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October 19, 2009

Mr. Earl Haas  
Pennsylvania Department of Agriculture  
Bureau of Plant Industry  
2301 North Cameron Street  
Harrisburg, PA 17110-9408

RECEIVED  
2009 OCT 27 AM 10:04  
INDEPENDENT REGULATORY  
REVIEW COMMISSION

Re: Proposed Pesticide Regulation Amendments

Dear Mr. Haas:

I am writing in response to the proposed amendments to the pesticide regulations as given in the September 26<sup>th</sup>, 2009 issue of the Pennsylvania Bulletin on behalf of pesticide use at Penn State University. We support the vast majority of the proposed changes, and particularly the improved clarity. We are concerned, however, that one of the regulatory changes proposed may make it more difficult for us to respond to potentially life threatening pest issues as well as affect our daily operations. In addition, the section on prior notification for different types of applications seems inconsistent. Our comments are provided below.

As background, Penn State employees who apply pesticides are all deemed to be public applicators according to 7 Pa Code §128.41, Requirements for Certification:

- (a) A person is deemed to be a commercial or public applicator and required to be certified if one or more of the following criteria are met: ...
  - (3) A person who applies or supervises the application of a pesticide **to the following locations** [my emphasis] or who is involved in the following types of application: ...
    - (iv) Educational and research institutions – Includes a person employed by a public or private educational and research facility that uses pesticides in its educational and research programs.

Our interpretation of this regulation is that because we use pesticides in our educational and research programs and because we are an educational and research institution, **all** of our employees that use pesticides are required to be public applicators. This includes employees who work at our housing and food service facilities, indoor facilities, landscape facilities, research facilities, etc.

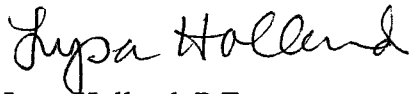
This regulation has a significant impact on our trades personnel who may encounter a hornet's nest in their work area or our housing personnel who may encounter a student who is allergic to bees. It is impractical for every PSU employee to be a licensed public pesticide applicator (we do use licensed pesticide applicators for the vast majority of our "normal" pesticide applications

§128.2) for all but the ornamental or turf applications, it should be specifically worded that way in the regulations for prior notice to reference the given definition.

Our second comment refers to the prior notification for ornamental or turf applications. Penn State owns many thousand acres of contiguous land. A pesticide application could be miles away from “premises sharing a mutual border with the residence of the person making the request.” We understand that the ornamental and turf prior notification includes both general use and restricted use pesticides (unlike that for other prior notice application requirements), but the unlimited distance of the application from the potential requester is both onerous and not meaningful. It would seem that with this proposed regulatory amendment it would be a good time to broaden the definition of “land contiguous to a restricted use pesticide application” to include both restricted and general use pesticide applications as it applies to turf and ornamentals. This would then limit the distance to 100 feet or less for prior notification for any pesticide application to ornamentals or turf.

We appreciate this opportunity to provide comment on this regulatory proposal. If you have any questions or require clarification, please feel free to call me.

Sincerely,



Lysa Holland, P.E.  
Environmental Compliance Engineer

cc: Maurine Claver  
Eric Lorenz