

INDIANA STATE CHEMIST AND SEED COMMISSIONER



Protecting Indiana's Agriculture and Environment - Feed, Fertilizer, Hemp, Pesticide and Seed

Purdue University · 175 South University Street
West Lafayette, IN 47907-2063
Telephone (765) 494-1492 · Facsimile (765) 494-4331
www.oisc.purdue.edu

Mark LeBlanc, Ph.D.
State Chemist &
Seed Commissioner

RECEIVED

DEC 16 2020

Indiana Office of Inspector General

IC 4-2-6-11

Post-employment waiver

As the Appointing Authority of the Office of Indiana State Chemist (OISC), I am filing this waiver of the application of the Code of Ethics' post-employment restriction as it applies to Sarah Caffery in her post-employment with Bayer Crop Science.

I understand that I must file and present this waiver to the State Ethics Commission at their next available meeting. I further understand that this waiver is not final until approved by the State Ethics Commission.

A. This waiver is provided pursuant to IC 4-2-6-11(g) and specifically waives the application of *(Please indicate the specific restriction in 42 IAC 1-5-14 (IC 4-2-6-11) you are waiving):*

IC 4-2-6-11(b)(1): 365 day required "cooling off" period before serving as a lobbyist.

IC 4-2-6-11(b)(2): 365 day required "cooling off" period before receiving compensation from an employer for whom the state employee or special state appointee was engaged in the negotiation or administration of a contract and was in a position to make a discretionary decision affecting the outcome of such negotiation or administration.

IC 4-2-6-11(b)(3): 365 day required "cooling off" period before receiving compensation from an employer for which the former state employee or special state appointee made a directly applicable regulatory or licensing decision.

IC 4-2-6-11(c): Particular matter restriction prohibiting the former state employee or special state appointee from representing or assisting a person in a particular matter involving the state if the former state officer, employee, or special state appointee personally and substantially participated in the matter as a state worker. *(Please provide a brief description of the specific particular matter(s) to which this waiver applies below):*

B. IC 4-2-6-11(g)(2) requires that an agency's appointing authority, when authorizing a waiver of the application of the post-employment restrictions in IC 4-2-6-11(b)-(c), also include specific information supporting such authorization. Please provide the requested information in the following five (5) sections to fulfill this requirement.

1. Please explain whether the employee's prior job duties involved substantial decision-making authority over policies, rules, or contracts:

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Ms. Caffery is the Pesticide Product Registration specialist at OISC, and reviews pesticide labels, including EPA registered exempt and non-exempt products. She ensures that the product's label meets the State standards for registration per IC 15-16-4 and federal 40 CFR labeling requirements. Entities must submit a renewal of their product's registration with the OISC each year.

While Ms. Caffery reviews labels for registration or renewal purposes, it is not a unilateral decision made solely by the employee. The State Chemist, Dr. LeBlanc, is the appointing authority for OISC and ultimately the final decision to register or not register a pesticide product rests with him. The state chemist may register, penalize or revoke registration (IC 15-16-4-64). In addition, the Indiana Pesticide Review Board (board) has the authority to adopt rules pertaining to pesticides (IC 15-16-4-50). Therefore, Ms. Caffery does not have substantial decision-making authority over policies, rules or contracts.

2. Please describe the nature of the duties to be performed by the employee for the prospective employer:

Some duties that Ms. Caffery will perform in her new position with the Bayer Crop Science include:

- Manage the state regulatory affairs team; coach and support the professional development of direct reports.
- Manage activities necessary to support and maintain registration in all states.
- Develop and drive new innovative strategies in processes, workflows and communicate concepts to contribute to the ongoing digitalization and process improvement initiatives.
- Coordinate regulatory responses for the registration and renewal of products at the state level, in collaboration with the asset team and other functions. (Government Affairs, State Engagement, Stewardship, etc.).
- Interpret laws, regulations and policies that affect the regulatory process
- Ensure maintenance of regulatory databases and repositories that streamlines workflows and houses regulatory data and documents.
- Conduct and facilitate meetings as necessary with state agencies to provide insights on Bayer Crop Science product uses and benefits.
- Represent Bayer Crop Science and its interests by participating in industry groups comprised of competitors, regulatory agency personnel and other colleagues to address issues, policies and topics that impact the industry.
- Forecast and maintain the state registration budget.

3. Please explain whether the prospective employment is likely to involve substantial contact with the employee's former agency and the extent to which any such contact is likely to involve matters where the agency has the discretion to make decisions based on the work product of the employee:

Ms. Caffery will not have direct substantial contact with the OISC in a managerial role with Bayer Crop Science. Even through delegation, the contact would not be substantial as the role with the prospective employer would encompass all 50 states, not just Indiana. The OISC would have the discretion to make decisions on the work product, however; that work product would have been reviewed and accepted by EPA prior to potential registration by OISC, or would have had a prior decision made by

OISC and submitted as a renewal. The prospective employer already has established teams that developed the work product prior to the employee taking on this role. The focus of Ms. Caffrey's prospective position would be to manage the paperwork (application, forms, renewals, etc.) that are submitted to individual states.

4. Please explain whether the prospective employment may be beneficial to the state or the public, specifically stating how the intended employment is consistent with the public interest:

The state and public will benefit with Ms. Caffrey taking this prospective employment because she is well versed in how state agencies process and review applications. She is also aware of how long registration processes take in states. With this knowledge, she will be able to;

- Provide improved timelines for product development while adequately considering the different state processing times. This knowledge would limit the number of products that are launched (distributed into the state) in advance of their state registration.
- She could provide insight on state concerns with label language. This knowledge could allow for revisions in the product labeling that would improve the enforceability of the label for a state enforcement team.
- Her knowledge in state registration processes could reduce redundant state workflow and backlogs because of properly submitted applications, payments and renewals.
- Her knowledge of state and federal laws could improve the label language and claims by Bayer Crop Science.

The public will benefit from Ms. Caffrey's prospective employment because she understands concerns with pesticide labels and the risks connected to these products with misuse. She will bring with her knowledge of labeling concerns learned while employed at OISC and apply that knowledge for the prospective employer's established teams to improve pesticide label language; ultimately providing a safer product for the public to use.

5. Please explain the extent of economic hardship to the employee if the request for a waiver is denied:

Denying this waiver would provide substantial economic hardship for Ms. Caffrey's family and future. The prospective employer offers significantly more in compensation. In addition, the professional growth offered by the prospective employer could potentially have a positive impact on the state and help the public considering Ms. Caffrey's expertise in the subject matter.

C. Signatures

1. Appointing authority/state officer of agency

By signing below, I authorize the waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(A). In addition, I acknowledge that this waiver is limited to an employee or special state appointee who obtains the waiver before engaging in the conduct that would give rise to a violation.

Mark LeBlanc
Dr. Mark LeBlanc

11/17/2020
DATE


2. Ethics Officer of agency

By signing below, I attest to the form of this waiver of the above-specified post-employment restrictions pursuant to IC 4-2-6-11(g)(1)(B).

Carrie A. Leach
Carrie A. Leach

11/17/2020
DATE

D. Approval by State Ethics Commission

FOR OFFICE USE ONLY	
Approved by State Ethics Commission	
	<u>12-16-20</u>
Katherine Noel, Chair, State Ethics Commission	Date

Mail to:
Office of Inspector General
315 West Ohio Street, Room 104
Indianapolis, IN 46202
OR
Email scanned copy to: info@ig.in.gov

Upon receipt you will be contacted with details regarding the presentation of this waiver to the State Ethics Commission.