

CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (Department)
FEED INSPECTION ADVISORY BOARD (FIAB)
UNIVERSITY COOPERATIVE EXTENSION SACRAMENTO COUNTY / HYBRID

NOVEMBER 10, 2022
9:00 AM – 12:00 PM

MINUTES

BOARD MEMBERS

Alejandro Hernandez
Dan Rice
Jed Asmus
Jeremy Banducci
Marit Arana, Chair
Michael Koewler
Paul Parreira
Shay Rambur

ABSENT

Kate Horstmann

CDFA STAFF

Adriana Avalos
Amadou Ba
Angelia Johnson
Ashley James
Brittnie Williams
Cathryn McCandless
Charles Brooke
Erika Lewis
Jenna Leal
KC Gutenberger
Lindsey Smith
Mike Davidson
Natalie Krout-Greenberg
Roberta Franco
Samantha Moran-Defty
Theodore Bert
Valerie Brott

INTERESTED PARTIES

Chris Zanobini
David Isen
James Oltjen
Jim Langston
Rani Youngman
Tad Bell

INTRODUCTIONS AND ANNOUNCEMENTS

Dr. Marit Arana, Chair, called the meeting to order at 9:04 a.m. Chair Arana informed the interested parties that per the Bagley-Keene Open Meeting Act, they are not required to sign in or identify themselves. Self-introductions were made, and a quorum was established.

APPROVE AUGUST 10, 2022, MEETING MINUTES

Chair Arana requested the Board review the minutes from the August 10, 2022, FIAB meeting.

MOTION: Shay Rambur moved to approve the August 10, 2022 minutes as presented; Jed Asmus seconded. The motion passed unanimously by all present with a vote of 8 - 0.

DEPARTMENT / DIVISION / BRANCH UPDATES

Natalie Krout-Greenberg announced Secretary Karen Ross and Deputy Secretary Virginia Jameson are attending the United Nations Climate Change Conference in

Egypt to discuss the world's climate goals, including Global Methane Pledge. Undersecretary Christine Birdsong will be attending the World Alfalfa Congress in San Diego on November 15, 2022. The Congress provides a perspective on California agriculture and the Department's role in the future of alfalfa production and utilization.

Krout-Greenberg, Secretary Ross and the Food and Drug Administration's (FDA) Deputy Commissioner Frank Yiannas and Congressmen Panetta and Congresswoman Lofgren met with industry producers in Salinas, California with a focus on Leafy Greens food safety and technology innovation with the federal government.

The Division's leadership team meet monthly to discuss and take action on items to implement phases of the Division's Strategic Direction. The primary focus is team connection – connection that nurtures the Division's culture. This is an opportunity to shape the Division's future of the hybrid work environment staying connected with industry and colleagues. Arima Kozina, the Department's newly appointed Deputy Secretary, who replaced former Kevin Masuhara, will lead the Strategic Plan starting January of 2023.

Dr. Amadou Ba reported drought at a record high, stating a precipitation deficit at a statewide impact. Based on a study at the University of California Merced, it is estimated that water shortage will be 2.6 million acres feet in 2022. Consequently, up to 800,000 acres to be idled in 2022 and costing about \$1.7 billion in 2022. Rice acreages to be fallowed is estimated to be 250,000 acres. Droughts have a significant impact across all sectors of the economy.

The United States Department of Agriculture's Fertilizer Production Expansion Program (FPEP) provides grants to help eligible applicants increase or expand the manufacturing and processing of fertilizer and nutrient alternatives in the United States. The FPEP is a \$500 million dollar grant expected to fund 30 - 50 grants. The maximum award amount is \$100 million, and the minimum award amount is \$1 million. The grant term is five years. FPEP applications submitted for the first window must be received by November 14, 2022; FPEP applications submitted for the second window must be received by December 29, 2022.

The Fertilizing Materials Inspection Program (FMIP) and California State Organic Program issued a penalty of \$1.89 million to Agro Research International LLC of Sorrento, Florida, for adulteration and mislabeling of the registered organic input material AGRO GOLD WS.

The Green Hydrogen Coalition's annual event, Catalyst H2, is on November 14 – 16, 2022 in Long Beach, California. The two-day event brings together policymakers, industry leaders, utilities, and non-governmental organizations to advance the green hydrogen market and infrastructure development. FMIP lead staff will be in attendance on behalf of the Department.

FUND CONDITION / TONNAGE REPORTING / BUDGETS

Jenna Leal reported as of July 1, 2021, the beginning balance for Feed was \$3,386,124 and the Safe Animal Feed Education Program (SAFE) was \$797,111. Total combined beginning funds for Feed and SAFE totaled \$4,183,235. Revenue was \$3,049,207 for Feed and \$316,873 for SAFE with a combined revenue for Feed and SAFE of \$3,366,080. Expenditures totaled \$3,284,024 for Feed and \$498,647 for SAFE with a combined total of \$3,782,671. Encumbrances totaled \$81,186 for Feed and \$127,551 for SAFE with a combined total of \$208,737. The ending adjusted balance for Feed was \$3,070,121. The ending adjusted balance for SAFE was \$487,785. Total adjusted ending balance as of June 30, 2022, for Feed and SAFE totaled \$3,557,906. Recoveries from Animal Feed Regulatory Program Standards (AFRPS) to date totaled \$414,727.

Feed tonnage revenue rates and tons were reported. The tonnage revenue for fiscal year (FY) 2021/22 at a \$0.10 per ton to-date was \$2,454,428, for a reported tonnage of 24,544,280. Leal stated byproducts reporting appears to be low and inaccurate and more outreach needs to be done in 2023 to ensure proper and accurate reporting. The Feed program and the Department's Office of Information Technology Services (IT) has been working on enhancements to the database to be user friendly for reporting tonnage data. A notice to industry will be issued to announce the \$100 feed license requirement and policy change to require a \$100 license fee of the person diverting per location versus the broker. This change will allow the program to identify the firm's location and what is being diverted. This also protects industry from some franchise waste hauling requirements.

Leal presented reductions in the operating expenses and equipment line item in the budget, highlighting the facilities operations budget is lower due to downsizing office spaces. The lab contract for the University of California (UC), Davis' California Animal Health and Food Safety Laboratory (CAHFS) was reduced significantly. Leal stated the Feed program budget included a piece of equipment that was in the initial contract that was purchased by CAHFS, reporting the approved budget for FY 2022/23 was \$998,000 to proposed budget for FY 2023/24 of \$694,000. The total new Feed program proposed budget FY 2023/24 is \$3,799,921 with a combined total of \$4,562,778 for proposed budget FY 2023/24 for both Feed and SAFE. SAFE's program budget has been overbudget by design by FIAB with \$200,000 earmarked for research costs. With the Department's Office of Environmental Farming and Innovation (OEFI) involvement with the program's research and grant projects, the program does not deem it necessary to duplicate efforts for new research projects; however, it is up to the FIAB on direction on whether they want to take the opportunity to modify or earmark the \$200,000 for something else.

Chris Zanobini, President and Chief Executive Officer (CEO) of Ag Association Management Services, Inc., mentioned the indirect IT charges on the program budget appear high which is a blanket observation made on all industry funded programs.

Krout-Greenberg responded, stating continuously appropriated programs are charged no more than five percent to programs but that she will check with Jody Lusby, the

Department's Administrative Services Division (ASD) Director, for clarification on IT indirect charges calculations. Indirect charge calculations are based on personnel services specifically the number of permanent employees allocated to a particular program.

MOTION: Jed Asmus moved to approve the Feed and SAFE program proposed budgets FY 2023/24 as presented; Michael Koewler seconded. The motion passed unanimously by all present with a vote of 8 - 0.

Leal presented the Feed program's revenue projection, stating the projections reflect revenue and expenditures without federal recoveries. Program revenue has been at a \$0.10 per ton deficit to drawdown program reserves which will be 10 quarters at a low rate by July 2023. Leal stated the need to look at the implementation of a tonnage tax increase for July 1, 2023.

Jed Asmus inquired about inflation and Cost-of-Living Adjustments (COLA) being allocated on the competition side of it. Krout-Greenberg stated the allocations vary depending on bargaining units and negotiations. Leal stated COLA is already embedded in the program's budget at 2.5% of personnel costs and merit salary adjustments.

Paul Parreira requested at the next FIAB meeting that the Feed program provide a model projection of 0.12 cents per ton for a 10-quarter stretch beginning July of 2023 adding a cent every July thereafter until program reserve is leveled out.

Asmus suggested a notice to industry regarding the change in tonnage tax. Leal stated the Feed program will prepare a notice to industry.

Chair Arana advised the FIAB review the model presented at the next meeting to reference and determine a plan moving forward.

MOTION: Jeremy Banducci moved to approve 0.12 cents per ton effective July 1, 2023; Paul Parreira seconded. The motion passed unanimously by all present with a vote of 8 - 0.

Erika Lewis presented a regulations update. The Feed program's Food Safety Modernization Act, bovine spongiform encephalopathy (BSE), lot number regulations were approved and become effective on January 1, 2023. Title 21 of the Code of Federal Regulations Part 507, Subparts A, B, C, E and F are included. The administrative penalties regulations comment period anticipated date is in December 2022. Article 14 ingredient definitions are under development comparing Association of American Food Control Officials (AAFCO) definitions and determining what definitions require updates.

The Livestock Drugs (LD) regulations for out-of-state sales and adulteration, proposed to broaden to all LD products, comment period is November 4 – December 27, 2022.

The LD regulations for product registration process and the repeal of California over the counter prescription drugs due the transition to federal prescription in July of 2023 is underway. Lewis stated a potential legislation for investigative cost recoveries, reporting that LD fees are relatively low and does not cover administrative license and fees. The potential regulations would allow the LD program to recover enforcement activities costs.

The Feed program prepared and presented a draft explanation for the program's administrative penalties regulations for the Department's Legal Office preliminary review before beginning the initial proposed rulemaking with the Office of Administrative Law (OAL). The goal is to have the penalties in place for noncompliance firms. Proposed changes include:

- Section 2675 definitions for "bulk", "packaged" and "mixed feed" are being adopted to better clarify who is required to pay tonnage tax.
- Section 2701 is being amended to split into subparagraphs and relocate current Section 2766 to 2701(b) with other provisions applicable to medicated feed.
- Section 2717 is being adopted to clarify that the Department provide subsamples to firms upon request with the condition that firms share the analytic.
- Section 2750 is being amended to further clarify who pays the inspection tonnage tax.
- Section 2751 is being adopted to clarify that commercial feed licenses must notify the Department within 30 days if any of the information provided on the license application or renewal changes after the license is issued.
- Section 2765(a-d) are being adopted to clarify violations and administrative penalties.
- Section 2766(a-c) are being adopted to assess factors that include the nature of the violation, the effect of violation and impact of penalty on the violator in deciding administrative penalty amounts.
- Sections 2767, 2768, 2769 are being adopted to add Department standard language pertaining filing deadlines and procedures, and hearing schedule, procedures, and notification.

Leal stated the FIAB may advise the Feed program to move forward with the proposed regulations or request that the regulatory subcommittee take a deeper dive into the regulations, if needed. The next steps to move forward with the proposed regulations is to prepare the initial proposed rulemaking packet which would be routed through Branch, Division, Legal and Executive Office approval before submission to OAL. The OAL review and approval would lead to a 45-day public comment period.

Zanobini inquired about an estimate of investigative costs for a major violation. Leal stated that the costs depend on the violation, the amount of time spent to prepare the case, including inspections, sampling, and then potential investigative activities.

FIAB asked if the Feed program can create a similar calculation to fertilizer.

Krout-Greenberg stated the Fertilizer program's administrative penalties calculations are based on personnel staff preparing the case and cost recoveries that may vary depending on the depth of the case. The Fertilizer program utilizes a cost accounting sheet that has a set amount for cost recovery where staff notate time spent on activities which then rolls into a violation exhibit.

Discussion ensued regarding assessment of feed administrative penalty violations and investigative costs recovery amounts.

Asmus emphasized the importance of outreach and education to feed industry clients of the Feed program's process for filing a complaint of a potential violator. Leal stated the Feed program has the ability to share the information to the American Registry of Professional Animal Scientist, Almond Alliance, Western United, etc.

FIAB agreed to move forward with the few examples for the administrative penalty regulations presented above by the Feed program as suggested by the Department's Legal Office. Leal stated the regulations will help the Feed program move methodically and clearly on how to proceed and act on a violator.

MOTION: Jed Asmus moved to approve the examples for the administrative penalty regulations presented by the Feed program; Michael Koewler seconded. The motion passed unanimously by all present with a vote of 8 - 0.

Ted Bert, Senior Environmental Scientist (SES) (Specialist), reported field updates. Bert reported a 23.5% industry violation date with a total of 180 violations; most violation follow up inspections were performed or are currently in progress. Seven restricted LD inspections were performed resulting in 50 new feed licenses and 800 new LD registrations. The CFRP performed 62 veterinary feed directive (VFD) inspections. As of November 9, 2022, 749 samples were taken; 100 of those samples were processed by CAHFS which include mycotoxins where data is used for corn and shell. The CFRP received 706 firm contact sheets and performed 40 routine inspections. The program received 16 complaints; 12 of the complaints were almond hull related. The CFRP issued 11 notices of warnings and four quarantines. The program completed 19 Preventive Controls (PC) and Current Good Manufacturing Practices.

Bert presented an update to the percentage data for sampling, reporting 69.6% non-violative rate and 23.5% violative; 58.1% food safety versus 40.5% label compliance; 98.5% routine samples versus 1.5% complaint samples; and 2.8% SAFE mixer studies versus 0.5% flush verifications. Bert further provided an update to the percentage data for various samples, including complete/formula feed, single ingredient, grain/ingredient mix, vitamin/mineral, liquid feed and others, and commodities such as corn, cottonseed and almond hulls.

Samantha Moran-Defty, SAFE SES (Specialist), presented program contract updates. The Department has been participating in the FDA Laboratory Flexible Funding Model (LFFM) which awarded \$100,000 for feed field program staff to collect 100 of the Food

Emergency Response Network samples for CAHFS. Corn products, distiller's products, soybean meal, poultry feed and swine feed samples will test for aflatoxin, fumonisin and deoxynivalenol mycotoxin.

The Federal Animal Food contract FY 2021/22 was completed; inspections met required timeframes. PC Animal Food inspections and VFD/BSE inspections continue from September 24, 2022 through September 23, 2023.

Leal presented the CAC's idle assets list as requested at the last FIAB meeting. The list provided a breakdown of manufacturer, the instrument, program code, purchased price and purchase year. Leal noted some equipment on the list were shared with the Fertilizer program and most instruments are missing program codes at this time. The standard operating procedure (SOP) for CAC's old equipment is essentially a donation to the UCs. Barzin Moradi, Branch Chief of CAC, is open to discussion about a way to move forward with the old Feed equipment that is no longer in use at the CAC lab.

Krout-Greenberg stated the Department's ASD is in the process of running CAC's idle asset list through an asset module to identify the equipment on a depreciation schedule. Some equipment may not be in the system due to age of equipment.

Jeremy Banducci inquired about the UC, Davis labs potential use of CAC's equipment. Leal stated the Feed program will continue to work with CAC and check with the UC, Davis labs.

Asmus inquired if CAC's equipment that is not obsolete can be sold into the market and refunded into Feed program's budget, expressing concern with UCs wasting money on equipment that is not used. Krout-Greenberg responded, stating the State's SOP for surplus of office equipment but is unsure of the feasibility to sell lab equipment. Krout-Greenberg stated she will inquire more about the State's SOP for lab equipment.

UNIVERSITY OF CALIFORNIA, DAVIS LABS UPDATE

Jim Langston, Lab Research Supervisor at CAHFS, reported Vitamin E method development is validated and ready. CAHFS' new protein analyzer will be delivered in March of 2023. Langston announced Sabine Hargrave, Lab Research Supervisor for inorganic analysis and sample receiving, resigned on November 4, 2022. Hargrave has accepted the Equine Analytical Chemistry Lab Manager position. CAHFS is working on hiring a replacement to fill the vacant position.

Rani Youngman, Staff Research Associate at UC, Davis Analytical (AN) Lab, reported the AN lab is making great progress with the International Organization for Standardization accreditation in hopes to file their certification by the end of the year. The CN828 analyzer is up and running which has allowed the AN lab to collect proficiency samples. The CN828 analyzer is a great addition to the AN lab. The AN lab is fully staffed, and training has been going well.

Lewis presented the rail data table illustrating tables one and two showing average,

minimum, and maximum of scheduled, actual lead time and delays for each month of Union Pacific and BNSF Railway Company. The reported data is in response to the weekly surveys sent out through the dashboard portal. The third table is the current percentage of inventory and the number of days to 0 percent inventory reported by all California Feed mills reporting split by month. July and August appeared to be the highest delays for Union Pacific. Leal stated the Feed program continues dialogue and discussion with Undersecretary biweekly, highlighting the data sharing will be beneficial come winter season.

Leal provided the November 3, 2022 Technical Advisory Subcommittee (TASC) meeting outcomes. Due to the interest with enteric methane reduction and \$10 million granted by the legislature, OEFI will work closely with the Feed program and TASC in dulling out funds and working with the program as subject matter experts who are aware of industry needs. SAFE has an opportunity to collaborate with OEFI with research dollars. The next FIAB meeting in January will focus on environmental methane reduction strategies.

Leal presented two TASC applications for consideration to the secretary approval. David Isen, Vice President of Regulatory Affairs and Business Development, Denali Waters Solutions (DWS), Inc. Isen has over 10 years' experience as VP and CEO for a \$200M annual revenue Recycling, Animal Feed Manufacturing, Biodiesel Manufacturing, and Commodities business in California and Southwest US and nine years eminent liaison for state and local government and industry associations. Dr. Noelia Silva-del-Rio, Doctor of Veterinary Medicine with a Ph.D. in Dairy Science, is also a Cooperative Extension Associate Specialist for Dairy Herd Health at UC, Davis School of Veterinary Medicine and has published 19 peer-reviewed articles in the area of dairy cattle and calf health, feeding and silage management, dairy nutrition, extension and outreach.

MOTION: Michael Koewler moved to approve the two TASC applicants as presented; Shay Rambur seconded. The motion passed unanimously by all present with a vote of 8 - 0.

Cathryn McCandless gave SAFE program updates. SAFE will host an in-person and online PC Qualified Individual (PCQI) training on December 12 – 13, 2022 at the California Farm Bureau in Sacramento. Training priority will be to firms who do not have PCQI with a maximum of 20 participants.

McCandless presented one of Senate Bill's (SB) 1383 focus related to Feed program is a 40 percent reduction in total methane emission including a separate 40 percent reduction in dairy and livestock emissions. McCandless introduced Isen to explain how SB 1383 and animal byproducts intermingle and coexist.

Isen stated a capacity study reported 27 million tons of organic materials to landfill reflects a major role in recycling efforts which also mentions animal feed and rendering as possible outliers. DWS has been working with CalRecycle for clarification on animal

feed and rendering counting towards SB 1383. SB 1383 also has a procurement target where municipalities must purchase indoor use for free materials? The goal for CalRecycle would be to have rendering and animal feed count towards procurement targets for cities. Isen expressed the goal would be to have the city reuse not only compost but animal feed or diverted materials from the grocery stores to ensure that they are part of the procurement targets.

McCandless stated the California Air Resources Board (CARB) is responsible for implementing regulations to support SB 1383. SB 1383 goals promulgated the Short-Lived Pollutant Reduction Strategy where under the “carrot-then-stick” strategy to reduce emissions, incentives are replaced with requirements as the solutions become increasingly feasible and cost-effective. Sources of methane emissions come primarily from dairy manure, dairy enteric and non-dairy livestock. CARB is seeking emissions from dairy and livestock operations come from enteric fermentation and manure management operations. CARB’s strategy is to “implement enteric fermentation strategies that are cost-effective, scientifically proven, safe for animal and human health, acceptable to consumers, and do not impact animal productivity”.

CARB proposes the adoption of enteric strategies by 2030 and diversion of 75% organic waste from landfills by 2025. The challenge is there is no current regulatory pathway to handle the methane reducing products or emission reduction claims. To date, the FDA has not provided clear public guidance on the regulation of these products. California has methane reducing claims on novel feed product labels and marketing as well as defined feed product labels and marketing. This leads to potential feed and food safety concerns associated with undefined feed products such as potential carcinogens, heavy metals, nitrate, vitamin/mineral levels and adulterated feed. The Feed program is working under authority of the Food and Agricultural Code 14901 and with the FDA and the AAFCO regarding the safety of these products. CARB will evaluate the greenhouse gas emission reduction claims.

Leal emphasized the Feed program’s focus to collaborate with the FIAB, industry, and the California Grain and Feed Association (CGFA) to put an environmental emission reductions strategy in place that will essentially benefit the industry and consumers. The Feed program is working with State and Federal agencies on a pathway of approval for methane reducing feed and/or drug products. The SAFE program’s priority will be outreach and education to all state and federal agencies, stakeholders, and public. Engagement and collaboration with OEFI and academia will be to ensure all research is meaningful, impactful, prioritized, and timely.

Krout-Greenberg mentioned the 2015 Short-lived Climate Pollutant Reduction Strategy called out dairy digesters and manure management regarding enteric emissions, highlighting the importance of the development of a strategy. Part of the development would be to work with OEFI on exception time reporting for dollars received due to the 5% administrative costs.

Leal stated UC, Davis is hosting a two-day environmental reduction summit in May 2-3 of 2023 focused on a regulatory path through a panel discussion with the Department's Dr. Stephen Beam, Branch Chief of the Department's Milk and Dairy Food Safety Branch and the FDA. Leal asked of FIAB interest and commitment in a strategy for environmental emissions reduction for the Feed industry. Asmus agreed stating the importance of the FIAB involvement for guidance to the industry regarding emissions reduction.

Discussion ensued regarding steps towards moderate strategies for emissions reduction by 2030.

Leal commented, stating the Low Carbon Fuel Standard system in California working with the Renewable Identification Numbers (RINS) system adopted nationally, can be referenced when putting a strategy in place.

CALIFORNIA GRAIN AND FEED ASSOCIATION UPDATES

Zanobini announced CGFA will hold a legislative election recap call. CGFA has been busy on a regulatory front with CARB zero emission vehicles. FDA's food additive regulations comment period is open until November 17, 2022. Zanobini stated UC, Davis was awarded a \$50 million donation from the Resnick's, which will have an indirect impact to the feed industry. The directive is for value-added properties in the byproducts of pomegranates, almonds and pistachios which may overtime be diverted from animal feed to other things.

PUBLIC COMMENTS

No public comments were made.

AGENDA ITEMS FOR FUTURE MEETINGS

No additional agenda items were requested for the next FIAB meeting.

NEXT MEETING

The next FIAB hybrid meeting (in-person and online) will be in conjunction with the CGFA conference on Tuesday, January 10, 2023, at 1:00 p.m. in Monterey, California.

MOTION: Michael Koewler moved to adjourn the meeting; Jed Asmus seconded. The motion was approved unanimously by all present with a vote of 8 - 0.

ADJOURNMENT

The meeting was adjourned at 12:07 p.m.

ORIGINAL SIGNED BY JENNA LEAL

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

11/10/2022
Date