CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD (FIAB)
Organic Input Material (OIM) Subcommittee

CDFA Inspection Services Division
2800 Gateway Oaks Drive, Room 101
Sacramento, CA 95833

September 15, 2011
MINUTES

MEMBERS	CDFA	INTERESTED PARTIES
Bill Wolf	Amadou Ba	Andrew Godfrey
Claudia Reid	Asif Maan	Bob Myers
Doug Graham	Charlie Nelson	Chris Totten
Jake Evans	Christina Elliott	Cindy Eagan
John Peterson	Evelyne Ndiaye	Deborah Stemwedel
John Salmonson, Chair	Greg Mukai	Glenn Bohling
Matthew Cotton	Lisa Gonzales	Ivonne Sanchez
Michael Brautovich	Luz Roa	Jose Castaneda
Neil Edgar	Maria Hicks	Kristena Kline
Rachel Oster	Marshall Stoddard	Lynn DeVaney
Robert Horowitz	Mike Gingles	Meghan Butler
	Natalie Krout-Greenberg	Nancy Tami
	Nick Young	Peggy Miars
	Param Singh	Ray Green
	Rick Jensen	Rebekah Menezes
	Wei Wu	Steve Beckley
		Tad Bell
		Tonya Gordon
		Zea Sonnabend

INTRODUCTIONS & ANNOUNCEMENTS

Chairperson, Mr. John Salmonson called the subcommittee to order at 1:06 p.m. Self-introductions were made and a quorum was established. Ms. Katherine Borchard and Mr. Sanford Simon were unable to attend the meeting.

MINUTES OF THE LAST BOARD MEETING

The Chairperson requested that the board review the meeting minutes from the June 30, 2011 subcommittee meeting. Mr. Bill Wolf requested that on page two, his statement be clarified to read, “Mr. Wolf stated there were concerns in the organic industry due to potential costs and the burden of the Organic Input Material (OIM) Program that may affect the farmers in the marketplace.”

MOTION: Ms. Claudia Reid moved to accept the June 30, 2011 meeting minutes as corrected. Ms. Rachel Oster seconded; the motion passed unanimously.

TECHNICAL WORKING GROUP REPORT ON THE SCOPE OF OIM

Dr. Amadou Ba stated the Technical Working Group met this morning to discuss the scope of OIM. The previous recommendations from the OIM Subcommittee meeting on October 21, 2010 are still valid; no additional recommendations were made. The previous recommendations are:

- Making claims of compliance to NOP, or claims for use in organic production including submission by the supplier for listing by other third party reviewers recognized by NOP.
- Claims on labels, literature or extensions of labels, websites, etc. that the products are suitable for use by organic producers.

Dr. Ba reported that the subcommittee requested that CDFA put FAQs on their website to explain the OIM registration process. Additionally, discussion ensued regarding possible language for an exemption of some categories of products; the goal was for the subcommittee to agree on the scope of the OIM definition.

Mr. Bill Wolf stated at today's Technical Working Group meeting, the possibility of including a variance for small sales if they are under a certain weight or dollar value was discussed. Additionally, the Technical Working Group discussed clarifying the term, "Is to be used for organic production," in the definition of OIM. Mr. Wolf stated that although discussion ensued, no changes were recommended. He requested this be included in the legislative report. Discussion ensued regarding possible repercussions of this law. It comes down to small farmer to farmer transactions; transactions where someone is buying a material that isn't designated as an OIM, but the farmer is choosing to select and use it as an OIM; and certified organic operations that sell materials to other certified organic operations. Mr. Wolf stated there are thousands of such transactions, and by making it a requirement that every one of them has to be registered and inspected by the Department, it is burdensome and unwieldy and does not focus on the high-risk materials. Mr. Wolf stated the problem is that people should not feel that they are technically illegal when that was not the intent of the law. Possibilities include making a recommendation that this be included in the category similar to what is being done with bulk custom blends, where it is something that should be observed and data be gathered before having a required registration or to include it in the legislative report as one of the issues that has come up that is an area that was not an intended outcome of the law.

Mr. Salmonson stated that a long discussion ensued at the Technical Working Group meeting and a couple of issues were settled after capitulating to a point of changing the rules or setting a minimum amount of fees for people who had lesser sales or lesser activities in the transactions of OIM. Some of the arguments were that a level playing field must be kept for the small scale and the large scale operations, otherwise it is not fair.

Mr. Matthew Cotton commented that at the Technical Working Group meeting, Mr. Jake Evans summarized the OIM quite well stating, “If you are in the game, you are in the game.” The rules should apply to everyone in the marketplace; the law is very clear in the transactions of OIM. This law is designed to protect organic farmers from people potentially defrauding them in the marketplace.

Ms. Oster stated she believes it would be beneficial if there were a clause in the inspection matrix allowing for an entity that is unknowingly operating against the law to revise their label to meet the standards before being fined or found in violation. This would warn them and inform them that they are not in compliance. Dr. Ba stated that is currently the process for minor violations; the entity receives a Notice of Warning before a Notice of Violation is issued.

Mr. Ray Green stated that the basic fact is there are several hundred uncertified, registered organic growers in the State of California. Of those several hundred growers, many times per year those individuals are purchasing manure, green waste, and whatever they can for their own compost pile for their farm preferably at the least cost and most available source. Every time there is a transaction like that, somebody is going to be in violation of the law.

Dr. Asif Maan asked if an uncertified organic producer, who does less than $5,000 worth of business and is required to register with CDFA, would be allowed to market their product as organic. Mr. Green stated they could market their product as organic, but not as certified organic. Mr. Green stated that most certification agents do not require raw manure, green waste, or mulch (single ingredient) that the person selling the product is listed with Organic Material Review Institute (OMRI) or Washington State Department of Agriculture (WSDA) or approved by another Accredited Certifying Agent (ACA) or a third party entity.

Mr. Wolf stated if an individual purchases a product that is labeled certified organic, and the consumer requests proof of certification, it must be provided. The recommendation of an exemption would assist CDFA.

Mr. Cotton asked if there is a way that relatively diminutive growers could be excluded from the registration requirement if they met certain criteria.

Ms. Claudia Reid suggested that the term “variance” be considered due to the unique set of circumstances. Ms. Reid stated the entities being affected are the small operators and certified operator to certified operator for a single ingredient transactions. Dr. Maan stated this law was meant to regulate manufacturers and distributors of OIM, not growers. The need for some type of regulatory relief for materials such as rice hulls, pumice, and manure being sold from neighbor to neighbor (organic farm to organic farm) is understood. Dr. Ba stated if rice hulls are used as feedstock for compost then it

is viewed as a base ingredient and would not require registration, but when it is directly applied to the field, it is viewed as a soil amendment.

Mr. Cotton asked what is the goal of this meeting since AB 856 has been law since January 1, 2010. Dr. Maan stated that the Department has recognized there is an issue with the definition and scope of OIM, and would like a recommendation from the subcommittee to include in the legislative report.

Mr. Salmonson stated that from a registration fee standpoint, there are no exceptions. He recommended at the end of the first operating year, the issues that have arisen be reviewed and discussed. Once the program is implemented, there will be clarity on where the issues are.

Ms. Reid stated she thought the subcommittee's purpose is to recommend changes to the legislature in the legislative report. Ms. Reid stated at least 800 people will be in violation of the law. Mr. Wolf stated this means there is a flaw in the law.

Discussion ensued regarding implementation of the OIM program and the legislative report.

A motion was made at the OIM Subcommittee meeting that the Department include, in the legislative report, the issues that have been identified by the OIM Subcommittee are examples of small transactions with relatively low dollar value increments and low volumes in which there is no secondary processing, quite often single ingredient that are agricultural by-products.

MOTION: Mr. Bill Wolf moved that the Department include in the legislative report the issues identified by the OIM subcommittee including small transactions with low dollar value and minimal risk and single ingredients that are agricultural by-products of single processing. Ms. Reid seconded the motion; the motion passed unanimously.

Ms. Peggy Miars, OMRI, stated that she appreciates the opportunity to participate in the OIM meetings. Ms. Miars stated that there have been rumors in the community that the State of California no longer recognizes OMRI. Ms. Miars clarified that there was never a way or a reason for the State of California to recognize OMRI; the NOP officially recognizes OMRI. Additionally, Ms. Miars alleged that a CDFA inspector told a listed supplier that they could not use the OMRI logo on their product until they have completed the CDFA registration. Another concern to be aware of is having to divulge confidential business information to CDFA; it is probably the biggest concern OMRI hears about from suppliers. Suppliers are hesitant to divulge that information to the government. I have told people it was addressed in the regulations, but people are still hesitant. Mr. Nick Young stated that the investigators and inspectors enforce and inform the entity of the law; CDFA will not ask a company to remove an OMRI logo from their label or inform anyone that they cannot use an OMRI logo. Ms. Miars stated that

the first incident has occurred of a product that CDFA told the supplier that it is in violation of NOP standards, and it is an OMRI listed product. Ms. Miars requested that the Department develop outreach in the communication plan to dispel rumors and get accurate information to the industry.

Mr. Jensen stated he believes there has been at least one additional case that was in violation that was not meeting the NOP standards. Ms. Miars clarified she meant the first case post AB 856.

Dr. Maan clarified that the CDFA logo is not mandatory. If there is any indication on a product that it is for organic production, it is required to be registered with CDFA. An OMRI logo on a label or labeling clearly indicates that.

IMPLEMENTATION UPDATES

- PROPOSED REGULATIONS

Dr. Ba reported the Final Statement of Reasons will be submitted to the Office of Administrative Law (OAL) soon; several comments were received on the proposed regulations. Many comments pertained to the law itself, not the proposed regulations. The Department has been very transparent and there is a sense of ownership from the OIM Subcommittee. The program has finished responding to the comments; the responses will go through a departmental review and OAL then has 30 working days to make a final determination on the proposed regulations.

- OIM LABELS SUBMISSION

Ms. Luz Roa provided the subcommittee with an overview of the OIM labels that have been received by the program. There are 429 existing products in the CDFA database that qualify as an OIM; they will transition to the OIM program at renewal time, beginning on January 1, 2012. Of the 429 product labels, 50 have already resubmitted OIM registration. There have been 314 new labels received from 112 firms. Of the 314, there were approximately 48 compost products. At this time, 116 labels have been reviewed. When an applicant's full application is reviewed, they will be sent a letter. Mr. Salmonson asked if anything would assist in expediting the label registration process. Dr. Ba stated any additional documentation the applicant feels will be beneficial to the Department would be helpful. Products registered with material review entities such as OMRI and WSDA will help speed up the process if a complete application packet is submitted to CDFA.

Mr. Horowitz stated that he has heard label applications have been rejected because of different types of nitrogen. Dr. Ba clarified that no label was rejected and applicants were asked to modify their labels in order to meet labeling guidelines.

Ms. Oster inquired if violations are assessed on different types of Nitrogen such as soluble and insoluble Nitrogen. Dr. Ba stated that violations for not meeting guarantees are on total Nitrogen guaranteed, not on Nitrogen species.

Mr. Cotton stated that he and Mr. Neil Edgar had a meeting with Dr. Maan and Dr. Ba to clarify and resolve compost labeling issues.

Dr. Maan thanked Mr. Edgar and Mr. Cotton for their assistance in drafting language for composters and for meeting with the Department.

ADDITIONAL ITEMS/NEXT MEETING

Dr. Maan acknowledged that CDFA received a letter from the NOP that included specific steps that would need to be taken by CDFA for the OIM Program to be approved by the NOP. The Department is working towards meeting their requests. Discussion ensued regarding the NOP's letter and the steps they are asking CDFA to take in order for them to recognize CDFA's review of OIM. Mr. Jensen stated that the NOP acknowledges CDFA as the State Organic Program; the Department now has a framework using the California Department of Public Health model.

Ms. Reid asked about including a provision regarding an area of concern; specifically, the issue of some labels being OMRI approved that will not be approved by CDFA. Dr. Maan stated that this issue is not in the scope of the OIM law.

Mr. John Peterson clarified for the interested parties that the law requires OIMs to be registered with CDFA, regardless of whether CDFA has received ISO 65 certification.

The next OIM subcommittee meeting was scheduled for December 15, but was changed to January 27, 2012 at 9:00 a.m. in Sacramento.

MOTION: Mr. John Peterson moved to adjourn the meeting at 3:31 p.m.; Mr. Doug Graham seconded. The motion passed unanimously.

Respectfully submitted by:

9/15/11

Asif Maan, Ph.D., Chief Date
Feed, Fertilizer and Livestock Drugs Regulatory Services