



Arizona Department of Agriculture

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Notice of Meeting and Agenda for the Golf Course Subcommittee of the Task Force on the Regulation of Structural Pest Management

The following minutes are for the meeting held on June 26, 2012 in Room 229 at 1688 West Adams Street, Phoenix, AZ 85007 (the Department of Agriculture Building)

The minutes for the meeting are as follows:

1. Roll Call – 2:03 P.M.

Present: Jimmy Fox, Carmella Ruggiero, and Robert L. Tolton, Jr. - Subcommittee Chairman, Staff Members, and Audience/Industry Members

Absent: Phil Hemminghaus

2. Approval of Minutes from June 18, 2012 Meeting

MOTION: To approve the minutes by Carmella Ruggiero

Second by Jimmy Fox

VOTE: 3-0

3. Discussion on feedback from other States with regard to how Golf Courses are regulated with regard to pesticide use, storage, disposal, & recordkeeping;

Mr. Tolton stated each state is different in how it regulates. He stated there was only one state which did not regulate the use of general use pesticides on golf courses, all other states do. He indicated they all have a different structure for record keeping, but they all follow label directions. He stated all but 2 states required licensure for the individuals using general use pesticides.

Mr. Fox asked if most states regulated golf courses under the agricultural department or structural pest department. Mr. Tolton stated that each state was different. He indicated that many states had multiple titles. He gave examples of states that had multiple titles. Mr. Tolton asked Mr. Fox if the information was helpful. Mr. Fox indicated it was and the purpose for his question was to figure out how many states manage and regulate their golf licensees the same way they regulate their agricultural licensees.

4. Discussion of what statutory changes may be needed to move the Golf Industry under the regulatory authority of the Environmental Services Division of the Department of Agriculture;

Mr. Robert Shuler, Government Affairs, asked where the definition displayed in the hand out was supposed to be under because there was no rule number. Mr. Tolton stated the definition was under R3-3-101 which is definitions.

Ms. Cheryl Goar, Executive Director at Arizona Nursery Association, asked if it was necessary for the golf industry to have its own category. Mr. Tolton explained that when the private and commercial applicators were looked at there were many things that would not apply to the "golf applicator". He explained that certified applicators under the Department of Agriculture were meant for those using restricted use pesticides. He stated creating a golf applicator category would allow for the agency to regulate both restricted use and general use pesticides. He stated both staff and the Director felt the regulation of both was necessary due to the proximity of the applications made near residential and commercial property and the heavy traffic that a golf course sees. Ms. Ruggiero stated the committee requested a separate category be made for golf courses at the previous subcommittee meeting. Mr. Tolton stated that was correct and that when the golf courses were being discussed it had been determined that the golf courses would not fit under any category that already existed.

Mr. Fox stated in the previous meeting loss of revenue had been discussed. He stated there had also been discussion of the possibility for needing another Department of Agriculture inspector in order to perform the proper inspections for all of the new golf courses that would be obtained. Mr. Fox added that in order to have a new inspector to be able to perform the inspections there may be a need to generate more revenue and stated he felt the new category may allow for that to happen. Mr. Peterson stated all Department of Agriculture fees go to the general fund. Mr. Shuler asked if the OPM fees went to the general fund as well. Mr. Peterson stated OPM's fees did not go to the general fund. He explained the licensing fees that the Department of Agriculture collects goes into the general fund. Ms. Ruggiero stated from her understanding it would not make a difference if golf courses were under OPM or the Department of Agriculture because it all goes to the general fund. Mr. Tolton explained that OPM fees stay with the OPM to cover all operating costs.

Mr. Tolton stated OPM currently has about 60 business licensees that are golf and country clubs. There are roughly 400 to 425 applicator licensees that hold both the Turf and Ornamental (T&O) B5 category and the Right of Way and Weed B3 category, and those categories are typically held by golf course personnel. He also stated not all individuals holding those categories are golf course personnel. He explained there are a large number of landscape professionals who hold those categories as well. He stated it is hard to say how many of those applicators would go with the golf courses and how many would remain with the OPM. Ms. Goar asked if there is a way to request an increase in funding due to the need for more inspectors because of the increased work load. Mr. Peterson stated the agency would request a funding increase. Mr. Peterson asked Mr. Tolton to state what the current licensing fees are. Mr. Tolton stated the licensing fee for applicators is \$75.00, for the Qualifying Parties the fee is \$175.00, and the Business license is \$250.00.

Mr. Tolton stated there are at least 3 pest management companies that contract with golf courses that are currently licensed with the OPM. Mr. Tolton stated the 3 companies he could think of offhand were Dickson Agronomic Services, Quick Start Turf, and A Pain in the Grass Weed Control. He stated the rough estimate of how many courses each company covered.

Ms. Goar asked if the Department of Agriculture was only going to be charging \$50.00 for the golf course licensing. Mr. Tolton explained that he had put the fee limit up to \$100.00 in statute. Ms. Goar suggested that the fee limit be raised. She stated if the limit is too low the statute would have to be revised and it is not an easy process. She stated the agency needs to have "wiggle room".

Mr. Shuler stated if a new fee is proposed it would be considered a tax increase which may generate a 2/3 vote. He stated the way that has been avoided in the past is to provide authority to the Director to set the fee. Mr. Cullings stated it could be argued that it is not a new fee, just a shift in fees from one agency to another. Mr. Tolton stated prior to the emergency rule change the fee was \$75.00 for a business license. Mr. Cullings asked what the fee was for applicators before the emergency rule change. Mr. Tolton stated prior to the emergency rule change the fee for applicators was \$30.00. Mr. Tolton asked if the emergency rule fees that went into effect to allow the agency to increase fees would be taken into consideration. Mr. Shuler stated that Mr. Cullings point is the main point because a new fee is not being created it is just shifting titles. Mr. Goar stated it would be best to avoid having to get a 2/3 vote. Mr. Peterson asked how the industry would feel if it was left completely up to the director to charge a fee. Ms. Ruggiero state she is unsure how the industry would feel because it is a very vague statement.

Ms. Ruggiero stated another thing that was discussed was the requirement for golf courses to hold a Regulated Growers permit because they would like the golf course to be responsible. She also stated the superintendent would have a license. Mr. Tolton the way the proposed language was written the superintendant would be the private applicator.

Mr. Shuler stated another option for the new category would be if the Director was given authority and then it stated the fee cap in rule it would still be able to avoid having to go to a 2/3 vote. Mr. Tolton asked if that is something the industry would want to entertain. Ms. Ruggiero stated the golf industry would be comfortable entertaining the Director having authority to charge a fee in statute and setting a fee cap in rule.

MOTION:

To give the Director authority to charge a fee for the golf certification in statute and set a fee cap in rule by Carmella Ruggiero

Second by Jimmy Fox

VOTE:

3-0

- 5. Discussion of what rule changes may be needed to move the Golf Industry under the regulatory authority of the Environmental Services Division of the Department of Agriculture.**
- 6. Discussion of what impact this change will have on the Golf Course Industry, the OPM, & the Dept. of Ag. (i.e. agency resources, revenue impact, inspection scheme).**
- 7. Review proposed of language that will move the Golf Course Industry under the regulatory authority of the Environmental Services Division of the Department of Agriculture.**

Mr. Tolton stated for Golf Management Companies they would be on different courses therefore would not be able to fall under regulated growers. He explained they would not fit under the Department of Agriculture. He stated the management company oversees the pesticide application and all pest control work done on the courses it covers. Mr. Peterson explained a golf courses would hold a regulated growers permit and all of the employees would hold a golf applicator certification if they were only going to do work on that property. He stated if they wanted to apply on multiple courses they would have to be a commercial

applicator. Ms. Ruggiero stated currently even though there are golf courses under management companies, there are individuals at the facility who are licensed to perform the pest control work. Mr. Fox stated there is always a certified applicator on staff just not always a QP. Ms. Ruggiero stated that the issue is the QP is not around at the courses much and all of the pest control is done by the applicators at the facilities. She stated she did not like that the QP was not a part of the business of each course.

Mr. Craig asked if an individual would just need a golf course license for fumigation and aquatics. Mr. Tolton stated that fumigation and aquatics would be covered under the golf course license. Mr. Craig asked if it was going to just be one test for the licensing or if it was going to be broken out into categories. Mr. Peterson stated he was looking at the license as a T&O license. He explained he did not see it as a way for them to perform fumigation or aquatic treatments. Ms. Ruggiero stated very few golf courses actually fumigate themselves. She explained they typically hire someone to come to the course to do that. Mr. Fox stated the individuals who go out and perform the fumigation work themselves have acquired the fumigation category. He indicated not many individuals in the golf industry have acquired the aquatic category either. Mr. Tolton stated there are many courses now that hold the aquatic category. He stated prior to 2003 the commission had a Golf Course QP Category. He stated after 2003 that got broken into the Right of Way and Weed category (B3), the T&O category (B5), and the Aquatics category (B9).

Ms. Goar asked if the golf industry would want the ability to treat ponds or if they would just hire out. Mr. Fox stated that a large number of the golf courses hire out for aquatic work, however there are some golf courses that do their own. Ms. Ruggiero agreed with Mr. Fox and stated golf courses want to make sure things get done the proper way. Mr. Shuler asked if the Department of Agriculture currently had an aquatics category. Mr. Peterson stated they did. Mr. Shuler stated if individuals are treating water they may need an Arizona Pollutant Discharge Elimination System (AZPDES) Permit. He explained aquatics are not included as an agricultural category under AZPDES. He explained that AZPDES was a special category for when an individual is making an aquatic application. Ms. Ruggiero stated the golf course industry is very familiar with the National Pollutant Discharge Elimination System (NPDES). Mr. Shuler asked if under that understanding of NPDES if the applicators make the aquatic applications themselves or if they hire out. Ms. Ruggiero stated most hire out if there is an issue. She indicated there are not frequently issues in which they need to hire out. Mr. Peterson stated he felt there need to be an aquatics category created for golf courses. Mr. Tolton asked if the language for fumigation applicator could remove the word private so that it would apply to all licenses. Mr. Cullings stated he felt it was covered in the definition of private applicator. Mr. Peterson stated he felt the same language as fumigation needed to be repeated for aquatics. Mr. Christian asked if that meant a new aquatics exam would have to be created. Mr. Peterson stated a new exam would have to be created, but there is already a large pool of questions available for an aquatics exam.

Ms. Ruggiero asked Mr. Tolton to restate a summary of the discussion. Mr. Tolton stated the discussion was that there needed to be a private applicator golf category for fumigation as well as aquatics. There already is language for private fumigation. The language for private aquatics needs to be crafted. Ms. Ruggiero asked if both fumigation and aquatics were already in existence. Mr. Tolton explained fumigation was already in place and aquatics needed to be drafted. He stated if there was going to be a company for hire for a golf course there would be the T&O commercial applicator certification needed. Mr. Peterson feels that if a company wants to be for hire for a golf course they should maintain a license with OPM not

the Department of Agriculture. Mr. Tolton stated he felt it would work to keep companies that want to be for hire under the OPM. Mr. Fox stated he felt it would fit to keep the commercial portion under OPM. Ms. Ruggiero stated her concern is the QP not being involved in the business.

Mr. Shuler asked for clarification regarding the golf management companies. He asked if a golf management company hired one of the golf courses employees to perform pest control work at the golf course under the management company's business license would that be considered hiring out. Mr. Fox stated that Mr. Shuler presented a good question, and responded if that were the scenario the company would need to obtain a business license, QP, and applicator licenses through the OPM. Ms. Ruggiero stated golf courses do not often hire an outside company to perform pest control for them. She explained that most golf courses are owned separately and only a few that are managed. She stated ¾ of the golf industry, even if a course is managed by an outside entity, still works for the golf course itself. Mr. Peterson stated Mr. Tolton stated in a previous meeting that golf courses that have management companies running them will have the management company leave, but the employees stay with the course and a new management company will come in and pick up those employees.

Ms. Ruggiero stated ultimately it is the golf course superintendants responsibility that everything goes properly at the golf course. She said it needs to be the superintendants responsibility to make sure whoever is spraying is under his responsibility and that they are there at the time of application. Mr. Craig stated there are golf courses out there that will not want to perform their own treatments. He asked if those courses will be able to call an individual licensed with OPM in order to perform their pest control work. Mr. Tolton stated they could call someone licensed under OPM to perform the work. Mr. Fox stated that all of the courses covered by management companies already have certified applicators on staff.

Mr. Tolton asked if the individuals already licensed with OPM will get "grandfathered" into the Department of Agriculture until their licenses expire. Ms. Goar asked if all of the licenses expire at one time. Mr. Tolton stated the applicators all expire at one time. Ms. Ruggiero stated they all expire on May 31. Mr. Tolton stated there are probably a handful of QPs in the golf industry who hold valid QP licenses but no longer hold applicator licenses. He stated those licenses expire on December 31. Ms. Ruggiero stated they should have to apply for a certified applicator license. Mr. Peterson stated he saw no reason not to allow the individuals that held a QP and not an applicator license to be grandfathered into the Department of Agriculture new golf applicator certification. Mr. Tolton stated language needed to be drafted for this.

Ms. Goar stated under the definition of "golf applicator" it states owned or controlled by she does not think it matters whether it is a management company or the golf course that an employees pay check comes from. She stated the word control makes it seem like it would cover whoever was in control. Mr. Shuler stated he would recommend broadening the language to state "control or manage". Ms. Ruggiero stated she felt control was a good word if used to properly define anything that covers a golf course. Ms. Goar asked who a private country club was owned by. Ms. Ruggiero stated it could be owned by the members or the developer. She stated control would be a good word because it would cover members, a management company, and private ownership. Mr. Tolton stated he would work with Mr. Cullings to make sure the language covered all of those.

8. Set Next Meeting Date and Topic Discussion

Mr. Fox recommended that Ms. Ruggiero present the information to the Cactus and Pine board members. Ms. Ruggiero stated she would bring it to the board meeting on July 24, 2012. Mr. Tolton informed her the information would be brought to the Task Force on July 18, 2012. Ms. Ruggiero asked if Mr. Tolton would just suggest that she present it to the board after it goes before the Task Force. Mr. Tolton stated he actually envisioned having the language draft completed by Monday July 2, 2012.

Mr. Tolton stated if there needs to be another committee meeting he would call for one.

9. Adjourn

MOTION:

To adjourn by Carmella Ruggiero

Second by Jimmy Fox

VOTE:

3-0

Adjournment – 3:12 P.M.