

August 26, 2012

Jack Peterson and Task Force,

I have read through your latest proposed changes dated August 15, 2012 and must say how disappointed I am - not that I expected any different from you given what you have done over the last year.

The OPM Task Force had the opportunity to streamline the structural pest control regulations. But instead, you chose to squander the opportunity and do the opposite - increasing regulation and the barriers to entry that go with them. You have chosen to favor the one percenters in the industry. These regulations increase poverty, interfere with job creation and the economic recovery of the free market - just the sort of favoritism the one percenters need to destroy their competition and grow.

By your actions you are inviting the corrupt crony culture of the old SPCC (Structural Pest Control Commission) into the Department of Agriculture. You are taking the first step toward selling the whole Department of Agriculture to the highest - and most corrupt - bidder.

We understand you don't think we have the numbers to stop you. We don't think you have the numbers to push this package of increased and unjustified regulations through the legislature. We will go toe-to-toe with you in the legislature. We will educate the legislative members and show them how the corrupt crony SPCC culture actually hurts the very consumer they claim to want to protect.

Creeping. That's the technical term for slowly increasing the amount of regulation. A little creep here and a little creep there and after while you have a lot more regulation. The OPM Task Force has engaged in creeping instead of streamlining. Your proposal expands QPs into political subdivisions, adds ground water reporting, adds new employee registration requirements, adds new record production requirements, adds new service record requirements and the list goes on.

Here is a short list of our complaints about your proposed regulations - not a complete list, but it touches on some of the more grievous points:

The proposed regulations keep the concept of a QP. The QP serves no useful purpose other than to restrict companies from expanding or even starting up. Competition is a free market value and the whole concept of a QP is to stop competition and create inequities. The QP should be abolished.

Proposed R4-29-201.B will now force political subdivisions to have a QP. If you remember at the SPCC Sunset hearing, the Sunset Committee brought up that the SPCC had been specifically told by the legislature NOT to implement such a requirement and SPCC had intentionally gone around the intent of the legislature. So why is the OPM Task Force trying - yet again - to circumvent the stated intent of the legislature? Can you say AzPPO? Even Staff questioned the usefulness of the QP license since the legislature already trusts all political subdivisions to NOT use QPs -

see the OPM Task Force October 18, 2011 minutes page 5.

TARFs have not been eliminated. This useless system - as far as public health, welfare and safety are concerned - but a cash cow as far as OPM is concerned - is being continued. We have discussed at length how useless this data is for consumer protection and how it is abused by industry and non-industry members alike and how the data is used against consumers. Not to mention the 73 petitions you have received to abolish the TARFs. Yet you persist in keeping them to line your pockets.

Proposed R3-7-208 requires the licensed applicator to register for the business the applicator works for in addition to being licensed. It is not clear if an applicator will be allowed to work for more than one company at a time. Big brother is watching you. A convenient way to put people out of business for a de minimis paperwork violation.

Proposed ARS 32-2304.B.21 will require you to produce tax records for the purposes of verifying an individual is an employee and has properly registered. This will allow OPM to put you out of business for a de minimis paperwork violation. And why is this in law instead of rule anyway? To make it much more difficult to get rid of later.

Proposed R4-29-505 now requires structural pest control operators to file paperwork with OPM for the Department of Environmental Quality 2011 Ground Water Protection List, Table 3 - even though this list is strictly for crop production - which typically involve voluminous pesticide applications. You will require us to track all pesticides on the list and make a quarterly report - even if we only applied one gallon of premix to stop some weeds. Will this be the excuse to expand the TARF database?

Proposed R4-29-501.B.6 forces you to add the EPA registration number to your service records for all unrestricted pesticides used. This is a huge paperwork burden for small businesses who perform customized applications.

Proposed ARS 32-2317.E dramatically restricts the existing landscaper exemption, adds new record keeping requirements and levies a \$1000 fine on a first violation for a person that violates the landscapers exemption. And what does any of this have to do with public health, welfare and safety? OPM has not documented any public harm since the landscaper exemption was created by the legislature over 7 years ago. You are essentially trying to put people out of business for a de minimis violation. You are clearly targeting existing landscapers for the benefit of the one percenters.

Proposed R4-29-102 does not allow someone licensed in the industrial and institutional category to do the exact same thing in a right-of-way. Why? The pests, pesticides and techniques are identical. There is no issue of pesticide application qualifications. The only issue are which company is receiving the contracts.

Proposed ARS and rules for golf courses essentially exempts any golf course employee - since the golf course employee is performing pest management "not for hire" - from all QP requirements. How convenient. Why should the golf course industry receive special treatment? If no QP is required for Agriculture and golf course applications, why

is it needed for structural?

Proposed ARS 32-2334.A allows OPM to put a company out of business by suspending the company's license if the company has not paid a fine within 30 days. This can put you out of business while you fight your case in court - depriving you of the cash flow needed to fight an unjust case or to ride through tough economic times from family medical issues - as has happened in many cases in the past. This law allows OPM to put a gun to your head and even pull the trigger if they do not like you.

The proposed regulations allow for the regulation of devices. Devices are not pesticides and should not be regulated. In general, devices used or adapted for pest control do not have any significant effect on public health, safety or welfare. A hair drier can be used for shrinking shrink wrap, curing epoxy, killing bed bugs or drying your hair. Raptors can be kept as pets, used for hunting or scaring away pigeons. Wire screen can be used as structural support for stucco, to exclude rodents from openings or to stop flies from entering the house through the front screen door. Gasses, tanks and regulators can be used for welding or killing pests. All of these devices can be used for pest control and none of them should be regulated as far as pest control is concerned.

Proposed Section X1 exempts the new rules from Title 41 Chapter 6 - Administrative Procedures. ARS 41-1001.01 - Regulatory Bill of Rights - allows for penalties against the agency for bad regulations. The GRRC - Governor's Regulatory Review Council - is supposed to review all regulations every 5 years. It has now been over 5 years since structural pest control rules were last reviewed.

This whole OPM Task Force thing has been a sham. Shame on you Jack Peterson.

Sincerely,

Phyllis M. Farenga
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