



INDIANA PESTICIDE REVIEW BOARD

149th Meeting Minutes
March 2, 2017; 9:10 am-12:30 pm
Tippecanoe County Cooperative Extension Service Office
3150 Sagamore Parkway South (U.S. 52)
Lafayette, Indiana, 47905

Members present:

Ray Brinkmeyer
Megan Abraham for Phil Marshall
Julia Tipton Hogan
John Bacone
Bob Andrews
Ronald Hellenthal (Chair)
Steve Dlugosz
Bruce Bordelon
Lee Green
Mike Titus
Kevin Underwood
Martha Clark Mettler
Rick Foster
Tim Gibb

Ex officio

Dave Scott

Members absent:

Fred Whitford
Bob Waltz

1. **Approval of the meeting agenda...MOTION** to approve by Tim Gibb & Rick Foster **VOTE** was unanimous.
2. **Approval of previous meeting minutes (November 30, 2016) ...MOTION** to accept by Mike Titus & Bruce Bordelon; **VOTE** was unanimous.
3. **Review of cases involving civil penalties since the last meeting...**Cases # 2016/0462, 2016/1157, 2016/1192, and 2016/1304 were discussed; relevant points made include: fine was paid, OISC considers violations within last 5 years in calculating penalties, OISC determines penalty abeyance period based on the merits of an individual case, can assess state penalty for failure to comply with federal product production requirements.
4. **Status of implementation of on-line instruction or training for CCH approval...** OISC now has a process for accepting such requests for CCHs; still concerned about mechanism to insure required time is being spent receiving training; technology does exist with some software; OISC has received one request so far for such training approval; not actively soliciting submissions, just processing as submitted; all paper and face to face training approval rules also apply to on-line training; trainee could do multiple on-line trainings from multiple vendors.
5. **a. Vote on acceptance or refusal of Case#2016/0591Rural King (uncontained bulk container storage)...IPRB ALJ Panel (Andrews, Tipton-Hogan, Gibb)** unanimously recommended reduced penalty that approximated dollar amount that OISC would have assessed, had mitigation been permitted without IPRB review; Rural King has implemented some remedial and preventative measures; **MOTION** by Bob Andrews &

Rick Foster to accept the ALJ Panel recommendation to reduce the penalty from \$45,000 to \$15,000; **VOTE** motion was opposed by Mike Titus, but approved by all others, therefore was accepted.

b. Case#2016/0816 Couch Helicopter Service, Inc. (failure to comply with drift label language restrictions)...IPRB ALJ Panel unanimously recommended that the warning issued be rescinded based on discrepancies in wind speed and direction data between OISC and applicator, Sat Lock spray pattern data provided by applicator, and a lack of total tank mix confirmations of off-target residues in forensic samples collected by OISC; **MOTION** by Bob Andrews & Martha Clark Mettler to accept ALJ recommendation; IPRB discussion included: no evidence to suggest pesticide killed bees, forensics did not rule out other potential sources, proximity of OISC wind data source a concern; **VOTE** motion was opposed by Bruce Bordelon but was approved by all others, therefore was accepted.

6. **Vote on acceptance or refusal of Case # 2016/0710 (OISC/All Green Lawn Management Corp. negotiated settlement proposal for uncontained bulk container storage)**...settlement negotiations have stalled due to the challenges in getting a return call from All Green's attorney; OISC expressed a willingness to reduce the penalty from \$44,375 to \$8,000 with four quarterly payments of \$2000; **MOTION** by Martha Clark Mettler and Steve Dlugosz to set an ALJ Panel hearing date for the original penalty within 60 days if All-Green does not respond to OISC; **VOTE** was unanimous.

7. **Rulemaking status**

a. **State RUP classification of all dicamba containing agricultural herbicides**...still waiting on the exception from the rulemaking moratorium from the State Budget Agency before proceeding with the rule making process; Indiana rule proposal will address both old and new formulations of dicamba containing products containing over 6.5% active ingredient; Red Gold still concerned about potential dicamba use because there are no tolerances approved for many vulnerable non-target crops; Purdue CES has developed & released an outreach publication addressing drift incident response options.

b. **Exemption of some disinfectant users from bulk storage & containment rules**...no rule making has been initiated yet.

8. **Finalizing Indiana Pollinator Protection Plan (P³)**...CES has targeted 8 BMPs referenced in PPP for release; 4 of the 8 have been completed, others pending; PPP has been assisting with publication; work group chaired by Ellen Jacquart has completed work on BMP recommendations & guidance on native pollinator protection & native plantings; an EPA Pesticide Program Dialogue Committee is working on finalizing recommendations for evaluation measures that can be used for state P3s; final recommendations should be available within a year; most state plans hinge on adopting BMPs; **MOTION** by Martha Clark Mettler & Mike Titus to adopt the last draft of the Indiana P3 as final; **VOTE** was unanimous.

9. **Review of drift compliance response data since 2006 (as time permits)**...this issue was deferred until next meeting.

10. **Next meeting**...scheduled for June 1, 2017 at a location to be determined.