

**ADVISORY COMMISSION ON PESTICIDES
VETERANS' MEMORIAL AUDITORIUM
5825 FLORIDA BLVD.
BATON ROUGE, LOUISIANA
July 20, 2016 9:30 AM**

PROCEEDINGS

CALL TO ORDER

The meeting was called to order by Chairman Dr. Grady Coburn at 9:37 am.

ROLL CALL

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

Members absent: Roby Shields

Others present: Todd Parker, LDAF, Kevin Wofford, LDAF, Harry Schexnayder, LDAF, Lindsey Hunter, LDAF General Counsel, Tina Perkins, LDAF, Marty Pousson, LDAF, Bradley Overton, Hearing Officer, Kim Pope, LSU AgCenter

PUBLIC COMMENTS

Chairman Coburn opened the floor for public comments. There were none.

APPROVAL OF MINUTES

Motion: Mr. Guthrie made a motion to approve the proceedings from the February 17, 2016 ACP meeting. The motion was seconded by Dr. Ross and passed unanimously.

AMENDMENTS TO AGENDA

Chairman Coburn asked Mr. Schexnayder if there were any recommendations for amendments to the agenda. Mr. Schexnayder stated that there were none.

ADJUDICATORY HEARING

Hearing Officer Bradley Overton conducted the hearing. LDAF General Counsel Lindsey Hunter presented the following cases:

Jeffery Simmons, Case No. 1991 – Mr. Simmons stipulated to two (2) violations and a civil penalty of \$3,500.00 due within 30 days with an additional \$1,500.00 civil penalty suspended based on compliance.

Motion: Mr. Guthrie made a motion to accept the stipulation as presented. The motion passed unanimously.

Bradley Ferrell, Case No. 1992- Mr. Ferrell stipulated to one (1) violation and a civil penalty of \$1,250.00 due within 30 days with an additional \$1,250.00 civil penalty suspended based on compliance.

Motion: A motion to accept the stipulation as presented passed unanimously.

Timothy Morris, Case No. 1993 - Mr. Morris stipulated to one (1) violation and a civil penalty of \$500.00 due within 30 days with an additional \$500.00 civil penalty suspended based on compliance.

Motion: A motion to accept the stipulation as presented passed unanimously.

Mr. Schexnayder explained that fines were assessed according to a penalty matrix previously approved by the Commission. He stated that the matrix considers both the egregiousness of the offense and the number of times an offense has been committed in setting the fines.

Ms. Hunter stated, especially for the benefit of the new Commission members, that they always have the right to reject a proposed stipulation. She explained that the stipulations do not contain much information about the alleged violation because, if the Commission were to reject one, all of the facts would then be first considered during an adjudicatory hearing and not in advance of the hearing.

DEPARTMENT REPORTS

Mr. Wofford gave an update on the Section 18 exemptions that the department was either currently working on or ones that had already been approved. He informed the Commission that a crisis had been declared in the sugar cane industry due to an infestation of the West Indian Cane Fly. The exemption provides for two applications of Strafer or Intruder at a lower rate for control of the insects.

Mr. Wofford also stated that the department had been granted a Section 18 exemption for the application of Transform on cotton and sorghum this year. He stated that there was some concern as to whether the EPA would grant the exemption because Transform is a sulfoxaflopr product and the EPA associates those with pollinator issues.

Mr. Schexnayder explained that the department had to provide additional data for justification to the EPA. He stated that because cane crops in Louisiana are not allowed to flower, there would not much of a pollinator population at risk.

Mr. Wofford stated that the department currently employs about fifty (50) inspectors throughout the state. He reported that the department worked about one hundred forty (140) complaints last year and as of the date of the meeting, the department worked one hundred thirteen (113) complaints. He stated that approximately thirty (30) of the complaints worked this year involved drift or misuse of a pesticide. Mr. Wofford stated that about a quarter of the complaints last year also involved drift.

Chairman Coburn asked about the outcome of the complaints not associated with drift or the misuse of a pesticide.

Mr. Wofford explained that most of them are referred to LSU because the damage to crops or other plant material is the result of one or more pests or a disease of some type.

Mr. Wofford spoke about dicamba issues in five (5) other states. He stated that dicamba damage in Arkansas was described as “looking like a bomb went off up here.” He stated that most of the dicamba damage was caused by private applicator ground rigs. He went on to explain that most of the ground rigs are operated by farm hands that have never had any pesticide safety training. Farm hands are currently allowed to work under the supervision of a private applicator. Mr. Wofford stated that the department had some discussion with LSU about the possibility of requiring some type of training for those persons employed by private applicators. He asked the Commission members for their opinion on the issue.

Mr. Schexnayder clarified that the persons being considered for training are only those employees that operate tractors with ground rigs and that what was being discussed was not a certification. He stated that a certification would put the tractor drivers into another category involving licensing and that was not the intention. The intention is to ensure that those drivers receive pesticide safety training. He stated that the restrictions on dicamba 2,4-D products thus far only involved commercial applications and not private applications.

Ms. Pope explained that the training would be similar to what a technician on the structural side receives and not necessarily include a test. She stated the training would include reading a pesticide label and the use of protective gear, basic pesticide safety, similar to the information provided through the WPS training. She informed the Commission that some states were already doing this type of training. She stated that the training would be developed by the LSU AgCenter and could be administered on-line, at the county agent offices as well as through group meetings. She offered to develop a business plan for the implementation of a training program and present it at the next meeting. Ms. Pope stated that the program would have to self-generate its funding through the collection of fees from participants.

Ms. Buller asked if the training would be required and if the applicator would need to have a card on his person while spraying.

Mr. Wofford stated that it would have to be required training but a card may not be issued. The farmer could just retain a sign in sheet of his employees having received the training.

Ms. Pope stated that, given the new technology on the horizon, the training should be required.

Dr. Meyer asked if drift were the primary concern for the training.

Ms. Pope answered in the affirmative but included the need for training on the use of personal protective equipment.

Mr. Landry expressed concern that as a farmer being held to new EPA changes relative to private applicators, he may be spending more time in the classroom than on his farm. He also asked if some of the problems in other states stemmed from the use of dicamba by persons unfamiliar with it.

Mr. Wofford explained that in other states, seed had been sold that was supposed to be unaffected by dicamba. He stated that dicamba had not been largely used in Louisiana in recent years. He reported that in Louisiana, farmers use 2,4-D.

Mr. Majure asked if the pesticide manufacturers had been involved in the discussions of the proposed training and if they might be able to offer some funding for a training program.

Ms. Pope stated that chemical companies have not been forthcoming in offering funding and she maintained that the training program would have to self-generate funds through nominal fees.

Mr. Schexnayder explained that charge letters resulting from the misapplication of the new formulation of products would be issued to the private applicator supervising the tractor driver making the application.

There was more discussion about the issue among members of the Commission. The consensus was to continue to explore the training option and most of the members expressed favorable comments towards its implementation.

OLD BUSINESS

Mr. Schexnayder stated that all of the proposed rule changes had been published and were now effective. He reminded the Commission that the rules included a new drift definition and regulation that will allow the department to more effectively take enforcement action.

NEW BUSINESS

Motion: Mr. Guthrie made a motion that the Commission delegates its authority to appoint a Pesticides Director and Assistant Director to Commissioner Strain. The motion was seconded by Johnny Landry and passed unanimously.

CONSIDERATION OF AG CONSULTANT EXAM APPLICATIONS

Mr. Pousson presented the applications and the recommendations of the Ag Consultant Exam Ad Hoc Committee for the following:

Ryan Viator- Approval for Agricultural Entomology, Agricultural Plant Pathology, Agricultural Weed Control and Agricultural Field Soil Management

Anna Meszaros- Approval for Agricultural Entomology, Agricultural Plant Pathology, Agricultural Weed Control and Agricultural Field Soil Management

Motion: Mr. Guthrie made a motion to accept the Ag Consultant Exam Ad Hoc Committee's recommendations. The motion was seconded by Mr. Bragg and passed unanimously.

FUTURE MEETING

The next scheduled meeting will be on November 2, 2016 at 9:30 am.

PUBLIC COMMENT

Chairman Coburn opened the floor for public comments.

Donavon Taves introduced himself as a farm and homeowner that currently serves on the state Soil and Water Conservation Board. He said that LSU has a research station on his property, his farm is featured on a USDA publication and he is very actively involved in conservation efforts. He spoke at length about his home and farm having been affected by multiple episodes of drift. He spoke about his willingness to work with the local agricultural flying services to bring in some new technology aimed at reducing drift. Mr. Taves acknowledged that some of the drift affecting his farm is from ground rigs but the most troubling to him are the aerial drift episodes of Gramoxone or Paraquat herbicide. Mr. Taves advocated for more on-site weather stations that pilots could access to find out about the current weather conditions in the areas of their projected flight paths.

Mr. Schexnayder stated that changes in wind speed and direction have been a major factor in most of the drift complaints investigated by the department. He stated that because of the locations and in some cases, lack of weather stations, pilots often think conditions are favorable when leaving with a load of chemicals only to have things change rapidly. He agreed with Mr. Taves that increasing the number of weather stations should go a long way to decrease the number of drift incidents.

Adam Plunkett introduced himself as a pilot and the owner of the flying service having caused Mr. Taves' drift complaint. He stated that the chemical having drifted was Gramoxone and that it has a tendency to drift even when mixed with a control product. He stated that he has thirty two (32) years of experience and that he and his other two pilots love aviation and take pride in what they do. They take weather conditions into consideration and use control products whenever possible to avoid drift complaints. He stated that he does not usually put Gramoxone out in the spring and his pilot thought four (4) miles distance from an unintended target was far enough but it was not. He promised to do everything in his power to avoid a drift occurrence again. He stated that he has turned jobs down and changed his job order because of the likelihood of drift. Mr. Plunkett circulated pictures of drift damage caused by a ground rig on Mr. Taves farm. Mr. Plunkett stated that he has a great relationship with farmers in the area and takes a drift complaint against his company very personally. He stated that the same day the application was made that affected Mr. Taves' property; Mr. Taves brought Gramoxone to the air field for application on his farm. He said most of the farmers in the area recognize that some of the Gramoxone will go off-target and they overlook it because they know that when they order it on their own farm some will go onto their neighbor's farms. He stated that he feels Mr. Taves is going overboard with his complaints.

Dr. Meyer asked about the recovery of the plants having been unintentionally spotted with Gramoxone and human health concerns.

Mr. Landry stated that the plants in the pictures having been shown will recover and the product label advises that the chemical should be washed off of skin and clothes as soon as possible.

Mr. Schexnayder stated that all human health concerns arising from pesticide complaints are referred to the Department of Health and Hospitals for investigation.

ADJOURN

Motion: Mr. Landry made a motion to adjourn. This motion was seconded by Guthrie and passed unanimously. The meeting adjourned at 11:30 am.