

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
FERTILIZER INSPECTION ADVISORY BOARD MEETING (FIAB)
Sacramento, California
July 16, 2009
MINUTES**

MEMBERS

Brad Baltzer
Tom Beardsley
David McCuen
John Peterson
John Salmonson
Sandy Simon
Steve Spangler
Jay Yost

CDFA

Nate Dechoretz
Asif Maan
Nirmal Saini
Dale Rice
Amadou Ba
Elaine Wong
Kent Kitade
Amrith Gunasekara
Avnee Jivabhai
Nick Young
Marshall Stoddard

INTERESTED PARTIES

Renee Pinel – WPHA
Doug Graham – New Era
Farm Service
Paula Bodey – The Scotts
Company
Steve Beckley - OFAC

CALL TO ORDER

Chairman Jay Yost called the meeting to order at 8:32 a.m. A quorum was established.

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 May 14, 2009 meeting.

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

DEPARTMENT DIVISION BRANCH UPDATE

Mr. Nate Dechoretz informed the board that there are not many changes to report. Dr. Asif Maan announced Ms. Avnee Jivabhai's promotion to staff services analyst position. He pointed the board's attention to the branch organization chart and noted only one vacancy remains in the fertilizing materials inspection program.

LABEL REGISTRATION AND PROGRAM UPDATE

Dr. Amadou Ba presented a bar graph showing the status of the backlog from August 2008 to present and noted an overall 78% reduction in the fertilizing materials label

registration backlog. He pointed out that with the furlough days and other changes caused by the budget; the staff is working in an unpredictable environment. Dr. Maan informed the board that with an increase in the furloughs to three mandatory days, offices will be closed on first three Fridays of every month; therefore there will be an impact on the staff and progression of work. Discussion ensued about the impact of furlough days and whether or not they can be staggered to accommodate an open office five days a week. It was determined that the Governor's Executive Order does not allow flexibility with the selection of furlough days. Mr. Sandy Simon questioned why the number of labels within the 90-day limit has increased so much. Dr. Ba explained that it is due to the increase in replies, submissions and inspections that resulted in additional applications. Discussion ensued about the backlog numbers and statistics.

Dr. Ba presented the sample lab analysis turn around time data, and noted that currently a total of 854 samples were taken: of these 790 samples have been completed. Approximately 82% of samples were processed within 30 days.

FUND CONDITION

Dr. Ba informed the group that the program ended the last fiscal year with over 4 million dollars total in reserve. The ending balance as of May 31, 2009 is \$6,168,274 including the money in CD accounts. FREP has an adjusted balance of \$2,083,008 as of May 31, 2009 excluding encumbrances. Mr. Yost noted that mill assessment was decreased to offset the increase in revenue. The fees should balance over time resulting in a balanced cash flow and program expenditures.

BUDGET PROPOSAL

Dr. Ba presented a Fertilizing Materials Inspection Program proposed budget for FY 2010/11 to the board. He noted that expenses, merit salary adjustments, salary for full staff, and the anticipated new organic program are incorporated in the proposed budget. The total program budget, including the new organic program, is approximately \$3,349,635. Discussion ensued as to whether the organic program will be a separate and independent program. Dr. Maan informed the group that the current staff will be utilized, duties will be spread amongst current employees and three additional staff will be hired to handle the additional workload. An additional \$600,000 is projected to cover the cost for salary, benefits, overhead, travel and other operating expenses for the additional workload and new staff. Discussion ensued about the proposed budget details and figures.

MOTION: A motion was made by Mr. John Salmonson to approve the FY 2010/11 Commercial Fertilizing Materials budget as proposed. Mr. Thomas Beardsley seconded the motion. The motion passed unanimously.

Dr. Ba presented the Fertilizing Research and Education Program (FREP) budget for FY 2010/11. He noted the overall proposed budget is for \$1,466,969 based on a fully staffed program and an increase in research contracts by \$100,000.

MOTION: A motion was made by Mr. John Peterson to approve the FREP FY2010/11 budget as proposed. Mr. Thomas Beardsley seconded the motion. The motion passed unanimously.

FREP UPDATE

Dr. Ba informed the board that currently there are 17 ongoing projects. Of these, four are scheduled to end this year. Currently \$1,180,760 has been encumbered to fund ongoing research projects. He further reported FREP has received seven new proposals for the current fiscal year funding cycle. These proposals have been sent to scientists for peer-review, and the FREP Technical Advisory Committee is scheduled to review these proposals on September 15, 2009.

FREP has been working with the Western Plant and Health Association to plan this year's conference. The three main topic areas will be nitrogen management, water, and tools of the trade. The conference will be held on November 17 and 18 in Visalia.

The program is working to have an annual fertilizing materials licensing and label registration workshop. The workshop will be held on July 30, 2009 at the Holiday Inn in Downtown Fresno. Plans include breakout sessions with different stations for a more interactive approach for the attendees. Mr. Yost requested Ms. Renee Pinel produce a bulletin to advertise the workshop. Ms. Pinel replied that this has already been processed and is in the works. Discussion ensued as to what will be discussed at the workshop and who the best attendees would be.

Mr. Yost inquired why organics was not a topic of interest at the FREP conference. Ms. Pinel replied that organics were a topic last year and there are other topics of importance that need to be discussed. Dr. Amrith Gunasekara noted that there is one organic proposal that is very promising and is especially important because it discusses testing isotopes technique, which could determine if a fertilizer product is organic.

ORGANIC INPUT MATERIAL BILL (AB 856)

Dr. Maan presented the board with a copy of Assembly Bill 856. He reviewed the history of the bill. He directed the group's attention to page 6 and noted the italicized changes. These changes included the exclusion of compost and bulk soil amendment materials from the definition of organic input material. Mr. Simon noted that although bulk compost is not included in this program, it is still reviewed by the National Organic Program, which results in a gap in this organic product review program.

Dr. Maan noted that on page 7 there have been several amendments to the makeup of the advisory board. The existing law requires 9 members, 8 licensees and one public member. The proposed amendment would change the board to 7 licensees, one of which is an organic input materials producer. In addition to these 7 licensees, 1 member must be an organic grower and 1 public member. Discussion ensued to whether an organic input

materials producer entails a person who produces organic inputs or someone who only sells organics.

On page 9, funding is discussed and includes segregating organic input material fund from the conventional fertilizing materials funds. Dr. Maan clarified that expenditures and fees collected for organic input materials will be maintained separately from conventional fertilizers. The organic input material fund will be a "special fund" and not "continuously appropriated". Discussion ensued as to all the different funding aspects of the program and whether or not they can easily be separated for the organic fund. Mr. Steve Spangler questioned if commercial fertilizer funding is separated, will the organic funding cover expenditures for the organic input materials activities. Dr. Maan noted that fees and other revenue could be adjusted to accommodate for the cost to maintain sufficient funds for the program.

It was noted that the bill states that any person found in violation of this chapter, will not be able to obtain license for three years. In other words, if an organic product does not prove to be organic, he/she will be charged a penalty for removal and the manufacturer may not be licensed for three years.

Mr. Salmonson noted there is wording that requires manufacturers present proof for all claims. He believes that this is going to be a huge cost to the department and manufacturers that cannot be determined until established.

Dr. Maan noted that if the board feels that they want to take a position, it is the board's decision. Ms. Pinel advised that rather than take a public statement, draft a letter to the Secretary stating the opinions of the board. It was determined that the board will not take a formal stand on this bill at this time.

DISCLOSURE OF INGREDIENTS REGULATIONS UPDATE

Mr. Kent Kitade informed the group that the disclosure of ingredients and trade secrets regulations has been returned by Office of Administrative Law for its lack of clarity. The section has been rewritten and simplified to better describe the exceptions for disclosure of trade secrets. Because of these changes, it was required that the fifteen-day comment period be repeated. Three comments were received, reiterating prior concerns. The regulations packet is now in the legal office awaiting the deputy secretary's review and approval. If approved by the Office of Administrative Law, it would become affective January 1, 2010. Mr. Simon asked how the department will handle the influx of information. Dr. Maan stated that the existing staff would be able to handle the workload as long as there are no further changes in the work week.

LABORATORY UPDATE

Ms. Elaine Wong noted that 854 samples have been received by the lab, of which 4,900 assays have been performed. The lab currently has one and a half chemists so they are working to maintain the workload. Ms. Wong noted that they are attempting to batch

samples together to help process the tests faster and more efficiently. The furloughs have had a significant impact on the sample processing but the staff is working hard to maintain the low turn around time.

Mr. Nirmal Saini noted that the floor of the laboratory has been changed so some tests were slightly delayed but functioning should be fully restored by Monday July 20, 2009. He also noted that organic fertilizer testing is a grey area and additional instrumentation may be required at a later date.

CLOSED SESSION

A Closed session was called at 10:51 a.m. for the Board to discuss the Board vacancy.

OPEN SESSION

The closed session was called to an end at 11:10 a.m. at which time Mr. Yost invited all attendees back for the remainder of the open session meeting.

FEED INSPECTION ADVISORY BOARD MEMBER RECOMMENDATIONS

Mr. Yost informed the group that Mr. John Peterson has been reinstated to the board.

ADDITIONAL ITEMS / NEXT MEETING

The next Board meeting will be held on November 18, 2009 at 1:30 p.m. the location will be determined at a later date.

MOTION: A motion was made by Mr. Steve Spangler to adjourn the meeting. Mr. John Peterson seconded the motion. The motion passed unanimously. The meeting was adjourned at 11:17 p.m.

Respectfully submitted by:

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

Date