

## MEETING MINUTES

### Agriculture Water Quality Authority

Thursday, May 25, 2017

300 Sower Blvd., Frankfort Kentucky

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In attendance: Ms. Kim Richardson, Agriculture Water Quality Authority Chair and Director of Division of Conservation; Mr. Larry Thomas, Vice Chair and Kentucky Farm Bureau; Dr. Amanda Gumbert, University of Kentucky; Mr. Allen Kyle, Member-at-large; Mr. Peter Goodmann, Director of Division of Water; Mr. Chuck Taylor, Kentucky Geological Survey; Ms. Angela Billings, Department of Public Health-Environmental Management Branch; Mr. Allan Bryant, Kentucky Association of Conservation Districts; Mr. Joseph Sisk, Member-at-Large; Mr. Lee Robey, Member-at-Large; Ms. Lacey Gaw, Natural Resources Conservation Service; and Mr. Brent Burchett, Kentucky Department of Agriculture.

Also in attendance: Ms. Johnna McHugh, Assistant Director, Division of Conservation; Mr. David Chinn, Monty's Plant Food Company; Joe Cain, Kentucky Farm Bureau; Mr. Pete Cinnotto, United States Geological Survey; Mr. Jim Roe, Division of Water; Mr. Steve Kull, Division of Forestry; Mr. Ernest Collins, concerned citizen; Mr. Kyle Kelly, Agri Business Association of Kentucky; Mr. John Pitcock, Kentucky Department of Agriculture; Mr. Timothy Mayers, Energy and Environment Cabinet/Office of General Counsel; Mr. Michael West, Energy and Environment Cabinet/Office of General Counsel; Mr. Adam Andrews, Kentucky Corn Growers Association; and Mr. Jeff Gravitt, Division of Conservation.

Quorum was met.

**Meeting Called to Order** - at 9:30 a.m. by Ms. Kim Richardson.

**Welcome and Introductions** – Introductions were made by each individual.

**Swearing in of new members** – Ms. Johnna McHugh swore in the following appointed and reappointed members.

- Mr. Joseph Sisk (new member)
- Mr. Larry Thomas (reappointed)
- Mr. Allan Bryant (new member)
- Dr. Amanda Gumbert (reappointed)

All signed the Oath of Office.

**Review of Pesticide BMP** – Mr. John Pitcock discussed omissions, changes and additions to the BMPs for Pesticides and Fertilizers. A board discussion was held concerning each BMP with the following being discussed.

- **BMP# 1 Storage of Dry Bulk Fertilizer -**
  - Section II - Spills, Leaks or other Releases
    - Mr. Ernest Collins wanted to know what is considered a reportable quantity for spills. Mr. Peter Goodmann referenced KRS 224.1-400 and KRS 224.1-5 and stated that there are federal regulations that address this. Mr. Michael West will look into federal regulations for more clarification and address and discuss at the next meeting.
  - Section III – AWQA Minimum Requirements
    - Mr. Peter Goodman asked for there to be more clarification between a sinkhole and an open channel sinkhole.
- **BMP# 2 Storage of Liquid Bulk Fertilizer –**
  - Section I – Description and Definition(s):
    - The addition of “in one location” and “six months” was added when describing how liquid bulk fertilizer is stored was added.
    - How long liquid fertilizer is stored changed from one year to six month.

- Section II – Regulatory Requirements:
  - Activities near High Quality and Outstanding National Resource Waters was changed to Activities near Special Designated use Water.
  - Under Spills, Leaks, or Other Releases [KRS 224.1-400]: any substance in excess of a reportable quantity must be reported immediately to the Energy and Environment Cabinet’s 24-hour environmental response line was an added to the regulatory requirements call list.
  - Petroleum or petroleum products paragraph was omitted from section.
  - For questions concerning the Environmental Release Reporting and cleanup law, The Division of Waste Management was added to the call list.
  - Storage of Materials in Floodplains [KRS 151.250] was replaced by Storage of Materials [KRS 151.250 and 401 KAR 4:060].
- Section III AWQA Minimum Requirements:
  - Locate new storage facilities at least 100 feet from wells, springs, cisterns, open channel sinkholes and perennial streams was omitted and replaced with, Locate new storage facilities 100 feet minimum away from on-site wells and sinkholes 200 feet from private domestic wells, 200 feet from springs and cisterns, and 400 feet from open channel sinkholes and perennial streams was added.
  - With Secondary Containment structures, the sump or collection point shall not be greater than (2) feet deep and shall not contain more than 109 U.S. gallons, secondary containment structure shall be cleaned and rinsed within (72) hours after any release into the secondary containment was added.
- Section IV – Design Information:
  - Tank confinement and the displacement of other tanks inside the secondary containment, plus a 6” rainfall in a 24 hour period if unroofed was added.
- Section IX References:
  - Kentucky Energy and Environment Cabinet was added to Facts about Kentucky.
  - KY-A-Syst publication, Agricultural Chemical Handling and Storage. KY-A-Syst publication may be obtained from local county Extension offices, both were omitted under referencing section.
- **BMP# 3 – Storage of Liquid and Dry Fertilizer**
  - Section II – Regulatory Requirements:
    - Activities near High Quality and Outstanding National Resource Waters was changed to Activities near Special Designated use Water.
    - Under Spills, Leaks, or Other Releases [KRS 224.1-400]: any substance in excess of a reportable quantity must be reported immediately to the Energy and Environment Cabinet’s 24-hour environmental response line was an added to the regulatory requirements.
    - Petroleum or petroleum products paragraph was omitted from section.
    - Questions concerning the Environmental Release Reporting and cleanup law, The Division of Waste Management was added to the call list.
    - Storage of Materials in Floodplains [KRS 151.250] was replaced by Storage of Materials [KRS 151.250 and 401 KAR 4:060].
  - Section IV – Design Information:
    - Locate new storage facilities at least 100 feet from wells, springs, cisterns, open channel sinkholes and perennial streams was omitted and replaced with, Locate new storage facilities 100 feet minimum away from on-site wells and sinkholes 200 feet from private domestic wells, 200 feet from springs and cisterns, and 400 feet from open channel sinkholes and perennial streams was added.
    - With Secondary Containment structures, the sump or collection point shall not be greater than (2) feet deep and shall not contain more than 109 U.S. gallons, secondary containment structure shall be cleaned and rinsed within (72) hours after any release into the secondary containment was added.
    - New permanent containment areas and operational areas located in a flood plain shall be protected from inundation by floods was omitted.
  - Section VI Technical Assistance:

- Division of Environmental Services added as a contact to section.
    - Section IX References:
      - KY-A-Syst publication, Agricultural Chemical Handling and Storage. KY-A-Ayst publication may be obtained from local county Extension offices, both were omitted under referencing section.
      - Agri-Business Association of Kentucky was added to references.
  - **BMP# 4 – Storage of Dry Bulk Pesticides:**
    - Section I Description and Definition(s) –
      - How long liquid fertilizer is stored changed from one year to six month.
    - Section II Regulatory Requirements:
      - Activities near High Quality and Outstanding National Resource Waters was changed to Activities near Special Designated use Water.
      - Under Spills, Leaks, or Other Releases [KRS 224.1-400]: any substance in excess of a reportable quantity must be reported immediately to the Energy and Environment Cabinet’s 24-hour environmental response line was an added to the regulatory requirements.
      - Petroleum or petroleum products paragraph was omitted from section.
      - KRS 217.570 was added under Registration, Sale and Distribution of Pesticides.
      - KRS 217.570, administered by the Kentucky Department of Agriculture, regulates the registration of pesticide products and adjuvants for sale in the state of Kentucky was added under section.
      - Storage of Materials in Floodplains [KRS 151.250] was replaced by Storage of Materials [KRS 151.250 and 401 KAR 4:060].
    - Section III – AWQA Minimum Requirements:
      - Fertilizers and pesticides should be stored separately was omitted and changed to, dry bulk pesticide storage shall be separated from other containment areas by a six inch curb that extends at least two feet beyond the perimeter of the walls of the storage container was added.
      - Locate new storage facilities at least 100 feet from wells, springs, cisterns, open channel sinkholes and perennial streams was omitted and replaced with, Locate new storage facilities 100 feet minimum away from on-site wells and sinkholes 200 feet from private domestic wells, 200 feet from springs and cisterns, and 400 feet from open channel sinkholes and perennial streams was added.
    - Section VI Technical Assistance:
      - Division of Environmental Services added as a contact to section.
    - Section VII – Recommendations:
      - Locate new storage facilities at least 100 feet from wells, springs, cisterns, open channel sinkholes and perennial streams was omitted and replaced with, Locate new storage facilities 100 feet minimum away from on-site wells and sinkholes 200 feet from private domestic wells, 200 feet from springs and cisterns, and 400 feet from open channel sinkholes and perennial streams was added.
    - Section IX – References:
      - Division of Environmental Services added as a contact to section.
      - Kentucky Energy and Environment Cabinet was added to facts about Kentucky.
      - KY-A-Syst publication, Agricultural Chemical Handling and Storage. KY-A-Ayst publication may be obtained from local county Extension offices, both were omitted under referencing section.
  - **BMP# 5 Storage of Liquid Bulk Pesticides –**
    - Section I Description and Definition(s):
      - The addition of “in one location” and “six months” when describing how liquid bulk fertilizer is stored was added.
    - Section II Regulatory Requirements:
      - Activities near High Quality and Outstanding National Resource Waters was omitted and was changed to Activities near Special Designated use Water.
      - Questions concerning the Environmental Release Reporting and cleanup law, The Division of Waste Management was added to the call list.
      - Petroleum or petroleum products paragraph was omitted from section.
      - KRS 217.570 was added under Registration, Sale and Distribution of Pesticides.

- KRS 217.570, administered by the Kentucky Department of Agriculture, regulates the registration of pesticide products and adjuvants for sale in the state of Kentucky was added under section.
    - Storage of Materials in Floodplains [KRS 151.250] was omitted and replaced by Storage of Materials [KRS 151.250 and 401 KAR 4:060].
  - Section III AWQA Minimum Requirements:
    - Locate new storage facilities at least 100 feet from wells, springs, cisterns, open channel sinkholes and perennial streams was omitted and replaced with, Locate new storage facilities 100 feet minimum away from on-site wells and sinkholes 200 feet from private domestic wells, 200 feet from springs and cisterns, and 400 feet from open channel sinkholes and perennial streams was added.
  - Section IV Design Information:
    - The term elephant rings was omitted as a containment of any liquid bulk.
    - Temporary operational containment or elephant rings shall not be used as a secondary containment was added.
    - Board held discussion on when to use the terms Should/Shall. Current BMP's usage of each term is not consistent with other BMPs' use of each term. Decision was made to reference KDA regulation when dealing with any BMPs' designs section.
    - A sump or collection point shall not be greater than two feet deep and shall not contain more than 109 U.S. gallons was added to section.
  - Section VI Technical Assistance:
    - Division of Environmental Services added as a contact to section.
  - Section VII Recommendations:
    - Develop a plan to deal with fertilizer spills, including spill site management and storage site clean-up was added to section.
  - Section IX References:
    - Agri-Business Association of Kentucky was included with 512 Capital Avenue as the address.
    - KY-A-Syst publication, Agricultural Chemical Handling and Storage. KY-A-Ayst publication may be obtained from local county Extension offices, both were omitted under referencing section.
- **BMP# 6 Storage of Liquid and Dry Pesticides (small quantities)**
  - Section II Regulatory Requirements:
    - Activities near High Quality and Outstanding National Resource Waters was changed to Activities near Special Designated use Water.
    - Questions concerning the Environmental Release Reporting and cleanup law, The Division of Waste Management was added to the call list.
    - Petroleum or petroleum products paragraph was omitted from section.
    - Activities near High Quality and Outstanding National Resource Waters was changed to Activities near Special Designated use Water.
  - Section III AWQA Minimum Requirements:
    - Keep pesticides in original containers was replaced with pesticides shall be stored in original containers.
    - Store each type of pesticide separate from all other types was omitted and replaced by Restricted Use Products shall be stored separate from General Use Products.
    - Construct, install and maintain pesticide containers and appurtenances to prevent the discharge of liquid pesticides was omitted from section.
  - Section IV Design Information:
    - All Restricted term was omitted from dealing with pesticide storage areas.
    - Locate new storage facilities at least 100 feet from wells, springs, cisterns, open channel sinkholes and perennial streams was omitted and replaced with, Locate new storage facilities 100 feet minimum away from on-site wells and sinkholes 200 feet from private domestic wells, 200 feet from springs and cisterns, and 400 feet from open channel sinkholes and perennial streams was added.
    - New permanent containment areas and operational areas located in a flood plain shall be protected from inundation by floods was omitted from section.

- Section VI Technical Assistance:
  - Division of Environmental Services added as a contact to section.
- Section VII Recommendations:
  - Locate new storage facilities at least 100 feet from wells, springs, cisterns, open channel sinkholes and perennial streams was omitted and replaced with, Locate new storage facilities 100 feet minimum away from on-site wells and sinkholes 200 feet from private domestic wells, 200 feet from springs and cisterns, and 400 feet from open channel sinkholes and perennial streams was omitted from section.
- Section IX References:
  - Division of Environmental Services was added to section.
  - Kentucky Energy and Environment Cabinet was added to facts about Kentucky.
  - KY-A-Syst publication, Agricultural Chemical Handling and Storage. KY-A-Ayst publication may be obtained from local county Extension offices, both were omitted under referencing section.
- **BMP# 7 Transport of Pesticides and Fertilizer**
  - Section II Regulatory Requirement:
    - Activities near High Quality and Outstanding National Resource Waters was omitted and was changed to Activities near Special Designated use Water.
    - Questions concerning the Environmental Release Reporting and cleanup law, The Division of Waste Management was added to the call list.
    - Petroleum or petroleum products paragraph was omitted from section.
  - Section VII Cost Share Assistance:
    - Contact the Division of Conservation was added to section.
  - Section IX References:
    - Kentucky Energy and Environment Cabinet was added to Facts about Kentucky.
- **BMP# 8 Mixing, Loading, and Handling of Pesticides and Fertilizer and their Containers:**
  - Section II Regulatory Requirement:
    - Activities near High Quality and Outstanding National Resource Waters was omitted and was changed to Activities near Special Designated use Water.
    - Division of Environmental Services added as a contact to section.
    - Petroleum or petroleum products paragraph was omitted from section.
    - KRS 217.570, administered by the Kentucky Department of Agriculture, regulates the registration of pesticide products and adjuvants for sale in the state of Kentucky was added under section.
    - Storage of Materials in Floodplains [KRS 151.250 and 401 KAR 4:060]: The Kentucky Division of Water, Floodplain Management Program requires that a permit be issued prior to the construction of structures, dams, embankments, levees, dikes, and bridges across or along stream in the Commonwealth. Construction in a floodplain without such a permit is a violation of KRS 151.250 and 401 KAR 4:060 was added a new paragraph to section.
  - Section III AWQA Minimum Requirements:
    - 302 KAR 31 was omitted and replaced with KRS 217B.
  - Section VI Technical Assistance:
    - Division of Environmental Services added as a contact to section.
  - Section VII Cost Share Assistance:
    - Contact the Division of Conservation was added to section.
  - Section IX References:
    - Kentucky Energy and Environment Cabinet was added to Facts about Kentucky.
    - Division of Environmental Services was added to section.
    - KY-A-Syst publication, Agricultural Chemical Handling and Storage. KY-A-Ayst publication may be obtained from local county Extension offices, both were omitted under referencing section.
- **BMP# 9 Excess Pesticide Disposal:**
  - Section II Regulatory Requirements:
    - Activities near High Quality and Outstanding National Resource Waters was omitted and was changed to Activities near Special Designated use Water.

- Under Spills, Leaks, or Other Releases [KRS 224.1-400]: any substance in excess of a reportable quantity must be reported immediately to the Energy and Environment Cabinet’s 24-hour environmental response line was added to the regulatory requirements.
    - Petroleum or petroleum products paragraph was omitted from section.
    - KRS 217.570, administered by the Kentucky Department of Agriculture, regulates the registration of pesticide products and adjuvants for sale in the state of Kentucky was added under section.
  - Section III AWQA Minimum Requirements:
    - Use only on a label-approved site and store in a secure, dry location until used, recycled, or disposed of properly were omitted from section.
    - KRS 217B.190, No person shall discard or store any pesticide or pesticide containers in a manner as to cause injury to humans, vegetation, crops, livestock, wildlife, or pollination insects, or to pollute any waterway in a way harmful to any wildlife paragraph was added to section.
  - Section VI Technical Assistance:
    - Division of Environmental Services was added to section.
  - Section VII Recommendations:
    - Phone number 502-573-0282 was added to recommendation section.
  - Section IX References:
    - Division of Environmental Services was added to section.
    - KY-A-Syst publication, Agricultural Chemical Handling and Storage. KY-A-Ayst publication may be obtained from local county Extension offices, both were omitted under referencing section.
- **BMP# 10 – Pesticide and Fertilizer Container Disposal-**
  - Section II Regulatory Requirements:
    - Activities near High Quality and Outstanding National Resource Waters was omitted and was changed to Activities near Special Designated use Water.
    - Petroleum or petroleum products paragraph was omitted from section.
    - KRS 217.570, administered by the Kentucky Department of Agriculture, regulates the registration of pesticide products and adjuvants for sale in the state of Kentucky was added under section.
  - Section III AWQA Minimum Requirements:
    - Store containers that have been rinsed until clean in a ventilated area until properly disposed or recycled was omitted and replaced with store containers that have been triple-rinsed or pressure rinsed in a dry ventilated area until properly disposed or recycled.
  - Section V Practice Maintenance:
    - Rinse was omitted and replaced with Triple-rinse or pressure rinse.
  - Section VI Technical Assistance:
    - Division of Environmental Services was added to section.
  - Section VII Cost Share Assistance:
    - Division of Conservation was added as contact.
  - Section VII Recommendations:
    - Participate in a Rinse and Return Recycling program section the administered by the Kentucky Department of Agriculture, Division of Environmental Services was added to section.
    - Puncture recyclable containers to prevent reuse section the remove label booklets, and discard lids was added to section.
- **BMP# 11 Applying Pesticides** – A discussion was held on the need for BMP #11. This was added due to lack of referencing in the first 10 BMP’s.

A decision was made to hold off on approving the BMPs until an updated version with all changes is generated and brought to the board for further review. Motion to hold off on approving the updated BMPs was made by Mr. Peter Goodmann and was seconded by Mr. Allan Bryant. **Motion carried.**

**Review of Strategic Plan** - Ms. Kim Richardson introduced the AWQA Strategic Plan with the following covered:

- Assigned members to review each step.
- Identify which divisions, agencies and groups are responsible for each step.
- The need for tracking ongoing assignments, milestones and completion of tasks.

**Nominating Committee Report** – Mr. Larry Thomas informed the board of the following additions:

- Crops Committee– Steve Kull; Jim Roe; Bob Wade, Jr; Josh McGrath; and Chad Von Gruenigen.
- Education and Outreach Committee – No changes.
- Forestry Committee – Mr. Timothy Freibert resigned.
- Livestock Committee – No changes.
- Pesticides Committee – No changes.
- Resource Development Committee – Ad Hoc – No changes.
- Strategic Planning Committee – Dr. Amanda Gumbert and Mr. Larry Thomas
- Farmstead/Homestead- Paulette Akers, Brent Burchett, and Angela Billings.

Motion was made to approve changes was made by Mr. Peter Goodman and was seconded by Mr. Allen Kyle. **Motion carried.**

**Authority Members Comments** – Mr. Larry Thomas wanted to amend the previous board minutes in the Comments from Interested Parties section. Mr. Larry Thomas asked that it be stated that the pollution is allegedly happening at the Green River and not to be stated as factual. Mr. Brent Burchett made motion to approve amendment to the minutes and was seconded by Mr. Allan Bryant. **Motion carried.**

**Comments from AWQA members** –

- Mr. Peter Goodman discussed the following with the board:
  - Environment Protection Agency Budget as proposed by the President is looking at cuts as it heads to Congress.
  - State Revolving Funds Increases should be fine, as it has support in Congress.
- Mr. Allen Kyle discussed the following with the board:
  - Enforceability of BMP by the AWQA and DOW.
- Dr. Amanda Gumbert
  - New addition of Tammy Barnes to University of Kentucky Nutrient as a Management Planner.

**Comments from interested parties** – No comments were made.

**Schedule next meeting date and location** –

- August 24 at the state fair
- November 16 at 300 Sower Boulevard in Frankfort

**Adjourn** – Motion to adjourn was made by Mr. Allan Bryant and seconded by Mr. Peter Goodman. **Motion carried.**