

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD MEETING (FIAB)
Sacramento, California
October 29, 2009
MINUTES**

MEMBERS

Brad Baltzer
Tom Beardsley
Tim McGahey
John Peterson
John Salmonson
Sandy Simon
Steve Spangler
Jay Yost

CDFA

Asif Maan
Nirmal Saini
Dale Rice
Amadou Ba
Elaine Wong
Amrith Gunasekara
Suzanne Turcotte
Avnee Jivabhai
Danielle House
Stan Kobata
Rolf Frankenbach

INTERESTED PARTIES

Renee Pinel – Western
Plant Health Association
Doug Graham – New Era
Farm Service
Steve Beckley – Organic
Fertilizer Association of
California
Paula Bodey – The Scotts
Company
Patrick Leater – The Gualco
Group, Inc.

CALL TO ORDER

Chairman Jay Yost called the meeting to order at 9:03 a.m. A quorum was established. Mr. David McCuen was not present at the meeting.

INTRODUCTION AND ANNOUNCEMENTS

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

MINUTES OF THE LAST BOARD MEETING

Chairman Yost asked the Fertilizer Inspection Advisory Board members to review the minutes of the July 16, 2009 meeting.

MOTION: A motion was made by Mr. Tom Beardsley to accept the minutes as presented. Mr. John Salmonson seconded the motion. The motion passed unanimously.

DEPARTMENT / DIVISION / BRANCH UPDATE

Dr. Asif Maan informed the board that at the department level, George Deese, Deputy Secretary, and John Connell, Director of the Division of Plant Health and Pest Prevention Services are retiring. Mandatory furloughs are still in effect and have impacted the progress of the label registration process. At the division level, Mr. Nate Dechoretz is spending more time in the Executive Office assisting with the budget. At the branch level, two vacancies were lost due to the department's personnel cutbacks. Mr. Rolf Frankenbach, Staff Environmental Scientist, is a new addition to the Fertilizer Inspection

Program (FREP), and Carolee Riley left the state service to focus on her studies at UC Davis.

Dr. Maan noted the development of the database is on track and is currently in the testing phase. It is scheduled to be launched in January 2010. Four regional orientation-training sessions were held to educate the industry about the database system and processes. Our efforts for training will continue with a tutorial video on our website as well as web-seminars, both of which will be advertised to the industry.

ORGANIC INPUT MATERIAL BILL (AB 856) IMPLEMENTATION

Dr. Maan reported that on October 11, 2009, the governor signed AB 856, which goes into effect on January 1, 2010. The bill defines the term “Organic Input Material (OIM)” and amends various existing Food and Agriculture Code Sections. The bill requires label review and registration of bulk or packaged OIM with CDFA. It also authorizes the secretary to inspect OIM production facilities and take samples at various stages of manufacturing. Further, it requires facility inspections be conducted at least once a year; it sets caps on label registration fees and creates an OIM fund in the department to separately track OIM label registration fees. Dr. Maan further elaborated on penalty definitions and fees as set by the bill. The bill requires the secretary, by January 1, 2012, in consultation with the Fertilizer Inspection Board, to review the implementation of AB856 and to publish a report on the department’s website. The implementation of this bill is in process. A Budget Change Proposal was submitted for an additional three positions and appropriation of funds. Regulations for the program will need to be developed, which could take up to nine months. In addition, Standard Operating Procedures for OIM label review, registration, and facility inspections need to be developed. New staff will have to be hired, which includes conducting examinations, job interviews, and training. We may have to develop a Memorandum of Understanding with USDA-NOP. Dr. Maan noted that concerted efforts will be undertaken to educate the industry on the new regulations. Full OIM implementations of AB 856 could take a year; meanwhile the department will continue accepting third party approval of OIMs. Discussion ensued about OIM label registration. It was determined that no changes will be implemented in 2010 for OIM materials.

LABEL REGISTRATION / PROGRAM UPDATE

Dr. Amadou Ba presented the fertilizer backlog status report. He noted that because of furloughs and the time used in the development of the database, the backlog is now 400 labels over 90 days. It has increased by 31%. Dr. Ba informed the board that the program has requested an exemption from furloughs and use of overtime for registration staff to work on the label registration backlog. Furthermore, commercial fertilizer labels, which do not require label registration by law, will no longer be a priority for the program, and a notice will be sent to industry requesting them to not send commercial fertilizer labels for review. However, inspection staff will continue reviewing commercial labels to ensure compliance with the label regulations. The new database will help reduce incomplete applications, which will further help streamline and decrease the backlog.

Dr. Ba reviewed program goals that were set for 2009. These included reducing the greater than 90 day backlog by 50%, holding one workshop, changing laws for organic input materials, developing a new database, and promulgation of disclosure of ingredients and protection of trade secret regulations. All of these goals have been accomplished. Mr. Sandy Simon expressed concern about the past 90 day labels because of its impact on industry, whereas, a company's ability to market products is significantly debilitated by delayed label registration. Dr. Maan stated that the program recognizes this fact and is dedicated to finding ways to help facilitate the process of registrations. Mr. John Peterson questioned how the disclosure of ingredients would impact the registration processes. Dr. Amrith Gunasekara noted that the disclosure of ingredients will be on a case-by-case basis and will be used in instances when deemed necessary to ensure the safety of a product. The program will send out a notice to licensees regarding this.

Dr. Ba informed the group that field staff is working to achieve their target goal of collecting 1,500 samples for 2010, to complete a fertilizer inspector manual, and to obtain official methods and equipment for inspections from other states and subject matter experts. Ms. Renee Pinel questioned if the inspector manual is something the branch would be willing to share, to which Dr. Gunasekara replied that once the manual is completed it will be available for reference and use by the public.

Dr. Ba noted that of the total 1,086 lab samples collected, 80% were processed within 28 days. He then presented an updated map depicting the current assigned areas for field staff.

FUND CONDITION

Dr. Ba noted a Fertilizing Materials Inspection Program beginning balance of \$4,081,060 as of July 1, 2008. After expenses and revenue, there was an ending balance of \$5,833,961 as of June 30, 2009. This balance includes the \$4.5 million in Bank of America CD funds as approved by the Board. For the Fertilizer Research and Education Program (FREP), there was a beginning balance of \$3,036,685 as of July 1, 2008. After expenses, incumbrances and revenue, there was an ending balance of \$1,575,377 as of June 30, 2009.

He then presented a chart showing the impact of the mill fee reduction to the overall mill assessment revenue. He noted a decrease but not significant enough to cause concern. Ms. Paula Bodey suggested that the program outsource some work to further the progress of the backlog. She noted that it is unfair for companies to contribute to this healthy fund and still be required to wait several months for products to be registered. Dr. Maan noted that the program already has a contract with UC Davis to assist with the data review, and ultimately help reduce the backlog. Mr. Yost noted that it is unfair to impose furloughs on a program that is industry-funded, but the situation is out of the program's control. Dr. Gunasekara presented statistics displaying the progress of the backlog with the impact of the furloughs. He noted that there is a five label review per day goal for each research analyst, in addition to database duties and paperwork. Further, twenty percent of each

research analysts' duties were to review commercial labels, so with the changes the program is implementing now, the backlog should decrease. Mr. Peterson suggested separating the labels into categories and then processing each category separately. Dr. Maan noted that the program will look into that option. Discussion ensued about the backlog and its effects on industry.

HUMIC ACID ENFORCEMENT UPDATE

Dr. Gunasekara presented the status of the program's efforts to regulate humic acid. In 2007, 39 humic acid assays were run with a violation rate of 46%, which was the highest of all assays. In 2008, 114 assays were run with a 44% violation rate confirming an industry wide issue. It was identified that two methods were being used to test by industry. The CDFA method by recovery was verified for accuracy and a letter was sent to industry on March 15, 2009, which stated compliance was mandatory by September 1, 2009. In 2009, 120 assays have been collected but the violation rate is to be determined. The letter requested that companies share the CDFA method and protocol with whomever is conducting the humic acid testing for their products.

RESEARCH PROJECTS APPROVAL

Mr. Rolf Frankenbach informed the board that the FIAB Technical Advisory Subcommittee met in September to determine which of the full project proposals received by FREP should be selected for funding. Of the ten proposals invited, seven full proposals were submitted to FREP, all of which were recommended for funding by the Technical Advisory Sub-Committee. Mr. Frankenbach outlined the status of the seven proposals along with specific details regarding each proposal.

Discussion ensued about the involvement of the Packard Foundation in providing co-funding for the proposal submitted by Dr. Thomas Harter. It was requested that more time be allowed to assess the Harter proposal before a recommendation regarding funding is made.

MOTION: A motion was made by Mr. John Salmonson to approve all proposals except 09-05 (Harter's proposal) as presented. Mr. John Peterson seconded the motion. The motion passed unanimously.

It was determined that the board will address the Harter proposal at a later date.

LABORATORY UPDATE

Ms. Elaine Wong, presented lab sample analysis figures to the board. She noted that from January to September 2009 a total of 1,086 samples were received by the lab, of which 1,082 have been completed. Of the samples received, a total of 6,905 assays were completed.

UPCOMING BOARD VACANCY

Mr. Yost noted that a vacancy is coming up on March 14, 2010. Dr. Maan noted that a press release announcing the vacancy will be going out in the next week or two. Mr. Salmonson questioned if we are still rotating or staggering the board appointments to prevent six from leaving at the same time. Discussion ensued about how to stagger the dates. Dr. Maan will develop a proposal for the board that he will present at the next meeting.

ADDITIONAL ITEMS / NEXT MEETING

Mr. Yost informed the board that the program is requesting the board approve a list stating the minimum requirements for micronutrients. He noted that the program will provide specific amounts and will send out the information to the Board to be discussed at the next meeting.

Dr. Maan noted that the FREP conference will be held on November 17 and 18 in Visalia and he encouraged the board members to attend.

Mr. Yost presented the idea of decreasing the number of board meetings to two times a year.

Mr. Salmonson asked if a subcommittee is needed to advise the program for the OIM changes. Dr. Maan noted that a subcommittee already exists and they could just continue.

The next board meeting will be held February 18, 2010 at 9:00 a.m. at the Farm Bureau in Sacramento, CA.

MOTION: A motion was made by Mr. John Salmonson to adjourn the meeting. Mr. Tim McGahey seconded the motion. The motion passed unanimously and the meeting was adjourned at 11:27 a.m.

Respectfully submitted by:



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

2/24/10

Date