VOLUME 2, ISSUE 4
WINTER 2010

MARKETING QUARTERLY

California Department of Food and Agriculture
Marketing Division, Marketing Branch

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Photo by Ed Williams, Ag Natural Photography

BRANCH BRIEFING BY BOB MAXIE, BRANCH CHIEF

In this briefing:

- Changes in programs
- Annual reports to assessment payers
- Public members on the board of directors
- Changes to the fiscal and compliance audit program
- Trademarks owned by programs

Two new commissions and three programs terminating

This is turning out to be a busy year for changes in our roster of marketing programs. Two new commission laws were enacted: one for nursery producers and one for apiary research. A referendum must be held to implement each new law before a commission can be created.

As we have reported before, the California Pistachio Agreement has decided to terminate its program. Additionally, the California Kiwifruit Commission and Marketing Order for California Tree Fruit each failed to generate sufficient votes in continuation referenda, and both will be suspended at the end of their current fiscal years. Both the kiwifruit commission and tree fruit program have corresponding federal orders that can pick up at least some of the current activities of the terminating state programs.

Annual reports to assessment payers required

All marketing programs are required by their respective enabling statutes to provide assessment payers with an annual report summarizing the program budget and activities.

The California Marketing Act contains the following reporting requirement for all marketing order advisory boards (including marketing agreements). The law reads:

> **58846.5**. Each advisory board shall, annually, report to the members of the industry who are subject to its marketing order on the activities and program, including, but not limited to, the income and expenses, the fund balance, and a report of progress in achieving program goals, of such a marketing order, as prescribed by the director.

Similar language appears in each of the council and commission laws.

Enabling laws do not specify a required format, which gives the programs considerable discretion. Depending on the needs of the industry, some programs have chosen to produce very comprehensive annual reports that also serve as the industry's official statistics publication, while other programs have chosen to merely make one issue of the regular newsletter an annual report issue. These approaches, and other variations, meet the reporting requirement as long as they disclose the required activity and budgetary details to the assessment payers.

Although most of the programs do a fine job at producing an annual report, the Marketing Branch has noticed that an increasing number have not been issuing them in recent years. The branch will be tracking these to ensure that annual reports are issued from this point forward. If you have a question regarding what is required to meet this requirement, please contact your assigned economist.

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OUR WISH TO YOU

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FROM ALL OF US

AT THE

MARKETING

BRANCH

WE WISH YOU

THE MERRIEST

OF HOLIDAYS

Photo by Ed Williams, Ag Natural Photography

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 916-341-6005.

Item	Applies To	Due Date
Quarterly Contract Report, also listing UC Research Contracts	Marketing Orders, Agreements & Councils	**1st Qtr ~ Due April** (January - March) **2nd Qtr ~ Due July** (April - June) **3rd Qtr ~ Due October** (July - September) **4th Qtr ~ Due January** (October - December)
Financial Audits	Marketing Orders, Agreements & Councils	Two copies to the Marketing Branch 30 days after completion.
Member Lists	Marketing Orders, Agreements, Councils & Commissions	As soon as possible after any changes. Be sure to include individual contact information: addresses, phone and email addresses.
Form 700	Marketing Orders, Agreements & Councils	**April 1st** Program lists of members and alternates filings due to Marketing Branch.
Ethics Training	Marketing Orders, Agreements & Councils	Members must complete the training in the time frames below and submit the certification to their marketing program executive: • New members: within six months of assuming their position. • Continuing members: every two calendar years. **Program executives must retain the signed original certificates. A list of board members and alternates with the dates they completed the orientation, must be sent to the Marketing Branch, attention of Beth Jensen.**

BRANCH BRIEFING, CONTINUED FROM PAGE 1

Public members on boards of directors
Most of the various enabling laws for marketing programs within the Food and Agricultural Code and the marketing orders and agreements issued by the department provide for public member positions on each respective board of directors.

In some cases, this provision is permissive (i.e., "there ***may*** be a member to represent the general public"), mandatory (i.e., "there ***shall*** be a member to represent the general public"), or in some commission laws the provision may be for either a member representing the general public or an at-large member with particular knowledge or expertise about the industry or related activities.

The department is supportive of marketing programs, including a member on its board of directors that can represent the interests and concerns of the public generally. For those programs where the provision is mandatory, the Marketing Branch will be ensuring that a public member is appointed. These appointments are based on recommendations of candidates submitted by each board, so we are asking that those boards that have a vacant position for, but are required to have, a public member begin an earnest search for a candidate.

Changes to fiscal and compliance audit program
The Marketing Branch recently announced an immediate change in its Fiscal and Compliance Audit Program (compliance audit) for the marketing boards, councils and commissions. Under this change, the compliance audit will be performed by private CPA firms on an annual basis in conjunction with the program's annual financial statements audit.

The need for modifying the compliance audit program was discussed at the meeting of Marketing Program Executives in May 2010. In response, the department established an executive committee to, among other things, help the department look at alternatives to the existing compliance audit program.

The executive committee formed an audit working group consisting of CPAs under contract to perform financial statements audits for marketing programs and program staff with accounting expertise. This working group created a set of "agreed upon procedures" (manual) for CPA firms to follow when performing the compliance audit.

The manual focuses on activities and transactions that were identified as being areas where there is greater exposure to the risk of noncompliance.

The working group also considered whether it was best to perform these compliance audit procedures once every three years (auditing the previous three years of records), or perform the compliance audit annually at the same time as the financial statement audit.

The group recommended that it made better business sense to perform the compliance audit at the same time as the financial statement audit since the records are already being examined.

The executive committee concurred and submitted the working group's recommendation and audit manual to Secretary Kawamura for review and approval.

Trademarks owned by programs
The department's Legal Office is recommending that each program review any trademarks owned or registered under the program's name to ensure that none have expired. Programs should note each trademark's expiration date and ensure that the trademark is renewed prior to that expiration date. Similarly, those programs that have registered Internet domain names should also keep note of when those expirations come up and ensure they are also renewed.

Progress switching to a paperless office process
The Marketing Branch is beginning to roll out procedures to approve documents electronically. This includes review and approval of meeting minutes, budgets, statements of contemplated activities and appointments to boards.

We would greatly appreciate that programs begin to submit documents to the branch electronically, either in Microsoft Word, Excel or PDF format. We will return the documents with either an approval stamp on the document, or an attached approval form.

We hope this will be easier, quicker and will remove the requirement to print and file hard copies. So far, the process is working as expected on our end.

We would like to hear from programs as to how this procedure is working on your end.

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MARKETING PROGRAMS: IN THE NEWS

Termination vote for the California Tree Fruit Marketing Program

The Marketing Branch recently conducted a referendum to determine if peach and nectarine producers support continuation of the California Tree Fruit Marketing Program.

Even though a majority of the voting peach producers (54 percent) and voting nectarine producers (58 percent) favored continuation, those producers did not account for the necessary portion of the voted volume to meet the approval criteria.

The program will end effective February 28, 2011. The California Tree Fruit Marketing Program is a state marketing order that has been operating since 2006, in conjunction with a state plum program and two federal peach and nectarine programs, under the California Tree Fruit Agreement umbrella.

The state plum program and two federal peach and nectarine programs are not directly affected by this vote.

Pistachio Marketing Agreement to wind down

The California Pistachio Marketing Agreement has discontinued its operations pursuant to a unanimous vote of its board of directors in August.

The agreement was originally established to allow participating pistachio processors to curb trade practices deemed to be detrimental to the pistachio industry.

The need for continuation of this program diminished significantly over the last year, as the industry decided to expand the regulatory scope of a related federal pistachio program. The industry will use the federal program to write regulations to conduct aflatoxin testing for exports and develop a salmonella food safety plan.

The agreement will undergo closing financial and compliance audits by the end of the year, and any program funds remaining after all expenses have been paid will be refunded to participating processors on a prorated basis.

California Kiwifruit Commission to close its doors

In October, the Marketing Branch conducted a referendum to determine if kiwifruit producers favored continuation of the California Kiwifruit Commission.

While 71.3 percent of the kiwifruit producers who participated in the referendum voted in support, those producers only represented 48.9 percent of the voted volume.

Since these results failed to meet the criteria for program continuation, the kiwifruit commission will end its operations on September 30, 2011, at the end of its current fiscal year.

The California Kiwifruit Commission first opened for operations in 1980.

Milk Processor Board will continue three more years

In a referendum recently conducted by the Marketing Branch, fluid milk processors voted in favor of continuing operations of the California Milk Processor Board.

Of those processors voting, 73 percent voted in favor of continuation, accounting for 97 percent of the voted volume. Since these voting results exceed the program's criteria for continuation, it is authorized to continue operating for another three years through January 31, 2014.

The California Milk Processor Board is responsible for the renowned "got milk?" advertising campaign which is funded by a mandatory 3-cents/gallon processor assessment.

This program has been in existence since 1993.

MARKETING QUARTERLY

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

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.

NEW DIRECTOR AT SEA URCHIN COMMISSION

On September 1, 2010, David Goldenberg assumed the administrative duties of the California Sea Urchin Commission as its new executive director. Mr. Goldenberg has a long history of managing California agricultural marketing programs and is the current manager of the California Sheep Commission, California Salmon Council and California Pistachio Marketing Agreement.

Former Sea Urchin commission manager, Vern Goehring, will continue to provide program and policy advocacy services to the commission through the end of 2010. Both Goldenberg's and Goehring's contracts with the commission will be subject to re-approval by the Board of Directors for the upcoming fiscal year, which begins on April 1, 2011.

Since its inception in 2004, the California Sea Urchin Commission has been engaged in fishery management and marine access issues, communications activities and promotional efforts on behalf of California's sea urchin industry.

JOB ANNOUNCEMENT!

Executive Director

The California Dried Plum Board and Prune Marketing Committee in Sacramento seek a replacement for their executive director, Rich Peterson, who will retire at the fiscal year end on July 31, 2011.

April 1, 2011, is the target start date set for the full-time, benefited employee who will work with Rich prior to his retirement.

The executive director manages both the California and federal marketing orders as well as the domestic and international marketing programs for dried plums/prunes. Visit www.californiadriedplums.org for more information.

A minimum 10 years of consumer product marketing experience, a bachelor's degree and excellent communication skills are required. Experience managing government-funded programs like the Market Access Program is highly desirable. The CDPB and the PMC are Equal Opportunity Employers.

E-mail resume and salary requirements to pconine@cdpb.org with **Executive Director Search** in the subject line.