MINUTES – 125th MEETING

Location of meeting: Daniel Turfgrass Center
Purdue University
Cherry Lane (SR 126)
West Lafayette, Indiana

Date and Time: May 6, 2010, 9:05 AM – 2:08 PM

Members present: Greg Campbell
Martha Clark Mettler
Julia Tipton Hogan
Philip T. Marshall
Larry Clemens
Bruce Bordelon (Vice Chair)
Mike Sinsko
Ronald Hellenthal (Chair)
Michael Titus
Bob Andrews
Tim Gibb

Ex officio: Dave Scott
Fred Whitford
Robert Waltz

Members absent: Rick Foster
Steve Dlugosz
Raymond Brinkmeyer
Kevin Underwood
Gary Reding

Minutes from previous meeting:
The previous Board meeting was conducted on February 16, 2010. Bruce Bordelon and Greg Campbell made a motion to accept the minutes as distributed. The vote was unanimous.

Review of case summaries involving civil penalties since the last meeting:
Board members asked questions about case numbers 2009/0153, 2009/0160, and 2009/0796. Office of Indiana State Chemist (OISC) Compliance Officer George Saxton responded to the Board inquiries. As part of the discussion George advised the board that a standard procedure for OISC is to perform a follow-up inspection or similar activity in every case involving a violation to insure that the violative behavior or situation has been corrected. This is a commitment OISC makes to US EPA under our cooperative pesticide enforcement agreement. George also explained the procedure for collection of civil penalties or referral for collection to Purdue or the Attorney General.
Report on research into operational and legal definitions of “revocation”:
At the last meeting the Board instructed OISC to research what is meant by the term “revocation” as it applies to pesticide credentials so that a definition can be developed to guide future enforcement actions. Dave Scott presented a research document dated 4-21-10 which included a draft definition of “revoke”. Following a discussion of what some other agencies do regarding revocation of credentials/permits Board members suggested that “minimum of” five years be added to the operational definition of revocation. Tim Gibb and Bob Andrews made a motion to adopt the amended definition and operational policy. The vote was unanimous. The final policy reads as follows: For purposes of administering penalties under IC 15-16-4 and IC 15-16-5, “revoke” shall mean to dissolve any credential or credentialing status and to prohibit the violator from applying for that credential or status for a minimum of five (5) years from the date of revocation. After that time and assuming all legal requirements under these chapters have been met, the violator may petition the state chemist to have the credential or credentialing status reinstated.

Vote on appeal hearing for license denial action:
Following the license denial appeal hearing for Durwin Keith Duncan, Jr. at the last meeting, the Board instructed the Attorney General, Duncan and OISC to collaborate to draft a probationary license Agreed Order with stipulations for consideration at today’s meeting. The draft Agreed Order was circulated to Board members prior to this meeting. Following Board discussion and a number of edits, Mike Sinsko and Julia Tipton Hogan made a motion to accept the modified draft order. The vote was nine to one to accept the order, with Larry Clemens voting against the motion. The Board instructed Dave Scott to communicate the Board decision to Duncan Jr.

Demonstration of turf application equipment:
Bob Andrews, Fred Whitford, and Purdue Agronomy Turf Specialist Cale Bigelow led a hands-on discussion and demonstration of two different models of ride-on turf fertilizer/pesticide application equipment. Bob Andrews pointed out that although gaining in popularity in the industry, this equipment is more appropriate for larger turf areas rather than many of the smaller residential lawns treated by the lawn and landscape industry. Several Board members tried their hand at operating the equipment.

Draft revision to category 3b (turf management) to include fertilizer material application:
Dave Scott introduced a 4-19-10 draft document to start the process to revise the pesticide rule that defines applicator certification categories. Specifically, the draft revisions under consideration include the addition of a definition of fertilizer material, the creation of a new category for applicators of agricultural fertilizer material, and the incorporation of fertilizer material into the definition and standards of category 3b (turf management) pesticide applicators. Bob Andrews explained to the Board that the Indiana Professional Lawn and Landscape Association (IPLLA) had approached OISC requesting that fertilizer application training and testing be incorporated into the regulatory requirements for category 3b certification and licensing. IPLLA’s reason for the request include: 1) the fertilizer related water quality issues and the public perception of those issues in a number of reservoirs around the state; 2) a good stand of turf facilitated by knowledgeable turf technicians can improve water
quality protection efforts; 3) fertilizer application training, while a major part of the turf care industry for many years, did not get category 3b re-certification credit until just recently; and 4) some businesses entering the turf care chemical application industry are trying to avoid any regulation at all by suggesting that they apply only fertilizer and not pesticides, making OISC’s compliance efforts much more difficult than they need to be. OISC Fertilizer Administrator Mike Hancock advised the Board that nutrient loading in water has been an emerging political issue. Fred Whitford advised the Board that the two day hands-on Purdue Pesticide Program training for new category 3b applicators already includes training on nutrients in turf. State Chemist Bob Waltz advised the Board that OISC does have the authority to write fertilizer use rules, as needed. Mike Hancock advised the Board that OISC was working cooperatively with IDEM to try to insure that any nutrient use requirements or restrictions would be consistent between agencies. Bob Andrews and Greg Campbell made a motion to move the draft rule amendments into the formal rule making process. The vote was unanimous. Dave Scott advised the Board that the draft would also be shared with the Fertilizer Advisory Board for their concurrence before moving forward.

**Status of pesticide NPDES permitting under the Clean Water Act:**
Dave Scott noted the ongoing cooperation between IDEM and OISC regarding ultimate implementation of this regulatory requirement. Indiana and other states are waiting on EPA’s anticipated June publication of the proposed federal general permit which will serve as a model for states. Board members asked if the permitting process would correct existing pesticide/water quality problems or if it was just a bureaucratic regulatory exercise. Ron Helligenthal commented that the NPDES permitting requirement was originally intended and best suited for pollutant discharges coming out of the end of a pipe into water, not pesticide applications.

**Draft rule on pesticide use in schools:**
Dave Scott introduced a 4-15-10 draft rule document and highlighted for the Board the revisions and edits that had been initiated at the last meeting. Scott advised the Board that since the last meeting he had been in specific communication with the Indiana Pest Management Association, the National Pest Management Association, and the Indiana School Boards Association. There were Board discussions on both the application of personal insect repellents and the four hour default re-entry restriction period. Some felt that there was no science to support either the adequacy or necessity of the four hour re-entry restriction. It was agreed that it was a precautionary principal measure in the absence anything specific or scientifically based from US EPA. Bob Andrews and Julia Tipton Hogan made a motion to put the draft into the formal rulemaking process. The vote was unanimous.

**Next meeting date:**
The next meeting will be held on Thursday, September 2, 2010 at 9:00 AM at the Tippecanoe County Cooperative Extension Service office in Lafayette, Indiana.