

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

**University Square Hotel  
4961 N Cedar Avenue  
Fresno, CA 93726**

**May 11, 2016  
9:00 a.m.**

**MINUTES**

**MEMBERS**

Andrew Godfrey  
Brad Baltzer, Chair  
David McEuen  
Doug Graham  
Gary Silveria  
Jake Evans  
Melissa McQueen  
Ron Naven

**MEMBERS ABSENT**

Steve Spangler

**CDFA**

Amadou Ba  
Barzin Moradi  
Brittnie Sabalbro  
Dale Woods  
Elaine Wong  
Greg Mukai  
Justin Petty  
Luz Roa  
Mark Cady  
Maria Tenorio  
Mike Gingles  
Nick Young  
Nirmal Saini  
Rick Jensen

**INTERESTED PARTIES**

Deborah Stemwedel  
John Salmonson  
Mark Brady  
Rebekah Menezes  
Renee Pinel  
Steve Beckley  
Thomas Quick  
Tim Stemwedel

**INTRODUCTIONS AND ANNOUNCEMENTS**

Mr. Brad Baltzer, Chair, called the FIAB meeting to order at 9:02 a.m. Self-introductions were made and a quorum was established. Mr. Andrew Godfrey arrived at 9:14 a.m.; Mr. Steve Spangler was absent.

**APPROVE JANUARY 14, 2016 MEETING MINUTES**

Chairman Baltzer requested the board review the minutes from the January 14, 2016 FIAB meeting. Additionally, Chairman Baltzer requested an amendment to the meeting minutes regarding general market conditions and short and long term effects of fertilizer pricing.

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

### **DEPARTMENT, DIVISION, AND BRANCH UPDATES**

Mr. Rick Jensen reported the Governor's Office issued an Executive Order regarding water and drought conditions. The order changes reporting requirements for water districts and requires them to conserve water at the consumer level of 25 percent. Water districts must also create a five year drought plan; the previous requirement only required a three year plan. The order will also incorporate additional water districts, increasing from 56 to 111.

Mr. Jensen stated Senate Bill (SB) 27 has been signed by the Governor; this bill impacts CDFA's Feed Inspection Program and the Division of Animal Health. It prohibits the prophylactic use of medically important antimicrobial drugs and requires a prescription or a Veterinary Feed Directive (VFD). It will also require outreach and education at the farm level.

Due to the Medical Marijuana Regulation and Safety Act (MMRSA), the Medical Cannabis Cultivation Program (MCCP) was created within the State of California. The MCCP is within CDFA's Division of Inspection Services, and is responsible for issuing licenses to cultivators, beginning January 2018. There will be at least nine licensing categories. There are approximately 54,000 cultivators statewide, and the Department expects to receive 10,000-15,000 applications. Since marijuana is now classified as an agricultural product, for this act, CDFA will issue cultivation licenses based on a regulatory framework that will be established. It is estimated California harvests 30 million pounds of marijuana annually, with approximately 10-15 percent being for medical use. Additionally, CDFA is mandated to develop a Track and Trace database to track the movement of medical marijuana from seed to sale. The database will be shared between multiple agencies, including law enforcement. The MCCP now has a staff of 3, which includes Ms. Amber Morris, Branch Chief for the MCCP. She was previously with the Division of Plant Health and Pest Prevention Services for approximately ten years.

Mr. Jensen stated a fee will be charged for each license and the program will limit the number of certain types of licenses to be issued through regulations. A Request for Proposal (RFP) was submitted for an economist to assist with developing major regulations which may have at least a \$50 million economic impact.

Mr. Jensen stated CDFA and/or the counties will inspect the licensees.

Discussion ensued regarding the M CCP and medical cannabis regulations.

Assembly Bill (AB) 1826 was introduced by Assembly Member Stone, and was sponsored by California Certified Organic Farmers. The bill, as introduced, would have essentially eliminated the State Organic Program within the Division of Inspection Services. This bill has been amended significantly, and will now enhance the program.

Dr. Amadou Ba introduced Ms. Brittnie Sabalbro as the Branch's new Associate Governmental Program Analyst and liaison to the board. Ms. Sabalbro came to CDFA from the Department of Managed Health Care and has a degree in Food and Nutrition.

Dr. Ba reported there are two bills currently impacting the Fertilizing Materials Inspection Program (FMIP): AB 1811 and AB 2511. AB 1811 was introduced by Assembly Member Dodd, and pertains to the frequency of organic input material (OIM) inspections. Current law requires CDFA to inspect every OIM manufacturer yearly. This bill would allow CDFA to determine which firms require frequent inspections, based on risk. The frequency of inspections will still be reasonable and the program will continue to ensure the integrity of OIMs, while ensuring adulteration does not occur. This bill was recently amended to add a provisional license. Dr. Ba stated a provisional registration would be beneficial to CDFA and the industry, as it would reduce label review turnaround time. However, a provisional license will not impact the fertilizer industry or the Department.

AB 2511 was introduced by Assembly Member Levine, and is specific to biochar. The Governor's Office of Planning and Research approached CDFA and requested that the Department find a regulatory mechanism for the use of biochar as a fertilizing material product. The Department addressed the concern by defining biochar as an "auxiliary soil and plant substance." The biochar product will be required to register with the program and pay registration and mill assessment fees. Dr. Ba stated if the bill is chaptered, it will become effective January 2017.

Dr. Ba informed the board the California Association of Professional Scientists (CAPS) now has a three year Memorandum of Understanding (MOU) in place for rank and file employees; it consists of a five percent salary increase yearly for three years.

### **PROGRAM UPDATES AND FUND CONDITIONS**

Dr. Dale Woods stated the program is financially stable, highlighting mill assessment revenue is higher than the program anticipated. This is partly due to an increase of OIM registrants; there are now approximately 1,800 OIM registrations. Dr. Woods reviewed the fund conditions from July 1, 2015 through March 31, 2016. The beginning balance

of the Fertilizer Program was \$5,314,402; revenue was \$5,370,955; expenditures were \$3,434,296; encumbrances were \$569,756; the adjusted ending balance was \$6,681,305.

The beginning balance of the OIM Program was -\$332,486; revenue was \$1,459,638; expenditures were \$517,864; encumbrances were \$30,652; the adjusted ending balance was \$578,636.

The beginning balance of the Fertilizer Research and Education Program's (FREP) was \$2,990,212; revenue was \$1,879,278; expenditures were \$1,903,548; encumbrances through fiscal year (FY) 15/16 were \$1,410,710; the adjusted ending balance was \$1,555,232.

Mr. Jake Evans asked what the fiscal impact would be if the program was not mandated to inspect every out-of-state OIM manufacturer. Dr. Woods stated the fund condition the board was provided with only shows the program's current financial revenue and expenditures. The legislation will decrease program expenditures related to inspections. Mr. Evans asked if the inspection fees are included in the budget. Dr. Woods stated out-of-state OIM inspection fees are included in the FMIP budget. Mr. Evans recommended the program hire additional staff to help decrease label review turnaround time. Dr. Woods stated he is confident the program has enough staff to process renewal applications; however, the logistical issue is the OIM registration cycle. The possible solutions are to have provisional registrations, or to amend the law to create a rolling registration cycle or a split registration cycle with half of the registrations due January 1 and the other half due July 1.

Discussion ensued regarding out-of-state OIM inspections, and registration renewal cycles.

### **MILL ASSESSMENT TRENDS**

Dr. Woods reviewed mill assessment trends. For FY 14/15, mill revenue was \$6,709,773. The rate increased from \$0.002 to \$0.003 in October 2014. For FY 15/16, through March 2016, mill revenue was \$7,135,350. Currently, the program has a sufficient revenue flow and will continue monitoring mill assessment trends.

### **INSPECTION AND COMPLIANCE UPDATES**

Mr. Nick Young provided inspection and compliance updates, stating the total fertilizer samples for 2015 was approximately 1,085; 629 conventional samples; 456 OIM samples; and 158 additional investigative samples.

Mr. Young stated for 2015, the violation rate for conventional was 18%, and OIM was 19%. He clarified these violations had assays outside of the analytical variance. The highest violation rates include: 12% for Total Nitrogen (N), 25% for Humic Acid, 24% for Gypsum Equivalent, and 20% for Calcium Carbonate. The program took samples at 520 firms; violations include: 192 registration, 73 unlicensed location, 141 label. Of approximately 1,100 samples, 340 heavy metals analyses were performed, resulting in 1 violation. Mr. Young stated from January to April 2016, 86 OIM inspections were completed by CDFA in California, Oregon, Nevada, and Arizona. An additional 283 inspections need to be completed; the program is on track to complete all required inspections.

Ecocert completed 81 OIM inspections in the U.S., and 10 inspections in Mexico and Canada. Mr. Young stated he has been continuing to provide Ecocert with additional training throughout the U.S.; he has also provided virtual training in China, India, and Europe. Two additional virtual trainings are scheduled in South America and South Africa, and the program will continue to audit Ecocert's inspections yearly to ensure compliance with CDFA's policies and procedures.

Mr. Young informed the board since the last FIAB meeting on January 14, 2016, \$75,840.67 in administrative penalties has been collected or payment plans have been developed. Approximately 60 percent of the penalties are for OIM and 40 percent are for conventional; there are more OIM penalties due to the higher OIM complaint rate. Additionally, two new administrative penalties totaling \$20,273.72 have been initiated for misbranding and registration.

Mr. Young stated since implementing a new complaint database in 2015, 60 formal complaints were investigated; 49 complaints were organic related. Complaints can be submitted anonymously or with contact information on the FMIP page of the CDFA website.

Mr. Young informed the board CDFA filed the initial regulation paperwork regarding fertilizer standards and labeling with the Office of Administrative Law; the proposed regulations will be published on May 13, 2016. The 45-day public comment period ends on June 27, 2016 at 5:00 p.m. Dr. Ba added that the proposed regulations will align CDFA's requirements for inspections for liquid products with greater than three percent nitrogen with the United States Department of Agriculture – National Organic Program (USDA-NOP).

## **REGISTRATION UPDATES**

Ms. Luz Roa stated Organic Certifiers are referencing CDFA's approved product list and public database. An outreach meeting will be held this summer to clarify industry questions regarding how OIM products are listed. From January to April 2016, 6,138 conventional registrations were received; 5,348 have been approved. For OIM, 1,278 registrations were received; 790 have been approved. Approximately half of the renewals had label changes.

During the January 2016 registration cycle, the program allowed industry to submit documentation early to assist in expediting the approval process. Approximately 76 percent of OIM early submissions were approved by April 2016. The remaining labels required further evaluation or had pending issues such as no payment, missing invoices/lab results, or new ingredients. Dr. Woods iterated the program promotes early submission of applications from industry to decrease the impacts of delayed approvals. Material Review Organizations have rolling registration cycles; if the program is able to issue provisional registrations, it will be very helpful to industry.

Discussion ensued regarding the application review process, turnaround time, and the provisional registration process. Chairman Baltzer recommended a working group be formed to vet out this issue. He appointed Mr. Godfrey as Chair, and Mr. Evans, Mr. Doug Graham, and Mr. Spangler as members. Additionally, two CDFA staff will be members of the working group.

Ms. Roa stated on August 21, 1995, a notice was sent to industry requiring N guarantees on fertilizing material labels with Chelates. This issue was discussed at the April 21, 1994 and October 14, 2014 FIAB meetings. The program obtained feedback from firms, and other states, who do not want to guarantee N on labels with Chelates because it could be misleading. The program is exploring alternative labeling requirements for this issue.

- A ten minute break was taken at 10:35 a.m.

## **FREP UPDATES**

Dr. Barzin Moradi updated the board on the 28 ongoing FREP projects, highlighting approximately 9 projects from 2011-2012 requested a no cost time extension. These projects should be completed by the end of the 2016 calendar year.

FREP's regular RFP priority areas includes: improving input management, understanding soil-plant processes, and minimizing loss pathways. FREP received 44

concept proposals; the Technical Advisory Sub-Committee (TASC) recommended 13 of them advance to the full proposal stage. The majority of the concept proposals address input management and knowledge gaps.

Dr. Moradi provided an update on the FREP funded Nitrogen Management Training for Central Valley growers (grower self-certification program). There have been over 30 grower trainings held to-date. The total pass rate is 82 percent; once passed, growers can sign their own Nitrogen Management Plan (NMP). This program is an alternative to Certified Crop Advisors (CCAs) signing growers' NMP in order to comply with the requirements of the Irrigated Land Regulatory Program (ILRP) of the Central Valley Regional Water Quality Control Board (CVRWQCB). FREP has funded both grower self-certification and CCA nitrogen management training programs.

Mr. Mark Cady updated on ILRPs of the regional water boards. FREP has been tracking the regulatory framework for the ILRP in the Central Coast; N usage is in the forefront of the regulations. The Central Coast Regional Water Quality Control Board (CCRWQCB) requires growers in high risk areas to report total N usage. Two year worth of data has been collected so far. In year one, growers reportedly applied significantly more N than the recommended values by university researchers for multiple crops, including leafy greens and strawberries. The N application was reduced in the second year, but still above the recommended application. Additionally, the CCRWQCB received several Public Records Act requests, so the reported N data was released to the public.

Mr. Cady stated the East San Joaquin region is the first area regulated by the CVRWQCB, and is subject to petition to the State Water Board (SWB). The SWB is re-examining their regulations and recently released a proposed draft order, which would supersede the current regulations. Proposed changes to the order include:

- Submitting field level information to the Regional Water Board (RWB), in addition to the aggregated data by the grower coalitions
- Increased tracking and reporting of nitrogen and irrigation water
- Monitoring drinking water wells on regulated parcels be tested for nitrate levels
- Removal of the groundwater vulnerability designations all areas
- Changes are precedential for the entire state

Mr. Cady stated a workshop, held in Sacramento by the RWB, allowed panels of agricultural groups, environmental justice groups, and individuals to comment on the proposed changes. Another workshop will be held in Fresno later in May, where there will be another opportunity to comment on the proposed changes to the order; the deadline to submit written comments is June 1, 2016. Secretary Karen Ross attended the first workshop and provided comments to the board; CDFA staff will continue

communication with the SWB to satisfy regulatory needs in order to be approved by the State and Regional boards.

### **FOOD SAFETY MODERNIZATION ACT UPDATES**

Dr. Ba presented the board with updates regarding the Food Safety Modernization Act (FSMA) preventive controls. The Safe Animal Feed Education (SAFE) program hosted an outreach workshop in March 2016; 145 feed manufacturers attended. In June 2016, four staff will attend the Food and Drug Administration's (FDA) Train the Trainer training, who will then train industry members. Additionally, FDA will host an inspection training in August or September 2016.

The SAFE program will host Qualified Individual Training workshops quarterly, beginning September 2016. The workshops will be 2-2.5 days in length, and will certify Qualified Individuals for firms. As part of SAFE's outreach, staff will assist firms gain compliance with preventive control requirements, which require written food safety plans to be developed. Preventive controls requirements impact fertilizing material licensees in regards to hazard analyses, including biological hazards, chemical hazards, and physical hazards. Potential impacts to ingredient manufacturers include phosphate and urea. Phosphate has a risk of heavy metals. Urea must also be documented that it is not adulterated with nitrate nitrogen or any contaminants. Ingredients sold to commercial feed manufacturers are feed and must be labeled as feed grade, not industrial grade. Having a good working relationship with ingredient suppliers is key to ensure individual manufacturers are complying with procedures. Having a written food safety plan and proper documentation will minimize the impact to the fertilizer, feed, and produce industry. Public meetings on the implementation of FSMA prevention-oriented import safety programs are scheduled for various dates in June 2016. If the board would like additional information, CDFA's Feed program staff can provide a presentation at the next FIAB meeting regarding the Feed Rule and Produce Safety Rule.

Chairman Baltzer agreed a presentation would be very educational.

### **LABORATORY UPDATES**

Ms. Elaine Wong reported from January through December 2015, 1,246 samples were received. Of the 1,246 samples, 1,180 were routine; 10 were priority; 23 were partial rush; and 33 were rush. The average assays per sample was 4.85; total assays requested were 6,046. Of the 6,046, 5,857 were routine and 189 were rush. Ms. Wong stated the normal turnaround time is less than 21 days; however, the majority of the turn-around times were under 14 days. Ms. Wong stated the Center for Analytical



Chemistry lost an employee, which slowed sample processing significantly. A new employee is now in place and is currently being trained on processing samples.

**AGENDA ITEMS FOR FUTURE MEETINGS**

Chairman Baltzer asked the board for agenda items for the next meeting. Mr. Jake Evans requested an analysis of conventional and OIM registration turnaround time.

**NEXT MEETING**

The next FIAB meeting will be at 9:00 a.m., Thursday, September 8, 2016, in Sacramento, California.

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

Chairman Baltzer adjourned the meeting at 11:49 a.m.

Respectfully submitted by:



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

5/11/2016

Date