

**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
August 14, 2018**

California Department of Food and Agriculture
2800 Gateway Oaks Drive, Room 267
Sacramento, CA 95833

Item
No.

(1) CALL TO ORDER

Mr. David Will, Chair, called the SEAC meeting to order at 10:02 a.m. and a quorum was established.

(2) ROLL CALL

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

Committee Members Present:

David Will, Chair
Michael Gemperle, Gemperle Family Farms
Steve Mahrt, Petaluma Farms
Wayne Winslow, NuCal Foods
Kaliko Orian, Kaliko Farms
Andrew Demler, Demler Brothers
Glenn Hickman, HFF
Michael Sencer, Hidden Villa Ranch
Dr. Richard Breitmeyer, public member
Simone Hardy, CACASA representative

Interested Parties:

Debbie Murdock
Mark Campbell

CDFA:

Dr. Annette Jones
Tony Herrera
William Rohner
Paula Batarseh

Dave Preciado
Jennifer Leidolf
Crystal D'Souza
Kara Breevaart

Dr. Kent Fowler
Michael Abbott
Paul Roos

Victor Velez
Michelle Dingley
Teresa Swafford

(3) **APPROVAL OF MINUTES***

Chair Will asked the committee to review the SEAC meeting minutes from May 4, 2018.

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

(4) **INFORMATION TECHNOLOGY PRESENTATION**

Mr. Velez spoke on the work Information Technology (IT) has been doing for ESQM. The mobile application for Shell Egg Food Safety is operational. About 300 inspections have been done with the application in the last year. Inspectors can collect information in the field and send it to the information system in Sacramento. Some enhancements are on the way, such as the ability to email and print from the field. Some changes will be needed to accommodate the Compliance and Risk-Based Inspections (CRBI). The application uses Apple products and thus must keep up with Apple's operating system changes, requiring consistent maintenance. The Emerging Threats (ET) system is also being revamped. There will be more direct communication with labs for test results.

Chair Will asked for IT to provide annual updates to SEAC, detailing the work being performed for ESQM.

(5) **DIRECT MARKETING PROGRAM PRESENTATION**

Ms. Leidolf presented on the Direct Marketing Program. There are over 2,000 certified producers and over 700 certified farmers' markets (CFM) in California. CFM can be operated by growers, nonprofits, or government agencies. The Direct Marketing Program regulates certified producers, which are producers that have been certified by the agricultural commissioner. Non-certified producers are regulated by other agencies, such as counties. A non-certified producer is allowed to sell products such as shell eggs at a CFM in an auxiliary section.

There are cooperative agreements between this program and the counties of California. The counties issue the certified producer certificates (CPC), verify the farms, and verify the markets' ownership. The Direct Marketing Program makes sure that the CPC is posted, that those selling as organic have proper organic registration, and that those selling by weight have a sealed scale. The counties inspect every market every six months. The counties perform the initial inspection of production sites. The State program will inspect if there is a complaint. The counties and the State can issue noncompliance notices and can take administrative action.

Ms. Orian stated that, in her experience, certified farmers' markets require a valid egg handler registration in order for the producer to sell eggs. Ms. Leidolf explained that each market can make its own rules in that regard. Ms. Orian recently went to farmers' markets in Los Angeles County and found many violations, such as the selling of unwashed eggs in improper packaging. Mr. Mahrt asked why so many violations are getting through since ESQM and the counties do retail surveillance of farmers' markets. Per regulations, CFM inspectors do not check all the things that ESQM inspectors check, and the Direct Marketing Program does not cross-check CPC with ESQM egg handler registrations. Dr. Breitmeyer said the egg handler number should be added to the CPC form. New legislation or regulations may be required for that change.

Motion #2: Dr. Breitmeyer made a motion to ask ESQM to investigate with counsel the possible ways to make the egg handler registration number a part of the CPC form for egg producers, and to have a solution brought to the next SEAC meeting. Mr. Mahrt seconded. Mr. Gemperle, Mr. Winslow, Mr. Demler, Ms. Orian, Mr. Hickman, and Mr. Sencer agreed with no abstentions. The motion passed unanimously.

(6) **FORM 700 PRESENTATION**

Ms. D'Souza presented on the legalities of Form 700. Every government agency must adopt a conflict of interest code for those making or participating in governmental decisions. To provide transparency, those individuals must disclose certain financial information related to the business of the board.

Ms. Swafford, filing officer for CDFR, presented on Form 700. All filers are required to complete the ethics orientation training, which gives direction on what to disclose. There is also a California Fair Political Practices Commission hotline if a filer has questions of what to disclose. The Form 700 website contains user guides, video tutorials and resources for help. Form 700 filing is now completely electronic at CDFR.

Board members are required to file Form 700 when assuming a position, as well as annually and upon leaving office. They have 30 days from when they leave office to file. Ms. Swafford sends reminder emails before the due dates. If someone files late, the Department is required to charge a fee.

Mr. Winslow asked about his personal liability for sitting on the SEAC. Mr. Mahrt asked, if CDFR was sued and SEAC was named in the lawsuit, what kind of liability could the committee members face? This will be addressed in the next SEAC meeting.

(7) **BORDER STATION DISCUSSION***

Mr. Herrera spoke on the budget passed at the SEAC meeting on May 4, 2018. The line item for Border Stations was allotted \$258,300. An additional \$89,522 had been requested for the Border Station program. This would allow for more details to be provided to ESQM in the form of photos, scanned documents, etc. The line item for Border Stations on the proposed 2018-2019 fiscal year budget should have read

\$291,730, an increase of approximately \$33,000. Mr. Herrera asked for approval for this change to the budget.

Motion #3: Mr. Hickman made a motion to approve increasing the budget for Border Stations to \$291,730. Mr. Gemperle seconded. Mr. Mahrt, Mr. Winslow, Mr. Demler, Ms. Orian, Mr. Sencer, and Dr. Breitmeyer agreed with no abstentions. The motion passed unanimously.

(8) EGG INVESTIGATION UPDATE

Ms. Batarseh announced Mr. Abbott as the new Supervising Special Investigator for the Meat, Poultry and Egg Safety Branch. Mr. Abbott spent two years as an egg inspector with ESQM, 23 years in the U.S. Army, and eight and a half years in Special Forces. He is a trained interrogator, with experience in many types of investigations.

Mr. Roos spoke on egg investigations. He has 35 open investigations. He expects a large reduction in the number of open investigations by the next SEAC meeting. Many are closed except for finalizing paperwork. The vast majority of investigations involve labeling and unregistered egg handlers.

Before these companies with violations can be fined, there first needs to be an informal hearing manual specific to administrative penalties. The manuals for criminal and civil penalties cannot be used for this. The informal hearing manual for administrative penalties will be added to the next SEAC agenda.

Mr. Hickman asked for guidance involving doing business with an egg handler whose registration has been revoked. If someone without a valid egg handler's registration is selling eggs, does the person selling the eggs have liability? Does the person buying the eggs have liability? The committee requested adding this topic to the next meeting's agenda.

Dr. Jones noted that it is not against the law to buy eggs from an unregistered company according to the current Food and Agriculture Code. Mr. Herrera stated that there is a link on the ESQM website listing companies subject to regulatory action, which would list any egg handlers who have had their registrations revoked. The website also has a link listing all registered companies.

(9) BAGLEY-KEENE PRESENTATION

Ms. Breevaart and Ms. D'Souza presented on the Bagley-Keene Open Meeting Act. This is known as a "sunshine law," meaning certain proceedings are to be open and available to the public, encouraging public participation and governmental accountability. The three main duties under Bagley-Keene are to give adequate notice of the meeting, provide an opportunity for public comment, and conduct actions and deliberations in open meetings, unless closed sessions are required.

A meeting occurs when the majority of members of a state body congregate and discuss board business. The members do not all have to be in the same location. Serial meetings are when a series of communications about board business occur which collectively can be considered a meeting. Serial meetings are prohibited by Bagley-Keene. Social gatherings with other board members do not count as meetings, as long as board business is not discussed. All discussion of past meetings and past decisions are acceptable. Discussion of anything that the board is working on, that is on the next agenda, or that the board is deciding on cannot be discussed outside of the meetings.

Mr. Winslow asked how the committee members are supposed to get industry input to SEAC without violating Bagley-Keene. Ms. Breevaart said that any business that is on the agenda cannot be discussed outside of meetings, including recommendations, decisions, or other action to be taken. Any outside discussion of board business could possibly lead to members reaching a decision outside of the open meeting. Ms. D'Souza remarked that it is best not to discuss board business except during the meetings.

(10) AB 3021 PROPOSED REGULATION DISCUSSION

Assembly Bill (AB) 3021 is the pending legislation that expands Shell Egg Food Safety to include liquid eggs and eggs from species other than chickens. The bill also changes enclosure requirements. Regulations will have to be changed if AB 3021 passes.

(11) VIRULENT NEWCASTLE DISEASE UPDATE

Dr. Fowler presented on the Virulent Newcastle Disease (VND) incident. VND is foreign to the United States and highly infectious, with a high morbidity and mortality rate in chickens. Susceptibility varies in other species of birds. VND is a respiratory virus, with symptoms including coughing, nasal discharge, and gasping for air. Transmission of VND often happens through direct contact, fomites, shared water, or through the air. The incubation period is three to seven days. For this outbreak, the concern is mostly backyard birds in southern California, in an area with a population of 18 million people. As of August 14, 2018, about 82,000 premises have been visited. This is very labor intensive. Quarantines have been difficult to maintain, since people are getting birds through many means, such as smuggling and even through the postal service. VND is present in Belize, Africa, and parts of the Middle East. There is not enough information about the possible presence of the disease in Mexico.

One of the missions of the Animal Health Branch is to prepare for outbreaks. This includes preventing disease introduction through biosecurity, minimizing the spread of disease, and responding rapidly. This response was about six months to a year faster than the response to the last outbreak, largely due to the State's cooperation with USDA. Over 22,000 birds have been euthanized and disposed of in landfills. No commercial premises have been infected. In addition to door-to-door surveillance, personnel have provided outreach and education at fairs, farmers' markets, churches, and charro events. There have been 244 calls to the sick bird hotline.

Mr. Rohner spoke on the Industry Risk Assessment Cell (IRAC). Its mission is to work alongside the industry to protect it from VND and other foreign animal diseases. The IRAC group acts as a liaison between the Incident Command and industry members. IRAC's epidemiologists and veterinarians provide comprehensive Secure Food Supply plans for farms, detailing best practices for biosecurity before the outbreak reaches them. They handle permits and any lab issues. An IRAC team provides outreach to small producers at farmers' markets, providing information on both the disease and proper biosecurity practices.

(12) SUCCESSION PLAN FOR ESQM MANAGER

Mr. Herrera, the ESQM manager, is planning to retire in either April or May of 2020. SEAC is concerned about finding a good replacement. Ms. Batarseh and her management team are currently making a big picture plan for the Meat, Poultry and Egg Safety branch for the next three years. It will be implemented in steps based on the progression of the branch's programs. In ESQM, a supervisory position is likely to be added over the environmental scientists, hopefully to be hired as early as January 2019. It is possible that the person that fills that role may eventually take Mr. Herrera's position after he retires.

Dr. Breitmeyer asked for a proposed work chart of job positions within ESQM and their potential fiscal impact. This will be on the next SEAC agenda as an action item.

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

Per Food and Agricultural Code (FAC) 27681, a company outside of California shall pay ESQM for expenses involved in their audit. Mr. Herrera was asked by a legal representative of an out-of-state company why only one segment of the industry must pay these expenses. CDFR counsel recommended either to change the language of the statute or to stop charging the out-of-state companies for financial audits. One segment of the industry cannot be treated differently from the other. One possible solution may be to take out the words "out-of-state" in FAC 27681 and 27682. That would require a statute change. Potentially, the program could temporarily stop charging anyone for financial audits, so there is no special treatment.

Motion #4: Mr. Hickman made a motion to explore options to make auditing costs equitable between in-state and out-of-state companies, and bring those options to SEAC. Mr. Winslow seconded. Mr. Gemperle, Mr. Mahrt, Mr. Demler, Mr. Sencer, Ms. Orian, and Dr. Breitmeyer agreed with no abstentions. The motion passed unanimously.

(14) PROGRAM UPDATE

Mr. Herrera provided an update on ESQM. Many personnel and workhours were committed to VND over the past four months. This has eaten into enforcement activities and caused the planned sweep of farmers' markets to be cancelled. ESQM will soon start registering eggs from species of fowl other than chickens. There are no regulations for

eggs from other species of fowl, so at this time they will only register. Five small producer workshops have been conducted since May, with five more to come this year. Biosecurity and sanitation have been a focus in the workshops. ESQM will resume FDA targeted inspections later in August. The program received a letter from Ms. Kimberly Hawthorne, a small flock producer, requesting a change to the mill fee regulations for small flock producers. She was informed that that would require a legislative change, but she could be exempt from the fees if she sells entirely from her premises.

(15) BRANCH UPDATE

The Meat, Poultry and Egg Safety Branch annual meeting will be held in October. It will involve strength, weakness, opportunity, and threats training and analysis.

(16) DIVISION UPDATE

There were no division updates.

(17) PUBLIC COMMENTS

There were no public comments.

(18) FUTURE SEAC MEETING AGENDA ITEMS

Ms. Hardy asked for a discussion of county contracts at the next SEAC meeting.

Mr. Hickman mentioned that in a previous meeting, there was discussion of the shelf life of dry eggs, which led to questions of the definition of an egg product under the language of AB 3021. A subcommittee on this topic was formed with Mr. Winslow as chair and Mr. Hickman and Mr. Sencer as members.

(19) UPCOMING SEAC MEETING DATES

The next SEAC meeting will be on October 2, 2018, at 1:00 p.m. It will be held in Sacramento, at the Gateway Oaks location.

(20) ADJOURN*

Chair Will asked for a motion to adjourn the meeting.

Motion #5: Mr. Hickman made a motion to adjourn the meeting. Mr. Sencer seconded. Mr. Winslow, Mr. Gemperle, Mr. Demler, Dr. Breitmeyer, Mr. Mahrt, and Ms. Orian agreed. The motion passed unanimously.

The meeting adjourned at 2:17 p.m.

Respectfully submitted:

Michelle Dingley