



Washington State Liquor and Cannabis Board Meeting

Wednesday, June 7, 2023, 10:00 am

This meeting was held in a hybrid environment

Meeting Minutes

1. CALL TO ORDER

Chair David Postman called the regular meeting of the Washington State Liquor and Cannabis Board to order at 10:00 am on Wednesday, June 7, 2023. Member Ollie Garrett and Member Jim Vollendroff were also present.

2. APPROVAL OF MEETING MINUTES

Member Garrett made a motion to approve the May 24, 2023 Caucus minutes and June 1, 2023 Board Meeting minutes. Member Vollendroff seconded. The motion was approved.

3. PESTICIDE / DDE UPDATE

Chandra Wax, Director of Enforcement and Education

Chandra Wax: Good morning, Board Chair, Board Members. I'm here to provide a situation update reference DDE contaminants found in cannabis and soil from several licensee locations in Eastern Washington (PRESENTATION 1). WAC 314-55-108 sets the action limit for DDE at 0.1 parts per million, (ppm). This action level was set by emergency rule in 2016 and permanent rule in 2017 through consultation with Department of Health, Department of Agriculture, and Oregon Health Authority. Between January and March of 2023, more recently, results from random samples collected by Enforcement and Education (E&E) staff reflected positive results for DDE, a breakdown remnant of DDT. Seven 2023 results were above action limits, an average of 0.19 ppm, and five of those results were positive but below action limits of an average of 0.053 ppm. Two additional results with DDE above action limit, 0.14, were identified in September of 2022.

The detections of DDE were traced back to this area in Okanogan County. The identified area was defined as a five-mile stretch of land along the south end of the Okanogan River and north of Lake Pateros. There are 18 licensees located in this area. E&E sent an e-mail to each of the 18 licensees to inform them about test results and the soil, water, and product testing that would occur. There were five licensees in this area with DDE above action limits, so E&E staff called each of them individually on April 6th to tell them about these test results and educate them about the admin hold we would put in place, request product records, and request a licensee-

initiated recall. Afterwards, our LCB communications team ensured a detailed message was shared with licensee, Legislators from the Okanogan area, local public officials, and stakeholders. At the same time, LCB staff met with our state-certified labs, impacted licensees, trade associations, and our partner agencies to make sure we were being transparent, including input, and being responsive to that input.

Enforcement and Education sought out the advice of our partners in Ecology and Attorney General and developed a plan to ensure there were no contaminants in the products available to the public. We also considered the capacity of the WSDA lab to conduct these tests and collected a number of samples that would be able to return results in a reasonable time frame. On April 11th, soil samples were collected. The soil samples report is not complete yet, but according to the Department of Ecology, the levels of DDE and DDT and lead and arsenic in the soil samples are above state standards. Licensees will be notified and provided copies of those results when they are received.

So LCB has collected a total of 124 water and product samples from January to May 2023 from the impacted area. We're going to throw up some slides, so you don't have to write all these numbers down, but I'm going to give you some summaries. LCB partnered with Ecology for soil samples, which, as you know, were collected on April 11th. We've received results from the lab for 97 of those samples. 54 were cannabis foliage samples, 40 were cannabis oil and rosin samples, three of those were water samples. 66 of the 97 samples we've received have DDE detections, 28 of those were foliage, 38 of those were cannabis oil and rosin. 44 of those samples failed for DDE concentrations above action limit, 36 of the cannabis oil and rosin samples failed, and eight of the foliage samples failed. 24 of the foliage samples that did not fail have a moderate concern action result, which, if concentrated would likely rise above action limits. In the foliage samples, other than DDE, 10 other types of pesticides were detected. I'm sorry. Is somebody else asking a question? Ten other types of pesticides were detected below action levels, and in the cannabis and oil samples, 17 other pesticides other than DDE were detected. 23 of these samples had above action limits in the additional pesticides. The highest concentration of DDE is 1.7 ppm in cannabis and oil -- cannabis oil and rosin sample, the lowest concentration of DDE in a positive sample is 0.018 ppm, and the average overall DDE concentration is 0.278 ppm. We are still awaiting more test results. As results from the collected concentrate and foliage samples are returned, we are taking the following actions: 1.) If cannabis tested above action limit, the admin hold was retained, and we will pursue destruction of that product, 2.) If the cannabis tested positive but below the action limit, the admin hold is lifted on that product, but they cannot concentrate or extract the product without testing it again before it goes to the market, and if the cannabis did not reveal detectable levels of DDE, the admin hold on the specific product was lifted.

Of the five licensees with admin holds, one hold has been lifted, with four holds currently still in place, and the holds have been lifted on the specific products with no detectable limit of DDE. Holds when there is DDE detected but not above action limit, further testing is required before going to the retailer if the cannabis is extracted or concentrated. There is concern that the contaminants in the product will exceed action limits if it's extract or concentrated. The LCB has

been working with the Department of Agriculture and the Department of Ecology to support their processes for funding that was awarded by the Legislature for grants and farmers and a study to consider soil remediation. We recognize a significant impact this has on licensees and also the risk this poses to the public, so we are acting responsibly, swiftly, and intentionally. Our goal is to ensure that the cannabis products are safe, and licensees and stakeholders are informed as updates are available. And we also continue pesticide investigations statewide.

4. SYSTEM MODERNIZATION PROJECT UPDATE

Toni Hood, Deputy Director

Toni Hood: Good morning, Chair Postman, and Members Vollendroff, and Garrett. Our Systems Modernization Project, which is built on the Salesforce platform, has Release 1 occurring on June 21st. Release 1 involves the agency launching a new web portal that will have three different functions for the public to use. The June launch feature involves three services, including public records requests, banquet permits, and household moves. So when the public goes to our website, they will be automatically connected with this new portal. All the business for the banquet permits, the applications, the payments, and the reporting will be done through this portal. Public records requests can be made via this portal by filling out a short online request. Household move permit applications, which are important for when you move alcohol from out of state for personal use, can be used through this portal, so you no longer have to mail the agency the form.

The system will be active on the 21st. If you happen to put in a banquet permit late on the 20th, no problem. It will still be processed. It will still go through the system because it's still an automated system for the banquet permit. That will be seamless. And if you do it on the 21st, you'll be -- go directly to the portal, so that shouldn't be a problem. This should be fairly seamless for the public. This just the first part of the portal, which will eventually be used for many parts of our business and the public will see much more of this as we roll out future parts of SMP through Salesforce. We don't anticipate a slowdown at this time. We anticipate that we will be able to roll out as scheduled. We are currently testing the system. We are currently training our staff on the system. We will always update the public if there is any delay.

We always have a go, no-go meeting the Friday before. In this case, we have a holiday on Monday the 19th, and so we have our go, no-go meeting on Tuesday the 20th, so it's a little bit trickier this week this time, but we will sort it out and inform the public. But again, it should be seamless for them because banquet permits, they already do online. This is just going through a different portal, and we're really excited to see how this small part of our big platform is going to work.

5. RULEMAKING TIMELINES – ALL INDUSTRIES

Kathy Hoffman, PhD, MPA, Research Manager

Kathy Hoffman: Good morning, Chair Postman, Board Members Garrett, and Vollendroff. Not a lot to update since I updated you on Monday, but I do want to make one correction on one thing I shared on Monday, and that was with respect to the 2023 Liquor Legislative Implementation. I misspoke and said we had not filed the 101 on that. We did file the 101 on that on May 24th, and Daniel is working that project very nicely, working on some draft rules right now, and he should have those ready to go for an internal project team and external release in the not so distant future. So I just wanted to provide a correction there. But other than that, there are no updates on the Alcohol side to provide other than what we spoke about on Monday.

And then on the Cannabis side, no update since Monday either other than I think, Cassidy, maybe you want to speak to this. Cassidy is going to be working on a survey for the sampling rule, so it'll be a survey that goes out to licensees to help us get a better idea of the landscape as it were. I know we had a focus group several months ago where we were trying to get a better idea of how the cannabis sampling rules were working, and we want to do a little follow up on that as well. So Cassidy will be working on that and hope to get that out probably towards the end of this month. Correct, Cassidy? Okay. All right. And we'll also reach out to industry as well as to our associations to see if they can help distribute that.

6. CANNABIS RELATED RULEMAKING

ACTION ITEM 6A – Rules Petition Review and Consideration Requesting to Set an Action Limit for a Specific Pesticide

Kathy Hoffman, PhD, MPA, Research Manager; Cassidy West, Policy and Rules Coordinator

Kathy Hoffman: So for some background here, we received a rule petition on April 19th from Todd Luther of the Okanagan Gold, and he's asking that we -- and I'll just read the issue statement because that really states it very clearly whether the Board should initiate rulemaking to amend WAC 314-55-108 (HANDOUT 6A). Director Wax already spoke to that rule this morning to consider increasing the current action level or tolerance of pesticide chemical residue on cannabis product from 0.1 ppm for pesticides not listed in rule or otherwise authorized for use in the production of cannabis to 0.5 ppm, but specifically for DDE, and that's the product that Director Wax was speaking about earlier. So in the recommendation document, there's a very thorough analysis of our rulemaking activity on this. I won't get into this and, again, this is something Director Wax spoke to, but emergency rules went into effect for that particular section 314-55-108 in May of 2016. It became permanent in May of, I believe it was May of 2017, but those rules were promulgated in consultation with Department of Health and Department of Agriculture as well as our partners in Oregon to set that 0.1 ppm for action levels for products that were not listed in that list of 59 pesticides we currently have in rule.

With respect to divisional feedback on this particular petition, there was not a lot of feedback. I just want to point out that these rules would not be retroactive, even if we move them forward. I think there was some question about whether or not they would be. Typically, that's not the

direction that we would go with rulemaking unless we had a legislative mandate to do so. There was some feedback from Public Health and Prevention that sort of point to what the US General Accounting Office on Pesticides and Tobacco described with respect to DDT, and that there was some connection to carcinogens but primarily in animal tests, so just want to point that out. But I do also want to point out that from the public health and prevention perspective, there was no compelling reason to change the threshold limits for any of these chemicals at this time because there hasn't been any research to indicate that we should at this point.

And then there's a brief DEIB in social equity analysis. Certainly, there are disproportionate pesticides associated with folks working near these pesticides. That's a concern, but that isn't really what we're talking about here. And so I did touch on that very briefly but just talked about what this particular rule petition was pertaining. So three options that you always have in considering whether or not to approve or deny a rule petition, that is to deny the petition and maintain the status quo. Here, I would offer that we just don't have enough research to suggest that changing parts per million for this particular pesticide derivative is appropriate at this time. The second option is to deny the petition and offer an alternative approach. Sometimes that can offer a rapid solution but at a higher risk to the agency because we don't have a rule in place to say one thing or another. And then the final is to accept the petition. In this instance, again, we don't have any research that indicates that we should change the parts per million for these other pesticides at this point.

Again, like I said, there's been no material change in available information concerning the identified pesticide or its breakdown derivatives since the rules were originally adopted to consider changing action levels. But even if we did, rules would be prospective, not retroactive. And the other risk going into rulemaking is that we don't do a rule change at all, which happens sometimes. We've seen that with some of the petitions that have come forward to us. So I will stop and ask if there are any questions.

Chair Postman: Thank you for the presentation. And then with that we will look for a motion, I would say to deny the rule petition that requested a new action limit for DDE.

Member Vollendroff made a motion to deny the petition to set an action limit for specific pesticides not currently listed in rule (DDE) to 0.5 ppm. Member Garrett seconded. The motion was approved unanimously.

7. GENERAL PUBLIC COMMENT

Chair Postman invited citizens to address the Board regarding any issues related to LCB business. The Board heard from the following people:

Gregory Foster: Hello, everyone. Gregory Foster with Cannabis Observer, and it's good to see you today. I'm going to continue us on theme of the legacy environmental pesticides action that's been prominent today. First, thanks to Director Wax for that very thorough update. It was

very helpful. A lot of information to share, and I hope that you all will continue to keep everyone informed publicly. One suggestion -- this general public section is after we take actions, and the Board meetings, so in this circumstance in this particular rulemaking petition, there was no opportunity for public comment before the Board took action. So just as a general structural suggestion -- many other agencies do this -- they have the public comment before the agency addresses agenda items, where you take action.

Anyways, I wanted to talk about the Ecology Soil Remediation Pilot Program. That's \$5 million in the capital budget this last year that was put in, and I know that the agency itself is a participant in that work. I hope that you'll include updates about how that is going as that progresses, and if possible, -- and I think there's a lot that I'm still learning about all of this stuff and would appreciate more guidance on it -- I want to see if there's a way that we can use this process, this funding, to advance cannabis and hemp science fill in some of the data holes that we have. It's a little unclear about how the funds can be used, so that's what I'm trying to learn and figure out. So the money is coming from the Model Toxics Control account, and so there are some limitations on that. It says the money is provided solely for the Department of Ecology to implement a pilot program located in Okanogan County to remediate soil contaminated with DDT and DDE remnants. So it sounds a little bit like it falls under the Toxics Cleanup Program at Ecology, and that falls under the Model Toxic Control Act that's been in place since 1988. It's like a well-oiled machine it seems from what I can tell.

It also introduces some questions about who is liable for this, who actually has to pay for it, and who actually has to do the cleanup, so -- but getting to the question of kind of a creative suggestion for how we can actually use this in a helpful way. So that process Ecology follows requires remedial investigation or a feasibility study to find the extent and magnitude of contamination at the site, and it also looks at potential impacts on human health and the environment and alternative clean up technologies that could be evaluated for possible use. I'm wondering whether cannabis and hemp could be one of those alternative clean up technologies in this circumstance. We've got evidence that maybe it takes it up. There's a lot of urban legends or maybe rural legends around whether hemp can remediate soil and toxic compounds out of the soil. This would be a very good opportunity to try and get some actual data around that. Set up a pilot program. The WSU folks have been running field trials on hemp varieties. We could get them involved with all of this part. Plant some hemp there. Do some actual testing. Do some actual measurements about it. Plant some cannabis there, since it's a licensed premises, and you can actually do that. But if we actually can get some data that shows that the hemp can pull that out, maybe that can kickstart things around using that for Hemp Creek, getting it out of the environment and doing something other than what we've got going on there. Thank you.

Peter Manning: Good afternoon. Chair Postman, and Members Ollie Garrett, and Vollendroff. I'm here today to -- first of all, my name is Peter Manning from Black Excellence in Cannabis. I am the President of that organization. It has come to our attention that Ponder Diversity Group is actually corresponding with people that have applied for an application to receive a social equity license. It's my understanding that Ponder is telling those applicants that they cannot use

their points in the scoring rubric to combine -- as a group entity. They have to use it. The point rubric from Ponder's point of view can only be used for one person. It's my understanding with LCB -- from the LCB that that is not the case, that you can actually take multiple people to create points in the rubric. I would like the LCB to take time to look into that matter. We believe that the LCB is committed to making this program work, and we believe that through their actions they have taken thus far, are really trying to get the social equity program off the ground but Ponder Diversity Group sees it a little bit different.

I think we need to get some clarity there ASAP because I have here an e-mail from Ponder where Ponder actually doubles and triples down on how they're going to engage the DIA map and the timeframes, thereof, they're only including 1980. If you were in a DIA in 1981, my understanding from what I read here is that you don't qualify. But from the LCB standpoint when you look at the DIA map there, the timeframes are in blocks of 10 years. I don't know how Ponder is coming up with that conclusion. I think clarity needs to be expressed there to Ponder on how the LCB interpreted that and how Ponder Diversity Group should also interpret that. There's a lot of disinformation out there now and Ponder is basically in line with what we thought it was in the beginning that you could not compound points in the rubric, that it was going to be based off one person, and that's what Ponder is indicating here.

Once again, I will state we would like to get some clarity on that as far as how Ponder's doing that. And what is the LCB's take on that? Keep in mind, we are not here to point fingers or to muddy up the situation at all. We truly believe that the LCB has every good intention on making this program work. We have worked with the LCB on various issues when it pertained to this rubric as well as the social equity program, but we do think that we have to get some type of bearing with this. We need to get clarity on this Mr. Postman, Board Member Vollendroff, and Board Member Garrett. This isn't right to have -- this is a real stressful situation for the black and brown community because they've waited 10 years to get into industry and now it's more convoluted now that we're right close to the finish. So if we could take some time to address these issues, we'd appreciate it. Thank you very much.

Damian Mims: Good morning. I am here today in a suit, missing appointments on my birthday. No offense to you all. It's not because I miss spending time here at the LCB. I'm here because -- I felt like I needed to be here, so let me get to the point of why I'm here. Previously, I spoke to you guys about the gray area, the finger pointing, misinformation, not-my-job tactics that seems to happen within government agencies. Since you've been under new leadership and undergone personnel changes, I've seen a real effort on LCB's part to stop that from happening. The issue I am having is with this application process. There is misinformation, confusion, and a lot of extra stress with this application process of the new social equity program. I cannot get a consistent answer from the mentors, LCB, or Ponder.

Everyone is interpreting the same thing differently. I started to fill out my application with Ponder. I was locked out early. I was sent a new invitation. When I opened it, all my previously saved information was in there. I completed the application and got an e-mail back saying the application was complete. Then I started receiving e-mails saying my application was not

complete. I sent out emails asking what else was needed to be done. I received an e-mail saying my application process was complete, and I just needed to wait until I hear back from Ponder. Then I started getting phone calls from Ponder with voice messages saying my application is not complete. Then I sent out another e-mail to Ponder after my return phone calls were not answered. In the e-mail, I included the previous emails and the phone number that was calling, and I received no response. This is just to find out if my application is complete.

Why is this simple question so hard to answer? I cannot imagine the rest of the problems that will come up considering the issues of interpretation that I have heard regarding scoring the rubric and ownership. Why is the LCB hands off at this critical moment? What is going on? Who is steering the ship? Are we going back to the same old tactics? No one has an answer for me. Why? This to bring it to your attention, not to attack the LCB, but there are definitely some issues going on with this third-party vendor that need to be addressed, and there's no other outlook that I have other than coming here and talking to you guys. Thank you.

Christopher King: I wrote in a couple days ago and said I was going to speak, so I don't know if I'm late or not. I don't think so. Anyway, all of these problems that these guys were just talking about, and they're like, "Well, I'm not here to attack anybody. I'm not here to attack anybody." It's like they had to, like, sit on a sword. You know, you're allowed to attack a public official that - you guys have to take it. That's what happens when you take that role, and there's plenty to attack about. These people are complaining for valid reasons, and I'm going to tell you something. Right now, I have a couple things to talk about. Let's talk about your new Director Lukela, and let's talk about the history of discrimination that I've seen.

First, let's go over the discrimination I've seen which ties into this because I say you the story of one Margaret Belcher, who was an amazing childcare provider in Columbus, OH. I was Margaret Belcher's lawyer, and we went to federal court. I beat them on summary judgment on 42 U.S. Code 1981. I beat them on summary judgment on 42 U.S. Code 1983 because they were withholding Title 20 monies. The county agency would not work with her to get her Title 20 monies when these white daycare providers came around, and they had all the money, and her clients no longer had money. She needed that Title 20 money, so she could continue doing her work. She raised the valedictorian in Northwestern University, where my sister and brother and cousin, Mike and Don all graduated from. All right? So she's quality, but yet the government treated her like dirt.

So the court ruled that they failed to give her an application package for the Title 20 process. They failed to tell her or advise her of her legal rights to sue, and then they cut her off the roster list. Sound familiar? Yes! Because it sounds just like the Cannabis program here. All right? And then we get to court and the court refuses to give me a jury instruction that one has a fundamental right to pursue their choice of a living. My mentor was blown away by that. Luke Jacobs at Ohio State Law, he was blown away by that. So we don't get a jury verdict, and go up here, the white juries, like -- I said, has anybody ever experienced unlawful discrimination? Nobody raised their hands. And I'm like, oh, but we're now -- it's already late. A juror catches me

in the hallway on the way out and says, "Oh, we would have loved to have done something for your client, Mr. King, but our hands were cuffed by the jury instructions."

So the moral of the story is between the Legislative, the Executive, and the Judicial, the whole government is an anti-nickel machine. That's the problem! And now you bring in William Lukela in the office, and you go, "I'm missing people." You bring in William Lukela. What's his track record about? What's his program? I see now that they're revising all of Colorado's -- there's a bill to revise all of Colorado's Cannabis -- Equity Cannabis Program in the years that he was there. They are redoing it. And then he had this the same program you talked about giving some black folks the right to drive the product around for deliveries, the Driving Miss Daisy of Cannabis? Please! You know, we have the right now. Are you trying to get us the right to drive the white man's product around? Ha, ha, ha. Ha, ha, ha, I don't think so. This BMW would never be used for that. It might be used to go to my friend's store one day when we get one. You better believe that. So what is Mr. Lukela's claim to fame?

8. ADJOURN

Chair Postman adjourned the meeting at 10:46 am.

Minutes approved this 23rd day of April 2025



Jim Vollendroff
Board Chair



Ollie Garrett
Board Member



Peter Holmes
Board Member

Minutes Prepared by: Deborah Soper, Administrative Assistant to the Board

LCB Mission - Promote public safety, public health, and trust through fair administration, education, and enforcement of liquor, cannabis, tobacco, and vapor laws.
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