

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)
ANIMAL HEALTH AND FOOD SAFETY SERVICES (AHFSS)
MEAT, POULTRY AND EGG SAFETY BRANCH (MPES)
SHELL EGG ADVISORY COMMITTEE (SEAC)
PENALTY MATRIX SUBCOMMITTEE
MEETING MINUTES
SEPTEMBER 27, 2022**

California Department of Food and Agriculture
1220 N Street
Sacramento, CA 95814

Item
No.

CALL TO ORDER

Mr. Steve Mahrt, Chair, called the SEAC meeting to order at 9:03 a.m. and a quorum was established.

(1) ROLL CALL

Roll call was taken by Mr. Michael Abbott, Egg Quality Manager, Egg Safety and Quality Management (ESQM).

COMMITTEE MEMBERS PRESENT:

Steve Mahrt, Chair
Michael Gemperle, Gemperle Family Farms
Mike Sencer, Hidden Villa Ranch

CDFA:

Michael Abbott
Penny Arana
Logan Bartley

Paul Roos
Kim Ellis

INTERESTED PARTIES:

None

(2) PENALTY MATRIX SUBCOMMITTEE DISCUSSION

The Subcommittee opened the discussion with concern that the original purpose of the Penalty Matrix was to encourage education and compliance with the industry, not to require more funds to be expended out of pocket to the program. The subcommittee expressed concern how quickly CDFA will issue monetary fines to violators and that this could be construed as government abuse to fund the program. Further, the subcommittee stated that when CDFA issues notice of violations and monetary fines, they become public record and could ultimately damage their reputation as reputable companies.

One suggestion from the subcommittee, was to use red tags instead of violations and civil penalties.

Mr. Abbott responded that the main purpose of the ESQM Program was to provide a safe and wholesome eggs to consumers. The fees administered to the offending facilities are meant to encourage incentive to continue providing truthful and safe products for the California consumer. He recommended against pursuing a broad-brush recommendation such as a mass red tag solution. Also, red tags would still be accessible to the public via the public records just like the civil penalties and notice of violations are.

Mr. Abbott stated violations and penalties are a method of compliance, not a method of revenue generation in response to the concern of government abuse and funds for the program.

It was further expressed that while red tags were public record, they are more widely viewed as corrective actions as opposed to being viewed as guilty of an offense. Furthermore, violation notices, fines and penalties are viewed more harshly than red tags when lawsuits need to be filed against an egregious violator.

Mr. Abbott continued that he is open to looking at and discussing the number of warnings before fines are issued but changing something that is codified takes a significant amount of time to complete due to the public comment period and the severity of changes being requested.

The subcommittee additionally expressed concern with Title 3 of the California Code of Regulations, Section 1350(c)(2), regarding missed environmental samples and the severity of the violation and how this violation is classified. Mr. Abbott stated that he has the latitude to reduce the severity of a violation based on the situation. Further, he explained that first occurrence of a late/early sample(s) will be used as an educational opportunity and generally only be assessed a warning letter.

The subcommittee decided that they are satisfied with the steps that the ESQM is taking to keep the Penalty Matrix focused on compliance and food safety. Further, they will make a report accordingly at the next SEAC Board Meeting.

(3) **PUBLIC COMMENTS**

No public comments were made

(4) **ADJOURN**

Motion #1: Mr. Mike Sencer motioned for the meeting to be adjourned. Mr. Michael Gemperle seconded the motion. The motion passed unanimously without any abstentions.

The meeting was adjourned at 10:17 a.m.

Respectfully submitted:

Logan Bartley