

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD MEETING (FIAB)
AB 856 Subcommittee
Modesto, California
June 9, 2010
MINUTES**

MEMBERS

John Salmonson
Katherine Borchard
Michael Brautovich
Matthew Cotton
Neil Edgar
Jake Evans
Doug Graham
Robert Horowitz
Rachel Oster
John Peterson
Claudia Reid
Sandy Simon
Bill Wolf

CDFA

Asif Maan
Dale Rice
Amadou Ba
Avnee Jivabhai
Nick Young
Pierre Labossiere
Kristopher Gulliver

INTERESTED PARTIES

Steve Beckley
Tad Bell
Andy Chang
Kim Dietz
Ray Green
Mike Gursky
Ralph Iliff
Nick Lapis
Laurence London
Dragan Macura
Bob Myers
Johnny Peck
Renee Pinel
Kris Rock
Christopher Totten
Jay Yost – FIAB

CALL TO ORDER

Fertilizer Inspection Advisory Board (FIAB) Chairman Jay Yost called the meeting to order at 9:02 a.m. A quorum was established.

INTRODUCTIONS AND ANNOUNCEMENTS

Mr. Yost introduced himself and welcomed members of the AB 856 Subcommittee. He expressed his appreciation to the members for volunteering to serve on this committee. He informed the group that FIAB is a statutory board and it falls under Section 14583.5 of the Food and Agriculture Code, and this subcommittee is created under the FIAB to identify issues related to AB 856 implementation and make recommendations to the Board. He requested the Committee members and other attendees introduce themselves and provide a little background of their work and affiliation. Mr. Yost then turned the meeting over to Subcommittee Chairman John Salmonson.

GROUND RULES AND EXPECTATIONS

Mr. Salmonson informed the group of the rules and etiquette for meetings. He requested that the group review the organic input materials definition in Section 14550.5 of the Food and Agriculture Code. He then reviewed the expectations of the subcommittee, which includes identifying oversight and implementation issues, recommending any necessary

statutory changes, submitting reports to FIAB, and completing a final report which will be submitted to CDFA.

FERTILIZER PROGRAM AND AB 856 OVERVIEW

Dr. Amadou Ba then provided the group with an overview of the program and AB 856. He noted that the authority of the program entails licensing and label registration, tonnage reports, field inspections, and the Fertilizer Research and Education Program (FREP). Dr. Ba then detailed the responsibilities of the program, including reviewing and registering product labels, ensuring fertilizing materials are safe and effective and meet the nutrients guaranteed by the manufacturer, and promoting agronomically sound and environmentally safe use of fertilizing materials through FREP. Dr. Ba then reviewed the licensing, registration, and inspection fees that are monitored and implemented by the program. He then presented the various categories of fertilizing materials as defined in the Food and Agriculture Code; agricultural minerals, auxiliary soil and plant substances, commercial fertilizers, soil amendments, specialty fertilizers and organic input materials. He noted that currently, specialty fertilizer, packaged agricultural minerals, auxiliary soil and plant substances, packaged soil amendments and, as of January 1, 2011, organic input materials require label registration.

Dr. Ba reminded the group that AB 856 defines "organic input material" (OIM) and requires OIM label registration with CDFA to ensure compliance with National Organic Program (NOP) guidelines, requires CDFA to perform inspections of OIM production sites at least once a year and authorizes CDFA to take samples at various points of OIM production. AB 856 also sets various fees and caps for OIM to be set by CDFA with FIAB recommendation and to be regulated by CDFA. Dr. Ba then reviewed the makeup of the FIAB and their authority to make recommendations.

Mr. Salmonson questioned how the program intends to complete the large number of audits that will be required with OIM regulations implementations. Dr. Ba informed the group that three staff members will be designated to the program and could include a senior special investigator and possibly a Memorandum of Understanding with the National Organic Program and/or other recognized entities to assist with out-of-state inspections. Dr. Maan noted that there are specific government codes that do not allow outside contracting for services that can be completed by state personnel but CDFA has an audit section that will provide needed services.

Dr. Ba noted that the program is in contact with Washington State Department of Agriculture and Organic Materials Review Institute to try to develop procedures that are similar throughout the groups. He also noted that the new staff cannot be hired until the budget is passed. Mr. Salmonson noted that there was no funding awarded to the program as part of the bill. Any funding will be collected through the associated program fees and assessments. Mr. Yost noted that the program does have seed money that can be used to start the program however, program staff is bound by state rules such as furloughs and there is no way to go around this. Mr. Bill Wolf showed concern that the program may not be phased in to regulate come 2011. Mr. Salmonson noted that the implementation of AB 856 will be phase in.

AB 856 IMPLEMENTATION

Dr. Maan presented the AB 856 Implementation Plan to the group. He updated the group about the status of the implementation and outlined future progress. Mr. Salmonson questioned what would happen if the budget passing is delayed. Dr. Maan noted that he is aware of the problem and he is researching alternate methods to implement AB 856 if budget passing is delayed. Discussion ensued about the various issues that may arise and possible ways to continue progress without the budget.

Discussion ensued about growers who use products not registered and whether or not that would be considered lawful. It was clarified that any product used in California that is not registered with California, will be illegal.

IDENTIFY AND PRIORITIZE ENFORCEMENT ISSUES

Dr. Maan noted the potential AB 856 implementation issues and challenges, which included: compost nutrient guarantees, OIM label review and registration, OIM production facility and ingredient inspection, out-of-state facility inspections, civil penalties. The group discussed these issues and added clarifying the scope of OIM when no claims are made by the supplier for organic production, and reviewing registration fees for single ingredient materials. The committee discussed merit of each issue and ranked them by priority. The following list of potential issues by priority was developed:

1. compost nutrient guarantees (lab reports and nutrient variability);
2. OIM label review and registration (including blends);
3. site/facility/ingredient inspection (procedures, requirements, uniformed protocol);
4. out-of-state inspections;
5. clarify the scope of OIM when no claims are made by the supplier for organic production; civil penalty (matrix-regulations); and
6. review label registration fee (single ingredient products).

COMPOST OVERVIEW

Mr. Doug Graham provided the group with a compost overview. He defined the process of creating compost and the specific nutrient and temperature levels that must be met in order for compost to be developed correctly and safely.

Mr. Matthew Cotton then provided the group with more details about the compost industry and products. He explained how facilities are inspected and how often product samples are collected. Discussion arose about the frequency of compost sampling and testing.

He provided a typical laboratory analysis report of the compost containing macro and micro nutrient values. The committee was of the opinion that this lab analysis report is a label and provides nutrient guarantees. Discussion ensued about the issue of guaranteeing nutrients in compost due to seasonal variability and variability in the feed stock of compost. Mr. Jake Evans noted a similar variation occurs in other OIM ingredients such as feather and fish meal, which he is able to guarantee nutrients for.

Dr. Maan informed the group that the law requires guaranteeing minimum levels of nutrients in fertilizing materials. He noted analytical/investigational allowance is used to determine compliance or violation of fertilizing materials. He presented the investigational allowances as permitted by the Association of American Plant Food Control Officials (AAPFCO). He then reviewed a flowchart mapping compost through the department's processing, and licensing and label registration requirements.

Ms. Rachel Oster reported that the composting industry wants to comply with the state laws and regulations, and does not see issues with registering labels. However, a lab analysis report is done on each 5,000 square yards lot, and the analysis report is provided to the buyer with each load. She questioned whether that would be considered a new label, and what would happen if that is in variance with the registered label. Discussion ensued. A suggestion was made, to possibly register two or three labels based on the historical laboratory analysis data.

Mr. Salmonson suggested forming a working group to address the compost and nutrient issue with the program. This group is to include Rachel Oster, Neil Edgar, Michael Brautovich, Jake Evans, Matthew Cotton and Doug Graham.

ADDITIONAL ITEMS / NEXT MEETING

Mr. Salmonson asked Mr. Nick Young to give a report on hydroponics. Mr. Young informed the group about the hydroponic industry. He noted that a number of companies have had issues meeting the guarantees listed on their labels. Their violation rates were extremely high. For some of the companies, they instituted a reformulation program in which they reformulated the product to meet United States requirements. Other companies worked with California to make their labels match the product. In those cases, Mr. Young noted, inspectors work with the companies to bring products into compliance. He noted that the inspectors do not try to govern products; they try to bring everything to a uniform state with accurate labeling and safe products.

Mr. Salmonson requested the compost working group meet in Sacramento in the next two weeks to discuss the compost issue and propose recommendations at the next subcommittee meeting.. The working group meeting will be on June 21, 2010 from 1:00 p.m. to 5:00 p.m. at the CDFA office.

The next AB 856 subcommittee meeting will be July 13, 2010 in Sacramento at the California Farm Bureau from 9:00 a.m. to 4:00 p.m. The meeting after that will be August 3, 2010 in Fresno from 9:00 a.m. to 4:00 p.m., exact location is to be determined.

Respectfully submitted by:



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

6/29/10

Date