

**Fertilizer Advisory Board
Daniel's Turf Center
1340 Cherry Lane
West Lafayette, IN 47907**

July 23, 2009

(Advisory Board Notes – subject to adoption as Minutes at the next scheduled meeting.)

Board Members Present: Doug Anderson, Bob Avenius, Sam Fry, John McDill, Joe Miller, Joe Russell and Brian Spencer

Unable to attend: Dan Ess, John Freeland, and Amy Gregg

Ex Officio: Robert Waltz, Mike Hancock, Cress Hizer, Matt Pearson, Sarah Simpson and Andy Tauer

Guests: Bob Andrews, John Baugh, Gary Doxtater, Mary Jo Fitzenrider, Drew Martin, Jim Ray, Leo Reed, Dave Scott, William Schmidt, Rae Schnapp, Justin Schneider and Jim Skillen (via conference call).

Chairman Joe Russell called the meeting to order at 9:06AM and all in attendance introduced themselves.

The agenda was approved by the board with no additions.

Dr. Waltz, Indiana State Chemist, introduced the new Board members, Joe Miller, representing the livestock industry (voting member), Sarah Simpson, representing the Indiana State Department of Agriculture (non voting member) and Andy Tauer, with the Indiana Department of Environmental Management (non voting member), replacing Martha Clark Mettler. The livestock representative and formal recognition of the Indiana State Department of Agriculture as members of the Fertilizer Advisory Board were authorized by the General Assembly in HB 1191 effective July 1, 2009.

Bob Avenius (Trugreen/Chem Lawn) led a group discussion concerning the lawn care industry's voluntary use of low or no phosphate fertilizers, and efforts by the lawn care industry to respond to the adoption of reduced phosphate rules being proposed by various lakes association in Indiana (Northeastern Indiana, and Geist in Indianapolis as examples). A conference call was initiated with Jim Skillen, Responsible Industry for a Sound Environment (R.I.S.E.), who provided a national perspective on the use of specialty fertilizer and pesticide products. Mr. Skillen stated that in 2004 Minnesota was first to pass a ban on lawn care phosphate application and Wisconsin followed in 2009, with many other states proposing such legislation but have not been passed. There are, and have been, many local ordinances, restricting phosphate-containing fertilizers, initiated throughout the country by county and local governments of which Florida is clearly a leader in this initiative. Emphasis was made that the laws or ordinances should be clearly linked to available science. Questions were posed by the attendees to Mr. Skillen. Conference call ended and meeting proceeded.

A question, directed to Dr. Waltz, inquired as to how to initiate a waiver hearing cited under IC 15-16-2-50. Dr. Waltz took this time to review and discuss the proposed waiver rule specifying the criteria for consideration when reviewing such requests. Some questions were raised as to the proposed procedural impact of the criteria on current discussions. The response was made that the proposed rule addresses the issues previously discussed and requested. The Advisory Board listened to the discussion and proposed no changes to the waiver language. The Board directed the State Chemist to move forward with the rule adoption process. (Motion by Joe Miller, Second by John McDill with unanimous approval by Board)

Mike Hancock, Board Secretary, provided an update on the current federal legislation on the Commercial Fertilizer Law. The issue of impending federal Department of Homeland Security (DHS) rules requiring certain restrictions on storage and handling of ammonium nitrate was discussed. The impact of such a ruling in Indiana is not clear, but it is believed that the State could be required to maintain accurate sales records for anyone taking possession of the ammonium nitrate product and that storage will require more security and inventory control. DHS is further indicating a possessor of ammonium nitrate will be required to have a permit to obtain ammonium nitrate, with a background check conducted before the permit may be issued. We still don't know the scope of the rule or impact on this Office (OISC). When the timing is seen to be appropriate, the Office of Indiana State Chemist will coordinate with the Governor to send correspondence requesting state authority to enforce these regulations rather than default to federal oversight.

The Fertilizer Advisory Board formally added two new representatives, one from the Livestock Industry (a voting member) and another from the Indiana State Department of Agriculture (non-voting). The establishment of certifications and training fees by rule was authorized in HB 1191 this past legislative session, for the Office of Indiana State Chemist to initiate and support a certification and education program for for-hire application of organic and inorganic fertilizer material. Authority was further given in HB 1191 this past session for OISC to have civil penalty authority and to draft rules accordingly. This action was initially directed by the Board almost five (5) years ago and the rules were drafted; although legislative approval was provided this past session. Rule promulgation will proceed this fall.

Dr. Waltz provided a brief overview of the direction provided the State Chemist Office in HB 1191 and Mr. Matt Pearson provided a review of the most recent draft of the Certification and Use Rule, with comments and recommendations received from the board members and guests. It was proposed to separate the certification portion of the rule from the use portion as drafted and set the application and use portion as a new rule. A motion by Joe Miller, with second by Brian Spencer and unanimous approval by the Board, enacted this proposal. Upon further discussion and clarification provided by Dave Scott, Pesticide Administrator, concerning terminology questions and a late fee inquiry, the Board voted to move both Certification, and Application and Use rules forward for the rule making process. (Motion by Brian Spencer Second by Joe Miller and unanimous approval by the Board). It was noted that if there were minor non-substantive changes to the proposed rules Board members and interested parties would be advised.

Mike Hancock provided information on recent legislative action resulting in changes to the Anhydrous Ammonia law. The Office of Indiana State Chemist is now given the latitude to recognize and accept new technologies or methods dealing with the handling and use of Anhydrous Ammonia. In addition, the knowing and purposeful violation of the Ammonia Law is moved from a Class C Infraction to a Class C Misdemeanor, recognizing the significance of mishandling such a potential injurious material.

Mr. Cress Hizer, IPFAC, shared information concerning the two (2) day nurse tank certification program sponsored by his organization at the Beck Center. He indicated that failure rate for tank testing was running as high as 40% and that more stringent US DOT are going to be implemented and that tanks without data plates would be removed from service. In addition, Cress indicates that the State Police will be starting to enforce that nurse tanks have lights and brakes.

Sarah Simpson, ISDA, offered the assistance of her Office, and asked for information and assistance for outreach to the agricultural community relevant to upcoming changes and initiatives in both OISC and ISDA in serving the agricultural community.

General discussion by the Board included the issue of anhydrous ammonia availability and flexibility in allowing transfers at other than permanent installations. While this has been proposed, the federal rule is still very specific on the issue. The focus of the rule is directed at what is occurring out West, where the general population is sparse, and proposals to leave nurse tanks unattended in fields are being made. Because of methamphetamine issues in the Midwest such practices have been specifically condemned. Much of the issue also involves the railroad attempt to back away from hauling anhydrous ammonia, which would drastically impact agriculture and industrial utilization of anhydrous ammonia.

The Board will reconvene the week of December 14th and a specific date worked out by the board secretary. The location will be at the Daniels Turf Center or Tippecanoe County Extension office.

Meeting adjourned at 12:10 PM

Michael Hancock
Board Secretary

The minutes and unadopted notes for this meeting are maintained and made available for one year on the OISC web site www.isco.purdue.edu under the fertilizer advisory board.