

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE**

**CALIFORNIA CODE OF REGULATIONS  
TITLE 3. FOOD AND AGRICULTURE  
DIVISION 4. PLANT INDUSTRY  
CHAPTER 2. FIELD CROPS  
SUBCHAPTER 2. COMMERCIAL FEED**

**INITIAL STATEMENT OF REASONS**

The California Department of Food and Agriculture (Department) Commercial Feed Regulatory Program (CFRP) is responsible for the enforcement of California state law and regulations pertaining to the manufacturing, distribution and labeling of commercial feed while preventing adulterated feed from being consumed by livestock. Inspectors and investigators located throughout the state conduct routine feed sampling and inspections, quality assurance inspections of feed manufacturing facilities, respond to consumer complaints, and enforce the laws and regulations that govern the manufacturing, distribution, and labeling of commercial feed. The work of the CFRP helps to ensure a clean and wholesome supply of milk and meat, as well as providing assurance that the product received by the consumer is the quality and quantity purported by the manufacturer.

The proposed additions and revisions described below provide clarification of existing commercial feed law.

**SECTIONS AFFECTED**

California Code of Regulations (CCR) Title 3, Division 4, Chapter 2, Subchapter 2, Articles 1, 11, and 14, Sections 2675, 2675.1, 2750, 2751, 2789, 2802, and 2804.

**PROBLEM STATEMENT**

California is a uniquely positioned state as it utilizes by-products from human food manufacturing to feed its diverse livestock animal population. The CFRP has overarching regulatory authority over all commercial feed products produced, processed, and sold in the state of California. Manufacturers of human food whose by-products are diverted to commercial feed are currently required to have a Commercial Feed License with the CFRP and are subject to the inspection and labeling requirements in accordance with California Commercial Feed Law and Regulations. The CFRP has authorization to ensure facilities are following good management practices including safe transportation, handling, and storage of commercial feed which includes human food by-products. Human food processing plants and other facilities that are diverting human food by-products to commercial feed are required to obtain a California Commercial Feed License through the Department and report their tonnage sold.

Over 12.5 million tons of human food by-products are repurposed for commercial feed in California annually and reported to CFRP; these products can include but are not

limited to cull fruits/vegetables, fruit/vegetable pomace, bakery products, wet distillers/brewers grains, whey, or products that are at the end of their shelf life. CFRP and the feed industry see potential to increase the capacity of food by-product diversion to commercial feed and allow for additional diversion from human food manufacturers, restaurants, retail establishments or anywhere that serves food (i.e., hotels and cafeterias). However, current regulations disincentivize companies from participating in diversion and lack clarity on the standards for these products and their handling and transportation.

Existing regulation requires firms diverting human food by-products to pay the same commercial feed license fee and tonnage tax rate as feed manufacturers, even though by-products are generally lower margin than traditional feed ingredients. In addition, many of these by-products have a high moisture content, which means companies diverting by-products are paying an inflated amount of tonnage tax because of the high-water content of the product. For example, high-moisture by-products such as fruit/vegetable pomace are typically sold for a much lower price per ton than low-moisture products such as corn or soybean meal; however, these products are also heavier due to water content. Under existing regulation, a company could end up paying more in licensing fees and tonnage tax than they would earn from diverting the by-product to commercial feed. This discourages by-product diversion to commercial feed in favor of lower-cost alternatives, such as diversion to landfills. In addition to being bad for the environment, diverting by-products to landfills jeopardizes this essential feed source for the California animal agriculture industry. Most of the ingredients needed for animal feed are imported because California is a grain-deficit state, resulting in trucking/rail fees, a larger carbon footprint, and less secure feed supply in the event of a natural disaster or other disruption of the supply chain. Incentivizing by-product diversion to commercial feed can help replace higher cost imported products in feed while also decreasing the amount of human food by-products that are diverted to landfills.

Existing regulation specifies a definition for dehydrated garbage, an ingredient no longer recognized by the Association of American Feed Control Officials, and does not include definitions for feed ingredients derived from human food by-products, such as wet food processing waste, restaurant food waste, recovered retail food, and cull fruit or vegetables. To ensure ingredients used in feed meet national safety and quality standards, the proposed regulation will repeal the definition for dehydrated garbage and add definitions for human food by-products, including wet food processing waste, restaurant food waste, recovered retail food, and cull fruit or vegetables. The proposed change also includes adding references to existing definitions for wet apple pomace, wet beet pulp, brewers wet grains, condensed whey-product, whey, condensed whey permeate, condensed delactosed whey permeate, dairy food by-products, wet citrus pulp, cereal food fines, and dried bakery product under proposed Section 2804 to ensure these ingredients are categorized as human food by-products. This will ensure that the by-products diverted to feed are properly stored, handled, and have remaining

nutritional value for livestock by defining requirements for their handling and transportation.

Existing regulation requires each person holding a commercial feed license to pay the inspection tonnage tax. This language is a source of confusion, as commercial feed often passes between several license holders before sale to the end user. This confusion has led to nearly 60% of all tonnage tax being paid by approximately 10 companies; that equates to 85 licenses out of 2,225 licenses total. Additional clarity is needed to specify which licensee is responsible for the tax payment to ensure all licensees are paying their fair share of tax.

To address these issues, CFRP is proposing the additions and amendments to Subchapter 2 (commencing with section 2675) of Chapter 2 of Division 4 of Title 3 of the California Code of Regulations described below. The proposed regulations will further support and incentivize human food by-product diversion to commercial feed while ensuring safe handling to prevent contamination, as well as clarifying which licensee is responsible for payment of tonnage tax.

### **DOCUMENTS RELIED UPON**

The Department relied upon the following documents in establishing this proposed rulemaking action:

- Motion Memo signed by California Department of Food and Agriculture Secretary Karen Ross

In addition to the documents specified above, the proposed regulatory changes are based upon feedback and discussion with the Feed Inspection Advisory Board (FIAB), FIAB Strategic Planning Work Group, and Department staff.

### **BENEFITS**

The additions and amendments in this proposed rulemaking action will clarify which commercial feed licensee is responsible for tonnage tax payment, incentivize the diversion of human food by-products to commercial feed by specifying eligibility requirements for reduced tonnage tax rate and commercial feed license fee, and support feed safety by adding ingredient definitions and handling requirements for human food by-products.

The proposed changes will benefit the commercial feed industry by providing enhanced clarity regarding which licensee is responsible for paying tonnage tax. Commercial feed frequently passes between multiple license holders before sale to the end user; as currently written, the regulations do not specify which of these licensees is responsible for tax payment. Clarifying which licensee is responsible will more equally distribute tax payment across the broader pool of licensees ensure all licensees are paying their fair share of tax. In addition, the proposed reduced commercial feed license fee and

tonnage tax rate will incentivize more companies to become involved in human food by-product diversion by reducing barriers to entry. Providing a tax break for this low margin, high moisture product will encourage more companies to participate in diversion. Incentivizing by-product diversion will benefit the commercial feed industry by reducing reliance on more expensive imported feed ingredients, helping the industry reduce its carbon footprint and enhance the security of the feed supply.

The proposed changes will also provide benefits to consumers and the public. Encouraging the diversion of human food by-products to commercial feed keeps this essential feed source out of landfills and ensures it is repurposed for its highest and best use. The proposed changes will help CFRP better align with the U.S. Environmental Protection Agency's Food Recovery Hierarchy, which classifies recovering food to feed animals as the next best use for food products when they can no longer be used to feed humans. Currently, over 12.5 million tons of human food by-products are diverted to feed each year within California's commercial feed industry. The proposed regulations have the potential to increase the amount of human food by-products diverted to feed that would otherwise be going to landfills by incentivizing the conversion of otherwise unsaleable material into nutritional feedstuff for the livestock that provide us with eggs, meat, and milk.

In addition, the proposed changes will enhance feed safety by adding ingredient definitions for human food by-products and safe handling provisions to prevent contamination, as well as repealing the outdated ingredient definition for dehydrated garbage. This will ensure that ingredients used in feed meet national safety and quality standards and that human food by-products are diverted to feed only if they are properly stored, handled, and have remaining nutritional value for livestock. The proposed regulations will protect the health of the livestock population of the state, which will in turn benefit the general public by maintaining an abundant and safe supply of wholesome food and fiber.

## **SPECIFIC PURPOSE AND NECESSITY**

The following paragraphs provide the specific purpose, rationale, and summaries of these proposed changes to the CCR related to commercial feed.

### **ARTICLE 1. DEFINITIONS AND GENERAL PROVISIONS**

**Article 1** is being amended to "Definitions and General Provisions". This is necessary to more accurately reflect the subject matter, which will now cover Sections 2675 Definitions and 2671.1 General Provisions.

#### **Section 2675. Definitions.**

**Section 2675(j)** is being adopted to define the term "by-product." Defining this term will ensure the public knows what is meant by the term by-product when used in

commercial feed and which products these regulations apply to. This is necessary for clarity because there are numerous meanings for the term by-product.

### **Section 2675.1. General Provisions.**

**Section 2675.1** is being adopted to provide a section of the regulations for general provisions that apply to the entire subchapter. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public.

**Section 2675.1(a)** is being adopted to specify storage and handling requirements for by-products diverted to commercial feed. The purpose is to ensure that by-products diverted to commercial feed are held/transported in appropriate containers, accurately labeled, and not contaminated with trash. This is necessary to ensure that by-products diverted to commercial feed are accurately identified, have nutritional value, and are free of adulterants injurious to animal and human health. This language is based on Code of Federal Regulations, Title 21, Part 507.28.

**Section 2675.1(a)(1)** is being adopted to specify that by-products diverted to commercial feed must not bear or contain any substance which may render it injurious to health. This is necessary to ensure that by-products diverted to commercial feed are free of adulterants injurious to animal and human health. This language is based on Code of Federal Regulations, Title 21, Part 507.28.

**Section 2675.1(a)(2)** is being adopted to specify that by-products diverted to commercial feed must be held under conditions that will protect against contamination. This is necessary to ensure that by-products diverted to commercial feed do not become contaminated and are free of adulterants injurious to animal and human health. This language is based on Code of Federal Regulations, Title 21, Part 507.28.

**Section 2675.1(a)(2)(A)** is being adopted to specify that containers and equipment used to convey or hold by-products diverted to commercial feed must be designed, constructed of appropriate material, cleaned as necessary, and maintained to protect against the contamination of by-products. This is necessary to ensure that by-products diverted to commercial feed do not become contaminated and are free of adulterants injurious to animal and human health. This language is based on Code of Federal Regulations, Title 21, Part 507.28.

**Section 2675.1(a)(2)(B)** is being adopted to specify that by-products diverted to commercial feed must be held in a way to protect against contamination from sources such as trash. This is necessary to ensure that by-products diverted to commercial feed do not become contaminated and are free of adulterants injurious to animal and human health. This language is based on Code of Federal Regulations, Title 21, Part 507.28.

**Section 2675.1(a)(2)(C)** is being adopted to specify that by-products diverted to commercial feed must be accurately identified during holding. This is necessary to

ensure that by-products diverted to commercial feed are accurately identified and do not inadvertently contain adulterants injurious to animal and human health. This language is based on Code of Federal Regulations, Title 21, Part 507.28.

**Section 2675.1(a)(3)** is being adopted to specify that shipping containers and bulk vehicles used to distribute by-products diverted to commercial feed must be examined prior to use. This is necessary to protect against the contamination of commercial feed from the container or vehicle when the facility is responsible for transporting the by-products itself or arranges with a third party to transport the by-products. This language is based on Code of Federal Regulations, Title 21, Part 507.28.

## **ARTICLE 11. INSPECTION TAX AND PLANT LICENSES**

### **Section 2750. Tax Payment.**

**Section 2750(a)** is being amended to clarify that the licensee whose name appears on a commercial feed label shall pay the inspection tonnage tax. Food and Agricultural Code (FAC) Section 15061 requires payment of an inspection tonnage tax by any person who distributes commercial feed to a consumer-buyer in this state. Existing regulation, 3 CCR Section 2750(a) states that each person holding a commercial feed license shall pay the inspection tonnage tax. However, this language is a source of confusion, as commercial feed often passes between several license holders before sale to the end user. This confusion has historically led to a small number of licensees paying most of the state tonnage tax fees - approximately 60% of the tonnage tax collected is from the same 10 companies each year; that equates to 85 licenses out of 2,225 licenses total. These licensees are often manufacturing feed for another licensee. This proposed change is necessary to clarify that the licensee listed on the commercial feed label is responsible for tonnage tax payment; this will eliminate confusion and will more evenly distribute the tax payment over a broader pool of licensees. This language is similar to FAC Section 14611(a) that pertains to fertilizing materials.

**Section 2750(c)** is being repealed. This removes the option for licensees to submit an estimate of the amount of commercial feed sold for the entire year on the first quarter tonnage tax payment with adjustments submitted during the fourth quarter. Removal of this provision is necessary because processing tonnage tax payments in this manner is too burdensome and time consuming for program staff. In addition, this process will no longer be feasible with the introduction of the reduced tonnage tax rate for human food by-products.

**Section 2750(d)** is being renumbered to **(c)**. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public.

**Section 2750(e)** is being renumbered to **(d)**. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public. This section is also being amended to spell out the word "three" and put the numeral into

parentheses. This is necessary for clarity and consistency with how numbers are referenced in the Department's regulations.

**Section 2750(e)** is being adopted to clarify that human food by-products diverted to commercial feed without further processing or manufacturing, as defined under proposed Section 2804, are subject to reduced inspection tonnage tax and exempts firms from paying inspection tonnage tax on the first 1,000 tons of human food by-products diverted to commercial feed without further processing or manufacturing during the license period. These provisions apply to all human food by-products diverted to commercial feed without further processing or manufacturing, as defined under proposed Section 2804, regardless of whether the firm reporting the tonnage has a \$500 commercial feed license per existing Section 2751(b), or a reduced \$100 license for firms solely engaged in the diversion of human food by-products per proposed Section 2751(c). The purpose of this provision is to incentivize additional diversion of human food by-products to commercial feed while also decreasing the amount of human food by-products that are diverted to landfills. This is necessary because by-products are generally lower margin products when diverted to commercial feed. In addition, many of these by-products have a high moisture content, which means companies diverting by-products are paying additional tonnage tax because of the high-water content of the product. Providing a tax break for these frequently low-value, high moisture products will encourage more companies to participate in diversion.

### **Section 2751. Licensing.**

**Section 2751(c)** is being adopted to specify a reduced annual commercial feed license fee of \$100 for firms solely engaged in the diversion of human food by-products without further processing or manufacturing, as defined under proposed Section 2804. This provision applies only to firms that are solely engaged in the diversion of human food by-products without further processing or manufacturing, as defined under proposed Section 2804; any firm selling other commercial feed types in addition to human food by-products is not eligible for the reduced license fee. The purpose of this provision is to incentivize more companies to become licensed and begin diverting by-products to commercial feed. This is necessary because by-products are generally lower margin than other commercial feed products. The current commercial feed license fee of \$500 discourages companies from participating in by-product diversion because the cost to become licensed may, in some cases, be greater than the amount of revenue generated from selling the by-product. The Department determined \$100 to be the appropriate amount for the reduced license fee; this is the lowest possible fee to allow businesses to legally divert these products while not causing a financial hardship and while still allowing the Department to cover the administrative cost of processing applications.

**Section 2751(d)** is being adopted to specify that the commercial feed license application fee is non-refundable and shall not be reduced to cover a fraction of a year.

FAC Section 15053 makes no provision for a refund or reduced fee because the full fee is required to cover the administrative costs of processing the application; these costs are not impacted by the date the license application is submitted. This provision is necessary to ensure applicants are aware that the fee is non-refundable if the license application is denied and will not be reduced to cover part of a year. This provision is consistent with the Department's existing regulation, 3 CCR Section 5002(b), regarding license application fees for restricted livestock drug retailers.

## **ARTICLE 14. DEFINITIONS AND STANDARDS**

### **Section 2789. Milk Products.**

**Section 2789(m)** is being amended to add the word "have." This is necessary to correct a typographical error.

### **Section 2802. Miscellaneous Products.**

**Section 2802(v)** is being repealed. Dehydrated garbage is no longer recognized by the Association of American Feed Control Officials as an acceptable feed ingredient. This is necessary to ensure consistency with national standards and to remove any possible confusion about whether dehydrated garbage is an acceptable feed ingredient in California.

**Section 2802(w)** is being renumbered to **(v)**. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public.

**Section 2802(x)** is being renumbered to **(w)**. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public.

**Section 2802(y)** is being renumbered to **(x)**. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public.

**Section 2802(z)** is being renumbered to **(y)**. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public.

**Section 2802(aa)** is being renumbered to **(z)**. This is necessary for clarity, will maintain organization of the regulations, and allow for ease of reading for the public.

### **Section 2804. Human Food By-Products.**

**Section 2804** is being adopted to define human food by-products commonly used as feed ingredients. These definitions are necessary to specify which ingredients are eligible for the proposed incentives under Sections 2750 and 2751 and to ensure that human food by-product ingredients used in commercial feed meet nationally accepted standards for safety and quality. These definitions are based on the feed terms and ingredient definitions found in the Association of American Feed Control Officials

(AAFCO) Official Publication. AAFCO is an association of members from local, state, and federal government agencies that regulate commercial feed. The purpose of AAFCO is to facilitate collaboration between state/federal agencies and the commercial feed industry and to develop uniform language that states may adopt or reference in laws. AAFCO has a Memorandum of Understanding with the United States Food and Drug Administration to facilitate collaboration regarding ingredient definitions. Numerous states reference AAFCO ingredient definitions in their regulations; for this reason, consistency with AAFCO is necessary to allow for interstate sales of commercial feed.

**Section 2804(a)** is being adopted to define wet food processing waste. This language is based on the definition for “food processing waste” listed under section 40.96 of the AAFCO Official Publication. Adding this definition is necessary to ensure that commercial feed meets nationally accepted standards for safety and quality. However, this definition has been modified to specify wet food processing waste. This is necessary because CFRP wants to incentivize the diversion of lower value, high moisture, unprocessed by-products such as fruit/vegetable pomace. CFRP determined 70% moisture to be the appropriate threshold. Based on a survey of by-products sampled, the average moisture content of by-products that have not been further processed is 70%. By-products that meet the definition of food processing waste but are less than 70% moisture shall not be subject to the reduced tonnage tax rate because, typically, these by-products have been further processed (e.g., drying, curing) and have a higher profit margin.

**Section 2804(b)** is being adopted to define restaurant food waste. This language is consistent with the definition listed under section 40.97 of the AAFCO Official Publication. This definition is necessary to ensure that restaurant food waste used in commercial feed meets nationally accepted standards for safety and quality.

**Section 2804(c)** is being adopted to define recovered retail food. This language is consistent with the definition listed under section 40.100 of the AAFCO Official Publication but has been modified to specify that containers shall be cleaned and sanitized as necessary. This definition is necessary to ensure that recovered retail food used in commercial feed meets nationally accepted standards for safety and quality. Requiring containers to be cleaned and sanitized is necessary to ensure recovered retail food is held under conditions that will protect against contamination.

**Section 2804(d)** is being adopted to define cull fruit or vegetables. This language is based on the definition for “cull” listed in the Official Feed Terms section of the AAFCO Official Publication. However, the definition has been amended to specify fruit or vegetables; this is necessary to ensure other material is not included. The definition has also been amended to include fruits and vegetables left in the field after harvest; this is necessary because this ingredient should not be limited to fruits and vegetables that have gone through the grading and separation process. In addition, the definition has been amended to specify labeling requirements, including a statement that the product

is for livestock feed only. This is necessary to ensure compliance with laws and regulations for fruit and vegetable standardization and prevent this product from being diverted and sold for human consumption.

**Section 2804(e)** is being adopted to add a reference to the definition for Wet Apple Pomace under Section 2775(c). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(f)** is being adopted to add a reference to the definition for Wet Beet Pulp under Section 2777(b). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(g)** is being adopted to add a reference to the definition for Brewers Wet Grains under Section 2778(b). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(h)** is being adopted to add a reference to the definition for Condensed Whey-Product under Section 2789(m). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(i)** is being adopted to add a reference to the definition for Whey under Section 2789(p). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(j)** is being adopted to add a reference to the definition for Condensed Whey Permeate under Section 2789(w). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(k)** is being adopted to add a reference to the definition for Condensed Delactosed Whey Permeate under Section 2789(x). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(l)** is being adopted to add a reference to the definition for Dairy Food By-Products under Section 2789(z). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(m)** is being adopted to add a reference to the definition for Wet Citrus Pulp under Section 2802(g). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(n)** is being adopted to add a reference to the definition for Cereal Food Fines under proposed renumbered Section 2802(v), which is currently in regulation as

Section 2802(w). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

**Section 2804(o)** is being adopted to add a reference to the definition for the definition for Dried Bakery Product under proposed renumbered Section 2802(w), which is currently in regulation as Section 2802(x). This is necessary to ensure this ingredient is eligible for the proposed human food by-product incentives under Sections 2750 and 2751.

### **TECHNICAL, THEORETICAL, AND/OR EMPIRICAL STUDY, REPORTS, OR DOCUMENTS**

None.

### **ECONOMIC IMPACT ASSESSMENT/ANALYSIS**

California Government Code section 11346.3 requires state agencies to assess the potential economic impacts on California businesses and individuals when proposing to adopt or amend any administrative regulation. The Department has initially determined that the proposed regulatory action will have no net economic impact to the commercial feed industry. The proposed regulation will redistribute the amount of tonnage tax paid among a larger pool of licensees, significantly decreasing costs for some while insignificantly increasing costs for others but ultimately resulting in no net cost increase to the industry. In addition, the proposed regulation will result in cost savings for businesses diverting human food by-products.

These proposed regulations will not:

- (1) Create or eliminate jobs within California.
- (2) Create new businesses or eliminate existing businesses within the State of California.
- (3) Affect the expansion of businesses currently doing business within the State of California.
- (4) Affect the health and welfare of California residents, worker safety, and the state's environment.

### **EVIDENCE SUPPORTING FINDING OF NO SIGNIFICANT STATEWIDE ADVERSE ECONOMIC IMPACT DIRECTLY AFFECTING BUSINESS**

The Department anticipates there will be no significant statewide adverse economic impact directly affecting business as a result of the proposed regulation. The proposed regulation will redistribute the amount of tonnage tax paid among a larger pool of licensees, significantly decreasing costs for some while insignificantly increasing costs

for others but ultimately resulting in no net cost increase. In addition, the proposed regulation will result in cost savings for businesses diverting human food by-products.

Definitions (Section 2675(j)) and General Provisions (Section 2675.1): The Department anticipates there will be no significant statewide adverse economic impact affecting business as a result of defining “by-product” and specifying requirements for diverting by-products to commercial feed. Any location diverting by-products to commercial feed must already adhere to these requirements as part of good manufacturing practices. The Department is clarifying these exact requirements in regulation for clarity, ease of reference, and to ensure these products are handled in a safe manner to prevent contamination.

Tax Payment (Section 2750(a)): The Department anticipates there will be no significant statewide adverse economic impact affecting business as a result of specifying that the licensee named on the label is responsible for paying tonnage tax. This clarification will not change the total number of tons of commercial feed sold in the state, nor the amount of tax to be paid to the Department. However, it will redistribute the amount of tax to be paid among a larger pool of licensees. This means that licensees that are currently paying the majority of tonnage tax will see significantly decreased costs while licensees that are not currently paying tax will see a very slight increase in costs, resulting in no net economic impact on the industry. Currently, approximately 60% of the tonnage tax collection is from the same 10 parent companies each year; that equates to 85 licenses out of 2,225 licenses total. In fiscal year 2018/19, the industry paid \$2.3 million total in tonnage tax, approximately \$1.4 million of which (60%) was paid by 85 licensees. This averages out to about \$16,470 in tax paid by each of these 85 licensees in fiscal year 2018/19. If this \$1.4 million had instead been paid by the licensees listed on the feed label, it would average out to about \$656 in tax paid by each of 2,225 licensees in fiscal year 2018/19. These are rough approximations and do not account for variances in the number of licensees named on feed labels or the number of tons of feed sold by each of these licensees.

Tax Payment (Section 2750(e)): The Department anticipates there will be no statewide adverse economic impact affecting business as a result of specifying that human food by-products will be assessed at a lower tonnage tax rate and will have an exemption from payment up to 1,000 tons. This will be a cost savings for businesses. It is estimated that approximately 54 currently licensed locations are paying tonnage tax on only human food by-products. Additional businesses may be also dealing in some human food by-products and other ingredients. It is estimated that there could be cost savings for an additional 100 to 300 businesses, depending on the tonnage and the rate set by the Secretary.

Licensing (Section 2751(c)): The Department anticipates there will be no statewide adverse economic impact affecting businesses as a result of specifying that businesses that are solely diverting human food by-products to commercial feed without further

processing or manufacturing will be subject to a reduced license fee of \$100 per year. This will be a cost savings for businesses. The Department has set the reduced license fee at the lowest possible amount to allow businesses to legally divert these products, while not causing a financial hardship. Based on the current licensee list and inspections of the facilities, CFRP estimates there are 79 businesses licensed with the Department that are paying the full license amount of \$500 per year and are only diverting these products to commercial feed. Therefore, these businesses will each have an annual cost savings of \$400, resulting in approximately \$31,600 total in statewide savings annually.

Ingredient Definitions (Sections 2789, 2802, 2804): The Department anticipates there will be no significant statewide adverse economic impact affecting business as a result of adding ingredient definitions for Human Food By-Products. These definitions are being added to ensure that the businesses know the exact definitions for the products that will be eligible for the lower tonnage tax rate and license fee. The definitions are also needed to clarify ingredient labeling requirements to ensure businesses know what products can be labeled with these terms. There is no additional cost to businesses as a result of defining these terms. In addition, dehydrated garbage is no longer recognized as an acceptable feed ingredient by the Association of American Feed Control Officials and has already been phased out of production. The proposed change to remove dehydrated garbage is to prevent confusion over inconsistency with the industry recognized nationwide standard; it does not require applicants to incur any additional expense to comply.

### **REASONABLE ALTERNATIVES TO THE REGULATIONS AND THE DEPARTMENT'S REASONS FOR REJECTING THOSE ALTERNATIVES**

Definitions (Section 2675(j)) and General Provisions (Section 2675.1): The Department considered not adding the additional language defining by-product and listing the requirements for locations diverting by-products to commercial feed. This alternative was rejected because these additions are needed to ensure that by-products being diverted to commercial feed are properly handled and labeled to prevent contamination and ensure a wholesome feedstuff.

Tonnage Tax (Section 2750(a)): The Department considered not changing the existing regulation regarding which licensee pays tonnage tax. This alternative was rejected because, as currently written, the regulations are not specific enough about which licensee is required to pay the tax. Existing regulation 3 CCR 2750(a) states that each person holding a commercial feed license shall pay the tonnage tax, which is a source of confusion because commercial feed often passes between several license holders before sale to the end user. This confusion has historically led to a small number of licensees paying most of the state tonnage tax fees - approximately 60% of the tonnage tax collection is from the same 10 companies each year, which is 85 licenses out of the 2,225 total licenses.

Tonnage Tax (Section 2750(e)): The Department considered not adding the additional language specifying human food by-products will be assessed at a lower tonnage tax rate and have an exemption from payment up to 1,000 tons. This alternative was rejected because these products are essential to the California animal agriculture industry and replace higher value products in feed while also decreasing the amount of human food by-products that is diverted to landfills. This lower tonnage tax and exemption allows companies a tax break and encourages them to fully report this tonnage to the state to show the major role California's animal agriculture industry plays in the diversion of human food by-products.

Licensing (Section 2751(c)): The Department considered not adding the additional language specifying businesses that are solely diverting human food by-products to commercial feed without further processing or manufacturing will be subject to a lower license fee of \$100. This was rejected because these by-products are generally lower margin than traditional feed ingredients. These products are essential to the California animal agriculture industry and replace more expensive imported products in feed while also decreasing the amount of human food by-products that are diverted to landfills. This lower license fee allows companies a tax break and will encourage them to become licensed and inspected by the Department.

Ingredient Definitions (Sections 2789, 2802, 2804): The Department considered not adding the additional language specifying the ingredient definitions for Human Food By-Products. This was rejected because these definitions are needed to help clarify the exact definitions for the products that will be eligible for the reduced tonnage tax rate and license fee. The definitions are also needed to clarify ingredient labeling requirements to ensure businesses know what products can be labeled with these terms.

### **DUPLICATION OR CONFLICT WITH FEDERAL REGULATIONS**

The proposed regulations do not duplicate or conflict with federal regulations.

**DOCUMENTS**

**RELIED**

**UPON**

## Memorandum

To : Karen Ross, Secretary  
Executive Office

Date: February 12, 2021

VIA: Natalie Krout-Greenberg,  
Director, Inspection Services Division

Place: Sacramento

Phone: (916) 900-5022

From : Department of Food and Agriculture - **Jenna Leal, Program Manager**  
Inspection Services Division

Subject : **Incentives for Human Food Organic Waste Diversion to Animal Feed**

Currently, any firm diverting human food organic waste to commercial livestock feed is subject to CDFA's commercial feed licensing and inspection tonnage tax requirements. The Commercial Feed Regulatory Program believes tonnage for these organic waste products has historically been underreported. In an effort to capture this data and highlight the commercial feed industry's important role in human food organic waste diversion, the Feed Inspection Advisory Board (FIAB) recommended on November 12, 2020, (*see attached meeting minutes pages 8 and 9*), and subsequently noted during the January 26, 2021 board meeting, , the Department adopt incentives for firms who divert human food organic waste to commercial livestock feed to become licensed and report their tonnage information as follows:

1. Provide a reduced inspection tonnage tax rate, set at half of the current tonnage tax, for human food organic waste as defined by the American Association of Feed Control Officials (AAFCO) Official Publication Feed Ingredient Definitions under sections 40.97 Restaurant Food Waste and 40.100 Recovered Retail Food, and on CDFA defined Wet Food Processing Waste based on AAFCO definition section 40.96 Food Processing Waste and Cull Fruits and Vegetables.
2. Provide a new Commercial Feed License category for firms who deal solely in diversion of human food organic waste (as defined above). Firms with this license type will pay a reduced \$100 license fee.
3. All licensees diverting the products as defined above will not pay tonnage tax if their reported tonnage is less than 1,000 tons per year.

Through the legal referral process, the program has determined that no legislative or regulation change is necessary in order to set a lower tonnage tax rate. Food and Agricultural Code Section 15061 authorizes the secretary to set the tonnage tax rate upon recommendation of the FIAB.

The program will be drafting regulations to adopt and clarify the definitions of the terms mentioned above, the reduced license fee, the reporting requirements for tonnage reporting of organic waste products, and the reduced tonnage tax rate.

Please circle approved or disapproved below.

APPROVED/DISSAPROVED:

Original Signed by Karen Ross

Karen Ross, Secretary

February 12, 2021

\_\_\_\_\_  
Date

**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (Department)  
FEED INSPECTION ADVISORY BOARD (FIAB) WEB CONFERENCE MEETING**

**November 12, 2020  
9:00 – 12:00 PM**

**MINUTES**

**MEMBERS**

Dan Rice  
David Meeker  
Jed Asmus  
Jeremy Banducci  
Kate Horstmann  
Marit Arana, Chair  
Paul Parreira, Vice Chair  
Shay Rambur  
Michael Koewler

**CDFA STAFF**

Adriana Avalos  
Amadou Ba  
Angelia Johnson  
Ashley James  
Brittnie Williams  
Carla Sanchez  
Casey Dykier  
Jenna Leal  
Maryam Khosravifard  
Mike Davidson  
Natalie Krout-Greenberg  
Rachelle Kennedy  
Samantha Moran-Defty  
Valerie Brott

**INTERESTED PARTIES**

Chris Zanobini  
Ed Depeters  
Kate Swanson  
Tad Bell

**INTRODUCTIONS AND ANNOUNCEMENTS**

Dr. Marit Arana, Chair, called the meeting to order at 9:03 a.m. A quorum was established.

**APPROVE AUGUST 6, 2020 MEETING MINUTES**

Jenna Leal requested the board review the minutes of the August 6, 2020 FIAB meeting.

**MOTION:** Paul Parreira moved to approve the meeting minutes; Shay Rambur seconded. The motion passed unanimously with a vote by all board members present of 9 to 0.

**DEPARTMENT / DIVISION / BRANCH UPDATE**

Natalie Krout-Greenberg provided new board members an overview of the Department's broad mission and the Division of Inspection Services' (Division) work, including that with the United States Food and Drug Administration (FDA), the United States Department of Agriculture (USDA), and several other programs, including those that assist in bridging the gap for food security.

Krout-Greenberg reported the Division's Office of Farm to Fork's (F2F) Program hired staff to implement the recent budget change proposal (BCP) for CDFA's Farm to School program. The staff are organizing a task force meeting, led by the Department, focused on nutrition and schools and the importance of procuring local, CA grown products for schools. F2F plans to launch the grant program and assist schools in implementing changes to expand their infrastructure and create purchasing power for these products.

Krout-Greenberg announced the Division has launched a food recovery webpage accessible to the public. The webpage focuses on what the agriculture industry does to contribute towards food upcycling within agriculture.

Krout-Greenberg reported the Division has been working on the Food Safety Modernization Act (FSMA) Produce Safety Rule and food borne illness outbreaks including the Salmonella outbreak linked to onions. The Division is also focused on three E. coli O157:H7 outbreaks; one suspected as a leafy greens carrier food product and the others are pending traceback from the Center for Disease Control and Prevention. In addition to this work, there is a longitudinal research study underway that focuses on pathogens and pathogen movement in the environment to determine why the outbreaks continue to occur and how to enhance preventive control measures.

Dr. Amadou Ba announced new hires Kayla (Frankie) Aguilar as an Office Technician and Julia Garcia as an Agricultural Technician I under the Branch Office Support Staff Unit. Jennifer Harmon, former staff for the Livestock Drugs (LD) program, promoted to an Associate Governmental Program Analyst with the Fertilizer Research and Education Program (FREP). The Branch advertised the Environmental Program Manager I for the Fertilizing Materials Inspection Program and received applications to fill the position soon.

Dr. Ba announced the Central Valley Regional Water Quality Control Board's stipulation in their order giving the Department authority to host Certified Crop Advisers (CCAs) and Growers training for managing nitrogen in the field. FREP has hosted in-person CCAs training the past seven years; however, there are plans for the program to transition to a specialization within the CCA certification administered by the American Society of Agronomy with educational support provided by the University of California Agriculture and Natural Resources (UCANR). FREP typically works with the California Association of Pest Control Advisers and the UCANR for Nitrogen Management training. Next year, FREP will continue to coordinate the program internally while still collaborating with the water quality coalitions. FREP has directed growers training in the Central Valley and Ventura county through a grant; Sacramento county is next. This has allowed FREP to work with growers and coalitions in fully implementing the nitrogen management training program on the grower's side. FREP has accumulated scientific data on nitrogen management and plans to reach out to growers and provide scientist advice to growers, another undertaking that FREP will assist with in the growers training efforts.

Dr. Ba reported the Department's Emergency Management Coordination contacted the Division and Branch requesting assistance in sheltering animals in Butte county during the recent fire seasons.

Dr. Ba announced eradication of the virulent Newcastle disease (vND) acknowledging the Animal Health and Safety Services Division staff and Branch staff who have been helpful with vND efforts.

### **FUND CONDITION / TONNAGE REPORTING / BUDGETS**

Jenna Leal reported that as of June 30, 2020, the beginning balance combined total for Feed and Safe Animal Feed Education program (SAFE) was about \$4.3 million; total revenue was about \$3.9 million; expenditures were about \$3.8 million; encumbrances were \$55,769; and the adjusted total balance for Feed and SAFE was about \$4.4 million. The Feed program tonnage falls in line with previous years.

Per Chair Arana's request, the Feed program prepared a three-year projection of revenue and budgeted expenditures if the board were to reduce the feed tonnage tax from 12 to 10 cents beginning January 1, 2021. The three-year projection displays program reserves at 22 million tons and does not account for recoveries as it is purely based on revenue and expenditure of the Feed program's budget. The projection also does not represent the high-moisture and byproducts. Chair Arana suggested the board consider reducing the feed tonnage tax.

Paul Parreira agreed with Chair Arana and advised further board discussion before making a motion to lower the feed tonnage tax.

Leal explained the purpose of the reserve, and explained that Feed program currently has a 100 percent program budget reserve and must have a 25-50 percent in reserve to allow the program the ability to shut down appropriately and move staff to different programs or payout retirements in the event the program would cease.

**MOTION:** Jeremy Banducci moved to approve reducing the feed tonnage tax from 12 to 10 cents effective January 1, 2021; Jed Asmus seconded. The motion passed unanimously with a vote by all board members present of 9 to 0.

Leal presented the Feed program revised fiscal year (FY) 20/21 budget. The Feed program revised the current FY 20/21 budget to include the University of California Davis' (UCD) California Animal Health and Food Safety Laboratory System (CAHFS) and UCD Analytical Laboratory (AnLab) contracts, which required the Department's Center for Analytical Chemistry (CAC) lab to revise their budget. Leal reported that due to COVID-19, there was some delays with Animal Feed Regulatory Program Standards (AFRPS) maintenance cooperative agreement (CA) grant, however the Program was awarded the five-year grant.

Leal gave a summary of changes in the revised FY 20/21 budget. She reported the lab contract line items for UCD CAHFS of \$493,000 and AnLab of \$214,532, both fee for services contracts, will now be under the operating expenses and equipment section of the revised FY 20/21 budget. Leal stated that at the last FIAB meeting there was a request to see the transition budget for CAC for ramped down services. Under the distributed costs section, CAC removed the chemistry lab equipment line item and revised lab budget line item of \$803,026. The pro rata decreased and the AFRPS maintenance grant is reflected under recoveries.

Leal presented the CAC transition budget, highlighting the total Feed program costs of \$678,512 and limited term service for almond hull of \$124,514 through June 30, 2021.

Dr. Barzin Moradi reported CAC is going through the transition process of removing the Feed lab services except for the limited term service for almond hulls through the end of FY 20/21. Dr. Moradi stated CAC staff is shared within both the Feed and Fertilizer programs and staff analyzing feed samples are being transferred and absorbed into other programs within the lab which is reflected in the revised FY 20/21 budget. CAC was analyzing feed samples for the first three months of FY until UCD lab contracts were put in place. Once feed samples stopped CAC has decoupled the programs by continuing to train staff for other program service needs. Dr. Moradi stated CAC is proposing about \$370,000 for salary and benefits FY 20/21, highlighting one staff retirement and vacation cash out impact to CAC. CAC has two staff that are likely to retire in March or April of 2021.

Chair Arana asked for an explanation on the Feed transition budget, specifically the board's obligation towards the budget as the Feed program works through the lab transition.

Krout-Greenberg responded that there was a delay in the budget approval from the Board last fall, therefore in January's FIAB meeting upon discussions regarding outsourcing and gained efficiencies, the board approved the Department's lab budget to continue services with CAC, ultimately establishing the ability for the CAC staff dedicated to the Feed program to remain whole in providing the industry and program with modified but complete services. Further discussion in May 2020 concluded external lab services is most cost beneficial and moving in the direction to secure UCD lab services would require the Feed program to ramp down services at CAC. Krout-Greenberg stated the lab transition started to take place in October. The revised FY 20/21 budget is CAC's current standpoint and reflective of best costs estimates including payout retirements and obligations tied to the agriculture supply and services contract in making the final transition away from CAC. Krout-Greenberg highlighted that the board is advisory to the secretary; it is the Feed program's obligation to carry out the statutory mandate of the program with input based on board recommendations.

Dan Rice asked the CAC to provide the board with a more detailed accounting of salary, wages, and benefit estimates to get a better understanding of the wind down.

Krout-Greenberg stated the CAC would provide the cost account including any announced retirements to the board at the next FIAB meeting in January 2021.

Leal presented the Feed program proposed FY 21/22 budget, reporting that a five percent budget reduction government mandate is reflected in the budget. The lab budget for FY 21/22 is itemized in the operating expenses section for the UCD CAHFS and AnLab contracts. The \$500,000 line item is a one-time cost for an AB SCIEX QTRAP autosampler, approved by the board at the May FIAB meeting, to ensure sample turnaround time and efficiencies. The CAC chem lab budget line item is at zero dollars for FY 21/22. The proposed FY 21/22 budget total net program cost is \$3,603,727.

Dr. Ba commented that salary decreases reflect the current five percent salary reductions of Personal Leave Program and Merit Salary Adjustments. Leal stated salary reductions will continue through 2022.

Leal reported the SAFE program proposed FY 21/22 budget includes vehicle operations of \$10,000; indirect IT of \$24,384; personnel services of \$266,803; total operating expenses of \$124,600 with a total net program cost of \$479,427. The combined total for Feed and SAFE personnel services is about \$2.3 million; operating expenses of about \$1.8 million for a total net program cost of about \$4.0 million, a reduction from previous years.

**MOTION:** Jed Asmus moved to approve the Feed and SAFE program's proposed FY 21/22 budget; Paul Parreira seconded. The motion passed unanimously with a vote by all board members present of 9 to 0.

Leal presented the LD program's FY 21/22 proposed budget, announcing that the change in salary and benefits is due to a vacant position. The LD program decided it was not necessary to backfill the position as Shelly King, Special Investigator of the Feed program in Southern California focuses on LD work and will be able to absorb these duties. There are no recoveries reflected in the LD's proposed FY 21/22 budget as the Tissue Residue CA has ended. The Antimicrobial Use and Stewardship (AUS) program has one dedicated staff that is 100 percent assigned solely to AUS and two other staff that are assigned 50/50 between the Feed and AUS program. Leal reported the AUS proposed FY 21/22 budget, highlighting total personnel services of \$480,004 with a total net program of \$831,496 and a combined total for LD and AUS of about \$1.1 million.

## **PROGRAM UPDATE**

Mike Davidson provided a field activity update stating that the Feed program revamped the routine inspection checklist, complaint forms, violation follow up forms, and standard operating procedures to enhance them for COVID-19 issues. Davidson reported two almond hullers were issued a notice of warning due to repeat crude fiber violations. Davidson stated there have been no feed safety related complaints or incidents at this time.

Leal gave a federal FSMA contract update reporting 12 inspections were de-obligated and moved to the FY 20/21 contract. The Feed program is underway with the new FY 20/21 contract: 24 Animal Food Preventive Controls (PCAF) inspections, 507 current good manufacturing practices (cGMP) PC inspections, 10 PCAF 507 cGMP inspections, five licensed medicated feed with 225 cGMP/507 cGMP inspections, and nine visits to firms where the compliance categories are unknown.

Rachelle Kennedy reported an 87 percent compliance rate for hemp online enforcement. King has started California prescription drugs online enforcement with 250 websites and 3,500 products identified selling veterinary feed directive (VFD) Type A drugs and Type B feed. Overall, there is a 50 percent compliance rate. Kennedy announced that the Drug Residue Prevention CA ends June of 2021. The Feed program received all tissue residue assignments; 59 in total were completed for 2020.

Leal reported that the U.S. Customs and Border Protection seized a vehicle attempting to cross the border in possession of large amounts of chlortetracycline and contacted the program for direction. Special Investigator King immediately responded and assisted with the incident. King has since established communication with the southern Border Patrol station and has provided outreach and education materials on LD law so that Border Patrol will have a plan in place in the future.

Kennedy added that the LD and AUS Programs will also be performing VFD compliance visits for distributors and manufacturers based on VFD collection.

Leal presented two industry-initiated projects for board recommendations. Justin Oldfield, Executive Director of California Cattle Council (CCC), contacted the Feed program proposing a plan to grow corn in Imperial Valley using aspergillus flavus 36 (AF36). AF36 has reduced aflatoxin loads in the field. The plan will be to have a set land in Imperial Valley with CCC's oversight in testing methodologies and analyses. The Feed program's involvement with sampling will be to ensure accuracy, record audits, and will verify that the appropriate measures are taken to ensure its only being fed to beef cattle. Leal asked for a board recommendation to allow the project to move forward.

Chair Arana asked the Feed program how much would be charged to the program budget and if it would be considered a SAFE research project. Leal stated the Feed program can track the financials, noting the sampling cost would be minimal because it

would only be a few samples to validate quick test results. Ultimately, it would just be King's time in collecting the samples and performing the spot check. Leal stated that the project would fall in line with the Feed program, not SAFE. CCC proposes 1,000 acres using quick tests while adhering to the Grain Inspection, Packers and Stockyards Administration guidelines.

Discussion ensued regarding the AF36 product.

Leal asked for board approval for the Feed program to move forward with the pilot project and to reevaluate the project after one year.

**MOTION:** David Meeker moved to approve the Imperial Valley corn project; Paul Parreira seconded. The motion passed unanimously with a vote by all board members present of 9 to 0.

Leal presented the second industry-initiated project of a seaweed feed ingredient trial. Straus Organic Farms and Blue Ocean Barns contacted the Feed program proposing a feeding trial on seaweed products for lactating cattle to assist in the reduction of methane production. Straus Organic Farms' goal is to be methane neutral by 2022. The project plan would focus on feeding 25 lactating dairy cattle on Straus Organic Farms and evaluate methane levels from the cattle. Straus has been working with USDA, National Organic Standards Board and is requesting Feed programs involvement with the feeding trial. Leal stated a significant amount of research shows the seaweed feed product has reduced methane production with several research projects and the efficacy data and research that already exists. Blue Ocean Barns is seeking a feed ingredients definition approval for this type of seaweed. Leal suggested the Technical Advisory Subcommittee (TASC) review safety and efficacy data and determine whether a trial usage would be granted for the purpose of the seaweed trail at Straus Family Farms.

Chair Arana advised the seaweed feed ingredient trial to be a TASC discussion.

Leal stated the Feed program met with Straus Organic Farms and Blue Ocean Barns previously and informed them they would need to petition FDA for a self-determination of Generally Recognized as Safe (GRAS) for this unapproved feed ingredient. The program further advised both entities that all activities must go through the Department's advisory board and TASC for approval.

Chair Arana agreed with Leal stating that this topic be a discussion for the next TASC meeting to determine TASC recommendations to the secretary.

Samantha Moran-Defty gave a training update stating the SAFE program will be hosting two Food Safety Preventive Controls Alliance (FSPCA) Preventive Controls Qualified Individual virtual trainings in December. Medicated feed label training will be reviewed

on a firm by firm basis to ensure firm's issues are addressed and corrected. A general label guidance will be published on the SAFE webpage.

Moran-Defty reported the original AFRPS-CA is complete; an audit is scheduled for fall of 2021 and reiterated that the five-year AFRPS Maintenance CA application has been accepted by FDA.

Moran-Defty gave a summary on the hemp residue feeding trial at UCD. The research was performed using lipid-extracted hemp residue from cannabidiol (CBD) extraction. The hemp product was reviewed for composition, cannabinoid, mycotoxin, heavy metals, and pesticides. The hemp product was fed to lactating goats with various amounts of molasses to determine the palatability. No pesticides or mycotoxin were detected; 0.838 percent of CBD detected, no detectable tetrahydrocannabinol. The product was 13 percent crude protein and 25 percent neutral detergent fiber with 33 percent fat, concluding a good source of energy and fiber. Moran-Defty reported that three different diets (controlled, low and high diet) with four goats per diet were each fed for 28 days. Body weight, urine, feces, and blood were collected weekly and adipose tissue was collected on day 28. All collected samples are awaiting analysis for various cannabinoid concentrations.

Leal reported the FIAB regulatory subcommittee met twice in September and October and made recommendations to the board regarding education and outreach, data collection and reporting, and market analysis. The regulatory subcommittee will utilize the Association of American Feed Controls Officials' feed ingredient definition for food byproducts in three overarching categories: 1) food processing waste, 2) restaurant food waste and 3) recovered retail food.

Leal stated that the subcommittee recommended that byproducts be charged a lower tonnage tax rate to incentivize reporting where tonnage will be assessed at 50 percent of the current tonnage tax rate for all other feed. A flat fee will be assessed for firms reporting low tonnage and a license fee will be \$100. Firms will not pay tonnage but will be required to report tonnage up to \$100. Tonnage reported up to \$100 will be absorbed into the license fee. The regulatory subcommittee also recommended that the Department continue its collaboration with CalRecycle in establishing an accurate data accounting baseline for organic recycling taking place outside of the waste stream through agricultural activities. Reporting requirements should be developed by the Department in consultation with Ashlee Yee, Senior Environmental Scientist (SES) (Specialist) from CalRecycle, to meet the compliance with greenhouse gas reductions mandates. Leal expressed the importance of not double reporting and that the Feed program would like to be involved with the CalRecycle reporting to ensure consistency.

Lastly, the subcommittee recommended CalRecycle and the Department conduct a market analysis with the input of stakeholders (California Grain and Feed Association, dairy, cattle, California Farm Bureau Federation, Agricultural Council of California, Dairy

Council of California, American Registry of Professional Animal Scientists). The subcommittee recommended the Feed program utilize the 2018 BCP to guide program expenditures and Feed program activities. The budgetary impact to the program will include one SES Specialist, an existing vacant position.

**MOTION:** Michael Koewler moved to approve the FIAB regulatory subcommittee recommendations; Jeremy Banducci seconded. The motion passed unanimously with a vote by all board members present of 9 to 0.

Leal presented a lab transition update. The Feed program started working through the process of submitting samples back in September. There are two executed agreements with UCD labs. The Feed program has met with the UCD labs to discuss the process of sample submission and reporting, and potentially moving away from the program's internal INSPECT database, finding another data organization tool to improve efficiencies and sample turnaround times. The Feed program has started to build this tool to input data from UCD, and organize and obtain the data from sample data sheets from the field staff to generate a lab report for industry. Sample data sheets from the field will automatically prepopulate with the only requirement to enter the results from the lab coordinators desk. Entered results will already have predetermined analytical variations which will allow staff to generate lab reports for program to review and approve online. The Feed program is also planning to email lab reports instead of sending by mail to licensed firms and reminded industry to ensure the appropriate contact person is on file through the Extraview Database.

#### **CENTER FOR ANALYTICAL CHEMISTRY (CAC) LAB UPDATE**

Maryam Khosravifard reported that as of September 2020, CAC received a total of 153 samples; 99 percent were completed. CAC completed a total of 575 assays with a 3.4 percent average number of assays per sample. Khosravifard provided a breakdown of assays completed from July 1 through September 30, 2020, highlighting an average nine-day sample turnaround time.

#### **CALIFORNIA GRAIN AND FEED ASSOCIATION (CGFA) / ALMOND ALLIANCE UPDATE**

No update was made.

#### **PUBLIC COMMENT**

No public comments were made.

#### **AGENDA ITEMS FOR FUTURE MEETINGS**

Chair Arana asked the board for agenda items for the next meeting.

Leal stated the program will include the lab revised budget.

Tad Bell asked that the California's Secure Food Supply program update be an agenda item.

**NEXT MEETING**

Leal proposed that the next FIAB meeting be held in mid-January of 2021. Members will be polled to select a date for January 12, 13, 14.

**MOTION:** Shay Rambur moved to adjourn the meeting; Dan Rice seconded. The motion passed unanimously with a vote by all board members present of 9 - 0.

**ADJOURN**

The meeting was adjourned at 12:10 p.m. by Chair Arana.

Respectfully Submitted By

**ORIGINAL SIGNED BY JENNA LEAL**

11/12/2020  
Date

Jenna Leal, Feed Program Manager  
Feed, Fertilizer, and Livestock Drugs Regulatory Services