

**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)
MEETING MINUTES
OCTOBER 2, 2018**

California Department of Food and Agriculture
2800 Gateway Oaks Drive, Room 173
Sacramento, CA 95833

Item
No.

(1) CALL TO ORDER

Mr. David Will, Chair, called the SEAC meeting to order at 1:02 p.m. and a quorum was established.

(2) INTRODUCTIONS

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

Committee Members Present:

David Will, Chair
Steve Mahrt, Petaluma Farms
Wayne Winslow, NuCal Foods
Kaliko Orian, Kaliko Farms
Andrew Demler, Demler Brothers
Glenn Hickman, Hickman Family Farms
Michael Sencer, Hidden Villa Ranch
Frank Hilliker, alternate
Simone Hardy, California Agricultural Commissioners and Sealers Association representative

Interested Parties:

Debbie Murdock	Mark Campbell
Lupe Gutierrez	Ruben Arroyo

CDFA:

Tony Herrera	Paula Batarseh
Paul Roos	Jenna Celigija
William Rohner	Laura Barlow
Michelle Dingley	Michael Abbott

Michele Dias

Kara Breevaart

With the absences of Mr. Gemperle and Dr. Breitmeyer, Mr. Hilliker was a voting member for this meeting.

(3) **APPROVAL OF MINUTES**

Chair Will asked the committee to review the SEAC meeting minutes from August 14, 2018.

Motion #1: Mr. Sencer made a motion to accept the minutes. Mr. Winslow seconded. Mr. Mahrt, Mr. Demler, Mr. Hickman, Ms. Orian, and Mr. Hilliker agreed with no abstentions. The motion passed unanimously.

(4) **CERTIFIED FARMERS' MARKETS ENFORCEMENT DISCUSSION**

Some members of SEAC attended the Certified Farmers' Market Advisory Committee meeting on October 2, 2018. During the public comment portion, they shared their concerns about egg regulation violations witnessed at certified farmers' markets.

Ms. Celigija shared an idea for a future role for the county agricultural commissioners. They could help ESQM with enforcement at certified farmers' markets. ESQM inspectors could accompany county inspectors to the farm sites, certifying the number of birds, using projection tools to determine the likely egg production, verifying enclosure sizes, and discussing biosecurity, labeling, and other egg compliance topics with the farmers.

Food and Agricultural Code section 47061 refers to egg compliance enforcement as part of Direct Marketing authorities. CDFA's Legal Department will follow up with both programs about enforcement authorities.

(5) **ADMINISTRATIVE PENALTIES INFORMAL HEARING MANUAL**

Mr. Abbott spoke on the administrative penalties process as it exists in the Food and Agricultural Code. When a violation is issued for noncompliance, a panel compares the violation to the penalty matrix and assesses any fines. A Notice of Proposed Action (NOPA) is sent, and the person charged with the violation has 30 days to either pay the fine or appeal. If someone appeals a NOPA, it will go to CDFA Legal's Hearing and Appeals Office. If the fine is upheld after appeal and the person does not pay, CDFA Legal will file a default judgment with the courts, which will impact the person's credit rating.

(6) **ESQM PROPOSED WORK CHART**

Ms. Batarseh presented two proposed work charts of employees within ESQM (handout for Item #6). One shows the possible short-term organization before Mr. Herrera's

retirement, in which a Senior Environmental Scientist would be added to supervise the Environmental Scientists and be groomed to take Mr. Herrera's role. The second chart shows the possible organization after Mr. Herrera's retirement, where the Senior Environmental Scientist replaces Mr. Herrera's position overseeing the ESQM program.

Several SEAC members shared concerns about a Senior Environmental Scientist possibly not having the right skills and knowledge to take over the program. Ms. Batarseh explained that a job opening within the State of California must identify a classification and provide a duty statement that fits the specifications of that classification. The duty statement will reflect the desired knowledge and precise job functions of the position. Additionally, union contracts will require certain classifications to be used for certain supervisory positions. For example, CDFR's Human Resources Branch (HRB) will require a Senior Environmental Scientist to supervise the Environmental Scientists. HRB could provide recommendations of classifications for certain job openings.

Motion #2: Mr. Mahrt made a motion to revise the work chart to show the current organization of ESQM, and present it to HRB to get their recommendation on possible classifications for the supervisory position soon to be vacated by Mr. Herrera. Mr. Hickman seconded.

Mr. Mahrt amended his motion to ask Ms. Batarseh to present the duty statement for the ESQM supervisory position to SEAC at their next meeting, and then present it to HRB. Mr. Hickman seconded. Mr. Demler, Mr. Winslow, Mr. Sencer, and Ms. Orian agreed with no abstentions. The motion passed unanimously.

(7) **IN-STATE AND OUT-OF-STATE FINANCIAL AUDITS**

In accordance with the Food and Agricultural Code (FAC), ESQM has been charging fees for financial audits (such as travel and lodging) to out-of-state companies, but not to in-state companies. An out-of-state company challenged this practice as unfair to one segment of the industry. At this time, ESQM has suspended the practice of charging anyone for financial audit costs. Mr. Herrera asked SEAC to decide if it is preferable to charge both in- and out-of-state companies for financial audits, or to charge neither. Either decision would require a statute change to adjust the wording in the FAC.

Motion #3: Mr. Sencer made a motion to pursue a statute change to charge both in-state and out-of-state companies for actual costs for financial audits. Mr. Demler seconded. Mr. Mahrt, Mr. Hickman, Mr. Winslow, and Ms. Orian agreed with no abstentions. The motion passed unanimously.

Ms. Murdock, Director of the Pacific Egg and Poultry Association, will take the lead on the statute change.

(8) COUNTY CONTRACTS DISCUSSION

Some counties have been dropping their contracts with ESQM. Ms. Hardy shared some difficulties faced by the county agricultural commissioners.

- Counties were directed to finish all wholesale contracts before starting on retail. Wholesale inspection restrictions prevented some counties from having enough time to finish all the work they were contracted to do.
- After setting up equipment and speaking with the managers, the work could not be completed in the expected 20-minute window.
- Some counties could not handle the increased workload.
- The counties can lose one to two months of work waiting for their contracts with ESQM to be approved by their board of supervisors.

There are 800 county inspectors throughout the state with scientific backgrounds. They are interested in doing this work for ESQM, but there is some frustration with contracts and limited negotiations. The counties would like to get contracts earlier, possibly in May. A discussion of standards and goals would be helpful. They want a dialogue to move forward.

Mr. Winslow stated that the retail inspections are expected to be visual, without equipment that needs to be set up. Mr. Herrera suggested that the counties could use staff lower on the pay scale to perform these inspections, which would help reduce costs.

Mr. Herrera reiterated the possible development of a new role for the county agricultural commissioners: providing enforcement at certified farmers' markets. The commissioners and ESQM could work together. ESQM could handle biosecurity and use projection tools for egg production, and the counties could levy fines on violations.

(9) SEAC MEMBERS' PERSONAL LIABILITY DISCUSSION

Ms. Dias explained that, since CDFA makes decisions and SEAC only advises, CDFA has the liability. As long as SEAC members are operating within their mandate, and not making deals such as quid pro quo, they face very little liability. If there was a lawsuit in which SEAC was named for performing its function, SEAC and CDFA would be represented by the Attorney General.

(10) PROGRAM UPDATE

- Melissa Vasquez has joined ESQM as an Environmental Scientist.
- There are four open Fruit and Vegetable Quality Control Inspector positions.
- ESQM's 2017-2018 Activity Report will be completed by the end of October, and it will also be posted online.
- Thanks largely to the summer interns, all of the historical Shell Egg Food Safety data has been entered into the risk-based point system. This system will

categorize what type of inspections are required and at what frequency. This will increase efficiency and help with budgeting for travel costs.

(11) **BRANCH UPDATE**

- The FDA issued a rule that animals euthanized using sodium pentobarbital cannot be rendered. A subgroup was formed with CDFA veterinarians and Animal Health Branch to investigate other options for euthanasia.
- Dr. Fernando Umayam is filling the role of acting Supervising Veterinarian for the northern area.

(12) **DIVISION UPDATE**

- The Division is working on transition documents, highlighting items to be brought to the new administration's attention.
- The Virulent Newcastle Disease incident is continuing, despite the release of some control zones.

(13) **PUBLIC COMMENTS**

Ms. Orian stated that the smaller egg handlers may be more likely to register if the fees were lower. That question could be posed to the small producer workshop attendees to get their feedback.

(14) **FUTURE SEAC MEETING AGENDA ITEMS**

- ESQM will investigate possible ways to make the egg handler registration number a part of the Certified Producer Certificates for egg producers, and have a suggestion brought to the next SEAC meeting. Mr. Herrera found language in the organic section of the FAC that may be useful.
- Ms. Batarseh will present a job description for the ESQM supervisor position.

(15) **FUTURE SEAC MEETING DATES**

The next SEAC meeting is scheduled for November 27 at 10:00 a.m. in the Gateway Oaks office. This could be a conference call meeting for those who prefer to call in.

(16) **ADJOURN**

Chair Will asked for a motion to adjourn the meeting.

Motion #4: Mr. Sencer made a motion to adjourn the meeting. Mr. Mahrt seconded. Mr. Demler, Mr. Winslow, Mr. Hickman, and Ms. Orian agreed. The motion passed unanimously.

The meeting adjourned at 4:03 p.m.

Respectfully submitted:

Michelle Dingley