PEST CONTROL ENFORCEMENT ADVISORY COUNCIL

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

FACILITATOR’S SUMMARY REPORT OF THE APRIL 18, 2006 MEETING

PONTE VEDRA BEACH, FLORIDA

Meeting Design & Facilitation By

Florida Conflict Resolution Consortium

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OVERVIEW OF COUNCIL’S KEY DECISIONS

TUESDAY, APRIL 18, 2006

Opening and Meeting Attendance
Chairman Meahl opened the meeting at 10:00 AM, and the following Council members were present:
Elizabeth Allen, Ray Capelouto (vice-chair), Steve Dwinell, Al Hoffer, Tim Hulett, Phil Koehler, Richard Meahl (chair), Pete Quartuccio (secretary), Erica Santella.

Steve Dwinell has been appointed to serve as DACS’s member on the Council, effective with the April 2006 meeting.

DACS Staff Present
Phil Helseth, Mike Page, and Stacey Reese.

Public Present
John Mangold, and Ed Minor.

Meeting Facilitation
The meeting was facilitated by Jeff Blair from the Florida Conflict Resolution Consortium at Florida State University. Information at: http://consensus.fsu.edu/

Project Webpage
Information on the project, including agenda packets, meeting reports, and related documents may be found in downloadable formats at the project webpage below:
http://consensus.fsu.edu/DACS/pest_control.html

Agenda Review and Approval
The Council voted unanimously, 9 - 0 in favor, to approve the agenda as amended including the following objectives:

• To Approve Regular Procedural Topics (Agenda, Report, Meeting Schedule, and Workplan)
• To Hear an Update on Agency Enforcement Activities
• To Hear a Legislative Issues Update
• To Hear an Update on DACS Rule Development Efforts
• To Hear a Status Update Regarding Council Member’s Terms/Re-appointments
• Council Effectiveness Assessment Survey Results and Discussion
• To Hear a Report from the Consumer Education Subcommittee
• To Hear a Report and Discuss the WDO Form Workshop Process
• To Hear an Update on the WDO Neutral Scheme Pilot Project
• To Discuss Enforcement Statistics and Representative Enforcement Case Sample(s)
• To Review Statistics and Trends Related to Compliance Assistance Requests
• To Hear a Report Regarding DACS Certification Exams
• To Discuss Training Issues in the Pest Control Industry
• To Consider Public Comment
• To Identify Needed Next Steps, Assignments, and Agenda Items For Next Meeting
Approval of January 17, 2006 Facilitator’s Report
The Council voted unanimously, 9 - 0 in favor, to approve the January 17, 2006 Facilitator’s Report as amended.

Amendment to the Report:
Add and inspections to page 5, to change “complaints” to “complaints and inspections…”

Review and Approval of Updated Workplan and Meeting Schedule
Following a review of the Workplan, included as pages 4 - 6 of the agenda packet, the Council took the following actions.

Council Action:
The Council voted unanimously, 9 - 0 in favor, to approve the Council’s workplan and meeting schedule as presented.

Approved Meeting Schedule:
July 18, 2006—Apopka, Florida
October 17, 2006—Tallahassee, Florida (Joint meeting with FDACS inspectors)
January 16, 2007—Fort Lauderdale
April 17, 2007—Fort Myers
July 17, 2007—TBD
October 16, 2007—TBD
(Attachment 2—Workplan)

Legislative Issues Update
Steve Dwinell, Assistant Division Director of the Division of Agriculture and Environmental Services, reported on legislative issues relevant to the Council, and answered Council member’s questions.

Council Action:
The Council voted unanimously, 9 - 0 in favor, to accept the report as presented.

Summary of Discussion and Member’s Questions and Comments:
SB 1388 proposes legislation:
• Clarifying a provision exempting certain mosquito control activities related to pest control.
• Defines “direct supervision” by licensed operators.
• Governs the use of pesticides for preventing subterranean termites.
• Changes language regarding the Limited Landscape Certification (LLC).
Update on Agency Rule Development Efforts
Steve Dwinell, Assistant Division Director of the Division of Agriculture and Environmental Services, reported on current Agency rule development efforts, and answered Council member’s questions.

Council Action:
The Council voted unanimously, 9 - 0 in favor, to accept the report as presented.

Summary of Discussion and Member’s Questions and Comments:
Steve reported on three rule development efforts. They are as follows:
Amendment to 5E14.105, Contracts, is adopted and will be become effective on May 5, 2006.
Rule 5E14.149 Enforcement Response Guidelines, is under review from JAPC, and will be adopted pending resolution of JAPC’s comments.
Rule 5E14.142, WDO Form changes is under development.
In addition, Steve reported that DACS will be commencing additional rule development efforts, and will keep the Council updated.

Status Update on Member’s Terms/Re-appointment
Steve Dwinell, Assistant Division Director of the Division of Agriculture and Environmental Services, reported that all members terms, except Al Hoffer’s, will expire in October of 2006. DACS is in the process of requesting nominations from associations and interest groups, and will make appointments in time for the October meeting.

Council Effectiveness Assessment Survey Results Discussion
Jeff Blair reported that each member should take the time to complete the Council’s Annual Effectiveness survey and return by fax to Stacy at 1.850. 488.2164 by April 27, 2006. A discussion on the results will be conducted at the July 18, 2006 Council meeting. Jeff will send members the survey by e-mail, and shortened the narrative portion of the survey to only two questions.

Consumer Education Subcommittee Report/Update
Elizabeth Allen reported she would give the report at the July 18, 2006 meeting. Elizabeth reported that the Committee met and is currently working on a brochure regarding post-construction treatments.

Report/Discussion on the WDO Form Workshop Process
Steve Dwinell reported that DACS conducted a series of three facilitated workshops and consensus was reached on revisions to the WDO Inspection Form, DACS 13645. The Agency will now conduct a rule development workshop and rule adoption hearing in order to solicit comment and implement the changes to the Form by rule.
Report on the WDO Neutral Scheme Pilot Project
Phil Helseth, Division of Agriculture and Environmental Services, provided the Council with an update and status report on the implementation and final results of the WDO neutral scheme inspection pilot project, a strategy based on Council input, and responded to member’s questions and comments.

Council Action:
Motion—The Council voted unanimously, 9-0 in favor, that WDO contracts should be reviewed as a part of routine business inspections, and not as a neutral scheme inspection.

Overview of Issues and Discussion
The intent of the “Pilot Project” was to evaluate whether WDO inspections should be a permanent component of neutral scheme inspections.

Input and comments were solicited from the four inspectors that conducted the Pilot Project. They felt that the process was time consuming and labor intensive, with very few problems or violations uncovered. The inspector’s opinion was that inspection of WDO reports should instead be incorporated into a routine business licensee inspection. The number of reports examined should be limited to 10 – 12 which is usually an adequate number to examine in order to ascertain whether there is a problem/violation. FDACS management agrees with the inspector’s recommendations.

Al Hoffer stated that the issues uncovered seemed to be issues that could be discovered during a regular/annual business inspection.

Steve Dwinell asked if the Council had any concerns about the recommendation of FDACS. The Council voted to support 9-0 routine license inspections and not WDO Neutral Scheme inspections.

Steve Dwinell asked if the Council had any recommendations regarding compliance with The new language requirements on WDO contracts. He suggested this be addressed at a future meeting. Jeff asked if the Council wanted to discuss and provide recommendations to FDACS regarding compliance with new language requirements on WDO contracts at the April meeting or wait until the July meeting. Two (2) members voted to discuss at the April meeting, and seven (7) members voted to discuss at the July meeting. As a result of the vote, the issue will be on the agenda for the July 2006 meeting, and there will be a FDACS report, Phil Koehler proposal, and Council discussion with recommendations developed.
Agency Enforcement Activities and Representative Enforcement Cases
Mike Page, Bureau Chief of Entomology and Pest Control, reported on agency enforcement activities and responded to member’s questions and comments.

Council Action:
Motion—The Council voted unanimously, 9 - 0 in favor, to accept the report as presented.
Motion—The Council voted unanimously, 9 - 0 in favor, to replace complaint with response throughout the report document.

Summary of Discussion and Member’s Questions and Comments:
Mike reported that during the Third Quarter (January – March 2006) there were a total of 603 complaints and responses. The breakdown is as follows: 41 compliance assistance requests and 69 for cause equaling 110 total responses, and 494 neutral scheme inspections.

Richard Meahl expressed concern regarding using the word “complaint” in the report in the total number of complaints category as it defeats the purpose of the Consumer Assistance form. Al Hoffer also expressed concern regarding the word “complaint” being placed on a report. FDACS will address this concern for future reports. Jeff Blair asked for proposed words from the Council for FDACS consideration. The Council voted to replace the word “complaint” with the word “response” 9-0 in favor.

Latest Special Enforcement Operation (SEO) is focusing on pre-treats. 61 inspections with 15 liquid and the remaining borates (75%). The target areas were Orlando and Palm Beach. Raymond Capelouto asked for an update at the July, 2006 meeting on the results from the SEO. Mike Page reported that the results will be included in the enforcement report at the next meeting. Mike Page also reported that a database is currently being developed to allow for detailed reporting with trends analysis in the future.

Statistics and Trends Related to Compliance Assistance Request
Mike Page, Bureau Chief of Entomology and Pest Control, reported on compliance assistance request statistics and responded to member’s questions and comments.

Summary of Discussion and Member’s Questions and Comments:
In the last quarter there were 41 compliance assistance requests. Council members requested that these reports continue as a handout at each meeting. Hulett had questions about what steps are taken when a violation was observed – Nicely provided description of the steps an inspector would take when a violation was observed. Types of requests/issues in dispute/resolution of issues could be tracked. For future meetings this report will be given, with a handout, as part of the Agency Enforcement Activities and Representative Enforcement Cases report. Bruce Nicely reported that a large number of complaints are turned into assistance calls just by opening the lines of communication between the company and the consumer. Jeff Blair asked that the dates being reported be noted on the top of each report.
DACS Certification Exams Report
Mike Page, Bureau Chief of Entomology and Pest Control, reported on DACS certification exams and responded to member’s questions and comments.

Summary of Discussion and Member’s Questions and Comments:
Exam questions have been revised and are more focused on practical questions, in order to test one’s ability to conduct pest control in the State.

Have questions become more difficult? The answer is that they are more focused on practical issues.
Have the exam’s anti-cheating procedures been effective? Terry has asked exam participants to assist in policing against cheating, exam questions are being revised continually and scrambled between exams.
How are questions generated? Questions are generated by committee and checked by the exam administrator, the number of questions keeps growing.

In general, the Council expressed support for the changes to the exam.

Training Issues in the Pest Control Industry Discussion
Mike Page, Bureau Chief of Entomology and Pest Control, reported on training issues in the pest control industry and responded to member’s questions and comments.

Summary of Discussion and Member’s Questions and Comments:
Are current training and supervision requirements adequate?
Mike provided examples of inadequate training and supervision from investigations.

Hulett – supports increase in training, but need to be careful to not to be unfair to legitimate companies, wants to work on this issue.
Capelouto – Georgia has a proctored technician examination, is this being considered? Could consider it, apprenticeship could be an issue.
Santella – can Greens Industry BMP be part of reference material for state examination? The Department will consider using the document.
Koehler – Training and supervision are separate issues. How effective are actions based on supervision? Department wants to hold certified operators accountable.
Hoffer – Need to help Department on this issue, focus on a specific issue.
Capelouto – What keeps Department from effective enforcement?
Blair – What recommendations can be made to supervision and training requirements that will improve enforcement. This should be an agenda item for the next meeting.
Page – Department will be seeking revocation, and testing requirements for supervision.
Meahl – More description of violations on quarterly disciplinary action list would be helpful.
Nicely – Documentation of training is needed.

Announcements
The Florida Building Commission, Termite Workgroup Meeting will be held in Tampa, Florida on May 18th. The meeting is open to the public and interested Council members are encouraged to attend.
Public Comment
Council Chair, Richard Meahl, invited members of the public to address the Council. No members of the public addressed comments to the Council.

Agenda Items and Assignments for the July 18, 2006 Meeting
Appointment of New Officers and Election of a New Secretary—FDACS
Workplan and Meeting Schedule Updates—Jeff Blair
Update on Legislative Issues—Steve Dwinell
Rule Development Status—Steve Dwinell
Enforcement Statistic Discussion and Enforcement Case Study Scenario Sample—Mike Page
Update on Special Enforcement Operations Statistics—Mike Page
Report of the Consumer Education Subcommittee—Elizabeth Allen
Council Effectiveness Assessment Survey Discussion—Jeff Blair
WDO Contract Requirements Report and Discussion for Improving Compliance—Improving Language and Enforcement—DACS/Koehler
Report, Discussion, and Recommendations on Training and Supervision—FDACS
Industry Issues—Pretreatment Preconstruction Contracts with Builders Presentation and Discussion—Hulett/Meahl

Next Meeting Date and Location
July 18, 2006—Apopka, Florida

Future Meeting Dates and Locations
October 17, 2006—Tallahassee, Florida (Joint meeting with FDACS inspectors)
January 16, 2007—Fort Lauderdale
April 17, 2007—Fort Myers
July 17, 2007—TBD
October 16, 2007—TBD

Adjourn
The Council voted unanimously, 8 - 0 in favor, to adjourn at 1:55 PM.

Staff Assignments
• Provide a detailed compliance assistance request hard-copy report.
• DACS will issue a memo indicating that post construction treatments must comply with the label requirements (from the July 19, 2005 meeting).
• DACS should develop a mechanism for conducting neutral scheme inspections for post construction treatment label requirements (from the July 19, 2005 meeting).
• E-mail “Council Effectiveness Assessment Survey” form to Council members.
• E-mail CO’s responsibilities historic language (from past law and/or rule).
• Research whether buildings permits are required for repair work.
• Report on WDO Contracts Enforcement: type of violations, DACS enforcement practices.
MEETING EVALUATION RESULTS
April 18, 2006—Jacksonville, Florida

Average rank using a 0 to 10 scale, where 0 means totally disagree and 10 means totally agree.

1. Please assess the overall meeting.
   9.66 The background information was very useful.
   9.88 The agenda packet was very useful.
   9.77 The objectives for the meeting were stated at the outset.
   9.66 Overall, the objectives of the meeting were fully achieved.
   9.66 Update on Agency Enforcement Activities and Case Examples.
   9.77 Legislative Issues Update.
   9.66 Update on DACS Rule Development Efforts.
   9.66 Update on the WDO Neutral Scheme Pilot Project.
   9.87 Enforcement Statistics and Representative Enforcement Case Samples Discussion.
   9.77 Compliance Assistance Request Statistics and Trends Review.
   9.33 Discussion on Training Issues in the Pest Control Industry.

2. Please tell us how well the Facilitator helped the participants engage in the meeting.
   10.00 The participants followed the direction of the Facilitator.
   10.00 The Facilitator made sure the concerns of all participants were heard.
   10.00 The Facilitator helped us arrange our time well.
   10.00 Participant input was documented accurately.

3. What is your level of satisfaction with the meeting?
   9.77 Overall, I am very satisfied with the meeting.
   9.77 I was very satisfied with the services provided by the Facilitator.
   9.77 I am satisfied with the outcome of the meeting.

4. What progress did you make?
   9.77 I know what the next steps following this meeting will be.
   9.77 I know who is responsible for the next steps.

5. Member’s Written Evaluation Comments.
   • Excellent Meeting! Go Gators!
   • The supervision and training issue will be hard to tackle, but needs to be done.
ATTACHMENT 2
MEETING ATTENDANCE

Council Members Present
Elizabeth Allen
Ray Capelouto
Steve Dwinell
Al Hoffer
Tim Hulett
Phil Koehler
Richard Meahl
Pete Quartuccio
Erica Santella

DACS Staff Present
Phil Helseth
Terry Montgomery
Bruce Nicely
Mike Page
Stacey Reese

Public Present
John Mangold, Terminix
Ed Minor, CPCO
ATTACHMENT 3

COUNCIL’S UPDATED WORKPLAN
(Last Updated and Approved Unanimously April 18, 2006)

WORKPLAN BY TASK

TASK A—ENHANCING COMMUNICATION BETWEEN AND AMONG THE AGENCY, INDUSTRY, AND PUBLIC ISSUES

1. Develop list of programmatic and operational statistics Council would like to review on an ongoing basis.
   A. Council will review enforcement statistics at each meeting.
   B. Council will review Sample Representative Enforcement Cases at each meeting.
   C. DACS will update Council on rulemaking efforts at each meeting.
   D. DACS will update Council on relevant statutory issues at each meeting.

2. Develop recommendations regarding enhancing accountability for improper acts.

3. Provide cases/statistics regarding disclosures for treatment failures.

4. Develop recommendations for improving consumer education on procedures for filing complaints (complaint process) and enhancing the visibility of the process.
   A. DACS compliance assistance requests proposal adopted at July 2004 meeting.
   B. Compliance assistance requests process reviewed at each subsequent meeting.

5. Review Department’s website for possible recommendations on content and organization.

6. Public Participation at Council Meetings
   A. Process amended at the April 22, 2004 meeting.

7. Council Effectiveness
   A. Council discusses effectiveness assessment survey results annually at the April meeting.

8. Council Policies
   A. Council will rotate Chair position and elect new Secretary at each July meeting.
   B. Council considered a member proxy proposal at the July 19, 2005 meeting.
   C. Member Comment Process for absent members was adopted at the October 18, 2005 meeting.
   D. Member attendance and meeting frequency policies were revised at the January 17, 2006 meeting.
   E. Council reviewed membership terms and statutory mandate at the January 17, 2006 meeting.
9. Coordinate enforcement strategies for new construction pre-treatments between: DACS, Florida Building Commission; BOAF (building officials), FHBA (home builders), and PCO’s.
A. Council reviewed “Termite Protection in Buildings” document at the April 2005 meeting.

10. Consumer Education Efforts
   A. Council discussed consumer education strategies at the July 19, 2005 meeting.
   B. Council convened a Consumer Education Subcommittee at the July 19, 2005 Meeting.

TASK B—ENHANCING LICENSING AND ENFORCEMENT PRACTICES ISSUES

1. Review and develop recommendations on the Department’s disciplinary procedures.

2. Review and develop recommendations on the language used in the Department’s various forms.
   A. Feasibility assessment for a negotiated rulemaking on the WDO report form was completed on February 5, 2004.
   B. WDO Inspection Form workshop process was completed in January of 2006.

3. Recommendations for dealing with illegal operators.
   A. Agency updated Council regarding statistics at the April 22, 2004 and January 18, 2005 meetings.

4. Organize discussions on Task B to be specific to the different categories of pest control (i.e., Fumigation, Lawn and Ornamental, General Household Pest Control, and Termite).

5. Reach consensus on the scope of issues for council consideration.
   Council agreed that their focus will be on developing recommendations to improve the enforcement of existing regulations; and, would recommend statutory or rule changes as a by-product of this activity and not as a primary Council focus. (November 20, 2003)

6. Council will hear a report on FDACS Certification Exams at the April 18, 2006 meeting.
TASK C—ENHANCING AGENCY’S ENFORCEMENT, EDUCATION, AND TRAINING ISSUES

1. Develop recommendations to ensure that there are consistent and uniform training requirements that all inspectors must achieve prior to working in the field.

2. Make recommendations on what the Agency’s enforcement priorities should be for the coming year.—Annual Task.
   

3. Review and develop recommendations to ensure the Department has a clear, uniform, and consistent enforcement standards.
   
   A. Inspections procedures overview given by Agency on July 17, 2003.
   B. Agency enforcement case process overview given on July 17, 2003.
   C. Presentation on issues of concern to PCO’s given on July 17, 2003.
   D. Complaint response procedures overview given by Agency on September 18, 2003.
   E. Council will consider uniform procedures for notifying PCOs of Agency actions at a future meeting.
   F. Council discussed preventive treatment for new construction records inspection procedures at the July 2004 meeting.
   G. Council reviewed protocols for inspecting Borates used in new construction at the July 2004 and January 2005 meetings.
   H. Council conducted a joint meeting with DACS inspectors to discuss uniform enforcement procedures at the July 2004 meeting.
   I. Council reviewed Neutral Scheme Inspections Policy at January 2005 meeting.
   J. Council considered a proposal for testing for the presence/absence of preventive residual soil treatments at the January 2005 meeting.
   K. Council developed recommendations for neutral scheme inspections including a set of criteria at the July 19, 2005 meeting.
   L. Council adopted a Compliance Assistance Request Process at the April 22, 2004 meeting, and revisions at the July 20, 2004 meeting.
   M. Council discussed enforcement issues related to ID cards at the October 18, 2005 meeting.
   N. Council discussed compliance resolution rates at the October 18, 2005 meeting.
   O. Council approved WDO neutral scheme pilot project at the October 18, 2005 meeting.
   P. Considered recommendations to improve effectiveness of post construction treatment standards at the July 19, 2005 and October 18, 2005 meetings.
   Q. Council discussed Africanized Honeybees and implications to the industry at the January 17, 2006 meeting.
   R. Council consider recommendations regarding prior notification of inspections at the January 17, 2006 meeting.
   S. Council considered requirements related to assumption of contracts at the January 17, 2006 meeting. The issue was assigned to the Education Subcommittee.
   T. Council will discuss inspector training related to enforcement issues at the April 2006 meeting.