

PESTICIDE REVIEW COUNCIL MEETING

MINUTES

July 10, 2009

Austin Cary Memorial Forest Conference Bldg

Institute of Food & Agricultural Sciences

University of Florida (UF/IFAS)

Gainesville, Florida

MEMBERS PRESENT:

Dr. Mel Kyle, (Chair) Agrichemical Industry Representative
Dr. Keith Tolson, (Vice Chair) Toxicologist
Dr. Dennis Howard, FL Department of Agriculture and Consumer Services (FDACS)
Dr. Mark McLellan, IFAS/UF
Mr. Richard Pfeuffer, South FL Water Management District (SFWMD)
Mr. Gary Reeder, Grower Representative
Dr. David Krause, State Toxicologist (FDoH)

MEMBERS ABSENT

Mr. Rick Hicks, FDEP (Represented by Mr. James Dodson)
Mr. Dave Eggeman, FFWCC
Dr. Brian Katz, Hydrologist (Secretary)
Vacant, Environmental Groups

OTHERS PRESENT

Mr. Joshua Craft, FFB
Mr. Charlie L. Clark, FDACS
Dr. Davis Daiker, FDACS
Ms. Catherine Wolden
Mr. Butch Calhoun
Mr. Bert Perry, NFWM
Mr. Tony Di Bartolo, FDACS
Ms. Patty Lucas, FDACS
Mr. Scott Freiwald, FDACS
Mr. James Cooper, FDACS
Mr. Max Feken, FDACS
Mr. Andy Rackley, FDACS

Mr. Steve Dwinell, FDACS
Mr. Jason Byrd, FDACS
Mr. Tim Schubert, FDACS
Mr. Jeff Schardt, FFWCC
Ms. Elsa Potts, FDEP
Mr. George Wichterman
Mr. Bill Caton FFWCC
Mr. Fred Fishel, UF/IFAS
Ms. Edwin Ingram, Bayer CropScience
Ms. Lariza Garzon, NFWM
Mr. William Geisbert, FDACS
Mr. Chris O'Rourke, FDACS
Mr. Tom Frazer UF/IFAS
Dr. George Blakeslee UF/IFAS
Mr. Alan Long
Mr. Jason Smith
Mr. Pat Minogue

Introduction

After a brief introduction and welcome by Dr. Mark McLellan to the Austin Cary Memorial Forest Conference Bldg, Dr. Mel Kyle, Chairman, opened the meeting and asked the Council and the audience to introduce themselves. Dr. Dennis Howard informed the Council that due to Mr. Rick Hicks' unavoidable absence, the presentation on the USGS surface water quality study in the Lake Wales Ridge would be postponed until the next meeting. The minutes from the September 30, 2008 meeting were accepted without comment.

PRC Statutory Limitation on Officer Terms

Following comments from Dr. McLellan and Dr. Howard the Council unanimously voted to request that the statutory limitation on officer terms for the Pesticide Review Council be increased from one year to two years. This change should be proposed to the Legislature when Chapter 487 is next open for revision.

PRC Officer Nominating Committee

A Nominating Committee was formed to identify a slate of candidates to serve as officers on the Pesticide Review Council for October 2009 through September 2010. The Nominating Committee consists of Dr. Mark McLellan (Committee Chair), Mr. Gary Reeder and Mr. Richard Pfeuffer. Their recommendations will be presented to the Council for consideration at the PRC meeting in September 2009.

Legislative and Budget Updates

Mr. Andy Rackley, Director of the Division of Agricultural Environmental Services, FDACS, described the challenges facing the Department as it navigates through an ongoing budgetary crisis and explained the basis of a supplemental registration fee to support the Chemical Residue Laboratory (Division of Food Safety). In the coming years budgetary concerns will continue to dominate Legislative Sessions and the Department will need to continue to address important emerging pesticide-related issues. The Department has cut staff by 10% since 2006 and has cut expenses substantially; further cuts may arise in the future but the Department does not anticipate proposing any fee increases in the next session. As examples of the Division seeking cost-effective solutions to budgetary challenges, Mr. Rackley noted an ongoing merger of laboratory programs under one program and establishment of a position to pursue external funding and strategic IT improvements.

Dr. Mark McLellan expanded on the points raised by Mr. Rackley, noting that IFAS faced a \$7.7M legislative cut this year. While many layoffs were unavoidable, the school attempted to maintain core functionality in critical program areas. The budget cuts have prompted IFAS researchers to adopt more entrepreneurial approaches. Thus, this year the faculty vigorously pursued grants and succeeded in attaining an extraordinary 25% increase over last year's level of external funding. Dr. McLellan invited FDACS to visit with IFAS to explore strategies to secure Federal funds that could benefit both organizations.

Pesticides and Managing Forest Pests

Dr. George Blakeslee of UF/IFAS described the attributes of the Austin Carey Memorial Forest and introduced colleagues Alan Long, Jason Smith and Pat Minogue whose combined presentations covered topics under the heading: Pesticides and Managing Forest Pests. Dr. Alan Long spoke on the role of herbicides in woody biomass production and wildfire hazard mitigation. Dr. Jason Smith addressed the potential for insecticides and fungicides to meet the challenge of laurel wilt, a new disease vectored by an exotic beetle threatening native plants and the avocado industry in Florida. Dr. Pat Minogue spoke about the critical role of herbicides in keeping Cogon grass at bay. Cogon grass is one of Florida's worst weeds, displacing nearly all native vegetation and therefore altering the natural ecosystem.

NPDES Permits for Pesticide Application On, In, Or Near Water

Mr. Steve Dwinell from FDACS, Ms. Elsa Potts from Florida Department of Environmental Protection (FDEP) and Mr. Jeffrey Schardt from the Florida Fish and Wildlife Conservation Commission (FFWCC) spoke to the Council on the implications of a recent court case which requires that National Pollution Discharge Elimination System (NPDES) permits be required for applications of pesticides on, in or near water. Mr. Dwinell provided background on the issue and recent litigation that resulted in the new Clean Water Act permitting requirement for pesticides. The court found that

NPDES permits should be obtained for pesticide uses on, in, or near water such as mosquito control, aquatic weed control, area-wide insect suppression programs, some forestry applications, etc. A two-year stay is in place to allow the USEPA time to develop a general permitting program for four states that have not received federal authority to implement permitting programs. The remaining states must develop their own permitting programs under the authority of the USEPA regional office. USEPA has formed several federal workgroups to assist in the development of permitting requirements and is seeking input from representative state lead agencies for water quality and pesticides. FDACS participates in one of the Federal workgroups, has urged the USEPA regional office to form a workgroup, and is working with FDEP and FFWCC to identify statutory issues, and explore reasonable requirements and respective agency roles for Florida-specific permitting.

Ms. Elsa Potts from FDEP spoke next on the various types of NPDES permits that are currently implemented in Florida. While FDEP has received authority to implement the NPDES permitting program in Florida, the USEPA maintains significant program oversight and review. The permitting program is resource intensive and fee-supported, as required by statute. Permits are written by six regional offices with some permits written in Tallahassee. Two types of permits can be issued: (1) individual permits- these are process-intensive permits tailored to address specific conditions at specific types of facilities with multiple opportunities for public comment; and (2) general or generic permits- developed by rule and issued to regulate a category of operations that are all the same (~2,500 general permits are issued in the state). Public comment is available only during rulemaking for general permits. If permitting is required for pesticide applications, general/generic permits are recommended. Permits may be valid for up to five years. FDEP does not currently have statutory authority to require permits for pesticide applications in Florida; FDACS regulates pesticides in the state and FFWCC has authority to permit applications for aquatic weed control. FDEP, FDACS and FFWCC are working closely to address the recent court decisions regarding NPDES permits for pesticides.

Mr. Jeffrey Schardt from the Florida Fish and Wildlife Conservation Commission spoke about the Florida's Aquatic Plant Management Program. The Florida program is one of the oldest in the United States and is about twice as large as the programs of the other 49 states, combined. The program is extremely important for management of invasive plants in Florida waters, hence for water and flood control in the state. The program is responsible for approximately 1.25M acres of public waters, with a 5-year average of about 63,000 acres of invasive plants controlled each year at an average annual cost of about \$20M. In addition, a permitting program issues about 7,000 active permits to homeowners who live on public water bodies. There is a high cost in controlling invasive aquatic plants; the management philosophy is early detection and rapid response and ultimately maintenance control. In the final analysis, the use of herbicides is the most efficient and environmentally compatible method of controlling invasive species in Florida's climate. The FFWCC collects information in detail on conditions and treatment parameters for the applications of herbicides conducted under its auspices; it is hoped that

this robust program will fulfill requirements for any NPDES permit without creating unnecessary additional work.

In discussion, Mr. Richard Pfeuffer noted the importance of timely mosquito control and aquatic weed control applications, and voiced concern that NPDES permitting might interrupt such programs. Mr. George Wichterman pointed out that statutes may need to be revised in many states to implement the NPDES permitting program (e.g., for the 46 EPA-authorized states, water quality agencies in only 23 are authorized to regulate pesticides). Dr. McLellan summarized that the presentations made a strong case for concern and asked if the Council's voice was needed? Andy Rackley offered that there may be a better opportunity for a statement by the Council after we learn more details on permit requirements from the USEPA Office of Water.

Copper-Impaired Surface Water Bodies

Dr. Dennis Howard presented slides on behalf of Mr. Rick Hicks, FDEP. In Florida, surface water bodies typically have not been found to be impaired by pesticides, but recently several water bodies have been declared impaired by copper, and copper-based pesticides may be among the sources of elevated copper. For example, elevated copper levels have been found in Naples Bay, and this has led to local government efforts to ban the use of copper herbicides/algaecides. Since this is an emerging issue, today's presentation provides background information; further discussion is anticipated as issues develop. Differing copper standards apply to marine water versus freshwater and the freshwater standard is affected by water hardness. In Florida, 20 marine water segments and 6 freshwater segments have been listed for copper impairment. Most of these areas are in or near coastal waters in south Florida. Some potential sources of copper are fungicides, aquatic herbicides/algaecides, anti-fouling boat bottom paint, dumps and landfills, vehicular brake pads, and industrial wastewater discharges. Also, laboratory artifacts may result in false positives in saline water, if proper testing procedures are not followed. Possible federal/state acceptance of a new biological ligand model may result in more refined standards for copper in surface water. Florida has not yet proposed a Total Maximum Daily Load (TMDL) for a copper-impaired water body. FDACS plans to participate in the process when TMDLs are developed for copper-impaired water bodies.

Ground Water Advisory Label Statements

Dr. Davis Daiker updated the Council on efforts to revise the USEPA Office of Pesticide Programs policy on ground water advisory statements on pesticide labels. A summary paper was submitted to the USEPA Office of Pesticide Programs in December 2008. The proposal asked that the USEPA revise language to be reflective of actual ground water risks, provide specific and enforceable mitigation measures, and develop Agency SOPs to ensure consistency and clearer language. EPA responded that the statements are not meant to be risk-based but rather exposure-based and are not meant to be enforceable but informative. The Agency is revising the advisory by replacing "contaminate ground water" with "leach to ground water." The USEPA Office of General Counsel

determined that ground water advisories would not increase grower liability (provided the label was followed). The Agency is working to develop an internal SOP to ensure consistency in implementing this policy. FDACS has raised the issue of ground water advisory statements with other state lead agencies at national meetings to see if other states share Florida's concerns. States are mixed on the issues and have not made a joint decision on whether further action is needed.

Pesticide Stewardship Award Update

Mr. Andy Rackley provided an update on the Pesticide Stewardship Award Program. This FDACS program awards registrants for outstanding efforts to provide oversight and training in the proper use of their pesticide products in Florida. The Department plans to send an evaluation form to Council members to review and vote on the applicants for this year's award.

Soil Fumigants Update

Mr. Charlie Clark briefed the Council on the recent history of the USEPA reregistration eligibility decision for soil fumigants. The USEPA has developed eleven groups of risk mitigation measures to reduce potential risks for bystanders and workers. These measures include: buffer zones, posting requirements, agricultural worker protection, applicator and handler training programs, good agricultural practices, application methods, practice and rate restrictions, restricted use pesticide classification, site-specific fumigant management plans, emergency preparedness and response requirements, compliance assistance and assurance. Some of the measures have been revised by the USEPA as a result of submission of public comments and data from new field emission studies (FDACS provided substantial comments). This summer, the USEPA is sending registrants instructions outlining the label revision schedule, states are being given the opportunity to review draft label tables, and states will review impacts on regulatory programs. In the fall 2009, registrants submit revised labels to the USEPA, and implementation of those labels will begin in 2010. Implementation of some measures such as buffer zones will be phased in later in 2011. In 2013, the Agency will begin reevaluating all soil fumigants under the Registration Review program.

Dr. Dennis Howard summarized that while the Agency has tempered some of the requirements based on new data and public comment, collectively the new regulatory requirements will pose huge challenges to applicators, pesticide educators, and regulators alike. He noted that conflicts regarding soil fumigation operations and neighbors are already emerging, and described an example involving citizen concerns about health and groundwater impacts regarding the use of 1,3-dichloropropene (Curfew) on turf.

Wrap Up and Adjournment

The next PRC meeting will be held on September 24, 2009 in Quincy, Florida. As there were no speakers from the audience, Dr. Mel Kyle thanked IFAS for their hospitality and formally adjourned the meeting.