PEST CONTROL ENFORCEMENT ADVISORY COUNCIL

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

FACILITATOR’S SUMMARY REPORT OF THE JANUARY 20, 2004 MEETING

ORLANDO/APOPKA, FLORIDA

Meeting Design and Facilitation by
Jeff A. Blair
Florida State University
jblair@mailer.fsu.edu
http://consensus.fsu.edu
OVERVIEW OF COUNCIL’S KEY DECISIONS

TUESDAY, JANUARY 20, 2004

Opening and Meeting Attendance
Chairman McGranahan opened the meeting at 9:20 AM, and the following Council members were present:
Elizabeth Allen (departed early), Ray Capelouto, Al Hoffer, Tim Hulett, Phil Koehler (arrived late), Bob McGranahan, Richard Meahl, Pete Quartuccio, and DR Sapp. Members absent: Steve Rutz and Erica Santella.

Agenda Review and Approval
The Council voted unanimously, 8 - 0 in favor, to approve the agenda as amended including the following objectives.
- To Approve Regular Procedural Topics (Agenda, Report, and Workplan)
- To Hear an Update on Agency Enforcement Activities
- To Hear a Legislative Issues Update
- To Hear an Update on Actions Related to Contract Disputes
- To Hear a Report on Company-on-Company Complaint Statistics
- To Hear Information Related to the Use of Borates in New Construction
- To Discuss a Proposed DACS Consultation Process
- To Consider Public Comment
- To Identify Needed Next Steps and Agenda Items For Next Meeting

Amendments
Discussion on issues Related to Pretreat Records Inspections Review/Requirements will be deferred to the April 2004 meeting.

Approval of November 20, 2003 Facilitator’s Summary Report
The Council voted unanimously, 8 - 0 in favor, to approve the November 20, 2003 Facilitator’s Report as presented.

Review and Approval of Updated Workplan
Following a review of the Workplan, included as page 2 and 3 of the agenda packet, the Council took the following actions.
Council Action:
The Council voted unanimously, 8 - 0 in favor, to approve the Council’s workplan as presented.
(Attachment 3—Workplan)

Update on Agency Enforcement Activities and
Wayne Gale, Bureau Chief for DACS, reported on Agency enforcement activities and answered Council member’s questions. Following is an unedited list of highlights from the report:
The Agency has been making a special effort to catch illegal/unlicensed operators. Next report will see a significant number with fines. Law change has enabled DACS to fine first offenders. Still have ways to go. Have discovered that lawn companies have been telling employees that it is not necessary for them to be licensed. If employees are applying pesticides on a routine basis Department can go after the company.

Ashalox (sp) is still an issue. Working with Compliance Monitoring and the industry on this issue.

New problem: fumigation issue. Emphasis has been on clearance. Label says that you do not have to drop a tarp before fumigation. And they have discovered that nowhere on the label does it say that you ever have to drop a tarp at all.

Borate usage is becoming very popular with the builders in the Panhandle and in Central Florida. Will address later in the meeting.

**Legislative Issues Update**

Steve Dwinell, Assistant Division Director of the Division of Agriculture and Environmental Services, reported on legislative issues related to the Agency and answered Council member’s questions. Following is an unedited list of highlights from the report:

Routine Reauthorization of Pest Control Trust Fund. Should be routine as they taking all the trust funds and putting them through at once. All license money and fine money goes into the pest control trust fund.

Mold Remediation Registration Act. The bill says that if you are a company that wants to go in and investigate mold infestations then you have to be registered under this act. This is an important issue and Steve Dwinell encouraged members to pay close attention to this bill—SB 1350. There is an exclusion for Chapter 482.

Toxic Mold rule in process right now, have had 2 workshops already, 5E14.182 would allow a disclaimer to be added to the WDO form. DACS’s legal department says that the Agency does not have the authority to modify 5E14.182 to give the PCO authority for a disclaimer but they do have the authority to change the form.

**Update on Contract Disputes**

Steve Dwinell, Assistant Division Director of the Division of Agriculture and Environmental Services, reported on legislative issues related to the Agency and answered Council member’s questions. Following are the highlights of the report:

**Company-on-Company Complaint Statistics Report**

Wayne Gale, Bureau Chief for DACS, reported that there is not currently an accurate process to capture these statistics separately from the overall complaint statistics, and that DACS will attempt to implement a process to do so in the future.
Information Related to the Use of Borates in New Construction
Ron Schwalb and Jeff Lloyd from Nissus Corporation presented a PowerPoint presentation on the proper application and product efficacy for the use of borates in new construction. Following Council member questions, Phil Helseth presented a PowerPoint presentation on some of the issues and difficulties related with inspecting for the proper application of borates used in new construction. Following additional Council member questions, Steve Dwinell volunteered that DACS will bring a proposal to the next meeting regarding DACS inspection recommendations for Borates used in new construction.

DACS Consultation Process Proposal and Discussion
Richard Meahl, Council member, presented a draft form proposed for use in a non-complaint driven consultation between DACS and a pest control operator and/or property owner.
A discussion ensued regarding the concept of having the availability and corresponding documentation (proposed form) for a process allowing DACS to meet with the PCO and/or a property owner in a consultative process that is not driven by the consumer complaint process and subsequent documentation that is required to be maintained in PCO's file. At the conclusion of discussion it was agreed that Steve Dwinell will bring a proposal for a multi-purpose form and process that would allow for a consumer to request a consultation without initiating a formal complaint against a PCO. This same form could be used if a PCO requests a compliance assistance inspection form DACS.

Annual Elections Proposal
The Council discussed a process for nominating and electing the three officer positions. Following is the Council’s adopted policies:

Council Action:
Motion—The Council voted unanimously, 9 - 0 in favor, that each year a nominating committee consisting of the outgoing president and one other Council member, will make recommendations for a new Council secretary.
Motion—The Council voted unanimously, 9 - 0 in favor, that each officer would serve for a term of one year (4 meetings held quarterly) and at the conclusion of the annual meeting cycle, the vice-chair will automatically become the president, and the secretary will automatically become the vice-chair. This year Bob McGranahan and Phil Koehler will serve as the nominating committee and make recommendations for a new secretary at the April 22, 2004 meeting.
The new officers will assume their roles at the July 20, 2004 meeting.

Public Comment
Chairman McGranahan invited members of the public address the Council.
No members of the public offered comments to the Council.
Agenda Items and Assignments for the April 22, 2004 Meeting
Nominations Committee Recommendations and Election of Council Secretary
Public Comment/Input on Substantive Council Agenda Issues—Lead Jeff Blair—Agenda time 1/2 hour
Borates Inspection Recommendations for New Construction Applications—Lead Steve Dwinell (DACS)—Agenda time 1/2 hour
Pretreat Inspection Records Review Process Recommendations—Lead Tim Hulett—Agenda time 2 hours
Consumer Consultation and PCO Compliance Assistance Inspection Proposal—Lead Steve Dwinell (DACS)—Agenda time 1 hour
Unlicensed Activities Recommendations Discussion—Lead Phil Helseth (DACS)—Agenda time 1 hour

Agenda Items for July 20, 2004 Meeting
Uniform procedures for notifying PCOs of potential/pending DACS actions. This proposal will be correlated with the DACS inspectors meeting to be held in Fort Lauderdale, and with the current efforts by DACS to implement uniform case file protocols.

Agenda Items for Future PCEAC Meetings
(Based on prioritization exercise results from the November 20, 2003 meeting)
Accountability for Improper Actions (Workplan Task A-2)
Maintenance of Post Construction Records (Workplan Task B-5)
ERG Guidelines Review Recommendations and Approval for Rule (Workplan Task)

Other Agenda Issues for Future Consideration
(Identified at previous meetings)
Following are additional agenda issues members’ expressed a desire to consider at a future date:
Method of training inspectors (protocols) recommendations (Workplan Task D-1)
Enforcement case file form review and recommendations (Workplan Task B-2)
Warranty treatment recommendations
Recommendations for enhancing cooperation between DAC and the Florida Building Commission on treatment issues related to new construction. (Workplan Task A)

Next Meeting Date and Location
Thursday, April 22, 2004—Live Oak
Details to be developed with Bob McGranahan
Note: 9:00 AM start time.

Future Meeting Dates and Locations
Tuesday, July 20, 2004—Fort Lauderdale—Details TBD
Thursday, October 7, 2004—Lee County Mosquito Control District
January 2005—Date and Location TBD
Staff Assignments

- Implement a process to capture statistics for company-on-company complaints.
- Coordinate meeting location and logistical needs for the April meeting with Bob McGranahan.
- Develop borates inspection recommendations for new construction applications proposal.
- Develop consumer consultation and PCO compliance assistance inspection proposal.
- Provide overview of current unlicensed activities procedures.
- Determine facility locations for future meetings.
- Provide laptop, overhead projector, and screen.
- Fax and/or mail those Council members without an e-mail address a copy of current agenda and latest meeting report.
- Send a reminder to Council members with meeting details one week prior to each meeting.

Adjourn

At 2:00 PM the Council voted unanimously, 9 - 0 in favor, to adjourn the meeting.
ATTACHMENT 1

MEETING EVALUATION RESULTS

Pest Control Enforcement Advisory Council—January 20, 2004

1. Please assess the overall meeting.

   9.62 The background information was very useful.
   9.75 The agenda packet was very useful.
   9.50 The objectives for the meeting were stated at the outset.
   9.37 Overall, the objectives of the meeting were fully achieved.
   9.50 Update on Agency enforcement activities.
   9.50 Legislative issues update.
   9.62 Update on Actions Related to Contract Disputes.
   9.75 Information Related to the Use of Borates in New Construction.
   9.50 Discussion on Proposed DACS Consultation Process.

2. Please tell us how well the facilitator(s) helped the participants engage in the meeting.

   9.50 The participants followed the direction of the facilitator.
   9.87 The facilitator made sure the concerns of all participants were heard.
   9.75 The facilitator helped us arrange our time well.
   9.75 Participant input was documented accurately.

3. What is your level of satisfaction with the meeting?

   9.62 Overall, I am very satisfied with the meeting.
   9.87 I was very satisfied with the services provided by the facilitator.
   9.62 I am satisfied with the outcome of the meeting.

4. What progress did you make?

   9.50 I know what the next steps following this meeting will be.
   9.62 I know who is responsible for the next steps.

5. Do you have any other comments that you would like to add? We are very interested in your comments.

   None
<table>
<thead>
<tr>
<th>Name</th>
<th>Affiliation</th>
<th>Phone</th>
<th>Fax</th>
<th>E-mail</th>
</tr>
</thead>
<tbody>
<tr>
<td>Bob McGranahan</td>
<td>Live Oak Pest Control</td>
<td>1-800-771-3887</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Peter Quartuccio</td>
<td>COSWFL.</td>
<td>941-622-5833</td>
<td>941-629-2302</td>
<td><a href="mailto:PetePest@sunshine.net">PetePest@sunshine.net</a></td>
</tr>
<tr>
<td>Tim Hulett</td>
<td>FPMA</td>
<td>561-844-8444</td>
<td>561-845-6758</td>
<td></td>
</tr>
<tr>
<td>Dempsey R. Sapp, Jr.</td>
<td>FPMA</td>
<td>352-376-2661</td>
<td>352-376-2791</td>
<td><a href="mailto:d.sap@flapest.com">d.sap@flapest.com</a></td>
</tr>
<tr>
<td>Raymond Capelouto</td>
<td>Capelouto Pest Control</td>
<td>850-656-1166</td>
<td>850-656-4933</td>
<td><a href="mailto:Raymond@Capelouto.com">Raymond@Capelouto.com</a></td>
</tr>
<tr>
<td>Allen R. Hoffer</td>
<td>CPCO</td>
<td>561-445-2847</td>
<td>954-753-5473</td>
<td><a href="mailto:Al@alhoffer.com">Al@alhoffer.com</a></td>
</tr>
<tr>
<td>Michael Beckers</td>
<td>CPCO</td>
<td>954-724-8806</td>
<td>954-724-8947</td>
<td><a href="mailto:cpco@netrox.net">cpco@netrox.net</a></td>
</tr>
<tr>
<td>Phil Koehler</td>
<td>University of Florida</td>
<td>352-392-2484</td>
<td>352-846-1500</td>
<td><a href="mailto:pgk@ufl.edu">pgk@ufl.edu</a></td>
</tr>
<tr>
<td>Steve Dwinell</td>
<td>DACS</td>
<td>850-488-3731</td>
<td>850-488-2164</td>
<td><a href="mailto:dwinells@dacs.state.fl.us">dwinells@dacs.state.fl.us</a></td>
</tr>
<tr>
<td>Phil Helseth</td>
<td>DACS</td>
<td>904.381.6004</td>
<td>904.381.6048</td>
<td><a href="mailto:Helsetp@doacs.state.fl.us">Helsetp@doacs.state.fl.us</a></td>
</tr>
<tr>
<td>Richard C. Meahl</td>
<td>CPCO</td>
<td>352-795-3349</td>
<td>352-795-2688</td>
<td></td>
</tr>
<tr>
<td>Collier Black</td>
<td></td>
<td>904.273.1512</td>
<td>904.273.0065</td>
<td><a href="mailto:Collierblack@comcast.net">Collierblack@comcast.net</a></td>
</tr>
<tr>
<td>Jeff Blair</td>
<td>Florida State University</td>
<td></td>
<td></td>
<td><a href="mailto:Jblair@fsu.edu">Jblair@fsu.edu</a></td>
</tr>
<tr>
<td>Elizabeth Allen</td>
<td>HPA</td>
<td>904-285-1913</td>
<td></td>
<td><a href="mailto:Elizabethallen@comcast.net">Elizabethallen@comcast.net</a></td>
</tr>
<tr>
<td>Matthew Dempsey</td>
<td>FPMA</td>
<td>850-997-3544</td>
<td>850-997-1316</td>
<td><a href="mailto:Matt@chalesbronson.org">Matt@chalesbronson.org</a></td>
</tr>
<tr>
<td>Wayne Gale</td>
<td>DACS-BEPC</td>
<td>850-921-4177</td>
<td></td>
<td><a href="mailto:galet@doacs.state.fl.us">galet@doacs.state.fl.us</a></td>
</tr>
<tr>
<td>Ron Schwalb</td>
<td>Nisus Corp.</td>
<td>865.577.6119</td>
<td>865.577.5825</td>
<td><a href="mailto:Rons@nisuscorp.com">Rons@nisuscorp.com</a></td>
</tr>
<tr>
<td>Jeff Lloyd</td>
<td>Nisus Corp.</td>
<td>865.577.6119</td>
<td>865.577.5825</td>
<td><a href="mailto:jeffl@nisuscorp.com">jeffl@nisuscorp.com</a></td>
</tr>
</tbody>
</table>

PCEAC—Summary Report of the January 20, 2004 Meeting
ATTACHMENT 3

COUNCIL’S UPDATED WORKPLAN
(Updated and Approved Unanimously January 20, 2004)

WORKPLAN BY TASK

Task A—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.

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 inspection consultation proposal at January 2004 meeting.

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

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 possible negotiated rulemaking for the WDO report form is being conducted starting in December 2003.

3. Recommendations for dealing with illegal operators.

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. Develop recommendations to improve effectiveness of post construction treatment standards.
6. 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)

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.
   
   Complaint response procedures overview given by Agency on September 18, 2003.