

**ADVISORY COMMISSION ON PESTICIDES
VETERANS' MEMORIAL AUDITORIUM
5825 FLORIDA BLVD.
BATON ROUGE, LOUISIANA
October 3, 2018 -- 9:30 AM**

MINUTES

CALL TO ORDER

The meeting was called to order by the Chairman, Dr. Grady Coburn, at 9:41 a.m.

ROLL CALL

Members present: Dr. Grady Coburn, Dr. Gary Ross, George Bragg, Dr. Sharon Meyer, Jenny Buller, Scotty Meador, Keith Majure, Johnny Landry, Roby Shields, and Billy Guthrie.

Members absent: Martin Floyd.

Others present: Kevin Wofford, LDAF; Harry Schexnayder, LDAF; Amy McInnis, LDAF Counsel; Kelly Moore, LDAF; Julianne Nauta, LDAF; Assistant Attorney General Harry Vorhoff, Hearing Officer; Ronnie Williams, LDAF; and, Ronnie Mulberry, LDAF.

PUBLIC COMMENTS

Dr. Coburn opened the floor for public comments. There were no public comments.

APPROVAL OF THE MINUTES

Motion: Mr. Meador made a motion to approve the minutes of the July 10, 2018 meeting, as distributed. The motion was seconded by Mr. Landry and passed unanimously.

AMENDMENTS TO AGENDA

Dr. Coburn asked Mr. Wofford if there were any recommendations for amendments to the agenda. There were no recommendations.

ADJUDICATORY HEARING

Mr. Harry Vorhoff, Hearing Officer, conducted the Adjudicatory hearing. Ms. McInnis presented the following cases:

Jacob Perry, Case No. 2110

Mr. Perry was not present. The Department charged Mr. Perry with two (2) violations: One (1) violation of LRS 3:3252(A)(2) and one (1) violation LRS 3:3252(A)(4). Following the penalty matrix, the charges included a penalty of \$3,500 for two violations, due within 30 days. The stipulation was signed by all parties.

Mr. Vorhoff admitted LDAF's exhibits into the record.

Motion: Mr. Guthrie made a motion to accept the stipulation of the parties as presented. The motion was seconded by Mr. Bragg and passed unanimously.

John Gaumnitz, Case No. 2129

Mr. Gaumnitz was not present. The Department charged Mr. Gaumnitz with one (1) violation of LRS 3:3252(A)(18), specifically, LAC 7:XXIII,1101(I). Following the penalty matrix, the charge included a penalty of \$1,000.00, with \$500 suspended, due within 30 days.

Mr. Vorhoff admitted LDAF's exhibits into the record.

Motion: Mr. Shields made a motion to accept the stipulation of the parties as presented. The motion was seconded by Dr. Meyer and passed unanimously.

Bern Prewitt, Case No. 2130

Mr. Prewitt was not present. The Department charged Mr. Prewitt with two (2) violations: One (1) violation of LRS 3:3252(A)(18), specifically, LAC 7:XXIII,1101(I), and one (1) violation of LRS 3:3252(A)(16). Following the penalty matrix, the charges included a penalty of \$1,500.00, for two violations, due within 30 days. The stipulation was signed by all parties.

Mr. Vorhoff admitted LDAF's exhibits into the record.

Motion: Mr. Guthrie made a motion to accept the stipulation of the parties as presented. The motion was seconded by Dr. Coburn and passed unanimously.

Todd Guimbellot, Case No. 2131

Mr. Guimbellot was not present. The Department charged Mr. Guimbellot with one (1) violation of LRS 3:3252(A)(18), specifically LAC 7:XXIII,1101(I). Following the penalty matrix, the charge included a penalty of \$1,000.00, with \$500.00 suspended, due within 30 days. The stipulation was signed by all parties.

Mr. Vorhoff admitted LDAF's exhibits into the record.

Motion: Mr. Shields made a motion to accept the stipulation of the parties as presented. The motion was seconded by Mr. Bragg and passed unanimously.

Charles Riggs, Case No. 2132

Mr. Riggs was not present. The Department charged Mr. Riggs with two (2) violations: One (1) violation of LRS 3:3252(A)(18), specifically LAC 7:XXIII,1101(I) and one (1) violation of LRS 3:3252(A)(2). Following the penalty matrix, the charge included a penalty of \$1,250.00, with \$625.00 suspended, for two violations, due within 30 days. The stipulation was signed by all parties.

Mr. Vorhoff admitted LDAF's exhibits into the record.

Motion: Mr. Guthrie made a motion to accept the stipulation of the parties as presented. The motion was seconded by Dr. Coburn and passed unanimously.

Leonard Pierce, Enforcement File No. 1480

Mr. Pierce was present. He introduced himself and stated he would like to proceed with the hearing. Ms. McInnis stated that, as it was Mr. Pierce's first offense violation, he had not been charged with any enforcement action and had only been issued a warning letter. The matter presented before the Commission, for a full evidentiary hearing, because Mr. Pierce challenged the warning letter.

Ms. McInnis represented the Department.

Ms. McInnis called Mr. Ronnie Williams, AES Inspector 2, in Jonesville, Louisiana, as a witness. Mr. Williams was sworn in by the hearing officer.

Mr. Pierce questioned Mr. Williams. The Commission questioned Mr. Williams, then rested its case.

Mr. Pierce was sworn in by Mr. Vorhoff, then presented his case. He called no witnesses. Mr. Pierce stated that he felt he had followed the procedure for using XtendiMax[®] and detailed his application, from start to finish. He did not feel the drift came from him, but stated if it did come from him, it was due to volatilization and movement during the night. He did not feel applicators should be held responsible for this.

The Department had no questions for Mr. Pierce. The Commission questioned Mr. Pierce.

The Department recommended the warning letter remain in place, with no further enforcement action, no monetary period, and no probationary period.

Motion: Dr. Coburn made a motion to adopt the Department's recommendations. The motion was seconded by Mr. Shields and passed unanimously, with the exception of one opposing vote made by Mr. Landry.

DEPARTMENT REPORTS

Program Update—Kevin Wofford: There were 33 Dicamba complaints, with a final total of 35 complaints at the previous meeting. Nine (9) warning letters were issued to private applicators (farmers and producers), due to drift or volatilization of this product, or both. It was felt that volatilization was involved in every one of the cases.

Some of the product is being used during burn-down in the spring, with no complaints. In early spring, there are less susceptible crops to show damage, if it were to be affected. For this reason, to say that it is not affected is something not known.

The EPA has until November 1, 2018 to make a decision on the label. Each state has provided national pesticide organizations with their numbers regarding complaints, number of acres affected, what was affected, homeowners, farmers, and whoever was involved. This information is also being presented to the EPA.

Inspectors went on 231 complaints this year. Last year, there were 120 complaints. Of this year's complaints, 35 were due to Dicamba, and 86 were pinpointed to an applicator. Warning letters, penalties, and fines were assessed.

The Department was fortunate this year to have no homeowner complaints, regarding Dicamba product use. This included pecan trees, orchards, gardens and berries. It is a major concern, and there are unanswered questions with cohorts across the country, as to what is going to happen moving forward regarding cypress trees, and pinewood and hardwood plantations. Researchers and AgCenter staff feel it is a concern, as well. There were no further questions.

OLD BUSINESS

There was no old business to discuss.

NEW BUSINESS

Proposed Rule Changes: Mr. Wofford addressed the proposed changes to Rule §711(A)(4) Certification of Commercial Applicators, which will allow for *all certified* pesticide applications (including private applicators), with the exception of aerial mosquito pest control applications, found to have violated the Law related to *drift*, or who received a “warning letter” from the Department *related to drift*, to attend a department-approved off-target training course prior to making any application the following year, in order to maintain their certification as a *certified* applicator. Previous requirements pertained only to *commercial aerial applicators*. Mr. Wofford said that applicators may also go to any District office to watch a course film, provided by the LSU AgCenter, to fill the requirement.

Motion: Ms. Buller made a motion to approve the proposed rule change. The motion was seconded by Mr. Guthrie and passed unanimously.

FUTURE MEETING

The next meeting of the Advisory Commission on Pesticides was scheduled for Wednesday, February 20, 2019, at 9:30 a.m., in the Veterans' Memorial Auditorium, in Baton Rouge, Louisiana.

PUBLIC COMMENT

There were no public comments.

ADJOURN

Motion: Mr. Guthrie made a motion to adjourn the meeting. This motion was seconded by Mr. Bragg and passed unanimously. The meeting adjourned at 11:25 a.m.