

## **Minutes from the June 14, 2012 Meeting of the Pesticide Control Board**

The Pesticide Control Board convened on June 14, 2012. Agriculture Commissioner Goehring called the meeting to order at 2:00 pm.

Present at the meeting in Morrill Hall on the NDSU campus in Fargo were Board members Commissioner Goehring from the ND Department of Agriculture (NDDA), NDSU Extension Acting Director Chris Boerboom and ND Experiment Station Director Ken Grafton. Others present included NDDA employees Jim Gray and Blake Schaan, Andrew Thostenson (NDSU Pesticide Training and Certification Program), David Gust (President of the ND Aerial Applicators Association) and Matt Hovdenes (member of the ND Aerial Applicators Association).

### **Approval of Minutes**

Grafton moved to accept the minutes from the Board's last meeting on May 6, 2011. Seconded by Goehring. Motion carried.

### **Summary of public listening sessions on pesticide rulemaking**

Schaan provided a brief update of the March-April 2012 public listening sessions on proposed changes to the pesticide administrative rules. The Board suggested that the NDDA hold such sessions on the proposed changes to the rules, discuss them with stakeholders, and report back to the Board with any feedback. Based on that feedback, the Board would decide whether or not to move forward with the rule-making process. Gray reiterated that the next step was not to make final decisions on the proposed changes, but to decide whether or not to start rule-making. The process for amending administrative rules includes hearings and public comment periods to allow stakeholders to further weigh in on any proposed changes. The process normally takes six to twelve months to complete.

### **Discussion of proposed rule changes based on public feedback**

Schaan briefed Board members on the feedback received during the sessions. Schaan stressed that most of the changes were intended to reword the rules in plain language that is easy to understand. Feedback received and Board suggestions relative to that feedback was as follows:

#### **Bismarck 3/13/2012**

**Attendees:** Sandy Clark (NDFB), Merlin Leithold (Grant Co. weed officer)

No relevant comments.

#### **Minot 3/21/2012**

**Attendees:** Lance Mckeett (Farmers Union), Gary Willoughby (NCREC), Fred Anderson (Ag Aviatin SBC)

1. Attendees expressed that they would like to see a unilateral requirement for spill kits between private and commercial applicators.

Action: The Board voted to leave the proposed rules as they are currently written.

#### **Dickinson 3/28/2012**

**Attendees:** Twig Zahn (Homestead Ag), Tom Zahn (Homestead Ag), Darick Swanson (Southwest Ag), Kurt Froelich (NDSU Ext. Stark Co.)

1. Attendees expressed concern that the contact info update provision needs to be enforceable. Suggestions included making the applicator inactive. Attendees also questioned how the NNDA will know that the applicator has not notified NDSU Extension.

Action: The Board voted to remove these proposed rules.

2. Dickinson State University is offering a weed science course and the final exam is the private applicator exam. Students use their college address. The next year they are living with their parents. How will NDDA handle this situation?

Action: The Board voted to remove these proposed rules.

3. Kurt Froelich just lists private applicators as “inactive” if mailings bounce back. Is this a better way of handling it?

Action: The Board voted to remove these proposed rules and agreed with the attendees’ comments.

4. As a county Agent, Kurt Froelich would like to have just one fumigation category that would cover structural and vertebrates.

Action: The Board voted to leave the proposed rules as they are currently written.

5. A question was asked about why farmers with bulk pesticides do not need containment while dealers do? This was answered with “concerns and comments about this issue should be brought before the Pesticide Control Board as they would like to hear them”.

Action: The Board voted to leave the proposed rules as they are currently written since these are federal regulations being adopted.

### **Fargo 4/3/2012**

**Attendees:** Robert Thompson (private citizen), Stan Wolf (Cass Co. weed officer), Andrew Thostenson (NDSU Ext.), Jerry Buckley (NDSU Ext.)

1. Attendees expressed concerns about changing fumigant categories. Specifically, since there is only a small number (approximately 30) of vertebrate certified applicators, why change it? Andrew Thostenson stated that he did not want to inconvenience the majority for the sake of a few.

Action: The Board voted to leave the proposed rules as they are currently written.

### **Jamestown 4/4/2012**

**Attendees:** Brian Rau (Rau Farm), Mike Liane (NDSU Ext.)

1. Attendees asked, “given that many private applicators use as much pesticides or more than commercial applicators, is there really a need to have both private and commercial certifications”? The NDDA responded with reminding the attendees that the financial responsibility requirements are for commercial applicators and would be unnecessary for private applicators in most cases.
2. Attendees asked “when must a commercial applicator provide application records to their clients”? The NDDA responded that they must provide the record for every application but, presently there is no time constraint.
3. Attendees asked for a clearer definition of “holding” a custom blend and if the NDDA could provide a guideline for how long the blend must be held for it to be considered “inventory”.
4. Attendees asked for specific guidelines as to when a certification may be denied and if the decision was to be left to a single person or a committee.

Action: The Board voted to leave the proposed rules concerning the above as they are currently written with one exception. The Board moved to include language regarding no. 2 above to specify that commercial application records must be provided to a client as soon as possible and not to exceed 30 days.

### **Williston 4/11/2012**

**Attendees:** none

### **Grand Forks 4/17/2012**

**Attendees:** Al Wimpfheimer (J.R. Simplot), Glen Wharam (Valley Sprayers Inc.), Kadie Benson (Pembina Co. weed officer), Todd Hanson (Grand Forks Health Dept.)

1. The attendees expressed concern about the new rule requiring that the business name and physical address of the facility requirement for mini-bilks or shuttles. Attendees felt that this requirement was redundant as there is already a requirement to place their EPA establishment number on the shuttles, which can give the NDDA all the information they would need to determine ownership of the mini-bulk or shuttle.

Action: The Board voted to leave the proposed rules as they are currently written.

### **Devils Lake 4/18/2012**

**Attendees:** Bill Hodous, (Ramsey Co. Ext. agent) Mike Liane (NDSU Ext.)

1. Attendees asked for specific guidelines as to when a certification may be denied and if the decision was to be left to a single person or a committee.

Action: The Board voted to leave the proposed rules as they are currently written.

### **Aerial Applicator Recertification Discussion**

Gust brought up the issue of some aerial applicators not having the sufficient training required for an aerial applicator to be as proficient as possible in their profession, citing he would like to see every aerial applicator certified in North Dakota attend a professional aerial applicators support system (PAASS) program before recertification is issued to those individuals. Gust stated that all other states surrounding ND have more stringent certification requirements. The Board discussed how the actual language would look in the rules and charged Schaan and Gray to come up with workable language and email to the Board for approval. Schaan and Gray agreed and stated they would draft the language for inclusion in the administrative rules and send out to the Board for approval in the very near future.

**Other business:** None

Goehring suggested that the Board meet again in the fall after outreach has been conducted on proposed rule changes. Goehring moved to adjourn the meeting. Seconded by Boerboom. Motion carried.