PEST CONTROL ENFORCEMENT ADVISORY COUNCIL

FLORIDA DEPARTMENT OF AGRICULTURE AND CONSUMER SERVICES

Division of Agricultural Environmental Services

FACILITATOR’S SUMMARY REPORT OF THE SEPTEMBER 18, 2003 MEETING

ORLANDO/APOPKA, FLORIDA

Meeting Design and Facilitation by
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OVERVIEW OF COUNCIL’S KEY DECISIONS

THURSDAY, SEPTEMBER 18, 2003

Opening and Meeting Attendance
Chairman McGranahan opened the meeting at 10:07 AM, and all Council members were present with the exception of Raymond Capelouto.

Chairman McGranahan announced the Commissioner’s appointment of Al Hoffer to the Council.

Agenda Review and Approval
The Council voted unanimously, 9 - 0 in favor, to approve the agenda as presented 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 Discuss Council Attendance Policy
- To Discuss Probable Cause Panel
- To Discuss DACS Enforcement Priorities
- To Discuss DACS’s Complaint Response Procedures
- To Consider Public Comment
- To Identify Needed Next Steps and Agenda Items For Next Meeting

Approval of July 17, 2003 Facilitator’s Summary Report
The Council voted unanimously, 9 - 0 in favor, to approve the May 8, 2003 Facilitator’s Report as presented.

Review and Approval of Updated Workplan
Following a review of the workplan included as page 8 of the agenda packet, the Council took the following actions.

Council Action:
The Council voted unanimously, 10 - 0 in favor, to approve the Council’s workplan as presented.
(Attachment 3—Workplan)

Update on Agency Enforcement Activities
Wayne Gale, Bureau Chief for DACS, reported on Agency enforcement activities and answered Council member’s questions.

Council member comments/requests:
- Add a subheading listing the number of companies, operators, and technicians cited from 1999 through current.
- Add a subcategory for number of cease and desist orders for lawn ornamentals.
Legislative Issues Update
Steve Rutz, Division Director of the Division of Agriculture and Environmental Services, reported on legislative issues related to the Agency and answered Council member’s questions.

Meeting Attendance Policy
Steve Rutz presented a proposed policy for Council consideration. The Council offered one refinement, to eliminate the words or more.

Council Action:
The Council voted unanimously, 10 - 0 in favor, to approve the Council’s meeting attendance policy as amended.

Following is the PCEAC’s adopted attendance policy:
Any members of the Pest Control Enforcement Advisory Council who fails to attend three consecutive meetings will be contacted by the Department to determine why the member was not able to attend and if the member still wishes to serve on the Council. If the member cannot demonstrate his or her absence was for good cause, which includes but is not limited to personal or family illness or military service, or no longer wishes to serve on the Council, the Department will request the member submit a written resignation from the Council to the Commissioner of Agriculture. If the member refuses to resign, the Council will recommend to the Commissioner of Agriculture the member’s appointment be terminated and a new member be appointed as a replacement.

Meeting Frequency Discussion
Tim Hulett suggested that the Council consider meeting on a quarterly basis. Following the discussions the Council agreed to the following proposal:

Council Action:
The Council voted unanimously, 10 - 0 in favor, to meet one more time in 2003 (November 20, 2003) and thereafter to meet quarterly starting with a January 20, 2004 meeting.

Probable Cause Panel Discussion
As requested by the Council at the July 2003 meeting, Howard Hochmann, Steve Dwinnell, and D.R. Sapp reported on procedures that other states utilize—including probable cause panels—relative to case review and notification prior to notice of intended action. Following presentations and questions, the Council agreed to consider the complaint response procedures discussion agenda item and then return to their probable cause panel discussion. The Council agreed that the complaint response procedures discussion would serve to inform their considerations on a method for dealing with concerns regarding notification and policy consistency related to Agency enforcement actions.

Complaint Response Procedures Discussion
Wayne Gale, Bureau Chief for DACS, reported on Agency complaint response policy and answered Council member’s questions.
Probable Cause Panel Discussion Continued
All members agreed that there is a need to provide notification with a response time prior to Agency action, but several members expressed concern with the probable cause panel concept as the method to resolve this issue.
The Council agreed that DACS should take the feedback proposed by Council members and bring a proposal back for Council consideration at the November 20, 2004 meeting.

Following are Council member’s comments:

- Provide a 1 page letter to licensee regarding enforcement action and provide the respondent an opportunity and a specified amount of time to respond.
- Need to make the company aware of any actions.
- DACS should streamline the process.
- Need to adopt consistent written procedure and adopt by administrative rule.
- Procedures need to be clear, consistent, and evenly administered.
- Provide a letter to individuals suspected of violation/s with a time to respond before any Agency action is taken.
- DACS should review their internal procedures, including legal review, and coordinate the review process in a consistent and fair manner.
- Company should be contacted if there are any pre-treat violations, since technicians may not report back to operator or the company.
- Companies should be notified of all complaints including those that are dismissed.

Council Recommendations on DACS Enforcement Priorities
Steve Rutz reported on Agency identified enforcement priorities for the coming year and requested Council feedback on how to accomplish improvements in the various topical areas.
The council was asked to identify additional priorities and provide specific feedback/recommendations for each of the priorities. It was agreed the Council would brainstorm idea and DACS would bring a proposal back for Council consideration at the November 20, 2004 meeting.

Following are the identified priorities with member feedback/recommendations for each:

Fumigation Safety

- surprise/spot inspections
- spot inspection of equipment
- clear rules to follow
- notify industry of any new developments
- review and refine the fine structure for repeat violators
- evaluate applicators for exposure to fumigants
- independent monitoring of gas concentrations (during and after treatment for clearance)
Deficient Pretreatments
- annual submission of records to DACS for review
- notify the industry of the specifics of any violations
- review and refine the fine/penalty structure for repeat violators
- education of the field building inspectors
- notify builders and/or homeowners of deficient pretreatments
- use soil sample to determine presence of chemicals
- escrow funds for renewal of bait treatment
- measure distance between bait stations to ensure proper application
- method to tie in the contracts and warranties after additions have been made to a structure

Fraudulent Deceptive Trade Practices
- review bait and switch techniques related to the length and term of warranties
- Strategy to deal with pest control companies hiring contractors that are not complying with the building code and standards

Illegal Operators
- record checking at pesticide distribution centers
- check with customers to see who is being hired
- reward for information leading to convictions
- require each inspector to check a certain amount of suspected illegal operators
- educate the public to identify illegal operators and the associated risks of hiring them
- make it easier to get certified

Failure to Comply with Notice of Post Construction Treatment Requirements
- do a random sample of companies and also owners to see if notice is affixed
- random surprise inspections
- review records

Consistency and Uniformity for Inspectors Around the State
- develop consistent and clear written rules
- inspect and report findings only and not opinions
- no opinions rendered by inspectors (facts only)
- survey operator satisfaction (that are working in multiple districts) related to inspections and enforcements
- annual/biannual training of inspectors to do sample problems together to achieve standardization
- continuing education is needed
- bold lettering on State complaint form “No Opinions Rendered”
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 November 20, 2004 PCEAC Meeting
- Report on what can be reported on (public record requirements/rules) related to Agency enforcement actions. (Wayne Gale)
- Complaint Response Procedures proposal (Steve Rutz)
  (Task C-3 Review and develop recommendations to ensure the Department has a clear and consistent enforcement standards)
- DACS Enforcement Priorities proposal (Steve Rutz)
- Alternating meetings locations discussion (Tim Hullet)

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

Next Meeting Date and Location
Thursday, November 20, 2003 at:
Mid-Florida Research and Education Center (Note: Conference Room C185)
2725 Binion Road—Apopka, Florida—407.884.2034

Tuesday, January 20, 2004 meeting date.

Adjourn
At 2:50 PM the Council voted unanimously, 10 - 0 in favor, to adjourn the meeting.
EVALUATION RESULTS

September 18, 2003, Orlando/Apopka

1. Please assess the overall meeting.
   9.75 The background information was very useful.
   10.0 The agenda packet was very useful.
   10.0 The objectives for the meeting were stated at the outset.
   9.50 Overall, the objectives of the meeting were fully achieved.
   9.25 Update on Agency enforcement activities.
   10.0 Legislative issues update.
   10.0 Discussion on Council attendance policy.
   10.0 Discussion on DACS enforcement priorities.
   10.0 Discussion on DACS’s complaint response procedures.

2. Please tell us how well the facilitator(s) helped the participants engage in the meeting.
   8.75 The participants followed the direction of the facilitator.
   9.50 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?
   9.75 Overall, I am very satisfied with the meeting.
   10.00 I was very satisfied with the services provided by the facilitator.
   10.00 I am satisfied with the outcome of the meeting.

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

5. Do you have any other comments that you would like to add?
   - Need some guidance for some members (following direction of facilitator).
   - The most productive meeting yet. We seem to finally be getting into the main course of things.
   - Send a reminder 7 days prior to next meeting to remind members to review the agenda.
## ATTACHMENT 2

### Pest Control Enforcement and Advisory Council
#### July 17, 2003-Orlando
#### Attendance Sheet

<table>
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ATTACHMENT 3

COUNCIL’S UPDATED WORKPLAN
(Approved Unanimously September 18, 2003)

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.

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.

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.

Task C—Enhancing Agency’s Enforcement, Education, and Training Issues
1. Develop recommendations to ensure that there are consistent 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.

3. Review and develop recommendations to ensure the Department has a clear and
consistent enforcement standards.