

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD (FIAB)
Organic Input Material Subcommittee (OIM)
Sacramento, California
June 30, 2011
MINUTES**

MEMBERS

John Salmonson, Chair
Bill Wolf
Claudia Reid
Doug Graham
Jake Evans
John Peterson
Katherine Borchard
Matthew Cotton
Michael Brautovich
Neil Edgar
Robert Horowitz

CDFA

Amadou Ba
Asif Maan
Christina Elliott
Dale Rice
Dale Woods
Luz Roa
Maria Hicks
Mike Gingles
Nick Young
Nirmal Saini
Wei Wu

INTERESTED PARTIES

John Ashby
Malcolm Ricci
Peggy Miars
Ray Green
Mabel Chuek
Andrew Godfrey
Chris Totten
Gerry Willey
Mary Matava

INTRODUCTIONS AND ANNOUNCEMENTS

The meeting was called to order at 9:00 a.m. by Chairperson, Mr. John Salmonson. A quorum was established and self-introductions were made.

Dr. Amadou Ba highlighted CDFA's staff changes in the Department including Ms. Sandra Schubert being appointed as Undersecretary and Mr. Jim Houston being appointed as Deputy Secretary of Legislation.

Dr. Ba also informed the subcommittee of the staff changes within the Division of Inspection Services including Mr. Rick S. Jensen being appointed as Division Director and Mr. Nick Young being promoted to Supervising Special Investigator. Dr. Ba stated that Mr. Greg Mukai, Mr. Charlie Nelson, and Ms. Christina Elliott have joined the Feed, Fertilizer, and Livestock Drugs Regulatory Services Branch from other divisions within CDFA. In addition, Ms. Danielle House is now working with the fertilizer registration staff. Dr. Ba stated that our Staff Environmental Scientist vacancy was filled with Mr. Dale Woods who has been with CDFA for over 25 years and is now lead on efficacy data review.

Mr. Salmonson requested that an organizational chart be provided to the subcommittee at the next meeting.

MINUTES OF THE LAST ORGANIC INPUT MATERIAL SUBCOMMITTEE MEETING

Ms. Peggy Miars made a correction to the March 2, 2011 meeting minutes stating that on page four the statement made by Ms. Fernandez-Salvador should read, "... stated in the NOP's (*not OMRI's*) 2011 handbook there is a statement in writing they are recognized by the NOP."

MOTION: Mr. Doug Graham moved to accept the minutes with the proposed changes from Ms. Peggy Miars; Mr. Robert Horowitz seconded. The motion passed unanimously.

IMPLEMENTATION UPDATES

Dr. Ba provided the subcommittee with an overview of AB 856 regulation updates. On January 21, 2011 there was a Notice of Proposed Rulemaking; the regulations have to be promulgated by January 21, 2012. The comment period closed on March 7, 2011; a public hearing was held on March 8, 2011. The Program compiled the written and the verbal comments; responses to those comments will be in the Final Statement of Reasons, which will be posted on the CDFA website once completed. There was an additional Notice of Modification to the text of the proposed regulations, which had an additional 15-day comment period. Dr. Ba highlighted the proposed changes including section §2300(g)(1) and (g)(2) the Organic Input Material (OIM) logo which CDFA does not require, but recommends the logo is used on the product label in a legible and conspicuous manner, and section §2323(e) which previously stated “the Secretary shall do all of the following...” This has been amended to read “the Secretary may do all of the following...” to allow flexibility in determining compliance. Dr. Ba stated that CDFA has received 286 new OIM label submissions. There are 409 product labels that are already registered with CDFA that made organic claims; most of these labels are packaged materials that have been previously approved by third party entities. All firms, including those previously registered with CDFA, must submit a complete registration packet, including a label, in order to comply with the provisions of OIM.

Ms. Claudia Reid commented that she received an email from Farm Fuel Incorporated stating it took 14 months for them to get their label registered. Ms. Reid stated that they asked her to thank the staff at CDFA for their assistance in getting through this process. She iterated that although they were frustrated by the lengthy process, they were extremely impressed by the CDFA staff. Ms. Reid stated that this entity started the registration process prior to AB 856 passing. Ms. Reid commented that she is glad that provisional registrations are available. Additionally, she commented that the first AB 856 regulation package stated there was no economic impact. Dr. Ba stated the Program performed an economic analysis to assess the impact of the new law on California organic growers.

Mr. Wolf stated there were concerns in the organic industry due to potential costs by the burden of the Organic Input Material Program that may affect the farmers' in the marketplace.

Dr. Ba stated the comments and the Departments responses will be captured in Final Statement of Reasons.

Ms. Reid asked if the Final Statement of Reasons will be posted prior to the Office of Administrative Law (OAL) reviewing it. Dr. Ba stated that it will not; OAL has 30 days to review the package and make the determination if it is within the scope of AB 856.

Mr. Wolf stated that several entities submitted comments regarding the AB 856 proposed regulations, including the ones that Organic Trade Association (OTA) submitted. Mr. Wolf stated, "On behalf of OTA, CDFA did not address many of the comments." Matt Cotton stated this is the most transparent process he has seen from a state agency. Dr. Maan added that all comments that were submitted were recognized, have been reviewed, and will be responded to with continued efforts to remain transparent.

Discussion ensued regarding CDFA providing provisional registrations to the 409 product labels that have made an organic claim and were already registered with a third party. Dr. Maan stated that pre AB 856, CDFA only had authority to register packaged fertilizing materials that are less than 110 pounds. Dr. Maan stated that CDFA may provide provisional registrations; these registrations can apply to any situation, whether they are already in the system or not, depending on what the nature of the issue with the label is. CDFA's intent is to make a smooth transition, within the laws and authorities without adversely impacting availability of organic input materials for organic production. Dr. Maan stated the applications that were submitted to CDFA prior to May 31, 2011 will be reviewed first. The \$500 registration fee will be applied on January 1, 2012, and the registration is good for two years.

Ms. Peggy Miars asked if there will be a real-time database for Accredited Certifying Agent's (ACA) to ensure products are registered. Dr. Maan stated a list of all registered products will be available on the CDFA website.

Mr. Jake Evans asked if CDFA has addressed the custom blend issue. He stated, "as this committee recommended, we need to know the universe and scope of custom blends before discussion ensues on how to regulate this." Dr. Maan stated that CDFA has received few reportings on custom blends at this time; investigators will be working on gathering information on custom blends.

Discussion ensued regarding whether compost needs to be registered if growers purchase raw manure and make their own compost, or if farmers do their own blending and apply it to their own field. Dr. Maan stated that those are still gray areas that need to be clarified.

Mr. Matthew Cotton commented that the subcommittee needs to discuss the gray areas further. Mr. John Peterson commented that commercial fertilizer has a lot of issues as well; a 20% violation rate is accepted as normal in commercial fertilizer.

Dr. Maan stated the subcommittee did not vote on any issues to be clarified; it still needs to be discussed. Dr. Maan stated if there is a recommendation from the full Fertilizer Inspection Advisory Board; it will be brought to the Secretary's attention.

Dr. Maan stated that the working group needs to meet prior to the next Organic Input Material Subcommittee meeting. Additionally, Mr. Cotton would like to be added to the working group.

Ms. Reid thanked CDFA staff for recognizing that there are gray areas and for addressing them prior to the next subcommittee meeting.

Mr. Ray Green commented that from a legislation standpoint the language, "to be used" is in the context of the person making the statement. The buyer telling the seller that they are using the product on their organic farm is different than the seller stating, let me sell you this product to help you produce your organic crop. The unclear section in the legislation is who is making the claim; it is a gray area. Ms. Mary Matava commented that she does not believe there is a gray area. Ms. Matava further stated if a grower is growing organically, they are responsible for using only registered organic input materials. If they went to their supplier and informed them they need an organic input material, and the supplier claims that they have certification for that and I'm registered, and they are not, then that's just wrong and illegal.

Discussion ensued regarding the unclear areas of the legislation.

Dr. Ba stated that CDFA staff will start performing in-state inspections of the OIM manufacturing processes used to validate label nutrient guarantees, claims, and compliance with the National Organic Program (NOP) standards during the registration process later in the year. CDFA made the determination to accept out-of-state inspections performed by third party organization recognized by the NOP through a memorandum of understanding (MOU).

ADDITIONAL ITEMS/NEXT MEETING

Mr. Horowitz asked if the Department will be recognized by the NOP. Dr. Maan stated that CDFA is continuously working with NOP and is currently putting together all policies and procedures. After everything is in place, CDFA will ask NOP what additional items need to be addressed to receive NOP recognition. Dr. Maan iterated by law CDFA is not required to be recognized by the NOP to implement AB 856, but is actively pursuing it with the NOP.

Mr. Wolf asked what the status was regarding the Department receiving ISO 65 certification. Dr. Maan stated the Department now has a good idea of the requirements for becoming ISO 65 certified and what that would entail, although not much progress has been made. Mr. Salmonson asked why the Department is pursuing ISO 65 certification. Dr. Maan stated the NOP would like CDFA to get ISO 65 certification for the OIM Program.

A break was taken from 11:00 a.m. to 11:10 a.m.

Mr. Salmonson led discussion on the loopholes in the AB 856 regulations. It was decided that the working group will discuss the issues further.

The next meeting will be on Thursday, September 15 in Sacramento at our new facility on Gateway Oaks Drive. The working group will meet in the morning and the full subcommittee will meet in the afternoon. The working group will consist of the same individuals as before, with the new addition of Mr. Cotton.

MOTION: Mr. Doug Peterson moved to adjourn the meeting at 12:00 p.m.; Mr. John Peterson seconded. The meeting was adjourned by the Chairperson, Mr. Salmonson.

Respectfully submitted by:



Asif A. Maan, Ph.D., Chief
Feed, Fertilizer, and Livestock Drugs Regulatory Services
Inspection Services

6/30/11
Date