

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD (FIAB)**

**CDFA Inspection Services Division
2800 Gateway Oaks Drive, Room 101
Sacramento, CA 95833**

**September 21, 2011
MINUTES**

MEMBERS

Jay Yost, Chair
Brad Baltzer
John Salmonson
John Peterson
Steve Spangler
Sanford Simon
Doug Graham
Tim McGahey

CDFA

Amadou Ba
Asif Maan
Dale Rice
Maria Hicks
Lisa Gonzales
Param Singh
Charlie Nelson
Kristopher Gulliver
Luz Roa
Rick Jensen
Nirmal Saini
Elaine Wong
Nick Young
Greg Mukai
Mike Gingles
Dale Woods
Amrith Gunasekara

INTERESTED PARTIES

Ray Green
Tad Bell
Chris Totten
Renee Pinel

INTRODUCTIONS & ANNOUNCEMENTS

The meeting was called to order at 8:33 a.m. by Chairperson, Mr. Jay Yost. Self-introductions were made and a quorum was established. Mr. David McEuen was not present.

MINUTES OF THE LAST BOARD MEETING

Mr. Yost requested that the board review the meeting minutes of the March 16, 2011 Fertilizer Inspection Advisory Board (FIAB) meeting.

MOTION: Mr. John Salmonson moved to approve the minutes as submitted. Mr. Brad Baltzer seconded; the motion passed unanimously.

DEPARTMENT/DIVISION/BRANCH UPDATE

Dr. Asif Maan introduced Mr. Rick Jensen to the FIAB as the Director of Inspection Services. Mr. Jensen summarized his 30+ year career with CDFA. Mr. Jensen stated

that Secretary Karen Ross has been appointed as Secretary of CDFA, Ms. Sandra Schubert has been appointed as Undersecretary, and Mr. James Houston has been appointed as Deputy Secretary of legislative affairs.

Dr. Maan explained the Branch's organizational chart to the board, highlighting that Mr. Dale Rice is retiring and Ms. Lisa Gonzales will be taking his place as Agricultural Supervisor over the branch office support staff.

Dr. Amadou Ba introduced Mr. Charlie Nelson, Mr. Greg Mukai, Dr. Dale Woods, and Mr. Param Singh as staff having recently joined the Branch.

AB 856 SUBCOMMITTEE UPDATES

Dr. Ba reported the outcome of the Organic Input Material (OIM) Subcommittee meeting on September 15, 2011. Dr. Ba referred to Agenda Item #4, stating there were changes to the previously accepted recommendations by the OIM Subcommittee and the FIAB. Dr. Ba noted the subcommittee made a motion that the Department includes, in the legislative report, the issues that have been identified by the subcommittee, which are: examples of small transactions with relatively low dollar value increments and low volumes in which there is no secondary processing; quite often single ingredient that are agricultural by-products.

Mr. Yost asked Dr. Ba to clarify what amount is considered a small transaction. Mr. John Peterson stated that the dollar amount of \$5,000 was discussed, but there was not a dollar amount put into the motion. The definition of no secondary processing was referring to materials such as almond and rice hulls.

Mr. Jensen stated it is not an exemption that is being discussed, but some sort of variance. As an example, the State Organic Program (SOP) has a variance for individuals selling organic products under \$5,000. These individuals are still required to register with the Department and pay a fee, but it is a sliding fee based on gross sales.

Mr. Salmonson stated that it would be more reasonable to wait approximately one year to see the areas of concern. Dr. Maan clarified that the purpose of the OIM Subcommittee meeting was to identify issues with the implementation of AB 856 and include recommendations in the legislative report; it is information to the FIAB at this point. The Department is clear in stating that no exemptions will be given. Dr. Maan clarified that the law is regulating manufacturers, distributors, and sellers, not the end users of OIM. The law is not regulating the users; it is not their responsibility.

Mr. Yost commended Mr. Salmonson on his hard work and efforts with the OIM Subcommittee.

PROGRAM UPDATES

Dr. Ba stated when the board met on March 16, 2011, the program reported that there were 695 product labels in the backlog, with 420 over the 90-day period. There are currently 185 labels that need to be reviewed, but none are over the 90-day period.

Mr. Peterson asked how many labels of the 420 were approved. Dr. Ba stated that approximately 95% of the labels were approved. Dr. Maan applauded the registration staff for their hard work in reducing the backlog.

Mr. Sanford Simon stated that with CDFA's backlog, California has been blocked from distribution. It is good news that they will be able to get their products in the California market sooner. Mr. Simon asked what percentage of labels are approved on their first submission and Dr. Ba stated that it is less than 10%. On January 1, 2012, 5,606 labels will be up for renewal.

Dr. Ba provided the board with OIM Regulation updates, stating that the Notice of Proposed Rulemaking was published on January 21, 2011. The comment period closed on March 7, 2011, and there was a public hearing held on March 8, 2011. There was a 15-day Notice of Modification to Text of Proposed Regulations on June 24, 2011; the comment period closed on July 8, 2011. The Program compiled comments and responses to those comments which will be included in the Final Statement of Reasons. The final review is currently being done by the Director of Inspection Services and will then be submitted to the Office of Administrative Law (OAL).

Dr. Woods provided the board with a status report of OIM product label registration applications. There are 429 OIMs currently registered with the Department; a total of 314 new applications were received this year. In addition, 429 OIM's are currently registered with the Department. Of the applications, 37% have been reviewed. Dr. Woods commented that only two surveys have been received on custom blends. There have been seven different outreach activities directly related to OIM registration.

Mr. Simon asked how the currently registered OIMs will be handled. Dr. Woods stated that they may receive provisional approval, but will still have to submit a full application packet.

FUND CONDITIONS

Dr. Ba summarized the fund condition for the Commercial Fertilizer Program and for the Fertilizer Research and Education Program (FREP). In 2007/08, the mill assessment was reduced from 3 to 1.5. The beginning balance for Commercial Fertilizer on July 1, 2010 was \$801,734 in the agricultural fund. There was \$2,554,554 revenue from July 1, 2010 – June 30, 2011. Additionally, at the board's recommendation, a certificate of deposit (CD) was liquidated for \$1,685,379. The expenditures were \$2,677,915. As of

July 1, 2011, the ending agricultural fund balance was \$2,363,752, and an additional \$3,038,209 in CD's. Dr. Ba stated for FREP, the beginning balance was \$2,973,939 as of July 1, 2011. There was \$828,270 revenue from July 1, 2010 – June 30, 2011, expenditures were \$796,030, encumbrances were \$1,870,445. The adjusted ending balance was \$1,135,734.

PROPOSED BUDGETS FOR 2012/13

Dr. Ba presented the proposed budget of \$3,357,818 for fiscal year (FY) 2012/13 for the Commercial Fertilizing Materials Inspection Program, and a proposed budget for 2012/13 for the OIM Program of \$603,216. The combined proposed budget for FY 2012/13 is \$3,961,034.

Dr. Ba explained the individual budget line items to the board. Discussion ensued regarding the previous year's budget and the proposed FY 2012/13 budget.

MOTION: Mr. John Salmonson moved to approve the combined Commercial Fertilizer and OIM Program proposed budget for FY 2012/13 in the amount of \$3,961,034. Mr. Steve Spangler seconded; the motion passed unanimously.

Dr. Ba stated that the proposed budget for FY 2012/13 for the FREP Program is \$1,550,046. This includes the salary for an additional staff member, Dr. Amrith Gunasekara, as a Scientific Advisor to the Secretary.

Discussion ensued regarding the Scientific Advisor's salary that is being charged mostly to FREP.

Mr. Tad Bell stated it may be beneficial for the board to ask the Secretary for a work plan for Dr. Gunasekara since the majority of his salary will be paid by FREP. It was stated that Dr. Gunasekara is a very knowledgeable individual and will be beneficial to the department, but financial concern was expressed over his appointment.

Ms. Renee Pinel stated she believes Dr. Gunasekara will be a great benefit considering there is a lack of scientific knowledge talking to Secretary Ross on these issues, but she is concerned on the process that took place. CDFA, administrative level people, circumventing the board to appoint somebody and then sticking the bill here. She stated that if they want to bring someone on to do that they can at least have the conversation with the board. Ms. Pinel stated to her it feels like the view is this is Department money and we will access as we feel is appropriate as opposed to talking to industry. That was a great concern, not particularly with this industry, but with agriculture in general with the prior administration. Ms. Pinel further commented that she would not like to see that start developing again, not having discussions with the people that are paying the bill about what you are doing.

Dr. Maan commented explained that FREP is paying the majority of Dr. Gunasekara's salary because his focus will be on ground water quality issues and air quality issues.

MOTION: Mr. John Peterson moved to approve the FREP proposed budget for FY 2012/13 for \$1,577,542. Mr. Doug Graham seconded; the motion passed unanimously.

- A break was taken from 10:15 a.m. to 10:25 a.m.

FREP RESEARCH PROJECTS APPROVAL

Mr. Edward Hard provided the board with a summary of completed and ongoing FREP projects. Mr. Hard stated 39 project proposals were received this year and 19 of the projects were asked for full proposals. Of the projects that submitted full proposals, seven projects were accepted unanimously by the Technical Advisory Subcommittee (TASC); two of the projects could not be agreed upon by the TASC. The recommendation was to organize a subcommittee of the TASC to develop a list of technical concerns, questions, and recommendations for the applicant. After discussion, the FIAB accepted the subcommittee's recommendation of projects to be funded.

MOTION: Mr. John Salmonson moved to approve the FREP TASC approved projects 11-2, 11-3, 11-4, 11-6, 11-10, 11-11, and 11-12. Mr. Brad Baltzer seconded; the motion passed unanimously.

Mr. Yost led discussion on project 11-7 and 11-13, which were not accepted by the FREP TASC. Ms. Pinel commented that if the two proposals are not going to be accepted by the FIAB, possibly have Mr. Hard and Dr. Gunasekara address the Water Board directly, not to the researchers.

The board suggested making a motion to not fund projects 11-7 and 11-13; Dr. Maan encouraged the board to listen to Dr. Gunasekara's presentation before making a decision on projects 11-7 and 11-13.

Dr. Gunasekara arrived at 11:00 a.m. to give a presentation regarding FREP's goals. The current ways FREP is disseminating research information include hosting an annual conference, publishing annual conference proceedings, posting final technical research documents online, and scientific journal activities. Dr. Gunasekara provided the board with slides illustrating FREP's current method of disseminating information through the CDFA website. Dr. Gunasekara then proposed a new, more user-friendly way of disseminating information through concise documents available via a searchable database. This database would also include other important parameters, such as soil type and similar environmental variables. Dr. Gunasekara highlighted the summary and timeline of implementing his proposal and stated this would be a unique way to disseminate information.

Mr. Yost stated that submitting a template for future projects would be beneficial.

Ms. Pinel stated she has had requests from agricultural groups inquiring if there is a way to show a demonstration of yield in the research. Dr. Gunasekara stated yield will be a big portion of it.

MOTION: Mr. Sanford Simon moved not to fund projects 11-7 and 11-13 and suggested that they be sent back to the principal submitters with the explanation that they are duplicative. The Department will provide an explanation stating that a similar project is being undertaken by CDFA. Mr. John Peterson seconded; the motion passed unanimously.

LABORATORY UPDATE

Ms. Elaine Wong provided the board with a summary of the fertilizer samples from January – August 2011. There were 738 samples received; 648 were routine samples, 32 were priority samples, seven were partial rush samples, and 51 were rush samples. There were 687 samples completed. Ms. Wong stated that there were 34 plant growth regulator samples received from January - August 2011; 32 samples were completed.

BOARD VACANCIES

Mr. Dale Rice stated the board consists of nine members and is currently not aligned the way it should be. Mr. Rice explained that board member terms are supposed to be staggered so that three of the terms expire each year. To realign the board, Mr. Rice suggested that two of the six appointees serve a one-year term, two serve a two-year term, and two serve a three-year term.

- A closed session was held to discuss vacancies.

During the closed session, it was recommended that Mr. Jay Yost, Mr. Brad Baltzer, Mr. John Salmonson, Mr. Tim McGahey, Mr. Steve Spanger, and Mr. Sanford Simon be appointed to the board to fill the current vacancies. The Department will determine terms of service as suggested by Mr. Rice.

FREP-TASC VACANCIES

The FREP TASC currently has seven vacancies. It was recommended that Dr. Michael Cahn, Mr. Robert Fry, Mr. Tom Gerecke, Mr. David McEuen, Dr. Robert Mikkelsen, Dr. Jerome Pier, and Mr. Jack Wackerman be appointed to the FREP TASC. It was further decided that there will be an additional member appointed, Dr. Holly Little.

- The open session resumed and the Chairperson of the board informed the attendees of the decisions made during the closed session.

ADDITIONAL ITEMS/NEXT MEETING

Dr. Maan reported that the Department received a letter from Ms. Rayne Pegg, National Organic Program (NOP) stating what is required for the NOP to recognize CDFA's review of OIM. The NOP requests that the OIM program do the following:

- Obtain ISO Guide 65 accreditation
- Submit written confirmation that the OIM program falls under the auspices of the SOP
- Provide written confirmation that the NOP retains the authority to review records and conduct audits of the SOP, and that these records and audits would include review of the OIM program records
- CDFA define a process, subject to NOP approval, for how CDFA will resolve decisions or interpretations made by the OIM program that are different than other material review programs; handle complaints on these decisions, and address appeals made on such decisions.

Dr. Maan stated that there is now a roadmap to get CDFA's OIM review program recognized by the NOP. The OIM program will have a Memorandum of Understanding with the SOP, and will work towards ISO 65 certification, although this is a lengthy process. Dr. Maan iterated that the law is already in place, and CDFA must review OIM labels.

Mr. Salmonson inquired if the SOP is ISO 65 certified and the logic behind that request. Discussion ensued regarding the history of ISO 65 certification.

The next FIAB meeting is scheduled for December 15, 2011 at 1:30 p.m. in Sacramento.

MOTION: Mr. John Salmonson moved to adjourn the meeting at 12:20 p.m.; Mr. Tim McGahey seconded. The motion passed unanimously.

Respectfully submitted by:



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

9/21/11

Date