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SPRING 2012

MARKETING QUARTERLY

California Department of Food and Agriculture
Marketing Division, Marketing Branch

Inside this issue:

Branch Briefing	1
Form 700 Changes Table of Due Dates	2
Branch Briefing, *continued*	3
Assessment Audit Fees Fee Descriptions	4
Open Letter from Sec. Ross CA GROWN 2.0	6
Ag License Plate Program	7
Marketing Program News	8
Retirements	9
Hearings & Referenda	10

BRANCH BRIEFING

In this briefing:

- Review of marketing program oversight policies
- Bagley-Keene Open Meeting Act
- Assessment collection and enforcement
- Initiatives emanating from the program exec meeting
- Lawsuit updates

Review of marketing program oversight policies

Secretary Ross has asked for a review of current policies regarding oversight of marketing boards, councils and commissions. This review will encompass how current policy fits with existing statute.

Specifically, the review will look at:

1. CDFA oversight of advertising and promotional content under the California Marketing Act, council and commission laws and FDA/FTC guidelines.
2. Marketing program contracts and the California Public Contract Code.
3. Applicability of the Administrative Procedures Act to marketing program regulations.
4. How documents are handled and produced under the Public Records Act and Bagley-Keene Open Meeting Act.
5. CDFA's Conflict of Interest Code regarding recent changes in the Fair Political Practices Commission regulations.

Review of these policies is nearly complete and the department will share its conclusions with program CEOs at a meeting to be announced soon.

Applicability of Bagley-Keene Open Meeting Act to strategic planning sessions

There have been a couple of recent strategic planning retreats held by marketing program boards and commissions that have not been properly noticed. Even though a board of directors will not be taking action on the expenditure of funds at such sessions, Bagley-Keene notice requirements still apply. Any meeting of a board of directors or committee of a board of directors must be properly noticed to afford the public an opportunity to observe board or committee deliberations and address the body regarding relevant issues.

Notices need to be posted on the program's website, and we ask that you also post notices on the Marketing Branch meetings website. If you need instructions, contact Beth Jensen or April Izumi.

Notices must give a specific address and start time for each meeting. A notice that states a meeting will be held at the board or commission's "office" (without including an address) and "will begin promptly after the end of a committee meeting" misses on both counts. If one meeting follows another, the notice should give a starting time for the second meeting. We suggest putting a starting time that assumes the first meeting's business will go quickly. Starting the second meeting late is not a violation of the Open Meeting Act. Starting any meeting early is a violation.

Continued on Page 3

FORM 700 CHANGES

MARKETING ORDERS, AGREEMENTS AND COUNCILS JOIN COMMISSIONS IN FILING TO FPPC

A revision to governing code—the ***Political Reform Act of 1974***—now requires that copies of the annual conflict-of-interest statements also be filed with the Fair Political Practices Commission (FPPC). This requirement became effective January 1, 2012.

This change applies to both the assuming office and leaving office statements as well as the annual statement.

The FPPC is allowing for electronic or mail service delivery of statements.

We recommend that the board manager plan to scan or copy all completed forms and forward them to the FPPC.

Email copies to: 700copies@fppc.ca.gov.

Mail copies to:

Ms. Rene Robertson
Fair Political Practices Commission
428 J Street, Suite 620
Sacramento, CA 95814

For questions regarding this new procedure, contact Rene Robertson at 916-324-3722, or you may reach her via email at rrobertson@fppc.ca.gov.

Form 700s are important and necessary. Failure to comply leads to removal from office and may involve fines. Another note of importance is that for every board member or alternate, except a public member, the filer must report some ownership or employment status related to the commodity regulated by the marketing program. If the form is returned reporting "no reportable interest" for all schedules, then the form should be reviewed more carefully for compliance regarding schedules A-2 and C.

Marketing Branch contacts for Form 700s are Beth Jensen at 916-900-5177, or David Hillis at 916-900-5269.

TABLE OF DUE DATES

The table below is a reminder of upcoming due dates. If you have questions, call your Marketing Branch program liaison at 916-900-5018.

Item	Applies To	Due Date
Annual Contract Report, also listing UC Research Contracts	Marketing Orders Agreements Councils	Electronic report due to the Marketing Branch six months into the board's or council's fiscal year.
Financial and Agreed Upon Procedures Audits	Marketing Orders Agreements Councils Commissions	Electronic copy to the Marketing Branch 30 days after completion.
Member Lists	Marketing Orders Agreements Councils Commissions	As soon as possible after any changes. Include address, phone and email.
Form 700	Marketing Orders Agreements Councils Commissions	**April 1** All Form 700s due to FPPC. **May 1** Program lists of members' and alternates' filings due to Marketing Branch.
Ethics Training	Marketing Orders Agreements Councils	Members must complete training within time frames below and submit certificate to program executive: • **New:** Within six months of assuming position. • **Continuing:** Every two calendar years. Program executives retain signed original certificates. List of board members and alternates, with dates they completed orientation, must be emailed to the branch via Beth Jensen.

REVISED: 01.01.2012

BRANCH BRIEFING, CONTINUED

Review of assessment collection and enforcement policies for marketing order advisory boards

The branch has had a few occasions recently to review advisory board assessment forms and collection policies. Language used on the forms and corresponding policies are not always consistent with provisions of the marketing order under which the boards operate. We ask that all boards work with the Marketing Branch in 2012 to review forms and policies and establish formal administrative rules and regulations that spell out assessment payment requirements as well as the enforcement procedures that will be followed should assessment payments not be paid. The Marketing Branch will be drafting a template for programs to use as a starting point.

Such a review and adoption of formal rules and regulations will ensure that a transparent process is used to set policies and procedures that are consistent with governing documents. Administrative rules and regulations can be adopted through board action with necessary findings made by the department. While not required by state law, we are asking that the policies and procedures crafted by each advisory board be provided to assessment payers for comment before being finalized.

Initiatives emanating from program executives' meeting

In follow-up to the November 29 program executives' meeting, Secretary Ross held a conference call in December with the CEO Executive Committee to discuss key initiatives. Five areas of immediate attention are:

Easing the burden of regulation on agriculture—Secretary Ross suggested focusing on areas where concentrated efforts could yield results. She cited current efforts regarding dairy digesters as an example where industry and various state and local agencies are working together to streamline regulations. It was suggested that the department could play an important role in addressing regulatory redundancies in acute toxicity measures at the Department of Pesticide Regulation. Secretary Ross also mentioned that she would like to see more effective use of CDFA's Office of Pesticide Consultation and Analysis in providing input into DPR.

Ensuring research needs of agriculture continue during challenging times—Budgets for the UC and CSU university systems continue to be reduced. This leaves research positions unfilled and a heavier teaching obligation for existing researchers. A new model needs to be explored for funding researchers and research projects. Ted Batkin volunteered to work with Secretary Ross to form a team to work on this initiative.

Continued vigilance against invasive pests and diseases—Secretary Ross noted that this is a core activity of the department. Funding necessary to effectively carry out the mission will be a challenge. A legislative solution is being considered and, once developed, the committee advised the Secretary to call a meeting of the program executives to coordinate efforts.

Farm labor availability and education/training—It was noted that there should be an avenue for low-wage, unskilled workers to have access to education giving them opportunities to advance. With increasing automation, low-skilled workers will need to learn how to operate complex machinery to remain employed.

Secretary Ross mentioned that there are a couple of examples in the food processing industry where plant upgrades are taking place with sophisticated equipment. As the construction/installation is taking place, the existing workforce is being trained. Similar models can work for production agriculture.

Consumer education regarding agriculture's contributions to the state's economy, environment, communities and farm workers—Tim Johnson mentioned that there is an existing program in play to accomplish this objective. The California Agricultural Communication Coalition has more than 70 supporting member organizations. The coalition is organizing a 501 (c)(3) to have a more formalized funding structure.

Department lawsuit updates

1. People for Ethical Treatment of Animals (PETA) is alleging that the California Milk Advisory Board's advertisements claiming that dairy farmers treat their cows well are false and misleading. Recently PETA sought information on individual dairy owners who were depicted in the advertisements. This case is in discovery phase.
2. Three raisin entities (Lion Raisins, Boghosian Raisin Packing Co., Raisin Valley) filed a lawsuit claiming that the California Raisin Marketing Board's mandatory assessments are a violation of Free Speech and Free Association Clauses of the California Constitution. Discovery ends in March, and trial is set to begin on April 2, 2012.

ASSESSMENT AUDITS EXCEEDING 20 HOURS

BUDGET CONTRAINTS REQUIRE IMPLEMENTATION OF CURRENT FEE SCHEDULE

As reported in the *Summer 2010 Marketing Quarterly,* the Market Enforcement Branch announced a new fee schedule for assessment audits. In particular, effective June 30, 2010, an additional charge of $50 per hour would apply to those audits that exceeded 20 hours of service.

While this provision has been in place since 2010, as a service to the industry, the enforcement branch has been able to waive this additional fee in every instance.

Now, due to increased budgetary constraints, beginning in April 2012, the enforcement branch will contact marketing programs in advance if they anticipate that completing an audit will take more than 20 hours. The branch will also begin billing this additional fee, as appropriate.

Although the vast majority of audits are completed within the allotted time for a standard audit (20 hours), occasionally, it takes additional time to get the job done.

We recognize both the importance of maintaining affordable audit rates and avoiding the creation of undue incentives that would tend to discourage compliance among handlers. Because of this, the enforcement branch will begin notifying programs of potential extra charges every time they:

1. Identify a handler during the scheduling process as an entity that, due to its size or known poor-record keeping practices, will likely require additional hours of work.
2. Or, if the audit field visit to the handler reveals problems that will likely require a higher-than average number of hours to address.

Market Enforcement Branch's advance notice should give programs the opportunity to adjust their budgets and avoid overages. **We do not expect extra fees to become the norm; also, we intend to closely monitor special cases.**

Accordingly, we believe that budget variances will be negligible and will rarely require formal action by the program or its staff.

Please note that application of this extra fee is intended to accommodate both the rare instances when a limited number of extra hours of work (2-5) is required and rare occurrences (a total of 2 times last year) when the handler's poor level of cooperation triggers the need and interest by both the program and Market Enforcement Branch to do a more detailed review. However, you can be assured that even extreme cases will not be billed for more than 20 additional hours (i.e., no more than 40 hours total).

If you have questions regarding extra fees or added benefits that enforcement audits provide to marketing programs, call Kathy Diaz-Cretu, Marketing Branch Enforcement Liaison, at 916-900-5175, or your assigned economist.

For your convenience, the next page includes the current price schedule for assessment audits (revised July 1, 2010).

Assessment audit MOUs for commissions update

In the next few weeks, the Marketing Branch will provide updated memoranda of understanding (MOUs) to those commissions that use the Market Enforcement Branch services for assessment audits. Terms of the MOU template are being amended to reflect the fact that commissions (as opposed to CDFA) are responsible for enforcing the collection of assessments.

It is important to highlight that since the Market Enforcement Branch's authority over handlers and processors of California produce does not derive from commission laws, this clarification will not affect the branch's ability to address issues of which it may become aware in the course of an audit, or through any other means; nor will it preclude it from gaining access to handlers' business records.

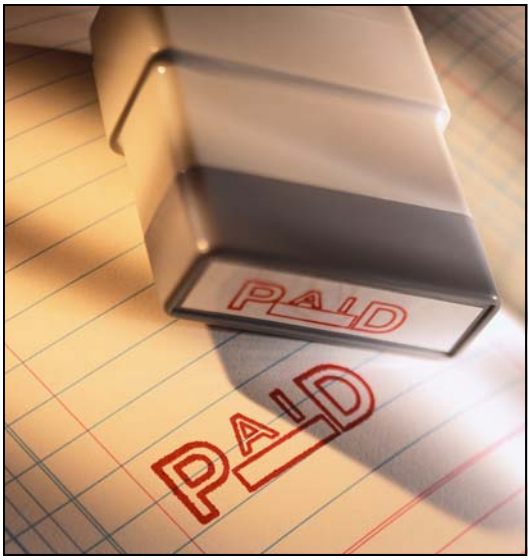
For questions regarding the MOU template updates for assessment audits, call Kathy Diaz-Cretu at 916-900-5175, or your assigned economist.

Continued on Next Page

ASSESSMENT AUDIT DESCRIPTIONS AND FEES

Audit Steps:

- Gathering program documentation for previous three fiscal years.
- Notifying and confirming the entity to be audited (verbally and in writing) of scheduled audit.
- Reviewing handler records for previous three fiscal years.
- Travel time and costs to and from handler's place of business.
- Photocopying of records.
- Spreadsheet analysis.
- Report writing.
- Supervisor's review and correspondence to handler and program.
- Up to 20 hours of services (audit and travel time).



Description of Audit	Prior Fee	New Fee
Standard Single Commodity *Applies to most programs*	$675	$ 800
Single Commodity Complex *Applies to:* Grape Rootstock, Rice, Walnuts, Wheat, Mendocino Wine Grapes, Wool, and others as appropriate.	$900	$1000
Standard Multi-commodity *Applies to:* Leafy Greens Marketing Agreement, Leafy Greens Research and Dried Beans.	2-4 commodities: $ 900 5-6 commodities: $1000 7-9 commodities: $1100 10-12 commodities: $1200 13+commodities: $100 per	2 commodities: $1000 3 commodities: $1200 4 commodities: $1400 5 commodities: $1600 6 commodities: $1800 7+ commodities: $2000

AUDITS EXCEEDING 20 HOURS

Description	Prior Fee	New Fee
Marketing Orders, Agreements and Councils If the auditor ascertains there are problems with gathering documentation, incomplete paperwork provided by the handler/grower, and/or lack of cooperation by the handler, the Marketing Branch will be notified of the problem. The Marketing Branch, in consultation with the program, will advise the Market Enforcement Branch whether to continue with the audit or make alternate arrangements.	$47/hour for time in excess of 20 hours.	$50/hour for time in excess of 20 hours. This fee is in addition to the appropriate base fee, as described above.
Commissions If the auditor ascertains there are problems with gathering documentation, incomplete paperwork provided by the handler/grower, and/or lack of cooperation by the handler, the commission will be notified of the problem. The commission will advise the Market Enforcement Branch whether to continue with the audit or make alternate arrangements.	$47/hour for time in excess of 20 hours.	$50/hour for time in excess of 20 hours. This fee is in addition to the appropriate base fee, as described above.

OPEN LETTER FROM SECRETARY ROSS

CA GROWN 2.0

I am writing this open letter today to help celebrate CA GROWN'S 10-year anniversary and make you aware of the Buy California Marketing Agreement's recent work to create a "strategic framework" and chart an exciting new course for its future.

Established in 2002, the campaign worked hard to raise awareness and encourage the purchase of California's agricultural products. It was an ambitious undertaking, and it has made strides toward the goal of gaining consumer attention through its placement of the iconic CA GROWN license plate logo in the produce aisle as well as on trade missions and elsewhere.

In the decade since the program began, the world's economy has taken us on a wild ride. "Social media" has revamped the public relations arena, and terms like "food safety," "organic," "sustainable," and "local" have taken root in our communities. Given all of the changes along the way, now is an excellent time to engage the broader agricultural community in a vital review of this valuable program.

Today, more than a dozen industries are committed to success of the agreement, but we know there is room for much more participation and partnerships.

The board has hired a strategic planning consultant to help it with a review of its purpose and scope to find ways of increasing program impact and membership.

With the help of the consultant, key stakeholders as well as opinion leaders were interviewed by phone for their perceptions of the internal and external operating environments that could impact the program. Armed with this assessment, the board conducted an all-day planning session on March 9.

Jim Houston, CDFA's deputy secretary for legislation and public engagement, and I participated for the day. We were stimulated by insights generated through the phone interviews, and our facilitator led us through a discussion of how to create a better environment for California agriculture and develop a list of criteria for future success of the campaign.

In the coming days, I will be interacting with marketing programs and other key stakeholders to talk about our ideas.

Among many goals and objectives, these are just some of our thoughts to ride the wave of change sweeping across the environment:

- Take greater advantage of issues within the social consciousness, such as the interest in "buy local" and the people and place behind the food being purchased.
- Engage a broader group of constituents and motivate them to become advocates.
- Create collaborations and partnerships to strengthen all the work being done to deepen the understanding of agriculture among policymakers and consumers using influence and education.

I am proud to be a part of this effort and committed to raising the profile of agriculture with consumers and policymakers. I hope you will join me, and I look forward to this opportunity to work with the Buy California Marketing Agreement board to develop even more value in the CA GROWN brand.

Photo by Jay Van Rein, CDFA Public Affairs

California Ag Day at the Capitol, March 19, 2012

WE NEED YOU TO SUPPORT AG EDUCATION PROGRAMS!

CALAGPLATE.COM

AGRICULTURE

FOOD·FIBER FUEL·FLORA

THE APRIL 6TH DEADLINE IS LOOMING. APPLY FOR YOUR AG LICENSE PLATE TODAY!

Created as a way to support agricultural education and leadership programs, the ag license plate would generate a continuous revenue stream—through annual license plate renewals—for programs dedicated to teaching the next generation of California farmers and ranchers.

Groups from Future Farmers of America and 4-H to Ag in the Classroom and other youth agricultural programs will directly benefit.

Purchasers will benefit too since a portion of the purchase price and renewal fee are considered a charitable contribution and are tax-deductable.

However, if the Department of Motor Vehicles does not receive 7,500 paid "pledge to purchase" applications for the ag license plate, then this initiative will NOT become a reality.

The plates are available for registered cars, trucks, trailers, motorcycles and commercial fleets.

If you have not already done so, please apply for your license plate today. The cost is $50 to order and $40 per year to renew. For personalized plates, the cost is $98 to order and $70 a year to renew.

So far, the department has 7,000 paid pledges. With only 500 left to go, this is the final push to the goal.

We need **you** to become an ag education supporter; and, remember, these make great gifts, too.

Thank you!

For more information go to www.CalAgPlate.com

To reserve your plate go to https://secure.cdfa.ca.gov/egov/calagplate/

MARKETING PROGRAM NEWS

CALIFORNIA TABLE GRAPE COMMISSION APPROVED TO CONTINUE

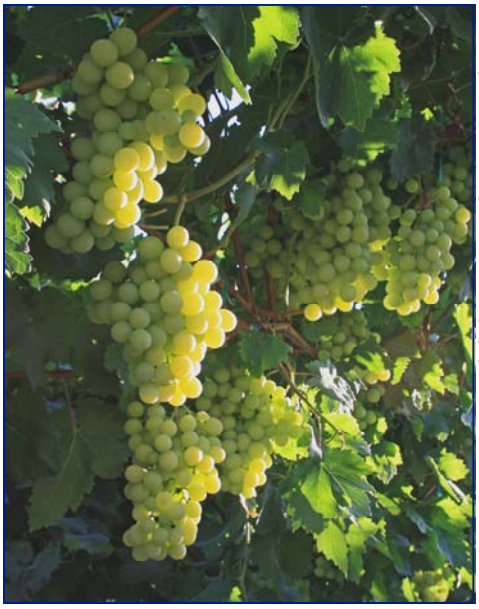


Photo by Ed Williams, Ag Natural Photography

California grape growers voted through a referendum in February to continue the California Table Grape Commission for another five years.

More than 82 percent of growers who voted chose to continue the Fresno-based commission.

Those growers voting accounted for 70 percent of the state's fresh-market grape volume.

About 51 percent of eligible growers, representing 81 percent of the state's fresh volume, participated in the referendum.

The Table Grape Commission conducts promotion, research and issues management activities on behalf of California's table grape industry. It is funded by a mandatory grower assessment.

The commission has operated since 1968 and has an annual budget of $16.5 million.

This referendum was the ninth vote to favor continuation of the commission.

LODI WINEGRAPE COMMISSION EXECUTIVE DIRECTOR SEARCH

The initial filing date for submitting application materials was March 9, 2012; however, as we understand it, this position will remain open until filled.

With that being said, the commission is seeking an executive director who will serve at the pleasure of the Lodi Winegrape Commission board of directors. The executive director will oversee a staff of six and a collective budget of $2.5 million.

This position is responsible for leading all of the commission's marketing, promotions, constituent relations, strategic planning and Lodi branding efforts.

The executive director is a recognized community and industry leader who focuses on issues of importance to Lodi wines. Issues may range from research, education and market development to the regulatory environment.

The ideal candidate will be one who can set a standard by intellectually and emotionally engaging people at all levels —from growers and vintners to consumers—and doing so in a wide range of settings and through various media.

If this sounds like you, here's where you can find out more about this exciting career opportunity:

www.lodiwine.com/LodiWineCommission.pdf

Photo by Ed Williams, Ag Natural Photography

PASSING THE TORCH... RECENT RETIREMENTS

JERRY MUNSON RETIRES AFTER 42 YEARS IN MARKETING ORDER MANAGEMENT

In January, clients, colleagues, family and friends surprised Jerry Munson with a retirement dinner where he was honored with a proclamation by Secretary Ross.

Jerry holds Sec. Ross' proclamation presented on January 6.

Jerry Munson co-founded Monfort Associates with Gordon Montfort in 1969 with one agricultural marketing program, the Lima Bean Council.

In the following 42 years, the firm grew to become Monfort Management Services and provide administrative support for the Alfalfa Seed Production Research Board, California Dry Bean Board, California Cantaloupe Board, California Fresh Carrot Board, California Celery Research Board, California Citrus Nursery Board, California Honey Board *(terminated)*, California Melon Research Board, California Cling Peach Board, California Pepper Commission, California Potato Research Board, California Tomato Board *(terminated),* and California Winegrape Inspection Program.

Through Monfort Management, Jerry Munson was instrumental in the process that eventually allowed each marketing program to bank and invest their own funds and perform all fiduciary functions.

He also helped create his company's niche as an economically viable and effective management option for many of the smaller California marketing programs.

The department will remember him for his knowledge and experience that made him a man who could be relied upon for his responsiveness to the department's oversight responsibilities.

We wish you well, Jerry! Happy retirement.

Senior Agricultural Economist Joe Monson presents a proclamation from Sec. Ross to Bob Rohner.

BOB ROHNER LEAVES AS MANAGER OF THE GARLIC & ONION DEHYDRATER INSPECTION PROGRAM

Bob Rohner began his career with the California Department of Food and Agriculture in June 1969 as a seasonal inspector with the Shipping Point Inspection Program.

In the following 30 years at the department, Bob Rohner inspected and eventually supervised the inspection of fresh olives, garlic and onions for dehydration, grapes for wine and byproducts, and cling peaches.

In 1999, Bob Rohner played an instrumental role in helping the garlic and onion inspection program, originally based within the department, to transition into a state marketing order, resulting in significant cost savings and efficiencies for the industry.

Bob Rohner served as manager of the program since its inception and, in so doing, has overseen the inspection of 88,853 loads of garlic and 213,592 loads of onions!

Over the years, he served as a caring and conscientious mentor to numerous inspectors and is held in high regard by the California garlic and onion industry.

Secretary Ross commended Bob Rohner for his many years of dedicated service to California agriculture.

We wish you the best for a rewarding retirement!

MARKETING QUARTERLY

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WE WANT TO HEAR FROM YOU!

1. Do you have an announcement or news to share via the *Marketing Quarterly*?
2. Do you have commodity beauty shots that we can feature in this newsletter?
3. Do you have suggestions for improving this newsletter?

Please send comments or news items for inclusion in the next *Marketing Quarterly* to April Izumi at aizumi@cdfa.ca.gov.

Marketing Branch Mission
We assure the fair and practical operation of marketing programs for the benefit of California agriculture and the citizens of California.

JAN DELYSER NAMED "PRODUCE MARKETER OF THE YEAR"

At the recent PMA Fresh Summit Convention in Atlanta, Jan DeLyser, vice president of marketing for the California Avocado Commission, was presented The Packer's "Produce Marketer of the Year" award. Greg Johnson, editor of The Packer newspaper, presented the award, crediting DeLyser with being "the consummate marketer; an incredible thinker; subtle, but very effective; the ultimate consensus builder and the face of the avocado industry." DeLyser joined the commission in 1998 and has been responsible for overall leadership, management and organization of its marketing functions since 2003. In 2007, the commission unveiled a new, integrated California avocado marketing campaign *("Hand Grown in California")* that leverages the authenticity of real California avocado growers by helping consumers to associate a face and a place with the fruit. In subsequent years she spearheaded marketing innovations that have kept the commission on the leading edge, including award-winning advertising, retail and foodservice programs, public relations activities with artisan chefs, outreach to food bloggers and strong engagement with social media. Congratulations to Jan for receiving this prestigious produce industry honor!

2012 CONTINUATION HEARINGS AND REFERENDA SCHEDULE

Marketing orders, commissions and councils are typically subject to a five-year continuation process. This year, six programs are due to undergo a continuation hearing and six programs are due to undergo a continuation referendum.

Program Hearings	Month for Hearing
Pistachio Research Board	January 2012
Mendocino Winegrape Commission	February 2012
Fig Advisory Board	April 2012
Melon Research Board	October 2012
Processing Tomato Advisory Board	October 2012
Alfalfa Seed Advisory Board	October 2012

Program Referenda	Month for Vote
Table Grape Commission	January 2012
Pear Advisory Board	February 2012
Processing Strawberry Advisory Board	March 2012
Citrus Research Board	April 2012
Fresh Carrot Advisor Board	Summer 2012
Grape Rootstock Commission	November 2012