

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (Department)
FERTILIZER INSPECTION ADVISORY BOARD (FIAB)
2399 GATEWAY OAKS DRIVE, SACRAMENTO / HYBRID**

**September 27, 2023
9:00 AM – 12:00 PM**

MINUTES

BOARD MEMBERS

David McEuen
Gary Silveria (Vice-Chair)
Gus Owens
Gus Owens
Melissa McQueen (Chair)
Timothy Howard
William Oglesby

ABSENT

Christopher Gallo

CDFA STAFF

Angelia Johnson
Barzin Moradi
Brandi Alston
Dale Rice
Elizabeth Moseby
Emad Jahanzad
Karen Adler
Kris Gulliver
Maria Tenorio Alfred
Mark Cady
Martin Burger
Minal Patel
Nicole Smith
Teresa Bowers
Zach Edmonds

INTERESTED PARTIES

J. Harrison
Justin Comages
Mike Menes
Rachel Shellabarger

INTRODUCTIONS AND ANNOUNCEMENTS

Melissa McQueen, Chair, called the meeting to order at 9:02 AM and self-introductions were made. Chair McQueen thanked the attendees for reorganizing so quickly and attending this meeting since the September 12, 2023, meeting had to be rescheduled due to a lack of a quorum.

Dr. Amadou Ba stated that this is the last cohort whose term will be expiring on October 14, 2023, this will complete the transition for board appointment terms that previously began on October 15 and ended three years later on October 14. All terms of office will now begin on January 1 and end three years later on December 31. The intention was to align board member terms with legislative practices and bills that were being reviewed by the governor and allow for sufficient time for the board to review the budget and make recommendation to the secretary for board membership.

ROLL CALL – ESTABLISH QUORUM

Roll was taken and a quorum was established.

APPROVE MAY 31, 2023 MEETING MINUTES

Chair McQueen requested the board review the minutes from the May 31, 2023, FIAB meeting.

MOTION: Greg Cunningham moved to approve the minutes as presented; Tim Howard seconded. The motion passed unanimously by all board members present with a vote of 7 to 0.

DEPARTMENT / DIVISION / BRANCH UPDATES

Dr. Ba provided Department, Division, and Branch updates. Dr. Ba noted Senate Bill (SB) 544 was signed into law which allows for remote meetings through the Bagley-Keene Act. The Department's Legal Office will be reviewing the new law and providing guidance on the new requirements for remote meetings.

The Department had a few programs in this budget cycle, which will be receiving General Fund dollars. Healthy Soils will be receiving \$50 million; Flood and Drought Relief will receive \$5 million; Organic Transition will receive \$5 million; Farm to Community Food hubs will receive \$15 million, Healthy Refrigeration grants will receive \$10 million, Urban Agriculture will receive \$6 million, and beginning farmer and farm workers will receive \$5 million. There is also \$25 million budgeted to address enteric methane issues.

Another issue being monitored is the Federal Government shut down and the potential of loss of federal funds. The Branch uses federal funds as supplemental revenue but does not depend on them.

The Tau fruit fly infestation traced to Asia has been detected in the Los Angeles/Southern California area. This is the first time the Tau fruit fly was found in the western hemisphere. Quarantine was established for 79 square miles. Surveys are activated and the Department is highly engaged in addressing the eradication. The Department's Citrus Program is working to get this issue under control. The organic Sporidia pheromone spray has been authorized as an agent to be used in the infested areas.

Proposition 12 regulations to outlaw cages for farm animals are being implemented and industry concerns were addressed. There were virtual meetings held for this outreach that had approximately 4,500 attendees to date.

PROGRAM UPDATES

Nick Young, Environmental Program Manager, reviewed program fund conditions, mill assessments, and proposed budgets with the FIAB.

On July 1, 2022, the beginning balance for Commercial Fertilizer was \$10,287,207 and the beginning balance for Organic Input Material (OIM) was \$3,873,120, for a combined total of \$14,160,327. Combined revenue for Commercial Fertilizer and OIM was \$6,190,370. The combined expenditures totaled \$8,328,336 and encumbrances totaled

\$295,796. The ending adjusted fund balance on June 30, 2023, for Commercial Fertilizer was \$8,478,523 and for OIM was \$3,248,042. The combined balance totaled \$11,726,565. Young commented that the mill reduction shows about a \$2.5 million-dollar reduction for the FY 2022/23 and is projected to be the same during the 2023/24 FY. The fund will continue to decrease gradually as it was intended.

The Fertilizer Research and Education Program (FREP) had a beginning balance of \$7,937,382. Revenue was \$3,564,197; expenditures were \$3,159,681; and encumbrances for grants through June 30, 2024, totaled \$4,213,484. As of June 30, 2023, FREP's ending adjusted balance was \$4,128,414.

The mill assessment for FY 2022/23 FY was set at 2.5 mills totaling \$8,144,819. This was consistent with projections based on the fertilizer market and pricing.

Greg Cunningham noted that some fertilizer sales volume went up because of the lower pricing. Chair McQueen said it also depends on timing and mentioned the increased rains. Cunningham added that this year's water availability helped with crop production which resulted in the increased purchasing of fertilizer products.

China's production of fertilizer is not currently impacting California fertilizer sale trends, but that could change. Nut tree volumes were suffering but they are beginning to change with levels becoming more even.

Jake Evans arrived at the meeting at 9:26 AM.

Young reviewed the proposed Commercial Fertilizer and OIM budgets for FY 2024/225 . The proposed Commercial Fertilizer budget is \$7,228,645. The proposed OIM budget is \$2,232,337. The total combined Fertilizer budget is proposed at \$9,460,982, which is a 4.4% increase from the prior years approved budget. The majority of the increase is from salary and benefits. Young stated that the other large line item for the OIM program is the notice of penalty for a firm, and the expenses being incurred for an investigation that is being conducted by the Attorney General's office. Dr. Ba commented on an increase that is associated to contractual negotiations and salaries being revised for Environmental Scientist (ES) series. The ES job classification has been without a contract since 2020 and the dialogue is ongoing for now. To-date, there is no agreed figure to provide for the Board. Jake Evans asked if OIM is paying for itself. Dr. Ba confirmed it is.

The proposed FREP budget was also presented and discussed. The proposed FY 2024/25 budget is \$4,218,094. The budget included staff salaries, including potential increases for ES positions, benefits, operating expenses, and research grants.

MOTION: Gus Olson moved to approve the proposed Commercial Fertilizer and OIM budget for FY 2024/25. Gary Silveria seconded; the motion passed unanimously by all board members present with a vote of 8 to 0.

MOTION: Jake Evans moved to approve the proposed FREP budget for FY 2024/25. Gus Olson seconded; the motion passed unanimously by all board members present with a vote of 8 to 0.

Young, presented information about the success and positive effects of the two limited-term ES positions that were approved two years ago by the FIAB. Dr. Ba elaborated that having the two extra positions have led to a more streamlined and efficient processing time of licenses and registration. The Program is asking to have the limited-term positions converted to permanent positions.

Olson asked if they would be full-time permanent. Dr. Ba affirmed that they would be. Evans said it makes sense to have these ES positions especially from the OIM perspective because the processing of OIM licenses and registration is very detailed and time-consuming. As OIM products continue to increase, it is a good idea to keep efficiency. The extra staff is a good investment and protects industry.

Young shared that the Program is also looking to streamline efforts in other ways, not just in hiring new staff. Dr. Martin Burger added that if one looks at the data for queues and turn-around times for processing registrations and licenses, the additional two ES have helped reduce the volume. Olson suggested looking into artificial intelligence (AI) as a tool for helping with increasing the speed of processing applications. Olson has personal knowledge of its use and said it has been helpful in private sectors.

MOTION: Gus Olson moved for the two full-time limited-term ES positions to become permanent. Gary Silveria seconded; the motion passed unanimously by all board members present with a vote of 8-0.

Young, presented information on the upcoming Fertilizing Materials Inspection Program (FMIP) workshop that will be held at the Best Western Plus Island Palms Hotel & Marina in San Diego on November 14-15, 2023. On November 14, the program will host an appointment-based clinic with companies. This clinic will provide industry members with the opportunity to meet with the registration staff to answer questions and/or resolve any issues they may have with their license or product registration label(s). On November 15, workshops will be held to address licensing and registration, inspection and sampling, database, mill assessments, and tonnage reporting. The registration fee is \$175.00 through October 30. From October 31 – November 15, registration will be \$225.00. There are a lot of interested parties, but the limit is 150 people. The registration opened in late August.

Young provided the FIAB with rulemaking updates for the regulation packet that were presented at the February 2023 FIAB meeting. The 45-day comment period was opened on August 18, 2023, and will close on October 3, 2023.

Young shared the updates on proposed legislation for defining beneficial substances and biostimulant details that were presented at the Association of American Plant Food Control Officials (AAPFCO) Summer Annual Conference. The Biostimulant Committee

voted unanimously to make the Beneficial Substances Uniform Bill official. It does not affect industry but is an attempt to align definitions throughout the United States (US). The term “auxiliary soil and plant substance” will be eliminated and replaced with the term “beneficial substance”. Young clarified that not all beneficial substances are plant biostimulants, but all plant biostimulants are beneficial substances.

Young stated that the proposed legislation to go from a two-year to a four-year registration cycle is a significant change for registration and improving turnaround times. Together with the ongoing measures Dr. Burger and his team are putting in place will improve efficiency. Firms would pay for four years registration at once. For example, OIM registration is currently set at \$500 for two years. The change would be \$1,000 for four years. Young pointed out that the Organic Material Review Institute (OMRI) is also using a four-year registration cycle. These procedures will still include the requirements for reporting label and formula changes that must be approved by the program before products can be marketed. Doing this will not affect the integrity of addressing adulteration issues because ongoing inspections would catch significant situations. Furthermore, through outreach and education, industry will know to update registrations and licenses as needed.

There was clarification that firms that produce liquid OIMs over 3% Nitrogen are inspected twice a year. Abroad and in other than neighboring states, EcoCert can flag for any issues and notify the Department. Every five years heavy metals, arsenic, cadmium, and lead must be analyzed for in fertilizers containing phosphate, zinc, iron, and manganese. The firms are required to submit their laboratory results to the Department.

Another proposed legislative change is to provide the Secretary the authority to adjust the mill assessment rate at the recommendation of the FIAB; this will ensure that rate adjustments can be implemented quicker without going through the regulatory process.

The final legislative proposal includes allowing the Secretary to have the authority to deny the renewal or issuance of a license or registration to firms who owe outstanding administrative penalties. Dr. Ba said the entire legislative proposal document is large and it may be necessary to break the document into smaller and more manageable pieces. The current document is twenty-one pages, but legislative proposals are usually four to five pages.

Dr. Ba asked for updates at the federal level, Young said at the federal level, the Fertilizer Institute in Washington D.C. shared that the plant biostimulant definition is being recognized in the Farm Bill and the Plant Biostimulant Act is going through the House and Senate. AAPFCO and the Department are working with US Department of Agriculture (USDA) and Environmental Protection Agency (EPA) to ensure nothing changes. However, the Farm Bill will probably not be passed until 2024.

The Plant Biostimulant Act may not have the word defined. The concern is that there will be contradicting definitions. Some members of the Senate prefer that the EPA define

biostimulant. Young said Billy Smith, Director of the Biological and Economic Analysis Division of the EPA, was working on this; however, Smith was transferred to another division within the EPA. There is a new Director, Anne Overstreet, who has recently taken over.

A representative from Virginia is introducing legislation for enhanced efficiency for biostimulants and biological fertilizers. Right now, there is no definition of “biological fertilizer”. California is watching this bill closely.

Justin Comages asked about standardizing testing for products. Young said some are already established, for example, humic acid. Through the Lab Services Committee there is a desire for formalizing standards. They are looking to the European Union for methods because they have established procedures. James Bartos of Indiana said there are about 30 different lab testing methods for various substances that are being evaluated. Any novel ingredient that is new can fit within the definition and will be included.

Young addressed the Board and requested approval to attend the World Biostimulant Congress in Milan, Italy. Young has been asked to speak about the California regulatory landscape, as well as the possible future regulatory standards within the US through AAPFCO, USDA, and EPA. Young requested the FIAB approve travel expenses that will be between \$3,250 and \$4,500. This will include travel, lodging, and meals.

Chair McQueen said it would be very beneficial to have California represented.

MOTION: Gary Silveria moved to approve travel funds for Nick Young to attend the World Biostimulant Congress in Milan, Italy. Jake Evans seconded; the motion was passed unanimously by all board members present with a vote of 8 to 0.

Young informed the FIAB that the AAPFCO conference is being held February 12-13, 2024 in Mobile, Alabama. Because the governor signed a bill that eliminated banning travel to various states previously noted for civil rights violations, it will be easier to apply for funds and for Departmental employees to attend these types of conferences.

Dr. Burger shared statistics on Commercial and OIM licensing and registration. Out of 9,461 Fertilizer registrations, 6,962 were approved; 549 were provisional; 733 were pending review; and 825 require data revisions. Out of 3,244 OIM registrations, 1,811 were approved; 353 were provisional; 183 were pending review; and 440 require data revisions.

There was concern that those registration labels that had data revisions and needed to be resubmitted for review would end up at the end of the database queue and not receive timely consideration. Dr. Burger said at this time the documents do go to the end of the queue and it is up to the ES to go through their allotted portion as the revised information and labels are reviewed. Dr. Burger also noted that even if a label is modified as directed, the staff member still has to go through the entire label again to

make sure no other changes were made during the revision. Olson pointed out that there was a company that was going out of business, but a different company took on the products. Even though there was a very simple label change noting the companies' name switch, it took six months before the new owner of the product could market a product that was already approved with the prior firm. Dr. Burger affirmed that resubmittals and addressing changes are not categorized into 'simple' and 'complicated' revisions to speed up approvals of 'simple' revisions.

Nicole Smith provided field staff updates. Zach Edmonds is the new northern California ES filling a position that was left vacant by a retiring ES. Edmonds was already with the Department's Integrated Pest Control Program and was a good fit for the position. It was good timing because other state inspectors are in California for training and so Edmonds is able to meet with these out of state inspectors.

Smith shared that as of September 12, 2023, there were five OIM and 12 Conventional fertilizer complaints for a total of 17 complaints. Seven of those are resolved, 10 are under investigation.

As of September 12, 2023, there were 1,015 samples taken. Of those, 976 were regular samples, 194 were pathogen samples. Out of 194 samples, 113 were packaged off the shelf, 45 were at a manufacturer or distributor location. As of Monday, there were 202 samples and 12 tested positive for *Salmonella*. 11 of the 12 samples were off the shelf retail products; one was a dairy manure compost. 10 of the 12 positive samples have a bone meal ingredient, and the program may be able to better determine the source of *Salmonella* with additional testing. Each manufacturer receives an investigative lab analysis report. The National Organic Program (NOP) has no standard for products that contain bone meal. The only standard is for processed animal manures. Evans expressed concern stating that conducting the surveys is good, but there are health issues that need to be addressed.

Mark Cady provided the FIAB with updates on FREP and the Technical Advisory Subcommittee (TASC).

The TASC had four vacancies and there is an upcoming resignation. The TASC and FREP staff evaluated the thirteen applicants. The TASC recommended the reappointment of Dan Rodrigues of Cal Poly, Sebastian Saa, Ph.D. and at University of California (UC) Davis and current member of the Almond Board. The additional recommendations are Franklin Gaudi who is an irrigation specialist at Cal Poly and is in private irrigation as a designer and has spoken at the FREP Conference twice. Dan Cook also had a strong application; he is a certified crop advisor (CCA) and pest control advisor (PCA) in private industry in San Joaquin Valley and has a background in research and field applications. Ehsan Toosi is an agronomist and experienced in organics. Toosi has been involved in the field of California agriculture for a long time. The preferred alternate is Patricia Lazicki. Lazicki has a Ph.D., with a research background in nitrogen availability for organic sources; she is the new farm advisor in

Yolo County. All three-year terms for TASC begin on January 1, 2024. Upon the FIAB's recommendation, the applicants' names will be submitted to Secretary Ross for appointment.

MOTION: Gus Olson moved to approve forwarding the recommendations of Dan Rodrigues, Sebastian Saa, Franklin Gaudi and Dan Cook for appointment to TASC and Patricia Lazicki as an alternate to Secretary Ross. Timothy Howard seconded; the motion passed unanimously by all board members present with a vote of 8 to 0.

Cady also presented on the Nitrogen and Irrigation Initiative (NII) that was in part approved two years ago by the FIAB. Funding includes \$3,004,859 from Fertilizer Assessment funds, \$1,999,719 from a Conservation Innovation Grant (CIG) and \$751,864 from a Specialty Crop Block Grant (SCBG).

The project began because drinking water samples had nitrates that were above the standard. Eighty-five percent of the nitrate is attributed to fertilizer use, and it includes nitrogen in water used for washing down stalls in animal housings. Understanding the link between irrigation and nitrogen leaching into the water was not clear in Jay Lund's 2012 report. The NII project was created to help provide support and assistance in decision making processes. Twelve counties would be included in the focused initiative.

There was a need for more staff which included five staff research associates (SRA) and one project scientist. The five positions are now filled, and the scientist position will be filled in October 2023. The challenge was some of those who were hired left to work for permanent industry positions. For example, one of the earlier coordinators moved to a different position. Khalid Bali is the statewide irrigation specialist and number one point person for working with the Cooperative Extension. Rachel Shellabarger is the academic coordinator and makes connections, ensures reporting is up to date, and helps organize meetings. Other critical parties to the NII are Karen Adler and Emad Jahanzad, which are FREP staff.

Mark Lubell and Zandar Shulkosa are working with the Kings River Water Quality Coalitions. These consultants for coalitions reach out to targeted growers to report and to provide data to both the water boards and to UC Davis which helps for evaluating the program. There are scientists with Ph.Ds. in Social Science who are working with data analysis to understand the impact of the NII.

FREP has been present at crop consulting conferences and outreach to connect consultants with this initiative. The farm advisors' outreach includes field days on the farms, webinars, participating in coalition events, and one-on-one consultations. Lubell's group is tracking these efforts.

The Central Coast is having on-farm trial demonstrations, putting procedures in place, and then reviewing results. Michael Cahn has been working on the NII as well. In the Central Valley, Mohamed Yagmar is involved with on farm trials, especially with tree crops and nitrogen.

To date, the FIAB \$3,004,859 fund allocation has used \$366,318.92. The SCBG grant was \$751,864 and \$155,006.85 has been spent. The CIG was \$1,999,719 and \$114,552.32 has been spent. Total expenditures for the past two FYs from the combined fertilizer assessment money allocation, SCBG, and CIG totals \$635,878.11. Cady said this needs to be spent down, but also said that the desire is to make these NII a long-term project. Cady said agriculture is not just a three-year funding cycle but that agriculture changes with generational cycles.

The Water Efficiency Technical Assistance Program (WETA) is helping socially disadvantaged farmers in the Central Valley and Central Coast with irrigation and nutrient management practices.

Discussion ensued regarding the NII. Chair McQueen asked about the urgency that was so paramount two years ago and if it is still urgent. Cady clarified and said these studies are still urgent because water boards are now creating penalty assessments toward farms who did not report correctly. Having this initiative will help preclude penalizing agriculture practitioners by having the growers use techniques that are developed and sustainable.

Jahanzad said there have been over 50 consultations with over 100 growers. More than 12,000 growers attended outreach in 2022. Santa Clara and Monterey Counties are involved. Stanislaus County is coming on board. There will be more in 2023/24 and the momentum has picked up in the past nine months. The farm advisors are not in the budget but have been doing a lot of the work of outreach and workshops. They are paid for by the UC.

Timothy Howard asked what happens with the money if it is not spent. Cady said it is encumbered and will not go toward other expenditures. There is no sunset on FIAB grants and if funds are still available, FREP would like to extend its use. Chair McQueen said the expectation was \$3 million dollars for three years. There needs to be a discussion of what has been spent and what has been accomplished. The FIAB asked FREP to provide a report with the work being done with the current budget and how it will be spent in the next couple of years. Cady said a report will be provided at the next FIAB meeting.

CENTER FOR ANALYTICAL CHEMISTRY (CAC) LAB UPDATE

Barzin Moradi gave the Center for Analytical Chemistry (CAC) report. Former Environmental Program Manager I, Maryam Khosravifard, transferred to Cal Recycle in May 2023, as there was a need to fill the position of Program Manager position. Teresa Bowers, formerly of the UC Davis Equine program, stepped in to fill the position. Bowers has been a lead on many projects, has led the creation of cross-training technicians for sampling, storage, and extractions. The cross-training has been beneficial because there is now a group of techs who can do any assignment in the laboratory. Bowers addressed the Board and shared her optimism about being in this position and the ability to share consulting and analysis.

Information on assays was presented. The average turnaround time for 2,823 assays received from January 1, 2023, through July 31, 2023, was twelve days. The average turnaround time for 1,182 assays received from May 1, 2023, was 16 days. The CAC is running at full capacity again.

From January 1, 2023, through July 31, 2023, out of the total number of 769 samples received, 690 were routine; 79 were priority; and there were no rush samples. From May 1, 2023, through July 31, 2023, out of a total number of 385 samples, 347 were routine; 38 were priority; and there were no rush samples.

The completed number of assays from January 1, 2023, through July 31, 2023, was 2,828. Out of these, 2,519 were routine; 309 were priority; and there were no rush samples. The total number of these that were rerun was 285. The total numbers of completed assays was 3,113; this reflected 5.1 assays per sample.

From May 1, 2023, through July 31, 2023, there was a total of 1,290 assays. 1,085 were routine; 97 were priority; there were no rush samples; and there were 108 that were rerun. The average number of assays completed for sample in this period was 3.6.

CAC had a second ion chromatography (IC) instrument installed and this will be used as a backup for the first IC. This will have a positive impact on turnaround times.

The CAC's proposed budget for FY 2024/25 is \$1,892,239. Personnel salaries and benefits makes up \$1,135,741 of this. Other expenses are equipment and supplies.

FERTILIZER INSPECTION ADVISORY BOARD VACANCIES

Three board terms are set to expire on October 14, 2023. The board members with expiring terms were Timothy Howard, Chair McQueen, and Gary Silveria. Five applicants submitted documents seeking to fill these board positions. They were Timothy Howard of Helena Agri-Enterprises, LLC, Jay Irvine of Component Ag. Chemicals LLC, Andrew Larson of Compass Minerals, Chair McQueen of Nutrien, and Gary Silveria of Grow West.

Discussion ensued regarding the merit of each of the applicants and how each could contribute to the FIAB.

MOTION: Jake Evans moved to recommend Timothy Howard, Chair McQueen, and Gary Silveria to Secretary Ross for appointment to the Fertilizer Inspection Advisory Board. William Oglesby seconded; the motion passed unanimously by all board members present with a vote of 8 to 0.

PUBLIC COMMENT

There were no public comments.

AGENDA ITEMS FOR FUTURE MEETINGS

Cady will present a quarterly report for NII project.

Young will debrief on the World Biostimulant Conference.

NEXT MEETING

The next meeting will be held on Thursday, February 8, 2024, in Fresno, California.

ADJOURNMENT

The meeting was adjourned at 12:19 PM.

ORIGINAL SIGNED BY NICK YOUNG

Nick Young
Environmental Program Manager I
Fertilizing Materials Inspection Program

09/27/2023

Date