

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

**CDFA
2800 Gateway Oaks Drive
Sacramento, CA 95833
Room 267**

**February 14, 2017
9:00 a.m.**

MINUTES

MEMBERS

Andrew Godfrey
David McEuen
Gary Silveria
Jake Evans
Jay Irvine
Melissa McQueen, Interim Chair
Ron Naven
Steve Spangler

MEMBERS ABSENT

Doug Graham

CDFA

Amadou Ba
Angelia Johnson
Brittnie Sabalbro
Dale Woods
Danny Lee
Elaine Wong
Kristopher Gulliver
Luz Roa
Marshall Stoddard
Natalie Jacuzzi
Natalie Krout-Greenberg
Nick Young
Nirmal Saini
Scott Renteria

INTERESTED PARTIES

John Peterson
Rebekah Menezes
Renee Pinel
Tad Bell

INTRODUCTIONS AND ANNOUNCEMENTS

Ms. Melissa McQueen, Interim Chair, called the meeting to order at 9:07a.m. Self-introductions were made and a quorum was established. Mr. Gary Silveria arrived at 9:13 a.m.; Mr. Doug Graham was not in attendance. Dr. Amadou Ba introduced newly appointed board member, Mr. Jay Irvine and reappointed members, Mr. Steve Spangler and Mr. David McEuen. He further announced appointed members for the Technical Advisory Subcommittee (TASC), Mr. Steve Petrie, Mr. Charles Hornung, and Ms. Jenny Rempel.

APPROVE OCTOBER 12, 2016 MEETING MINUTES

Interim Chair McQueen requested the board review the minutes from the October 12, 2016 FIAB meeting.

MOTION: Mr. Ron Naven moved to approve the minutes; Mr. David McEuen seconded. The motion passed unanimously by all board members present with a vote of 7 - 0.

DEPARTMENT, DIVISION, AND BRANCH UPDATES

Ms. Natalie Krout-Greenberg reported the Food Safety Modernization Act (FSMA) signed by the Governor in 2011, continues to impact the Division of Inspection Services. CDFA was awarded a five year cooperative agreement in the amount of \$11.7 million for state-level implementation of the Produce Safety Rule under FSMA. The multi-year plan to implement an enhanced produce safety system emphasizes education and outreach; inspection program and infrastructure development; collaboration with federal and local entities; and annual work plan development training.

Assembly Bill (AB) 1826 was signed into law by the Governor impacting the State Organic Program (SOP) within the Division of Inspection Services. This bill was amended to revise and recast the California Organic Products Act of 2003 as the California Organic Food and Farming Act. A working group report is available on CDFA's website which provides information obtained from stakeholders such as recommendations to evaluate California's SOP.

The passing of Proposition 64 has impacted the Medical Cannabis Program and CDFA is working diligently toward implementing regulations to become effective in 2018. The economic impact analysis was recently completed and the Division is currently working with a contractor on the environmental impact report.

Interim Chair McQueen asked if there is a limit on licenses. Ms. Krout-Greenberg stated that all cannabis growers must be licensed through the Department and there are 14 different license types. Additionally, some have a maximum limit on acreage size. There is a need to properly align the limitations with Proposition 64, to avoid conflicts with medical growth versus recreational growth.

Mr. Ron Naven asked how much money is going to be generated regarding fees. Ms. Krout-Greenberg responded stating based on initial estimates of 80,000 grow sites, 10,000 may initially apply to be licensed. The Department has not identified the fee number yet.

Dr. Ba provided Branch updates and reported the Fertilizing Materials Inspection Program (FMIP) is in the process of transitioning to the Environmental Scientist (ES) classification series for the field staff; the Feed and Livestock Drugs Inspection Program (FLDIP) and the Antimicrobial Use and Stewardship (AUS) Program will also be utilizing the ES series. Dr. Ba announced Mr. Greg Mukai, Special Investigator in Fresno, retired on December 31, 2016 and the Branch is in the process of filling the position. FMIP's

registration staff Senior Environmental Scientist (Supervisory) position was advertised and has yet to be filled; however, a job offer was made to fill the vacant ES position within the program. Furthermore, Dr. Ba announced our Agriculture Program Supervisor (APS) I, Ms. Maria Tenorio has accepted a promotional opportunity with the Inspection and Compliance Branch. Another job offer was made to fill the new Associate Governmental Program Analyst position received through the budget change proposal fiscal year (FY) 16/17, for the AUS program. The branch is working closely with Human Resources to fill all vacant positions within FMIP, FLDIP, and the AUS program.

Dr. Ba stated the Fertilizer Research and Education Program (FREP) will provide upcoming training on March 23, 2017 in San Luis Obispo, California. It is a Cal Poly project funded for outreach on irrigation and fertigation issues. The nutrient management project for Certified Crop Advisor training with the University of California Davis (UC) is scheduled for March 7-8, 2017 in Fresno. He also announced that a scoping meeting related to nitrogen management assessment, a UC funded project, will be held on February 24, 2017. The objective of this project was to account for nitrogen balance coming in and out of state. Additionally, FLDIP is partnering with the Food Safety Preventive Controls Alliance (FSPCA) on March 20-24, 2017 to provide training on preventive controls and lead instructor training.

Dr. Ba provided an update on the AUS program. The program is in the implementation phase of planning, providing outreach to stakeholders, and website development; this program is funded by general fund monies.

LEGISLATIVE UPDATE

Ms. Renee Pinel, Western Plant Health Association (WPHA), stated AB 68 introduced by Assembly Member Mathis, is an agricultural-friendly bill geared towards school siting issues, with suggestions of health and environmental impacts to children revolved around agricultural impacts to ground water. The allegation of children being exposed to agricultural inputs is what resulted in the development of this legislation. The goal was to address the issue of selecting land for agricultural use and zoned for agricultural production as a school site where school districts expect the agricultural community to change, this has created contention and problems with agriculture and communities. To help the situation, the goal was to put responsibility on communities to identify where schools were placed to protect them from litigation involving their agricultural practices. Assembly Member Mathis has amended the bill where schools zoned in agricultural lands, must draw water from public water systems, eliminating private wells. WPHA is continuing to work with Assembly Member Mathis by putting more responsibility for Boards of Education and communities to determine school sites.

Ms. Pinel stated the Governor's office wants nitrate and groundwater issues resolved this year. Environmental justice groups and administration have met in an attempt to

come to a unified, viable agreement on a solution that does not litigate against growers or programs. At this time, there have been no discussions on a fertilizer tax; however, there is discussion that agricultural communities must come up with a fee that is likely to be paid through state water boards or the irrigation district, such as a per-acre fee to provide for infrastructure on a clean drinking water program for safe drinking water. The objective is to find a solution that will provide disadvantaged communities with access to clean drinking water.

PROGRAM UPDATE / FUND CONDITIONS / BUDGETS

Dr. Dale Woods reported as of July 1, 2016, the beginning combined balance for FMIP and Organic Input Material (OIM) was \$8,376,542; revenue was \$2,764,904; expenditures were \$2,654,116; and there were \$1,008,372 in encumbrances; ending balance of \$7,478,958.

Mr. Jake Evans asked why encumbrances of \$945,192, significant to OIM inspections, are under the commercial fertilizer budget, and not OIM budget. Dr. Woods responded stating the encumbrances were originally placed in the commercial fertilizer from the time contracts were established. Dr. Ba added that it is CDFA's goal to move all OIM related contracts to the OIM program. Mr. Evans requested the Department put OIM budget funds in the appropriate category. Ms. Pinel requested the Department provide clarity within the budget, highlighting expenses in the encumbrance by adding a line item of OIM funds versus commercial fertilizer funds. Dr. Woods stated CDFA previously transferred funds from different categories which ultimately caused confusion; therefore, for consistency purposes OIM contract inspection funds were kept in the commercial fertilizer budget. He further stated the OIM expenses are listed in the budget, but not listed in the financial summary provided to the board.

The Fertilizer Research and Education Program (FREP) had a beginning balance of \$3,073,776, as of July 1, 2016; revenue was \$2,261,934; expenditures were \$1,173,135; encumbrances through FY 15/16 were \$443,538; the ending balance was \$2,593,997.

Dr. Woods reviewed the mill assessments trends FY 15/16 and FY 16/17. Comparing FY 15/16 first six months of revenue to FY 16/17, there is a \$4.9 million decline. The mill assessment fee is sufficient for the program to operate.

INSPECTION AND COMPLIANCE UPDATES

Mr. Nick Young, Supervising Special Investigator II, announced former Feed, Fertilizer, and Livestock Drugs Inspector, Mr. Kevin Wall, promoted to an ES.

Mr. Young reported the amount of firms sampled throughout the past six years, highlighting a total of 451 firms were sampled in 2016. The Program anticipates the sampling will increase, due to OIM inspections. CDFA completed a total of 1,278 samples; 685 conventional; 375 OIM; and 218 investigative. Mr. Young stated for 2016, the overall violation rate for conventional was 19%, and OIM 15%.

Mr. Peterson asked if there is a breakdown of dry fertilizer to liquid fertilizer from a blend standpoint of the violation. Mr. Young responded staff note on sample data sheets of whether fertilizer is dry versus liquid, but it is not calculated in the Program's summary.

Mr. Young further presented additional violations which included: 46 license, 205 product, and 135 misbranded labels. CDFA performed 371 heavy metal analyses and only identified two violations.

In 2016, CDFA completed a total of 283 OIM inspections in California, and its surrounding states. OIM inspections have increased every year and have more than doubled since 2012. Ecocert completed 128 inspections in the US and 54 internationally – ongoing and still being completed.

Mr. Young provided an administrative penalty update, presenting the total penalties issued and penalties collected for 2016. He further provided a breakdown of paid penalties and pending penalties since the previous FIAB meeting.

Interim Chair McQueen asked if in default, is there a process to revoke or not renew a firm's existing registration. Mr. Young responded stating the program will hold a hearing to revoke the license; however, there may be challenges such as a company not having a license to begin with.

Ms. Pinel asked if the program notices more administrative penalties being issued, and whether it is consistent from prior years or if there are more violations that result in a penalty being issued. Mr. Young stated penalties are consistent with last year, but since the program's ability to do administrative penalties is relatively new, it will continue to evolve. The program is becoming better at managing administrative penalties with the benefit of having the Department's Legal Office to assist with the process.

Mr. Young stated additional Notice of Proposed Actions were filed for OIM and conventional violations for either misbranding, adulteration, registration, or delinquent mill assessments or tonnage reporting.

REGISTRATION UPDATE

Ms. Luz Roa presented registration updates. Ms. Roa reported as of February 2017, a total of 7,092 conventional labels have been approved and 442 new label applications

are pending review; 1,527 OIM labels have been approved and 98 new label applications are pending review.

Due to the volume of incoming changes to formulas and labels, CDFA is seeking options of possibly changing the fertilizing material record status to "Approved/Update Pending." This would be a process the applicant can initiate and have updated in the Extraview database. Currently, the mechanism for submissions are completed through the Fertilizer mailbox.

Interim Chair McQueen asked if that meant that the fertilizing material record status is provisional. Ms. Roa responded stating it is different and once a record is approved, it is approved until it is expired at the end of the December 31 cycle. The program does not have a mechanism that allows any firm to go into the record, make changes, and change the status themselves via electronically through the system. As of right now, the system is not capturing the correct status of the firm's record. This modification to the process will allow the program to review changes, change records in the system as needed, and track firms that do not follow through with changes.

Ms. Roa reported all licenses expired December 31, 2016 and the licenses were due for renewal on January 2, 2017. As of January 25, 2017, the program received approximately 60% of license renewals.

Mr. Andrew Godfrey asked if there are any provisional registrations. Dr. Woods responded stating there are no provisional registrations yet but that will be the intent January 1, 2018. He added that this possible mechanism is more a function to assist the program to not miss anything during a label review and to prevent firms selling and marketing mislabeled products in the channel of trades.

Dr. Woods stated due to law changes, the program will now be able to use the category 'provisional registration.' The category will be used starting January 1, 2018, only during the renewal of products.

Discussion ensued regarding provisional registration.

Dr. Woods provided fertilizer regulation updates. He reported the final rulemaking packet related to the fertilizing materials standards, labeling, and inspection protocol was submitted to the Office of Administrative Law (OAL) on February 7, 2017. Regulations become effective on a quarterly basis. Once reviewed and approved by OAL, the regulations will become effective July 1, 2017. The Department drafted another rulemaking packet related to the fertilizing materials registration cycle. This rulemaking packet has been reviewed and approved by CDFA's Executive Office, and will be submitted to OAL for review. A notice to industry and fertilizer licensees will be

provided when the rulemaking packet is complete and finalized, to ensure all firms are prepared for the long term change of the fertilizing materials registration cycle.

Break at 11:03 a.m. to 11:18 a.m.

FREP UPDATES

Ms. Natalie Jacuzzi, Environmental Scientist, presented 2017 Request for Proposals (RFP) which included improving fertilizer input management, highlighting the newest proposal of addressing barriers to adoption of management practices, understanding soil-plant processes, and loss pathways. Ms. Jacuzzi provided an overview of the timeline to submit RFPs. Request for concept proposals were announced on December 1, 2016; 35 concept proposals were received. Proposals are discussed in a public meeting held by TASC. TASC will deliberate and determine which proposals will advance to a full proposal, during the TASC meeting on March 10, 2017; the decision will be announced on March 20, 2017. Full proposals are due May 16, 2017; award notification October 2, 2017; and project initiation January 1, 2018.

Interim Chair McQueen asked how many new projects are taken every year by FREP. Ms. Jacuzzi stated approximately six to eight projects; however, it depends on funding and the scope of the project.

LABORATORY UPDATE

Ms. Elaine Wong reported from January to December 2016, the lab received 1,312 samples; the total number of assays requested was 6,239. Ms. Wong announced since the recent retirement of one lab staff, the lab hired a replacement, Ms. Ashwin Pal. The Center for Analytical Chemistry lab is caught up with backlogged samples, and has improved their sample turn-around time.

ELECTION OF CHAIR, VICE CHAIR, AND TASC BOARD REPRESENTATIVE

Interim Chair McQueen requested the board review the member list to elect the Chair, Vice Chair, and TASC Board Representative.

MOTION: Mr. Ron Naven nominated and moved to appoint Ms. Melissa McQueen as Chair; Mr. Andrew Godfrey seconded. The motion passed unanimously by all board members present with a vote of 7-0.

MOTION: Ms. Melissa McQueen nominated Mr. Steve Spangler as Vice Chair; Mr. Ron Naven seconded. The motion passed unanimously by all board members present with a vote of 7-0.

MOTION: Ms. Melissa McQueen nominated and Mr. Jake Evans moved to appoint Mr. David McEuen as TASC Board Representative; Mr. Ron Naven seconded. The motion passed unanimously by all board members present with a vote of 7-0.

AGENDA ITEMS FOR FUTURE MEETINGS

Chair McQueen and Mr. Evans agreed to a doodle poll for a follow up meeting in with the product registration working group. Mr. Evans requested the Department add an expense line item in the financial summary report showing encumbrances related to OIM. Mr. Spangler suggested a presentation on tonnage reporting, and how it is working currently, then decide on whether a working group is necessary at the next FIAB meeting. Mr. Tad Bell added CDFA should also include any relevant laws and regulations that require the data to be submitted.

NEXT MEETING

The next FIAB meeting will be May 24, 2017 at 9:00 a.m., in Sacramento, California.

MOTION: Ms. Melissa McQueen moved to adjourn the meeting at 12:04 p.m.; Mr. Ron Naven seconded. The motion passed unanimously by all board members present with a 8 - 0 vote.

Chair McQueen adjourned the meeting at 12:04 p.m.

Respectfully submitted by:

ORIGINAL SIGNED BY DALE WOODS

Dr. Dale Woods
Environmental Program Manager I
Fertilizing Materials Inspection Program

2/14/2017

Date