

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD MEETING (FIAB)
Fresno, California
November 16, 2010
MINUTES**

MEMBERS

Jay Yost
John Salmonson
John Peterson
Brad Baltzer
Sandy Simon
Steve Spangler

CDFA

Asif Maan
Amadou Ba
Avnee Jivabhai
Nirmal Saini
Elaine Wong
Edward Hard
Mike Gingles
Erica Jue
Kevin Richardson
Nick Young
Dale Rice

INTERESTED PARTIES

Renee Pinel
Ray Green
Doug Graham
Steve Beckley
Irene Sanchez
Ralph Iliff

CALL TO ORDER

Chairman Jay Yost called the meeting to order at 1:00 p.m.; a quorum was established. Mr. Tim McGahey and Mr. David McEuen were unable to attend.

INTRODUCTIONS AND ANNOUNCEMENTS

Mr. Yost welcomed everyone to the meeting. Self-introductions were made.

MINUTES OF THE LAST BOARD MEETING

Mr. Yost asked the Board to review the minutes from the August 19, 2010 meeting.

MOTION: A motion was made by Mr. John Salmonson to approve the minutes as presented. Mr. Steve Spangler seconded the motion. The motion passed unanimously.

DEPARTMENT / DIVISION UPDATE

Dr. Asif Maan informed the Board that the Executive Office is in the process of transitioning to the new administration. There will not be any changes until the Governor is sworn in and new appointments are made. At the Division level, the director position is still rotating amongst the three branch chiefs. At this time, I am acting through December. The furloughs are still on with either three days or one day a month depending on the bargaining unit. The fertilizer scientists and special investigators are still on three furlough days a month. Offices are now open five days a week. Supervisors and support staff are under a one-day per month floating furlough. Because of these furloughs, work will be impacted. That would contribute to label

registration backlog. There is a mandatory hiring freeze in place, but there are exception opportunities for mission critical positions that require administrative approval. There are three vacant positions in the Organic Input Materials (OIM) Program; an exception request has been resubmitted for approval. Currently, there is no branch chief for the Feed Inspection Program because of the hiring freeze. The branch chief exams have been completed and an eligibility list has been established, but the exception from the hiring freeze has not yet been approved. Dr. Maan introduced Mr. Edward Hard, Fertilizer Research and Education Program, (FREP) Program Specialist II, Mr. Kevin Richardson, Agricultural Technician III, FREP, and Ms. Erica Jue, Environmental Scientist for the Fertilizer Program.

PROGRAM UPDATE

Dr. Amadou Ba provided the group with program updates. This year is a fertilizer product label renewal year. At the beginning of the year, there were approximately 5,500 labels that needed to be renewed. Approximately 4,869 needed to be renewed after discontinued labels were accounted for. Of these, 3,741 were reviewed and approved, and there are approximately 1,398 labels with issues that are in the process of being reviewed with a range of issues including: pending payments, required data revisions, renewals pending review and registration, and renewals expired with no firm effort to renew their label(s). Discussion ensued about the percentage of labels that have not been renewed. Mr. Yost asked if there are any serious issues regarding the database. Dr. Ba replied that there is still some training required on the industry end but those that renewed their labels have completed them online successfully.

Dr. Ba noted that in August 2010, there were a total of 1,050 labels in the backlog, of which 105 were greater than 90 days. Currently, there are 963 labels in the backlog, of which 201 are greater than 90 days. The backlog for over 90 days is increasing because of the furloughs. Overtime has been requested for scientific staff until the end of June to reduce backlog.

FUND CONDITION

Dr. Ba presented the fund condition and noted that the Fertilizing Materials Inspection Program's beginning balance as of July 1, 2010 was \$801,734, with a total reserve of \$5,920,895 as of September 30, 2010, including funds in certificate of deposit (CD) accounts. The program cashed out \$1.5 million in CD's per the Board's recommendation.

Dr. Ba presented the fund condition for FREP and noted a beginning balance as of July 1, 2010 of \$2,973,939 and an ending balance as of September 30, 2010 of \$1,671,289, excluding encumbrances.

According to historical trends, the overall revenue is decreasing since the mill fee was reduced to 1.5 mills in Fiscal Year (FY) 2008/09.

PROPOSED 2011/2012 BUDGETS

Dr. Ba proposed a combined commercial fertilizer and OIM budget of \$3,926,700 for FY 2011/12. Discussion ensued about the past approved budget amounts and the proposed budget. It was noted that the program will be using current staff for OIM inspections and investigations. Discussion ensued about the OIM proposed budget; Mr. Peterson questioned why miscellaneous expenses are \$200,000. Dr. Maan stated that this is the cost of staff time from the commercial fertilizers for OIM inspections. Mr. Dale Rice noted that the program was advised to include this cost in the budget by the department budget staff.

MOTION: A motion was made by Mr. John Salmonson to approve the combined commercial fertilizer and OIM budget for FY 2011/12 of \$3,926,700. This includes an OIM budget of \$616,617 and a Fertilizer budget of \$3,310,083. Mr. John Peterson seconded the motion. The motion passed unanimously.

Dr. Ba proposed a FREP budget of \$1,396,774 for FY 2011/12. Discussion ensued about the proposed budget. Mr. Salmonson suggested that the Board check the budgets in June because fertilizer prices are on the rise and the program may receive more revenue. Mr. Steve Spangler suggested considering more nitrate research proposals. Mr. Yost asked if the staff can handle any additional proposals. Dr. Maan recommended that in June, the Board review the revenue and program needs for FREP. Mr. Salmonson noted that in the past, there has been a spreadsheet reflecting annual costs by project that has been helpful. Discussion ensued about project funding and proposals.

MOTION: A motion was made by Mr. John Peterson to approve the FREP FY 2011/12 budget of \$1,396,774. Mr. Brad Baltzer seconded the motion. The motion passed unanimously.

Mr. Yost requested a more detailed spreadsheet for the projects and funding. Program staff will send out this information; it was not presented at this meeting because there have not been any changes since the previous meeting. The spreadsheet will be emailed to the board members.

LABORATORY UPDATE

Ms. Elaine Wong noted that the lab is running fewer samples this year than in past years with 938 at the end of October. Most were routine samples and a majority of these were turned around between eight and 21 calendar days. There has been an increase in the number of humic acid tests. Mr. Nick Young noted that he will provide more statistics about the humic acid tests in the end of the year sampling summary. He also reported there has been a drastic decrease in the number of humic acid violations. Mr. Peterson noted that there is little oversight on humic acid, except for in California.

AB 856 SUBCOMMITTEE UPDATE & RECOMMENDATIONS

Mr. Yost commended Mr. Salmonson on his work with the AB 856 Subcommittee. Dr. Maan noted that Mr. Salmonson has been very helpful in steering the subcommittee and maintaining a fast turnaround for progress.

Dr. Maan presented the AB 856 Subcommittee recommendations and the next steps. He noted that the Department is required to publish a report to the website by January 1, 2012 regarding the review of the OIM definitions and issues related to the implementation of AB 856. Dr. Maan reviewed the individuals on the subcommittee and what part of the industry they represent. The subcommittee identified seven potential implementation issues: compost labeling and nutrient guarantees; OIM label review and registration; site/facility/ingredient inspections; out of state inspections; clarify scope of OIM with no claims; civil penalty matrix; and review label registration fee. Dr. Maan noted there were six subcommittee meetings and six working group meetings since June 2010.

Dr. Maan presented the recommendations for each of the issues as follows:

Compost Labeling and Nutrient Guarantees:

- Compost for organic production to be licensed and label registered
- Label minimum guarantees have to be met for nutrients
- Registered label may be published on composters' website
- Composters provide registered label to the customers instead of lab analysis
- CDFA to adopt American Association of Plant Food Control Officials (AAPFCO) investigational allowances for compost nutrient guarantee compliance
- CDFA to develop process for complaints/violations: including AAPFCO investigational allowances
- CDFA outreach to compost industry and the farming community

OIM Custom Blend Label Review:

- Register fertilizing materials instead of ingredients used in blends
- Register ingredients that can be directly applied without any further processing
- CDFA develops forms for processing blend labels
- Notification of blend labels to CDFA showing derivation information with guarantees (if claimed) for fast track processing and NOP list by reference
- Custom blend label process fee will be set by the FIAB
- CDFA to conduct outreach and training workshops for custom blenders

The Board has already reviewed and approved the Compost and Custom Blend recommendations as listed above, but the following changes were made to the Custom Blend Label Review:

Custom Blend Label Review amendments to recommendations:

- Starting January 1, 2011 CDFA collects data on custom blends for a period of twelve months
- Manufacturers/blenders are to submit quarterly custom blends information to CDFA on a form provided by CDFA
- Data will be analyzed to understand the scope and frequency of custom blends and determine a course of action for processing custom blend labels

Dr. Maan presented the OIM custom blend data collection form.

MOTION: A motion was made by Mr. Steve Spangler to approve the Custom Blend Recommendations with the amendments. Mr. John Salmonson seconded the motion. The motion passed unanimously.

OIM Site/Facility Inspection Procedures Recommendations:

- Site inspection procedures and protocol
- Audit checklist

Mr. Nick Young presented on-site inspection procedures and protocol and the audit checklist. There were a few changes that were requested at the last Subcommittee meeting, but they are not reflected in the packet. On page seven, it was clarified that investigators will have the authority to take samples at various steps of the manufacturing process. There were a few changes on page four, subsection B to keep the language consistent with the National Organic Program (NOP). On page five, there was a second mass balance analysis if the first does have a variance over five percent. There was also an inspector's note to sample any product with greater than 3% of nitrogen. Mr. Young noted that this is a living document that will incur some changes once it has been used next year, and it is not a pass or fail document. An amended version of this will be sent out to the board and to the subcommittee. Mr. Ray Green noted that there are some grammatical issues that should be addressed to align the optional and mandatory verbiage.

MOTION: A motion was made by Mr. Sandy Simon to approve the OIM site inspection procedures and protocol as amended. Mr. John Peterson seconded the motion. The motion passed unanimously.

Out-of-State OIM Site Inspections Recommendations:

- Inspections will be performed by NOP recognized third party/ies
 - o Using CDFA on-site inspection procedures and checklist
 - o Notify CDFA 72 hours prior to inspection
 - o Provide all inspection records to CDFA
 - o At least one inspection per year
 - o CDFA will work with the United States Department of Agriculture (USDA)-NOP to identify and designate third parties for out-of-state and out-of-country OIM manufacturing site inspections

It was noted that there are several NOP Accredited Certifying Agents (ACA) worldwide that could perform these inspections. The question arose as to who will decide who needs to be inspected and who can do the inspection, then the company or manufacturer can select which entity they prefer.

MOTION: A motion was made by Mr. John Salmonson to approve the out-of-state and out-of-country recommendations as approved. Mr. Brad Baltzer seconded the motion. The motion passed unanimously.

Scope of OIM Recommendations:

- The following measurements would be cause for required registration and inspection as an OIM under AB 856:
 - o Making claims compliance to NOP, claims for use in organic production including submission by the supplier for listing by other third party reviewers recognized by NOP
 - o Claims on labels, literature, or extension or labels, website, etc. that the products are suitable for use by organic producers

Mr. Peterson noted that the use of the term “organic” is allowed on products that are not OIM. There are products that are organic in nature, but are not approved for organic production.

MOTION: A motion was made by Mr. Sandy Simon to approve the Scope of OIM recommendations. Mr. Steve Spangler seconded the motion. The motion passed unanimously.

Dr. Ba presented the civil penalty matrix and draft regulations, including the changes made at the last subcommittee meeting. Mr. Yost questioned if changes can be made to the regulations if deemed necessary. Dr. Maan noted that it would require going through the regulatory process, but it is possible. Mr. Green suggested amending section 2320.2 (a) “OIM products submitted for registration” to read “OIM product labels submitted for registration.” Discussion ensued; the group determined that the verbiage should read “OIM products submitted for registration shall comply since the NOP regulates products, not labels”

MOTION: A motion was made by Mr. John Peterson to approve the civil penalty matrix and regulations with the change in wording as noted. Mr. John Salmonson seconded the motion. The motion passed unanimously.

Review OIM Label Registration Fee:

- \$500 for each differing product label
- Label registration is good for two years
- Label renewal is due on January 1 of each even year

Dr. Maan noted that the Board approved the OIM label registration fee at \$500 for each product label at their previous meeting.

Dr. Maan then reviewed the AB 856 implementation timeline.

Next steps:

- CDFA to present AB 856 subcommittee recommendations to FIAB
- CDFA to submit regulation package to Office of Administrative Law (OAL)
- Conduct AB 856 focused workshop/s
- Present OIM program to USDA-NOP
- Start drafting AB 856 review report
- Establish working relationship with Organic Materials Review Institute (OMRI) and Washington State Department of Agriculture (WSDA)
- Hire and train staff

FREP UPDATE

Mr. Hard acknowledged the leadership and initiative of the Western Plant and Health Association to assist with the program for their 18th annual conference. He also acknowledged Mr. Richardson and Ms. Jue for taking charge on a project and for completing the proceeding booklet. Of the eight projects that were approved, two have experienced some difficulties and both projects are not University associated. The reports will be delayed as they are going out for bid. Mr. Hard then provided the group with Conference Proceedings booklets. He noted that the conference program starts tomorrow morning at 9:00 a.m.

CLOSED SESSION

A closed session was called to consider board vacancies and appointments at 3:04 p.m.

OPEN SESSION

The closed session ended at 3:15 p.m. and an open session was called.

FERTILIZER INSPECTION ADVISORY BOARD MEMBER RECOMMENDATIONS

Mr. Yost reported that the FIAB recommended to the Secretary the appointment of Mr. Doug Graham to the Board.

ADDITIONAL ITEMS / NEXT MEETING

Mr. Green informed the Board that he attended the Fertilizer Workshop in Sacramento and was very impressed with the program staff's knowledge about the OIM issues. He commended the FIAB, AB 856 Subcommittee and the Department for their efforts to get the OIM program up and running in record breaking time with as much cohesiveness as

possible. He has received several emails from industry members that really appreciated the workshop.

Mr. Yost requested that the program stagger board appointments in the upcoming renewal year by staggering the length of the term for the six members that are up for reappointment.

MOTION: A motion was made by Mr. Steve Spangler to research and propose staggering six 2011 vacancies over the next three years. Mr. Brad Baltzer seconded the motion. The motion passed unanimously.

The next board meeting will be held on March 16, 2011 in Sacramento.

MOTION: A motion was made by Mr. John Peterson to adjourn the meeting. Mr. Sandy Simon seconded the motion. The motion passed unanimously. The meeting was adjourned at 3:22 p.m.

Respectfully submitted by:



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

11/17/10
Date