FINAL
CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE
SHELL EGG ADVISORY COMMITTEE
Sacramento, CA
December 17, 2010

MINUTES

MEMBERS
Michael Sencer, Chairman
Richard Jenkins
David Will
Wayne Winslow
Michael Gemperle
Robert Atkins
Alan Armstrong
Gary Foster
Steve Mahrt
Gary Caseri

CDFA
Anthony Herrera
Asif Maan
Irene Vera
Fred Helenihi
Stacey Hughes
Lisa Gonzales
Michael Davidson
Annette Whiteford

INTERESTED PARTIES
Neal Rye, Hidden Villa
Dennis Albiani, Pacific Egg & Poultry Association
Debbie Murdock, Pacific Egg & Poultry Association

CALL TO ORDER

Chairman Michael Sencer called the Shell Egg Advisory Committee (SEAC) meeting to order and a quorum was established at 9:08 a.m. Ms. Nancy Sullivan was not present at the meeting.

APPROVAL OF MINUTES

Mr. Sencer asked the Committee to review the minutes from the May 25, 2010 meeting.

MOTION: A motion was made by Mr. Gary Foster to accept the minutes as presented. Mr. Wayne Winslow seconded the motion. The motion passed unanimously.

DEPARTMENT, DIVISION, AND BRANCH ANNOUNCEMENTS

Dr. Asif Maan gave a department update and stated that until the new department administrative staff is in place, Secretary A.G Kamaura will continue his current role.

Dr. Maan gave a division update and stated that the division still does not have a full time permanent director at this time. Mr. Nate Dechoretz is still in the Executive Office serving as Deputy Secretary. The division is uncertain at this time when the new director will be appointed.

Dr. Maan gave a branch update and stated that the furlough program is still in effect. Bargaining units with a signed contract have one unpaid day off a month and those bargaining units without a signed contract will continue to take three unpaid days off a month.

Dr. Maan iterated that there is currently a hiring freeze which requires an exemption from the Governor for new hires or promotions.

An exemption request was submitted to the Governor for our current vacancies; the exemptions were denied. Dr. Maan stated he is currently working on a second submission.

REGULATION LANGUAGE FOR RE-PACKING & RE-GRADING

Mr. Anthony Herrera stated that his desire is to define the terms re-grading and re-packing. Subsection "I" was added to the Code of Regulations section 1351. Mr. Herrera stated he defined the word "processed" as shell eggs that have been cleaned, candled, graded, and sized.

Mr. Herrera also stated that a change was made to section "G"; the word "processed" was added to the definition of origin to read "standards applicable to eggs at the plant where processed, graded and packed."

Mr. Herrera stated he would like to add section "J" to define re-graded eggs as "shell eggs that have been previously graded and are processed again. New packaging and new code dates may be used and applied. The new processing plant number shall be identified on the carton and/or case in conjunction with original plant number."

Mr. Herrera also stated he would like to add section "K" to define re-packed eggs as "shell eggs that are visually damaged or dirty are removed and replaced with clean, non damaged eggs from the original lot. Repacking eggs may be performed at production, wholesale and on a limited basis at the retail level. Repackaging eggs at production and or wholesale facilities into over wrapped, flats, or hand sorted into new packing materials is allowed only if labeled with original Julian pack date, sell by date, and original plant identification number. Re-packing at retail is limited to replacing eggs that are visually damaged or dirty with clean, undamaged eggs from the same lot in the original package. Retailers are prohibited from repacking into new packing material."

Mr. Herrera stated that USDA will allow the original plant number on the carton without the letter "P".

The SEAC decided that the re-graded eggs definition should also state "all handlers shall maintain written records." Exact language will be presented for voting at the next SEAC meeting.

ADMINISTRATIVE PENALTIES

Mr. Robert Atkins from San Diego County brought to the attention of SEAC three occasions in which San Diego County discovered producers delivering eggs to restaurant bakeries which were out of tolerance. These were multiple producers and locations. The eggs were out of tolerance for leakers, checks, and dirts. Mr. Atkins stated that USDA recommended writing a letter to the company, as this is the strongest penalty they can suggest. Mr. Atkins stated that CDFA has the administrative authority under the current statutes to levy certain administrative penalties. Mr. Atkins stated that according to the code of regulations, the department and the agricultural commissioner share the authority to prosecute these violations under the administrative process, but that is not the case under the agriculture codes; solely the Secretary has the authority.

Mr. Atkins stated if the program is interested in adding the agricultural commissioners to the civil administrative authority then the SEAC will need to have a statutory change. At that time, the SEAC would have to develop a penalty matrix. The drawback of the department having the current authority is the time and experience it takes to conduct an administrative prosecution.

MOTION: A motion was made by Mr. Gary Foster that Mr. Robert Atkins will work with Mr. Dennis Albiani on drafting appropriate guidelines and requirements, at which time they are to consult with the SEAC. Mr. Steve Mahrt seconded the motion. The motion passed unanimously.

CERTIFICATE OF MOVEMENT

Mr. Herrera stated that the certificate of movement would be required for every load coming into California. This new process would assist tracking a load origin and destination. The second reason to adopt a certificate of movement would be to have the out-of-state shippers include the code dates so it is known when the eggs are being processed; this would help identify loads older than 30 days.

MOTION: A motion was made by Mr. Michael Gemperle to instruct the Egg Program to develop a regulation to accommodate the Certificate of Movement into the State of California. The regulation would take into consideration the ability to comply with Prop. 2's California law. Mr. Gary Foster seconded the motion. The motion passed unanimously.

EQCP FY 11/12 BUDGET

Mr. Herrera presented the proposed EQCP budget for FY 2011/2012. Mr. Herrera directed the SEAC to the Fund Condition Report. He noted a beginning balance of $728,756 as of November 30, 2010 and projected an ending balance of $357,231 as of June 30, 2011. Mr. Herrera also presented the Continuing Appropriations budget with an approved budget for FY 10/11 of $1,135,671 and a proposed budget for FY 11/12 of $1,257,979. He discussed the Mill Fee Summary & Projections handout which has a projected ending balance of $260,055 for FY 11/12.

Mr. Herrera reminded the SEAC that the mill fee assessment was reduced to $0.005 as of October 1, 2009 and increased to $0.045 as of July 1, 2010. Mr. Herrera stated that in order to maintain the Ag. Fund reserve at an appropriate level, the program recommends raising the mill fee to $0.05 on July 1, 2011.

MOTION: A motion was made by Mr. Gary Foster to accept the FY 2011/2012 Proposed Budget of $1,257,979 for the Egg Quality Control Program and increase the mill fee from $0.045 to $0.05 starting July 1, 2011. Mr. Michael Gemperle seconded the motion. The motion passed unanimously.

INCREASE IN MILL ASSESSMENT FOR FUTURE EXPANSION OF EQCP

Mr. Wayne Winslow stated that there seems to be a lack of consistency of EQCP enforcement. At this time the mill fee is at $0.05 cents per case.

Mr. Winslow stated in order to provide an effective inspection program, the current statute regarding the mill fee would need to be changed to a minimum of $0.15 per case. This increase in the mill fee would fund more inspections and help clean up the quality of product that is being imported.

Dr. Maan stated that if the future direction of this program is going to be more enforcement expansion and more regulatory requirements, more funds will be required. Dr. Maan stated increasing funds will require a legislative change to increase the mill fee assessment and by raising the mill fee funds, the program can hire additional experienced staff. Dr. Maan recommended that the SEAC develop a sub-committee to review the program. The sub-committee will consist of individuals on the SEAC and those who attended the SEAC meeting today.

MOTION: A motion was made by Mr. Steve Mahrt for the Chairman to appoint a sub-committee to develop a proposed program along with the funding requirements. The committee is to present the outline of the proposal and funding requirements at the February 2011 meeting. Mr. Michael Gemperle seconded the motion. The motion passed unanimously.

ELECTION OF CHAIRMAN AND VICE CHAIRMAN OF SEAC

Mr. Herrera stated that the SEAC will need to vote on a new Chairman and Vice Chairman for 2011.

MOTION: A motion was made by Steve Mahrt to appoint Mr. Wayne Winslow as Chairman for 2011. Mr. Gary Foster seconded the motion. The motion passed unanimously.

MOTION: A motion was made by Gary Foster to appoint Mr. Mike Sencer as Vice Chairman for 2011. Mr. Michael Gemperle seconded the motion. The motion passed unanimously.

OTHER BUSINESS

Mr. Herrera stated that due to budgetary concerns, out-of-state travel has been restricted by the Governor's office regardless of the funding source of the trip. This year the National Egg Regulatory Officials (NERO) will be discussing the FDA egg safety rules information along with the egg recall. Mr. Herrera stated that his out-of-state travel request to attend the NERO conference and training seminar was submitted and denied.

The SEAC discussed writing a letter to the Secretary asking that California be represented at the NERO conference. The SEAC determined that it would benefit the SEAC for CDFA to attend the conference.

MOTION: A motion was made by Mr. Mike Gemperle to have the SEAC submit a resolution that states, "In order to improve regulation in the State and promote the food safety environment in California, Mr. Mike Gemperle strongly encourages Mr. Anthony Herrera to attend this conference." Mr. David Will seconded the motion. The motion passed unanimously.

Mrs. Debbie Murdock stated that there has been several phone calls discussing funding a position at UC Davis. The final agreement was $65,000.00 each year for 3 years and would be funded by the egg industry. A bill was received from UC Davis and they would like to have $65,000 paid to them by February 1, 2011. Pacific Egg and Poultry Association (PEPA) does not have the funds to pay UC Davis. One possibility would be to pay the bill thru the mill fee, which has been done in the past, when the program funded Market News when an appropriate contract would be established between the Department and UC Davis.

MOTION: A motion was made by Mr. Gary Foster to fund the position at UC Davis in order to facilitate the collection of data pertaining to egg production. Mr. Richard Jenkins seconded the motion. The motion passed unanimously.

Mr. Gary Foster made the following statement on behalf of the SEAC, "We would like to make a formal recognition of Mr. Fred Helenihi's efforts in southern California with the EQC program. The SEAC would like to thank Mr. Helenihi for his services and recognize that he has done a tremendous job."

NEXT MEETING

The next SEAC meeting will be in Anaheim at the Grand Californian Hotel. The exact date was not decided at this time.

The next PEPA conference will be from February 28, 2010 thru March 3, 2010. It will be in Anaheim at the Grand Californian Hotel.

ADJOURN

MOTION: A motion was made by Mr. Michael Gemperle to adjourn the meeting. Mr. Wayne Winslow seconded the motion. The motion passed unanimously. The meeting was adjourned at 12:48 p.m.

Respectfully submitted by:

Anthony S. Herrera 12/31/10

Anthony S. Herrera, Program Supervisor — Date
Egg, Quality Control Program
Feed, Fertilizer, Livestock Drugs and Egg Regulatory Services
Inspection Services