



INDIANA PESTICIDE REVIEW BOARD

167th Meeting Minutes
November 17, 2021: 9:04 am – 12:32 pm
Beck Agricultural Center
4550 US-52
West Lafayette, IN 47906

<u>Members Present:</u>	<u>Members Present Virtually:</u>	<u>Ex officio</u>
Bill Johnson	Stuart Orr	David Scott
Bruce Bordelon	Martha Clark-Mettler	Mark LeBlanc, State Chemist
Christian Krupke		Fred Whitford
John Bacone		
Lee Green		
Ron Hellenthal (Chair)		
Scott Robbins		
Mike Titus		<u>Members Absent:</u>
Megan Abraham		Kevin Underwood
Julia Tipton-Hogan		Jim Hawbaker
Bob Andrews		
Jamey Thomas		

1. **Approval of the meeting agenda...** MOTION to approve by Julia Tipton-Hogan, seconded by Bob Andrews; VOTE was unanimous.
https://oisc.purdue.edu/pesticide/iprb/iprb_167_final_agenda.pdf
2. **Approval of previous meeting minutes, (August 10, 2021)...** MOTION to approve by Christian Krupke, seconded by Lee Green; VOTE was unanimous.
https://oisc.purdue.edu/pesticide/iprb/iprb_167_166_draft_minutes.pdf
3. **Review of cases involving civil penalties since the last meeting.**
https://oisc.purdue.edu/pesticide/iprb/iprb_167_case_summaries.pdf
 Megan- disinfects multi-purpose wipes, do we see this often and refer to EPA?
 Garret – we are seeing more due to the pandemic.

Dave – we did see an increase in products (being registered or attempting to register). EPA did ask OISC to focus on disinfectant/COVID products.

Garret – differences between surface wipe vs hand wipes; we’re seeing an increase here where people are crossing over from person use (FDA) to surface use (EPA) label claims.

4. Update on mosquito control drift mitigation efforts.

Dave Scott- OISC has raised the issue with EPA, concerns about the lack of label use instructions for residential use. As a result, an industry and application practice has emerged where it is causing material to move off-target. OISC does not believe that EPA has adequately reviewed the risk of this mist blower application technology. OISC, with other SLA counterparts, has raised the issue with EPA. Appears to be an issue with all states, not just Indiana.

Bob Andrews- We formed a study committee met on Sept 28.

https://oisc.purdue.edu/pesticide/iprb/iprb_167_092821_mosquito_control_meeting_notes.pdf. As we examine the increased complaints, many focus on the application of the product, the way it is applied, and the odor of the product. Agreed that training needed to include

- Some type of biology,
- Looking into product availability
- Timing of the applications
- Looking into the application equipment
- Site evaluation/awareness
- Application techniques
- Confirmation of the required PPE

Creating videos, Lee is reviewing for examples of what not to do. Looking into communication needs. Also looked into licensing requirements (7A or Cat 8). All involved believe that this should be considered a Cat 8. Committee members provided “dos and don’ts”. Target dates to provide final product, Step 1 of training – February 2022.

Lee Green-concerns about 7A – they need to know more about the biology of the mosquito. Looking to provide best practice management to reduce risk of drift.

Christian Krupke – is there a clear “do/don’t”?

Bob – a lot of products have an odor; how does that affect all involved? And there is a mist. Concerns with mitigating the use of a mister (what needs to change to avoid drift)

Christian Krupke – odor of a product is important because it identifies that there is something there. Can there be education around this?

Mike Titus – agrees with the importance of education.

Fred – Is smell important? The flip side now is that the odor is bad. Concern about education vs what the perceived issue of smell is.

Julia-OISC says the label is the law. If you look at the mister blower application is not on the label doesn’t it make that use illegal?

Dave: FIFRA Section 2ee, allows users to use other application equipment unless the label specifically says you cannot. What is not acceptable through 2ee, is that EPA approves the sites. If it ends up on a site that is not on the label, that is illegal. OISC appreciates the work group efforts to date. Question historically has been more focused on the companies/franchises that are not certified and licensed.

Ron- George, is OISC is looking into this? Those who are not licensed?

Julia – is the compliance team going out to find them?

Dave- current practice, when we find someone who is not licensed, we do issue Action Orders to cease practice immediately before considering enforcement response.

Bob-bringing all applicators into Cat 8 is going to help.

Julia- how do we address those that are doing it illegally?

Leo- the majority are licensed. When we get a referral of an unlicensed, we send an investigator to follow-up.

Julia-public concerns 1) what is/are the products being used 2) the neighbor and what type of notice they deserve.

John Bacone- many have seen applicators spray surfaces (high touch), wearing no PPE during application, no concern of pollinators, etc. Education on this is major!

Lee Green- we are working to get back to the basics for those that are doing residential. This education is our attempt to connect with this growing group. Site assessment is critical, prior to application of a product.

Julia- also concerns about consumer protection, is this practice really doing what the industry is claiming with respect to efficacy?

Scott Robbins-there is a difference between larviciding, adulticiding, vector control and reduction of nuisance biters. There is a gap in the objectives. This application, is effective in reducing nuisance biters but is not an areawide vector control program. Total efficacy is dependent on the product.

Fred- where we went wrong, was allowing people in 7A to do this. The movement of including this in Cat 8 is increasingly important for a public health reason. High touch areas just should not be sprayed. Importance of emphasizing the correct sites and non-approved sites in training/education.

Dave- If EPA identifies that this application technology and method is acceptable, it can be a use site. Until then, residues applied/drifted to non-approved sites will be viewed as illegal.

Mark LeBlanc-BMPs should include site assessment process, site inspection & talking to homeowners about breeding locations. OISC is concerned about spray particle sizes, off-target movement, that EPA has not confirmed/tested this application method.

Megan- area-wide Health Dept applications do not require pre-notification of the entire neighborhood.

Dave- the one posting requirement that we have in the state is for lawn care. We have not had this discussion with other user groups. Is it being recommended that we have a posting requirement for mosquito control?

Christian Krupke – charge today is how to tighten up application technology and get applicators on the same page, not labeling and risk assessment.

Bob- we are trying to answer the questions on what is needed in training to identify the gaps, moving all mosquito control applicators into Cat 8, as in the proposed rule revisions, would do this. Customer communication will be part of the training.

Fred-what we develop here will be included in the Cat 8 training. Many simple best practices will be included.

Virtual Comment From Mary Ellen Gadski- Thank you for the time you have devoted to discussing mosquito fogging. I see many ways that moving this industry to Category 8 will help with the most egregious practices caused by lack of training. However, I didn't hear anyone speaking up for Nature. You need to be aware that the synthetic pyrethroids used in the applications kill ALL insects, not just mosquitoes. Beneficial insects may be susceptible at a lower dose than the pest, disrupting the predatory/prey relationship. I applaud your pollinator plan, but you must consider the multitudes of bees being killed by mosquito fogging! And you must also be aware of the harmful effects on human health, particularly the potential neurological damage to young children. The abundant scientific

literature on this topic is clear that pyrethroids adversely affect the central nervous system. I look forward to hearing your progress on this issue.

5. Initiating the rulemaking process for draft revisions to pesticide rules.

- a. Applicator certification requirements**
- b. Noncertified applicator supervision requirements**
- c. Application record keeping requirements**
- d. Minibulk storage requirements**
- e. Small package storage requirements for regulated persons**

Dave-See draft rule documents posted to OISC website

https://oisc.purdue.edu/pesticide/iprb/iprb_167_draft_revisions_355IAC4.pdf

https://oisc.purdue.edu/pesticide/iprb/iprb_167_draft_revisions_355IAC5.pdf

https://oisc.purdue.edu/pesticide/iprb/iprb_167_draft_revisions_357IAC1.pdf .

A discussion of proposed revisions to 355 IAC 4 ensued.

Fred-anyone who purchases or uses an RUP will be required to be certified. Noncertified registered technicians (RTs) can qualify by core exam or by PPP training from All credentialed applicators (private and commercial) will be required to keep application records. Private applicators will keep RUP records. Commercial applicators will keep RUP and GUP application records.

Bob-our industry supports RT by training option.

Christian-some concern about absence of any assessment toll at all for trainees.

Fred-PPP can incorporate survey tools within the training for RTs.

A discussion of record keeping ensued.

Bob-industry has concerns about need to keep records for wind speed/direction/air temperature. Small applications (lawn care) could take only 8 minutes for small properties. Would prefer that the record is only kept for the start time.

Bruce- could a solution be to identify if the application takes over an hour, you must keep both start and stop times?

Dave-start & stop times, wind speeds, & temperatures all taken directly from current dicamba labels.

Ron-will smaller applications be exempted from the requirements?

Dave- an hour sounds like an appropriate cut off time, will revise to include this concept

Fred- 4-4-1-b lists all the licensed groups, not just ag.

Virtually Comment From Martha Mettler IDEM- the record keeping requirements support Indiana's approach to the general NPDES pesticide permit issued by IDEM. Therefore recordkeeping for all who may be impacted by NPDES pesticide general permit is important.

Dave-agreed.

A discussion of certification for all RUP users ensued.

Ron – concern was previously brought up about migrant workers. Some are not able to become certified by exam due to language barriers.

Fred-the proposed rule now requires all applicators to be licensed.

Dave- EPA labels are written in English. We are already on thin ice thinking that someone who cannot read the label, can be properly supervised.

Leo- over the past two years we have had an increase in people becoming certified. Not sure if there are that many farms out there without a certified applicator. We are also going to see more RUPs in the future that will not allow supervision of noncertified applicators.

Jeff Cummins, Indiana Farm Bureau- IFB position is that to keep the RUP products on the market, to keep RUP chemistries available, it will require the training and certification of all users. We don't want the burdens of the additional record keeping and supervision as would be required by EPA rules. We have shared the options with our members so that they see could see the full picture.

Virtual Comment From Martha Mettler IDEM-I support OISC moving forward in this direction. It is a reasonable balance.

Fred walked through a presentation on how proposed revisions to 355 IAC 4 to comply with the requirements in EPA's C&T regulation would impact PPP's training efforts.

https://www.oisc.purdue.edu/pesticide/iprb/iprb_167_cert_and_training_rule_revision.pdf

Lee Green- per this proposal, is there still CORE training?

Sherry Jansen, PPP- Yes, there is still Core training. PPP will identify in the training what is and isn't covered in the training that someone should focus on studying.

Bob-we hope this will allow for off campus training events.

Leo-every blueprint we develop, there are several non-testable items. Through this training we can address those non-testable items.

Mike Titus- does commercial use still allow for supervision of noncertified applicators?

Dave-there is still supervision for commercial use of general use pesticides.

MOTION to preliminarily adopt draft revisions to 355 IAC 4 with recommended revisions by Bruce Bordelon, seconded by Christian Krupke; **VOTE** was unanimous.

Dave-referred to proposed revisions to 355 IAC 5, all storage and containment requirements moved to this rule, added small package storage requirements, school rule storage incorporated; storage near well heads, all storage and containment should now be within this one rule, bulk and mini-bulk clarifications.

Dave-small package is for all pesticides, requirements apply only to the people we regulate and license, i.e. PAs, CAs, and RUP dealers.

Virtual Comment From Seth Dibblee, EPA R5-besides consolidation of rules, what is driving the distinctions between regulation of bulk and minibulk?

Dave-EPA now has many requirements for the construction, handling, and cleaning of mini-bulk containers that did not exist in 1988 when IN rules were promulgated ; there is less need for secondary containers; some additional experience as well.

MOTION to preliminary adopt revisions to 355 IAC 5 by Bob Andrews, seconded by Christian Krupke; **VOTE** was unanimous.

Dave-most proposed revisions to 357 IAC 1 reflect movement of related rule requirements into appropriate sections of 355 IAC 4 and 355 IAC 5. This rule is now focused primarily on application rules or use restrictions, not licensing, records, or storage. Also, all civil penalty rule details were moved into statute, effective July 2021.

Fred-can you provide additional explanation for "adverse effect" that replaced "harm" in the drift rule?

Dave- the term "adverse effect" is now in law (2021) and has meaning when assessing civil penalties. To avoid confusion from the use of conflicting terms, harm was replaced with adverse effect, allow the definitions remain largely unchanged.

Bob Mann (National Lawn and Landscape Association)- How do you know, if you find a chemical in parts per million/per billion, how do you definitively know it came from my application?

Dave-OISC has extensive procedures in place to take prescribed steps to collect evidence to try to eliminate other potential sources of exposure, rather than just assume the complainant has correctly identified the suspected source.

Dave- has OISC identified a tolerance for every pesticide on every nontarget site to establish what's the acceptable amount to move off target? I wish we could, but it's a non-starter. Too many sites, too many active ingredients, too many variables. Right now, we draw on experience. We may come back to the board someday with suggested standards and tolerances. We also have to consider environmental loading of a chemicals.

Mike Titus- our experience has been that OISC has been consistent and professional in the investigation and enforcement of cases.

MOTION to preliminarily adopt draft revisions to 357 IAC 1 by Mike Titus, seconded by John Bacone; **VOTE** was unanimous.

Next meeting date: February 8, 2022

MOTION to adjourn by Lee, seconded by Bob; **VOTE** was unanimous