type of system as Mr. Fredrick and he feels that all of the information on the form is relevant to the consumer. Mr. Boelts stated trade names often times will have different formulations and percentages of active ingredient. He explained he feels taking the time to tell the customer what you are applying and educating them is what it takes to do the job. Mr. Peterson stated the list would be looked at and modified.

Mr. Smith stated he felt in R4-29-303 (A) it should state "Only an applicator certified in category 2..."

Mr. Peterson stated that R4-29-303 (D)(6) was going to be removed.

Mr. Fredrick stated, in reference to R4-29-303 (D)(1), when someone builds a home that is stucco down to grade an individual is required to report that it is faulty grade. He explained it is not faulty grade but he cannot inspect the foundation because it is covered. He stated it causes issues sometimes with lenders because they think faulty grade means water is running back toward the house. He indicated this requires him to write a letter to explain what he said in his report. He explained it has always been an issue of his when he is doing an inspection for a buyer. He elaborated he would rather just say it is inaccessible for an inspection because it is covered by stucco. Mr. Peterson stated he had heard similar issues from other individuals. He stated in some cases the faulty grade is a bad thing and in others it isn't, but the consumers need to be protected. He asked Mr. Fredrick if it was a big issue for him to send a letter to the individuals explaining his report. Mr. Fredrick stated it was not. Mr. McClure stated stucco below grade is always a potential problem. He explained some cities allow the stucco to be brought down to the edge of the house and it gets sprayed on the foundation walls and below. He stated some other homes have Styrofoam spray that goes down to the soil level and below. He explained both of these grade conditions are serious and they don't reflect the direction of water travel, but it is a conducive condition to problems. He stated these conditions are unacceptable because they are unable to be inspected properly.

Mr. Smith asked what device is going to be considered to be for pest control use. Mr. Peterson stated it has not yet been defined. He explained its definition was still being worked on. He stated with someone who is using a device to apply a pesticide it is really easy. He asked where the line should be drawn. He gave the example that it does not make sense to regulate an individual who is putting spikes on top of a structure for bird control. He explained an individual using spikes to keep birds off of structures has to be licensed by the Registrar of Contractors (ROC) and he does not feel they would need to be licensed by the OPM as well. Mr. Peterson stated in the area of Bedbugs for individuals who use devices to eliminate them, he feels they should be required to be licensed through the OPM to try to minimize the "consumer rip off" issue associated with this pest. Mr. Tim Goeringer, with JHTG Inc. dba Orkin Pest Control, stated he uses heat as a treatment to eliminate bedbugs and he feels heat control is just as important as pesticide control. Mr. Peterson stated he agreed and health related pests needed to be properly managed. Mr. Larry Bard, with Nose Knows, stated there already is a national standard for bedbug dogs. He explained he felt it should be necessary to become licensed to perform pest control and also to become certified with an independent third party. Mr. Kelly Denny, with Metro Insititute, asked how a situation would be handled if an individual called in with a complaint regarding someone who was using spikes to control birds. Mr. Craig stated the agency has received complaints in the past from individuals stating the proper materials were not used. He explained there is nothing in rule or statue regarding spikes. He stated there was nothing the OPM could do about it and the advice given to the individual was to resolve the issue in a court of law.

Mr. Smith asked if borate products apply under R4-29-305 (E)(1)(a). Mr. McClure stated pyrethroids may not necessarily be applied directly to concrete.

Mr. Smith asked what was going to qualify as a pesticide storage container and how it was going to be enforced. Mr. Peterson stated it was going to continue to be enforced the way it currently is.

Mr. Smith asked if requiring a QP to be at the primary office once every 14 days and at all branch offices each quarter was different compared to what the OPM currently has in place. Mr. Peterson stated it was different and his reasoning for it being changed was he feels the QP's need to become more involved in the business. Mr. Smith asked how specifically the QP was going to be required to be active in managing the business. He explained that there is no language defining what is required. Mr. Peterson stated there are responsibilities that the rule states the QP has to fulfill. Mr. Smith added for golf courses there is no record the QP has ever visited the course. Mr. Peterson stated it is currently not required to have record and he explained that the purpose is to make the QP more involved with the business.

Mr. Smith asked if the incident of the bulk release mentioned in R4-29-504 (I) would include a car accident involving a pesticide truck that spills pesticide as well as misuse of pesticide. Mr. Peterson stated that it included any spill. He gave the example of an individual emptying their pesticide container on a road would be considered a spill.

Mr. Evans stated that R4-29-506 (A)(4) was going to be difficult for structural pest control technicians. Mr. Peterson stated this rule was taken directly from the Department of Agriculture rule and it would need to be modified. He explained he would like to see the county of use, the name of the product, the EPA registration number, and the amount of pesticide used reported. He stated he would like to see a report submitted every 30 or 60 days. Mr. Fredrick asked what authority the Department of Agriculture had to tie structural pest control to having to report products used on the "Ground Water Protection List". Mr. Peterson stated he feels the law is written generically enough that it can cover this. Mr. Harvey Logan, with Western Exterminator Company, asked what the purpose of the ground water protection list reporting was. Mr. Peterson stated currently under the Department of Agriculture if anyone is soil applying any of the active ingredients that are on the Department of Environmental Qualities (DEQ) ground water protection list the individual applying it must report it to the Department of Agriculture. He explained that every year DEQ does a report on the ground water quality across the state. He stated fortunately the detection of pesticides that has been reported is very small. He explained if a product is detected in the wells and very minimal amounts of product use has been reported it appears the product that was detected is prone to leeching and is a bad product. He stated the more information the agency has on how much of the product is used the better the product would be able to be defended so that it may continue to be registered and used. Mr. Logan stated his concern was the "Ground Water Protection List" would broaden if structural pest control were to be added to it. Mr. Peterson stated the list would not be broadened and would stay exactly the same. Mr. Logan stated that he feels DEQ would broaden the list. Mr. Peterson stated that DEQ is restricted to only agricultural use products. Mr. Evans stated the hope for having structural pest control industry report is that the list would diminish. Mr. Fox stated it may help to define what "soil applied" means to the structural pest control industry. He explained "soil applied" refers to when an active ingredient is applied to bare ground. He further explained it mostly references weed control. Mr. Peterson read the definition of soil applied. Mr. Goerigner asked for clarification on what a "ground based application" was. Mr. Etheridge stated he is against having to report. He asked if it would be required to be reported if an applicator were rodding injecting termiticide in conjunction with a house foundation. The Task Force members stated that it would be required to be reported. Mr. Etheridge asked if it would be required to be reported if a pre-emergent application is made to a lot and an active

ingredient on the list was used. The Task Force members confirmed Mr. Etheridge's understanding was correct. Mr. Etheridge stated once the data is collected it becomes part of public record which would give more "ammunition" to the individuals who are against pesticides. Mr. Evans stated he disagreed with Mr. Etheridge because in the agricultural industry they have found the more data they have to defend their position the better off they are. Mr. Fredrick stated if the reporting in regards to termite treatments could be incorporated into the TARF system where all that would be required would be to "check" a box, he did not see a problem with that. Mr. Peterson stated he liked the idea of incorporating it. Mr. Goeringer suggested having a set amount of active ingredient an individual must use before they are required to start reporting. He explained it is not cost effective for small low cost treatments to be required to do this extra reporting. He explained spraying the side wall of a structure and having that pesticide inadvertently applied to the soil near the structure seemed unreasonable. Mr. Boelts stated to his understanding in the situation in which Mr. Goeringer explained the reporting would not be necessary because the soil was not the target of the application. Mr. Goeringer stated many companies do apply directly to soil 3 or 4 feet out from the side wall of a structure. Mr. Evans stated that if an individual is applying directly to the soil but there is another pest that is trying to be controlled that is the target such as an ant, then a report would not have to be filed because then the ant would be the target. Mr. Peterson asked if when spraying soil for ants if the ants are being sprayed or if the soil is being sprayed so the ants would die when they walk on it. Mr. Goeringer explained many species of ants are nocturnal and that requires pesticide to be applied to the soil so the ants will be eliminated when they come in contact with the treated soil. He stated he would like to avoid excessive reporting for a low value pest control job. Mr. Peterson stated he would like to assemble a group of individuals to decipher where a treatment report would or would not be needed. Mr. Etheridge and Mr. Evans were asked to look at this issue with the chairman to try and clarify the impact of the rule and come up with a recommendation.

Mr. Fredrick stated he felt it was ridiculous to have in rule what is required to be in a service vehicle. He explained that some required items are understandable, but he feels the rule goes too far. Mr. Peterson stated it could state an individual has to have all equipment required by label. He stated a measuring device is necessary. Mr. Craig stated if what is required on a service vehicle is eliminated in rule, the inspector would have to look at each label of the chemical on the service vehicle to determine what is required. This would prolong the inspection. Mr. Fredrick asked if Mr. Craig was concerned about the inspectors having to do a little more work. Mr. Craig responded he is concerned about the industry because industry does not like how long it takes to do an inspection now, and having to review each label would take even longer. Mr. Peterson stated he felt the spill clean-up and having water for decontamination are important. Mr. Smith stated it is impossible to find a first aid kit with all of the requirements listed. Mr. Peterson stated the requirement for a first aid kit could be eliminated. He explained he feels all companies should have a first aid kit on their service vehicle, but he does not necessarily think it is the agencies duty to require them to do so. Mr. Peterson stated R4-29-607 (6) could be removed.

Mr. Fredrick stated, in reference to R4-29-607 (D), he does not believe it is the states job to require a warranty. Mr. Peterson stated there needed to be some level of consistency. He asked if 5 years was too long. Mr. Fredrick stated he felt it was too long of a time for a warranty. Mr. Goeringer stated most states have dropped the warranty to 1 year. Mr. Connolly stated it is currently at 5 years because the treatment has to last 5 years per

government requirements for testing that is done. Mr. Peterson asked if 3 years would be a fair compromise. Mr. Fredrick and Ms. Farenga both stated they believed 2 years would be fair. Mr. Connolly stated he felt it would cause a big fight with home owners if it dropped to 2 years. Mr. Etheridge stated he would like to see it left at 5 years, but if it is reduced to 1 year from the pre-treat date and the final grade is done 6 to 8 months after the pre-treat that only gives the home owner a few months of warranty after the final grade is completed. He also expressed concern with individuals who may not treat the area properly because of the minimal warranty requirement. He indicated he believed 2 to 3 years is a good compromise from 5. Mr. Craig stated in 1988 Arizona was classified as a moderate to heavy state for termite activity. He asked if the other states who have dropped the warranty requirements down to 1 year, are the states that back in 1988 were listed as moderate to heavy states for termite activity. Mr. Goeringer stated he believed some of the states were worse than Arizona. Mr. Schnieker stated he read in Dr. Baker's research from the University of Arizona, many termite treatments don't even last 2 years. He explained the reason why places remain termite free even though the pesticide is no longer effective is because the termites have not found the structure. Mr. Connolly stated he felt a 1 year warranty was too small of a time frame, but 5 years is too much. He stated he liked 2 or 3 years as a compromise. Mr. Peterson stated 3 years seemed reasonable and allowed time to see if the termites would show up. Mr. Fredrick stated he has performed more than 800 pre-treats and only 1 has failed. He stated 3 years would be a good time frame.

Mr. Smith asked if there was anything in language that deals with the individuals who don't do final grade treatments. He asked how the agency goes about enforcing that the final grade treatment gets done. Mr. Craig stated the TARF database was the way to track and see if a final grade was done on a property. He explained a final grade treatment should be done within 360 days of the pretreatment, and if it is not possible to complete the final grade treatment in that timeframe a waiver should be applied for to allow for more time. He stated language for a waiver may want to be added to rule.

Mr. Smith stated throughout the language it is stated that if something cannot be done written notification would be required. He asked if written notification could be done through email. Mr. Peterson stated it would be fine to send an email.

Mr. Hemminghaus asked if the golf course industry has been talked to about staying under the OPM or moving to the Department of Agriculture. Mr. Peterson stated the golf courses strongly want to move to the Department of Agriculture. Mr. Smith asked if that would make it easier regarding the ground water issue if golf courses were moved to the Department of Agriculture. Mr. Peterson stated that it may make it easier. Ms. Cheryl Gore, with the Nursery Association, asked if it would be a good idea to put together a sub group with Cactus and Pine before making the decision. Mr. Peterson state he does not feel that would be necessary because it is not a complicated issue. He explained that it would require some changes to Agriculture's laws. Ms. Gore stated she would recommend talking to the golf course associations at some point regarding the change.

ii. Review organizational configurations within the ADA

iii. Review of personnel and funding issues for administration within the ADA.

iv. Statutory changes

4. **Executive Session to obtain legal advice pursuant to A.R.S. § 38-431.03(A)(3) on any matter listed on the agenda**
5. **Call to the Public (2 minute limit per speaker)**
6. **Set Next Meeting Date and Topic Discussion**

June 13, 2012 9:00 A.M.

7. **Adjourn – 12:46 P.M.**