

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

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

**May 24, 2017
9:00 a.m.**

MINUTES

MEMBERS

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

CDFA

Amadou Ba
Angelia Johnson
Barzin Moradi
Brittnie Sabalbro
Dale Woods
Elaine Wong
Evelyne Ndiaye
Justin Petty
Kristopher Gulliver
Leonel Campos
Lubna Durrani
Luz Roa
Mark Cady
Minal Patel
Natalie Jacuzzi
Natalie Krout-Greenberg
Nick Young
Nicole Smith
Nirmal Saini
Roberta Franco
Stacey Aylesworth
Suzanne Turcotte

INTERESTED PARTIES

Brandon Richards
Hector Lopez
Renee Pinel
Steve Beckley

INTRODUCTIONS AND ANNOUNCEMENTS

Ms. Melissa McQueen, Chair, called the meeting to order at 9:05 a.m. Self-introductions were made and a quorum was established. Chair McQueen announced three board terms are expiring in October; a notice to industry will be released.

APPROVE FEBRUARY 14, 2017 MEETING MINUTES

Chair McQueen requested the board review the minutes from the February 14, 2017 FIAB meeting.

MOTION: Mr. Gary Silveria moved to approve the minutes; Mr. Ron Naven seconded. The motion passed unanimously by all board members present with a vote of 9 - 0.

DEPARTMENT / DIVISION / BRANCH UPDATE

Ms. Natalie Krout-Greenberg reported the Department has several rulemaking packets that are open for public comment. The Department's CalCannabis Cultivation Licensing has held a number of public hearings. The final hearing and deadline for submitting written comments on the proposed Medical Cannabis Cultivation regulations is June 14, 2017 in Sacramento, California.

The Division's State Organic Program (SOP) is actively writing regulations to clarify and align the SOP with legislation that passed last year. The Antimicrobial Use and Stewardship (AUS) Program regulations are moving forward; the Certified Farmers Market Program regulations are also moving forward to clarify the point of sale to the consumer.

Ms. Krout-Greenberg stated legislation that recently passed required State of California departments have ongoing leadership training for new management, supervisory, and Career Executive Assignment positions. The Department has worked closely with stakeholders to identify and provide the most appropriate training modules Department-wide.

The Department's Internship Program will have two new interns beginning June 1st. Ms. Natalie Jacuzzi, Environmental Scientist (ES) for the Fertilizer Research and Education Program (FREP) will serve as a mentor and work closely with the new interns. The goal of the internship program is to provide interns the opportunity to work with branches in identifying branch specific projects; the program is designed to create a baseline for future growth within the Department.

Ms. Krout-Greenberg announced, after 42 years with the Department, Mr. Nirmal Saini, Environmental Program Manager II for the Center of Analytical Chemistry (CAC) Lab, is retiring.

The Department is waiting for Federal Government approval of a grant for the Food Insecurity Nutrition Incentive Program (FINI) to allow funding incentives for fruits and vegetables at farmers markets. The grant would match the funds for fresh fruits and vegetable purchases. The Office of Farm to Fork would administer the grant if approved.

Dr. Amadou Ba provided Branch updates and reported the FREP Program hired Ms. Nicole Crouch as an Agricultural Aide; the Fertilizing Materials Inspection Program (FMIP) hired Dr. Martin Burger as Senior Environmental Scientist (SES) (Supervisory); Dr. Roberta Franco from University California, Davis, and Ms. Lubna Durrani as ES. Dr. Ba announced Ms. Minal Patel came to the Department as student, promoted to an Office Technician, finished her Biological Science Degree, and recently promoted to ES Lab Coordinator. Former Branch Budget Analyst, Ms. Angelia Johnson accepted the Agriculture Program Supervisor I position for the Branch Office Support Staff Unit; Ms. Adriana Avalos was recruited to backfill the Branch Budget Analyst position; and Ms. Ellana Reyes promoted to Office Assistant.

Assembly Bill (AB) 1811 signed into law by the Governor, pertains to biochar. Biochar is now defined as a fertilizing material, requiring product label registration and mill assessment payment. The Branch submitted a Budget Change Proposal (BCP) requesting one ES position for FMIP to focus on product registration, review biochar, and set standards for biochar product label requirements.

Dr. Ba provided an update on program activities. The Department's Feed and Livestock Drugs Inspection Program reached a settlement with an animal feed manufacturer involving its manufacturing facility in Goshen, Tulare County. The facility produced horse feed with Monensin resulting in a number of horse and cattle deaths. The animal feed manufacturer was fined \$726,500; \$200,000 of the fine will be used for implementation of new equipment in the Goshen facility to ensure that feed safety measures over and above industry standards will be met.

AB 1713 proposes to change the Food and Agricultural Code (FAC) mandate. This bill mandates field inspections once a year for each licensee; cost reporting of organic input material (OIM) inspections to the FIAB; and the FMIP Program to update sampling processes and procedures. The Department is currently not mandated to inspect every fertilizing materials licensee; however this bill mandates the Department to inspect every licensee which will financially impact the FMIP Program and may require additional staff.

LEGISLATIVE UPDATE

Ms. Renee Pinel, Western Plant Health Association (WPHA), stated AB 1605 is related to the actions of State Water Boards in the Central Coast which is demanding growers cease and desist their agricultural activities or create a system to provide drinking water for individuals whose water might be impacted by nitrate. WPHA will be on the board to implement a system for growers to provide the replacement drinking water so they can be relieved from the cease and desist order, and will not have immediate action taken by state or regional water boards. AB 1605 is designed to provide growers engaged in a drinking water replacement program, funded by growers, with immunity from additional Water Board enforcement action, and protection from private action and litigation from

advocacy groups. The bill is currently pending action in the Assembly Committee on Judiciary.

Ms. Pinel stated that in California, bills beyond a certain economic cost level are put on suspense after the budget is passed. AB 1713 is on suspense in the Appropriations Committee until the State figures out the amount of money is available to spend on new legislation.

Senate Bill (SB) 623, sponsored by Senator Monning, would establish the Safe and Affordable Drinking Water Fund. SB 623 goal is to have a comprehensive plan to address impacted drinking water systems. Environmental justice groups and administration are meeting to come to an agreement on a solution; agricultural communities are also coming up with a tax or a fee that will provide an infrastructure on a program for clean and safe drinking water.

PROGRAM UPDATE / FUND CONDITIONS / BUDGETS

Dr. Dale Woods reported, as of July 1, 2016, the beginning combined balance for Commercial Fertilizer and OIM Program was \$8,376,542; revenue was \$4,108,053; expenditures were \$3,991,547; there were \$632,829 in encumbrances; and the ending balance, as of March 31, was \$7,860,219. The FREP Program, as of July 1, 2016, had a beginning balance of \$3,073,776; revenue was \$2,728,481; expenditures were \$1,753,252; encumbrances through fiscal year (FY) 15/16 and FY 16/17 were \$1,202,104; and the ending balance, as of March 31, was \$2,846,901.

Dr. Woods reviewed the mill assessments trends for FY 15/16 and FY 16/17. FY 16/17 brought in \$6.4 million; based on previous FY trends, the Commercial Fertilizer Program will not bring in as much as FY 15/16. The mill assessment fee structure, as indicated, will continue to be tracked to ensure the program has enough revenue to operate.

TONNAGE REPORTING

Mr. Kristopher Gulliver, SES (Specialist), provided an overview on tonnage reporting. In accordance with Article 7, Section 14622 of the FAC, firms selling or distributing fertilizing material must submit a tonnage report, which is published annually by the secretary. A late fee is required if the tonnage report is not submitted by January 31 and July 31 of each year; firms are also required to submit a report even when there is no tonnage data to report. Mr. Gulliver explained that there are two ways to report tonnage, paper form and through the online database. Paper forms are mailed to firms who do not have access to the online system; all information provided on the form is inputted in the system.

Prior to September 2016, published tonnage reports, done by a third party, were not current; the most recent report provided was 2012. The Fertilizer Program assigned Mr.

Gulliver to collate, summarize, and publish the tonnage reports. The 2013 to 2015 tonnage reports are completed and the 2016 tonnage report is in the process of being published. Tonnage reports are available on the Department's website.

Mr. Gulliver has identified some common data collection issues where firms are not reporting tonnage correctly. Double reporting, reporting tons of the mixed/blended products rather than breaking down blends into tons of nutrients, reporting soil amendments/auxiliary soil and plant substance products with no nutrients, and reporting tons of compost material without breaking it down into tons of nutrients, are some common issues. The issues are being resolved as the reports are audited. The Fertilizer Program will continue to provide education on correct tonnage reporting at the program's annual registration workshop.

INSPECTION AND COMPLIANCE UPDATE

Mr. Nick Young, Supervising Special Investigator (SSI) II, announced a new hire within inspection staff. Mr. Leo Campos was appointed as an ES to replace former Special Investigator (SI), Mr. Greg Mukai in Fresno. Mr. Campos has a Bachelor's Degree in Environmental Science from Fresno State University and Masters of Science Degree in Sustainability from the Royal Institute of Technology in Stockholm, Sweden.

Mr. Young provided resourceful information on how the industry can access and find their Department's field representative. Industry may refer to the Department's FMIP webpage which illustrates the program's Inspector Territory Map highlighting the areas assigned by each inspector. The Fertilizer Workshop, various outreach activities, or by filing a complaint, field inspections, and the contact info on the lab reports that companies receive, are additional ways to contact field representatives.

Mr. Young provided an overview of complaints received by the Fertilizer Program. The program has received ninety-seven formal complaints since February 1, 2015; sixty-six organic complaints; fifty-seven anonymous; and six currently unresolved complaints. As of 2017, thirteen complaints have been received. The amount of time to resolve complaints vary by case.

Mr. Young provided an update on sampling for 2017; 449 samples were received through April. The Fertilizer Program is on pace for 1,347 samples; 1,278 samples were received last year with an 18% violation rate.

Mr. Young presented recent administrative penalties. He stated three administrative penalties are not in the presentation as they are new penalties. He provided a breakdown of paid and pending penalties since the previous FIAB meeting. He stated two out of the four pending penalties are no longer in default and have been paid.

Lastly, Mr. Young reported three new Notice of Proposed Actions were filed for conventional violations for either misbranding, adulteration, or registration.

REGISTRATION WORKING GROUP UPDATE

Mr. Andrew Godfrey, Chair of the Product Registration Working Group, provided an update on the previous working group meeting held on April 25, 2017. The working group discussed process refinements of submitting registrations, developing checklists, and creating decision trees. The Department is implementing a checklist, to ensure all requirements are completed prior to submission to the Department. The Group discussed the possibility of an online application that will require completing necessary fields before moving to the next step in the registration process. With the setup of the current database, the working group is aware that the online application would be cost prohibitive to the Program. The Department agreed to develop new procedures for firms who have large numbers of different vendors which can be lumped into one group and reviewed as a group.

Mr. Jake Evans reinforced that a policy manual for the registration cycle process will be helpful, along with a decision tree that is clear on what is required would be valuable to industry. He requested a technical group implement the policy manual that includes requirements and directions of a completed registration. Mr. Godfrey also stated having a maximum duration on each of the processes in the registration manual would be helpful for firms to plan ahead.

Mr. Steve Spangler commented that the decision tree will assist with streamlining newer registrants and registrants who are already familiar with the process.

Mr. Evans further added that there is an inconsistency with ingredients required on a label. He stated a clear manual will allow industry to develop a better timeframe and idea of the outcome of the registration status.

Dr. Ba stated the Department recommends another working group meeting be held between now and the next registration cycle to engage with staff on process improvements. Ms. Krout-Greenberg advised that the working group meet before the next FIAB meeting to provide the board with feedback on the progress towards the next registration cycle deadline.

REGISTRATION UPDATE

Ms. Luz Roa reported, as of February 2017; 7,753 conventional labels have been approved and 207 new label applications are pending review; 1,672 OIM labels have been approved and seventy new label applications are pending review.

At the last FIAB meeting, the Fertilizer Program stated, due to the volume of incoming changes to formulas and labels, the Department was looking at 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.

The Department is still seeking to implement a mechanism to better track changes to formulas and labels in the database.

A Notice to Industry was sent out regarding the requirements to market bat guano products and how the Fertilizer Program is going to evaluate those products; it will be implemented next year. Mr. Young added that Association of American Plant Food Control Officials (AAPFCO) is also revising their definition of the term bat guano.

Another Notice to Industry will be sent regarding the regulations implementing the new registration renewal cycle; and a separate Notice to Industry pertaining to the OIM renewal process along with additional forms and instructions.

Ms. Roa informed the board the tentative dates for the Fertilizer Workshop are October 24-25, 2017 in Seaside, California; the date will be posted on the Fertilizer webpage once the date is finalized.

The Department continues its involvement with AAPFCO by having Mr. Young attend annual AAPFCO meetings and reporting back to the Fertilizer Program on various things, such as new terms being proposed or changes to existing terms. The Department is staying engaged in the process for consistency and uniformity between state programs.

Dr. Woods reported the rulemaking related to the new fertilizing materials registration cycle recently had its forty-five day comment period, which ended on May 22, 2017; the Department received no comments. The Department is preparing the final rulemaking packet to submit to the Office of Administrative Law (OAL). During this process, a notice to industry and fertilizer licensees will be sent to ensure firms are prepared for the long-term change to the new fertilizing materials registration cycle.

Mr. Young stated the rulemaking related to the fertilizing materials standards, labeling, and inspection protocol received a lot of positive feedback from the forty-five day and fifteen day comment periods, which resulted in revising some of the initial proposed regulations. The entire rulemaking packet is intended for clarity and to better help industry. A third fifteen day notice that recently ended on May 10, 2017 was due to a procedural process; no comments were received during the 15-day notice. The final rulemaking packet was submitted to OAL on May 12, 2017.

Break at 10:50 – 11:07 a.m.

FREP UPDATE

Mr. Mark Cady, SES (Specialist), presented on the 2017 Request for Proposals that included improving fertilizer input management practices, understanding soil-plant processes, and loss pathways of nitrate movement. FREP received a total of thirty-five

concept proposals; eleven concepts advanced to full proposals. Full proposal awards will be announced at the end of October 2017.

LABORATORY UPDATE

Ms. Elaine Wong reported, from January to December 2016, the lab received 1,312 samples; the total number of assays requested was 6,245. From January to April 2017, the lab received 471 samples; the lab is on track to receive and process approximately 1,200 samples per year. Additionally, Ms. Wong stated there has been a change in the type of samples received; the lab has received more OIM samples, which impacted the sample turn-around time. Overall, the lab continues to improve their sample turn-around time.

AGENDA ITEMS FOR FUTURE MEETINGS

Mr. Gary Silveria requested a brief overview regarding the rulemaking process on the CalCannabis Program. Ms. Krout-Greenberg stated Branch Chief for CalCannabis, Ms. Amber Morris, can provide an update or feedback on future hearings and public comment periods. Chair McQueen stated an update from the working group will be discussed at the next meeting.

NEXT MEETING

The next FIAB meeting will be September 12, 2017 at 9:00 a.m., in Sacramento, California.

MOTION: Mr. Doug Graham moved to adjourn the meeting at 11:37 a.m.; Mr. Ron Naven seconded. The motion passed unanimously by all board members present with an 8 - 0 vote.

Chair McQueen adjourned the meeting at 11:37 a.m.

Respectfully submitted by:

ORIGINAL SIGNED BY DALE WOODS

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

5/24/2017

Date