

Seed Advisory Board Meeting  
 CDFA Plant Diagnostics Center  
 Meadowview Road, Sacramento, CA  
 8:15 AM, Tuesday November 13, 2012

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**1. Call to Order – Roll call**

Chairman Falconer called the meeting to order at 8:17 am. The following members and guests were present:

Kelly Keithly	Paul Frey	Chris Zanobini
Rick Falconer	Larry Hirahara	John Heaton
Bob Prys	Michael Campbell	Allen Van Deynse
John McShane	Betsy Peterson	
Marc Meyer	Deborah Meyer	

**2. Acceptance of Minutes from May 3, 2012 Seed Advisory Board meetings**

Kelly Keithly motioned that the minutes of the May 3, 2012 meeting be accepted. George Hansen seconded the motion. Motion carried.

### 3. Seed Services News – items of Interest

John Heaton shared a recent article about increased efforts by the U.S. Department of Justice to enforce 18 U.S.C. §542 titled “Entry of Goods by Means of False Statements.” He noted that in the past, some firms have attempted to move breeding lines to locations in California and he has been called by USDA to investigate the situation. He expressed the importance for seed firms to accurately disclose the origin of seed they import into California, especially because of the increased monitoring and enforcements that are occurring.

A second handout noted that APHIS was considering a Federal Order calling for additional declarations for planting seed of *Lolium spp.*, *Festuca spp.* and *Vulpia spp* depending on the country of origin. The emergency restrictions are to prevent the introduction of *Rathayibacter toxicus*, a select agent that causes gumming disease and annual ryegrass toxicity, which is characterized by a potent animal and human toxin. Individuals with concerns were asked to contact the American Seed Trade Association.

Heaton reported the CDFA seed laboratory evaluated the archive of regulatory grass seed samples originally collected in 2011 by the Seed Services Program for the compliance monitoring program. Deborah Meyer noted that all of the compliance monitoring samples of the subject seed species were analyzed and found not to have the seed gall nematode associated with the problem. Heaton added that the negative results were useful for preventing restrictions on the movement of certain kinds of grass seeds from Oregon.

John McShane inquired about the area in Oregon where the agent was found.

Heaton explained that he understood there was only one Oregon county that reported a discovery of the nematode. He also understood the select agent bacteria, *Rathayibacter toxicus* was not found with the nematode in Oregon. He was encouraged that the analyses of archived seed samples served as a survey of seed coming from Oregon and directly supported the assertion that quarantine restrictions are not necessary at the present time.

Deborah Meyer added that the nematology laboratory is still analyzing grass seed samples collected in 2012.

John McShane noted that presently the only way to monitor this situation is through regulatory samples since counties are no longer pulling quarantine samples. Heaton agreed.

### 4. Seed Services Finances

#### Status of License Renewals

Heaton provided a handout that summarized the total number of authorizations to sell seed in California and the collections year to date (attachment 1.)

The approved budget for FY 2012 was: \$1,577,396.  
The total collections YTD for 2012 were: \$1,490,215.

The difference was a shortage of \$87,181. Heaton was not too concerned about the shortage because the budget always contains expenditures that are not realized, such as vehicle purchases and unused trips for out-of-state travel. In addition he explained the program has adequate reserve and the Board previously expressed approval of a strategy to use reserve funds to offset expenditures in excess of budgeted amounts. In this way the reserve would be reduced and the assessment rate can remain stable.

### **Reported Sales and Collections**

Heaton reported that reported seed sales in 2011 were approximately \$584 million which represented a 3.5% increase over the reported seed sales in FY2010. A further breakdown comparing agricultural seed sales and vegetable seed sales by in-state and out-of-state firms was also presented in the handout.

A graph depicting reported seed sales in California from 1991 to 2011 with projections through 2013 was presented to the Board in another handout (attachment 2). Heaton reported the data indicate that reported seed sales in California have increased an average of 4.8% per year over the last 20 years. He projected that reported seed sales in FY2012 will be approximately \$617 million and \$653 million in 2013. The present assessment rate and the ample reserves of the Program should be adequate to provide sufficient funding for the Program in the near future.

### **Ag Commissioner Funding**

Heaton provided a summary of seed law enforcement work performed by counties statewide (attachment 3). He noted that counties reported a total of 2523 hours in FY2011. FAC section 52323 directs the Secretary to annually pay the counties \$120,000 to subvent the cost of seed law enforcement. A simple calculation shows that \$120,000 divided by 2523 hours provides counties \$47.56 per hour, towards the cost of seed law enforcement.

The statewide tally and hourly rate were reported to the County Agricultural Commissioners at their recent annual meeting. They were also informed that the seed subvention program is scheduled in statute to sunset July 1, 2013 and sunset January 1, 2015. There was minimal discussion about seed subvention during the Commissioner's annual meeting. Several Agricultural Commissioners later communicated to Heaton that it was really not their place to initiate the program. If an interested organization or industry wants the counties to perform certain work, it is incumbent on that organization or industry to initiate the program and provide funding for the Commissioners to consider doing the work.

Heaton reminded the Board that the Commissioners have performed seed law work under the seed subvention program for decades. The amount of funds for the counties has not changed from \$120,000 since the mid to late 1990s. He expressed concern about the Commissioner's ability to continue their present level of activity because other sources of funding for seed law enforcement work are no longer being realized by counties. Heaton suggested the Board consider increasing the amount of funds for seed subvention or consider another model of funding for seed law enforcement work in the counties. He stated the issue needs to be addressed so legislation can be proposed and approved before the current statute sunsets. Heaton reminded the Board that enforcement work by counties has been instrumental in

CDFA's ability to identify firms that were not authorized to sell seed in California. If it were not for the assistance of county staff, the increase in collections that allowed the assessment rate to be decreased by 23% over recent years, would not have been realized.

Chris Zanobini suggested that the California Seed Association (CSA) could support legislation to renew the seed subvention provisions in the Food and Agricultural code if the Board desired.

Heaton further suggested that if legislation is proposed, it might be a good time to revise the present model away from an annual memorandum of understanding (MOU) to a multiyear memorandum of understanding. He explained that counties incur an annual expense to review the MOU and some counties do not receive enough money to cover those costs.

Chris Zanobini informed the Board that a recommendation would have to be done at the present meeting in order for CSA to find a sponsor for the next legislative session.

Paul Frey motioned that the Board recommend continuance of seed subvention and adoption of a multiyear memorandum of understanding.

Marc Meyer commented that it does not make sense to pay counties that perform very little or no seed law enforcement work. He suggested that the money could be allocated to the top and middle tier counties.

Heaton replied that the current utilization of units of activities pretty much separates categories into tiers based on the amount of work they do. He reminded the Board that although some counties complain about the minimum payment, the seed subvention program is voluntary and if they don't believe it is cost effective, they can choose not to participate.

Chris Zanobini recommended that an analysis be performed to determine if the minimum amount (\$100) provided to counties is sufficient to obtain their commitment. In the mean time a spot bill could be arranged until a more detailed analysis is performed and the Board determines if \$120,000 is adequate or if the minimum needs to be increased.

Paul Frey amended his motion to include the points suggested by Chris Zanobini and recommended a minimum of \$120,000 be initially committed in proposed legislation for renewal of the seed subvention.

Kelly Keithly seconded the motion. Motion carried.

## **5. Recent Developments for the Seed Laboratory**

Chairman Falconer reminded the Board that during the last meeting, the Board recommended a level of funding for the CDFA seed lab of \$500,000. The Board also passed a motion to provide an augmentation of \$150,000 to assist the lab to cover the loss of general funding; thus providing \$650,000 for the seed lab in FY2012. He informed the Board that during the upcoming meeting in May 2013, the Board will need a new discussion about the level of funding for the lab. For the present meeting however, he wanted CDFA staff to update the Board on the current situation of the seed lab.

Deborah Meyer reported that as of July 1, 2012 all general funds for the seed lab were eliminated. Consequently two positions were eliminated from the seed lab; the position

vacated recently by a retired Sr. Seed Botanist and a vacant Sr. Agricultural Biotechnician position. In addition, the Sr. Agricultural Biotechnician that prepares and tracks regulatory samples for the Seed Services Program was transferred to the Seed Services Program.

Duane Schnabel was assigned as the permanent Branch Chief of the Plant Diagnostic Center. The interim Chief accepted a position as the State Plant Pathologist in headquarters. His departure created a vacant Program Supervisor Position that Deborah Meyer has accepted. Since she now has activities in two other labs, part of her salary will be portioned out to other labs and provide a savings to the seed lab. Her new appointment however, means she will have reduced activity in the seed laboratory.

Mike Campbell inquired if the personal changes and reappointments create adequate reduction in expenditures for the new level of seed lab funding.

Deborah Meyer replied that the recent changes bring the seed lab's expenditures close to the \$650,000 level of funding for FY2012 but not quite under.

### **Update on Charging for Services**

CDFR's ability to charge for the laboratory analysis of samples submitted for approval of feed mills is being reviewed by CDFR legal. The concern is if a sample is required by law for the certification or approval of the feed mill, the department may not be able to charge for that activity, including the analysis.

John McShane asked why it would be considered acceptable to have the seed industry pay for a regulatory aspect of the feed mill industry.

John Heaton agreed and provided a handout to further explain the obstacles staff members have encountered (attachment 4). The handout was a copy of Pest Exclusion Advisory No. 30-2012. It was issued to County Agricultural Commissioners to explain when County Agricultural Commissioners may or may not assess charges for inspections. Section 6401 states that inspections and release of shipments under hold are not requests but requirements. Such inspections should therefore be performed free of charge unless otherwise specified in CCR3160. While the advisory specifically addressed shipments under quarantine, staff members believe a similar restriction may apply to mill samples required for feed mill approval.

Although the seed industry does not feel it is appropriate for their assessments to pay the cost incurred by the lab for processing samples for mill certification, an argument has been made that mill approvals are very important to the seed industry and they do receive a benefit. Certified mills allow the seed industry to discard their seed mill screenings and left over seed inventory to the feed industry. Without feed mills being approved to handle such materials, the seed industry would have to pay for alternative means of disposal.

Heaton noted that feed mills must be approved to handle bulk loads of seed coming from out of state producers. The requirement for processing such bulk loads at approved feed mills provides assurance that quarantine pests are not going to be introduced and traced back to shipments of seed, even if the seed is only meant for feed. If a significant pest introduction were to occur from a bulk shipment of seed meant for feed, the result would more than likely be increased restriction on the like kind of seed meant for planting. Heaton suggested this is another reason it is very important for the seed industry to make sure feed mills are approved and handling all their shipments appropriately.

He emphasized that at the present time the whole situation is still under legal review.

John McShane inquired as to the approximate number of approved mills.

Deborah calculated that if the requirements are adhered to, there should be at least two hundred and seventy-two mill samples. She added that staff members are trying to get clarification if they can charge for samples in excess of the two hundred and seventy-two.

Chris Zanobini suggested that if the Department determines the lab cannot charge for analysis of feed mill samples submitted to fulfill certification requirements, then the Board should request reimbursement from the Feed Inspection Advisory Board for the cost of testing their samples in the California Seed Law.

Marc Meyer made a motion that if the seed laboratory cannot directly charge feed mills for testing of certification samples, the Seed Advisory Board requests that the Feed Inspection Advisory Board to reimburse the Seed Services Program for the cost of processing the samples.

George Hansen seconded the motion. Motion carried.

Heaton commented that it is very important for the feed industry and the seed industry to have a mechanism in place to handle contaminated shipments of incoming seed, regardless of if they are for feed or planting. Rejection of an international shipment can have serious ramifications with our trading partners which could hurt all parties involved. Certification of the mills provides assurances that the mill operators are capable of dealing with sometimes delicate situations.

## **6. Report on Seed Services Activities**

John Heaton provided a handout that graphically depicted the number of endorsement letters for noncompliance of labeling and another graph for the number of enforcement letters for failure to obtain authorization to sell seeds in California (attachments 5 & 6 respectively). He attributed the increase in enforcements over recent years as the reason the Board was able to recommend a reduction in the assessment rate.

### **Seed Sampling Summary for 2011-2012**

Heaton provided a handout with a pie chart to summarize the sampling efforts of the Seed Services Program (attachment 7). He noted the failure rate of regulatory samples was 9.7% and was mostly traced to agricultural seeds, particularly grass samples, where the percentage of inert material was found to be slightly out of tolerance. Heaton was not concerned about the misstatement of inert percentage because grass seeds frequently lose awns when bags are handled; resulting in slight increases in the percentage of inert. He also noted that the lab analyzed more than sixty different kinds of seed received as regulatory samples.

### **Summary of Seed Complaints**

Heaton reported that the Seed Services Program dealt with nine seed complaints in the last year. Only four of them became formal complaints but they all took considerable investigative effort and resources of the Program. He briefly reviewed each complaint so the

Board could understand the detail of CDFA's investigations and the steps involved in administering the dispute resolution process. He emphasized that seed complaints are great examples of how important thorough and accurate records are for seed labelers.

### **AASCO Accreditation of Seed Sampler Trainers**

Heaton reported that as President of the Association of American Seed Control Officials (AASCO) and Chair of the Committee for Accreditation of Seed Sampler Trainers, he has been very involved in the development of an accreditation program for seed sampler trainers. He explained that in prior years the seed control officials developed a handbook on seed sampling. The book was very well received and is being widely used as a reference. Some companies would like to become accredited by the USDA to sample their own seed but they lack quality management systems that use qualified seed sampler trainers. In order to address this need, AASCO has worked very hard for several years to develop a thorough accreditation program for seed sampler trainers. Heaton provided the Board with a snapshot view of the accreditation program and explained he would be presenting it to other seed control officials at AASCO's annual meeting in New Orleans during July. He added that the program has also received interest from other organizations such as APHIS and the Bureau of Land Management, who also need qualified seed sampler trainers.

## **7. Nominating Committee Report – Term Clarification**

Chairman Falconer reviewed the Board's roster and noted that Paul Frey, Marc Meyer and Kelly Keithly have terms set to expire March 31, 2013. He requested Heaton clarify the process for reappointment and new appointments to the Board.

Heaton reported that upon receipt of a letter of inquiry from CSA to the Secretary about the process for appointment to the Board, he met with the Division Director to review the process. He was reminded that all Board members are appointed by the Secretary and serve at the pleasure of the Secretary. When a Board member approaches the end of their term, the expiration of their term will be noted with a vacancy announcement through a public posting. Individuals that are interested must contact the individual listed on the posting and express their interest in serving. At the same time, the Board may also identify individuals they wish to recommend to the Secretary. The individuals recommended may be existing members, former members or potentially new members. All of the individuals that apply and are qualified, plus any recommendations, are presented in one package to the Secretary for consideration.

Heaton noted that other Boards have vacancy announcements that formally state members are only allowed to serve a specific number of consecutive terms. Vacancy announcements for the Seed Advisory Board do not have any such announcements because in the past, it has been difficult to find enough individuals to serve. More recently the Department and industry have been fortunate to have several new and qualified individuals willing to serve. While consecutive terms are not prohibited, the Department is committed to the principles of representative government by providing opportunities for qualified individuals to serve and participate. He added it is important to have a wide range of participation from individuals in the industry to give the Board credibility. There is no guarantee that someone who served on the Board for several terms will automatically continue to serve on the Board.

Marc Meyer inquired about the timeline for nominations and vacancy announcements for the previous term expirations.

Heaton explained that during the November 2011 meeting, the Nominating Committee recommended reappointment of existing members who expressed a desire to continue serving. Subsequent to the meeting, a vacancy announcement was posted through the month of December. Several people submitted letters of interest to serve on the Board and provided résumés of professional experience. The names of the candidates were circulated via email to CDFA managers for review and comment about possible prior enforcement issues or disqualifying attributes. No comments were received back. In mid February, Heaton prepared a package containing a memo that explained the Board's recommendation for reappointment as well as a brief explanation of each candidate's experience. Their letters of interest and résumés were also included in the package. The Secretary reviewed the package in early March and made the decision that although incumbents had served the Board well, it was time to allow new people a chance to participate on the Seed Advisory Board. Notifications of appointment and reappointment were sent to the parties involved.

Rick Falconer questioned the value of the Board making recommendations about Board appointments if the recommendations are not received.

Chris Zanobini stated that all applicants who wish to serve on the Seed Advisory Board should be reviewed by the Board's Nominations Committee. The Nominations Committee can then put forward a sleight of recommended candidates to the Secretary. He suggested that since the Seed Services Program is an industry funded program and no term limits are stated, not reappointing members is perhaps a violation of allowing them to serve at will. He further stated that since meetings of the Board are open, people wishing to serve should be willing to appear in front of the Board and state why they want to serve.

Zanobini related that recently the Feed Inspection Advisory Board was told they needed to discuss the issues of four candidates for two Board positions in an open meeting. He did not think that was appropriate for the candidates seeking a spot on the Board. As a result, the Feed Inspection Advisory Board recommended all four candidates. He reiterated that he believes the Nominating Committee of the Seed Advisory Board should review all of the candidates and make a recommendation on behalf of the Board.

Marc Meyer stated that as Chairman of the Nominations Committee and in the spirit of transparency, he should have been informed of other applicants expressing interest for the positions on the Board. He was not aware that incumbents would not be reappointed so he focused his efforts on finding one replacement for the one departing member.

Heaton replied that he believes the process was transparent and that the minutes of the prior meeting clearly state the process. He acknowledged the Board made nominations but he also stated if a new candidate does not provide a letter of interest with a summary of his or her qualifications, he cannot evaluate their minimum qualifications and he can't put their names forward as interested individuals willing to serve on the Board.

Several Board members expressed their surprise that the incumbent member was not reappointed and concern that the Board was not notified.

Heaton assured the Board that the decision to appoint a new person was based on the fact that the incumbent had served four consecutive three-year terms and the Secretary believed it was important to allow other qualified persons a chance to serve and participate. He added that once he learned of the decision, he notified the incumbent and announced the new Board members to the entire Board in March.

Kelly Keithly expressed concern that the policy of limiting members to two terms would be detrimental to the Board. He believes experience longer than two terms is very important for members to effectively participate on the Board.

Heaton noted that the terms of appointment are staggered in order to maintain experience and depth of knowledge on the Board. His understanding is that the Governor's Office has requested agencies to not just reappoint the same Board members term after term but allow other industry representatives a chance to serve as well.

Several members stated that they do not believe the strategy of staggered terms is adequate to maintain institutional knowledge or to compensate for more consecutive terms. They suggested that terms should be longer if members are not going to serve consecutive terms.

Chris Zanobini added there has also been confusion about the timeline for the vacancies. He noted that Heaton only recently presented a bulletin announcing the upcoming Board vacancies at the September meeting of the CSA.

Heaton replied that he still intended to publicly post the vacancies after the Nominations Committee made their recommendations at the current Board meeting. He felt it was appropriate to announce the Board vacancies at the CSA midyear meeting because CSA is the largest gathering of industry representatives and all of the expiring terms are for industry representatives. He added that if the Board preferred, he could post the vacancies further in advance to avoid confusion.

Paul Frey suggested that candidates be presented to the Board prior to being presented to the Secretary.

Marc Meyer supported Paul Frey's suggestion.

Heaton suggested that in order to present candidates to the Board, it would be necessary to consider vacancies one year in advance, with the vacancy announcement occurring after the May meeting. A presentation of all possible candidates could then be made to the Board at the November meeting for comment before any recommendations are made. He stated he would present their suggestions to the Department.

There was a brief discussion about how the Nominations Committee should proceed and a question about the seat occupied by Dennis Choate, who was absent from the meeting.

Mike Campbell inquired if nominations were not made at the present meeting, could the full Board meet in a conference call after learning about the status of Dennis Choate?

Heaton responded that the Board can meet via conference call but conference calls of the Board are public meetings and must be publicly announced. He added that the status of Dennis Choate should not have a bearing on their present task. If Dennis is no longer able to serve, his seat will become vacant and the Secretary can appoint a new member for the remainder of his term (March 31, 2014).

Kelly Keithly emphasized that he believes the appointment of members to the Board needs to take place through the Board and Heaton needs to facilitate a transparent process for that to occur.

Heaton suggested a motion be made that names of all interested parties be sent to the Board for comment before going to the Secretary.

Chris Zanobini inquired about the timeline for that process under the present circumstances.

Heaton replied that in the short term it might require an interim meeting before May 2013. In the future however, Board vacancies would have to occur a year in advance so he could present the names of interested parties to the full Board at their November meeting so they could add their comments and make recommendations.

Marc Meyer asked if there is a document about the policy of limiting consecutive terms on Boards.

Heaton said he inquired about such a document but there is no such document because members serve at the pleasure of the Secretary.

Chris Zanobini suggested that perhaps the issue could be addressed through legislation.

Chairman Falconer asked CSA representatives if it would be appropriate to include a line about upcoming Seed Advisory Board vacancies on the agenda of the CSA Board meetings. He suggested that people participating at CSA would be current on issues that the Seed Advisory Board might make recommendations on.

Heaton summarized that he understands the Board would like a period of time to review the qualifications of new applicants and he would strive to accommodate that request.

Mike Campbell stated that he thinks the process for being considered to sit on the Board should treat everyone the same.

Heaton agreed but he added some people might believe a standing Board will more than likely favor sitting members over new applicants. Therefore the process of Board review and comment prior to submission for consideration to the Secretary does not necessarily mean the process is going to be more equitable than presently practiced. None the less, he agreed to present the names of all applicants to the Board for comment and possible recommendation.

## **8. Seed Biotechnology Center – Activities Report**

Chairman Falconer reminded the Board that during the May 2012 meeting they voted to provide another three year grant to fund the UCD Seed Biotechnology Center (SBC). He noted that the Board also approved a budget for the Seed Services Program that included a line providing \$200,000 of funding for SBC in FY2013. The grant agreement that CDFA executes with the SBC requires the SBC to present annual reports to the Board. Chairman Falconer requested Dr. Allen Van Deynze to provide the Board with a summary of recent activities.

Dr. Van Deynze provided the Board with a brief summary of the following activities:

- a) Course Work
  - i) Seed Business 101 – a one week course for people interested in learning about the seed business. Approximately 120 students have completed this case-based course.

- ii) Seed Biology and Production – a course designed to look at aspects of seed research and seed quality evaluation.
  - iii) Seed Captain – a class looking at seed cleaning technology and seed priming technology.
  - iv) Management of Plant Breeding Programs – a two and half day class. This was identified as a need by participants in other classes.
  - v) Plant Breeding Academy – has been expanded.
    - (1) SBC will have three classes going on simultaneously at the end of November.
    - (2) 16 students graduated in June from the U.S.-PBA
    - (3) 18 students are in PBA-4 ,
    - (4) The European PBA II class will continue in Spain. Recruiting for the European PBA-3 class has begun
    - (5) The first Asian PBA begins in Thailand.
    - (6) SBC is working on starting an African PBA.
- b) Outreach
- i) Participated in many discussions about genetically modified organisms for the debates surrounding Proposition 37; the mandatory labeling of GM ingredients in food.
  - ii) Participated in a meeting of the Canadian Seed Trade Association about coexistence
  - iii) Dr. Van Deynze serves as the Acting Chair for the National Plant Breeding Coordinating Committee.
  - iv) SBC staff participated in a discussion about release of the Arctic Apple that is presently going through deregulation. It is an example of modification of a consumer trait that effects apple browning.
  - v) Seed Central is merging with Food Central to provide a forum for discussion of both topics of interest to both industries.
  - vi) The Core Lab concept continues to be developed. The idea is to establish a centralized lab on campus where companies can share resources and work with faculty a little closer on various endeavors.
  - vii) The Corporate Affiliates Partnership Program allows a consortium of two or more companies to partner with UC Davis on various projects.
  - viii) The Seed Technician Program in conjunction with Hartnell College in Salinas.
  - ix) The Seed Central Program is providing tours for students interested in learning about the seed industry and possibly having a career in the seed industry.
  - x) Spinach Sequencing Program, which is important for understanding the interaction of pathogens and the spinach host.
  - xi) Pepper progenitor evaluation, primarily for new resistance to various viruses.

Dr. Van Deynze reported that staff members are working on several scientific publications that will be released shortly. He also noted some recent staff changes, particularly the addition of a new Program Representative and the departure of another employee moving to the Genome Center.

George Hansen motioned to accept the SBC report. Marc Meyer seconded.  
Motion carried.

## 9. Legislative Report

Chairman Falconer noted the necessary departure of CSA representatives for other business and inquired if anyone else had something to report for the Legislative agenda item.

Heaton reminded the Board that there was previous discussion about CSA sponsoring legislation to renew subvention for the cost of counties performing seed law enforcement work. His understanding is that the details of the subvention legislation are to be worked out later.

**10. Status of Seed Subvention Contracts**

Heaton provided the Board with a handout to demonstrate a typical scope of work he develops for each county (attachment 8). Each month, the counties must report their seed law enforcement work to CDFA. The annual tally of their units of activity is used to calculate payment (attachment 9).

**11. Closed Executive Session**

No requests

**12. Reconvene Executive Session**

Not necessary

**13. Public Comment**

Chairman Falconer if there were any additional comments from the public in attendance. None were made.

**14. Other Items – Next Meeting Date**

Chairman Falconer set the spring meeting to be Tuesday May, 7, 2013 at 8:15 am. but he noted the Board would likely meet via conference call in February.

**15. Adjournment**

Mike Campbell motioned for adjournment.  
John McShane seconded the motion. Motion carried.  
Chairman Falconer adjourned the meeting at 11:45 a.m.

**16. Attachments 1 through 9**

Respectfully Submitted

John Heaton  
Senior Environmental Scientist  
CDFA Seed Services Program

Report of Collections

Detail for : 2012

90059 - SEED SERVICES

Date Prepared: 11/6/2012

Collections have been deposited as follows:

	COLLECTION AMOUNT	REFUND AMOUNT	TOTAL ACCRETIONS	125700-97 LICENSE	121200-96 ASSESSMENT	125900 LATE LIC. PENALTY	125900 LATE ASSESSMENT PENALTY	125600-46 MISC. FEES	100255 SUSPENSE BALANCE
<b>YTD TOTALS</b>	\$1,490,215.20	\$0.00	\$1,490,215.21	\$21,960.00	1,454,324.29	\$368.00	\$12,667.91	\$895.00	\$0.00

Compare 12/13 Approved Budget = \$ 1,577,396

Reported Value of seed sold in previous FY

\$581,729,717.20

Short \$87,180.80

Number of Licenses Issued 549

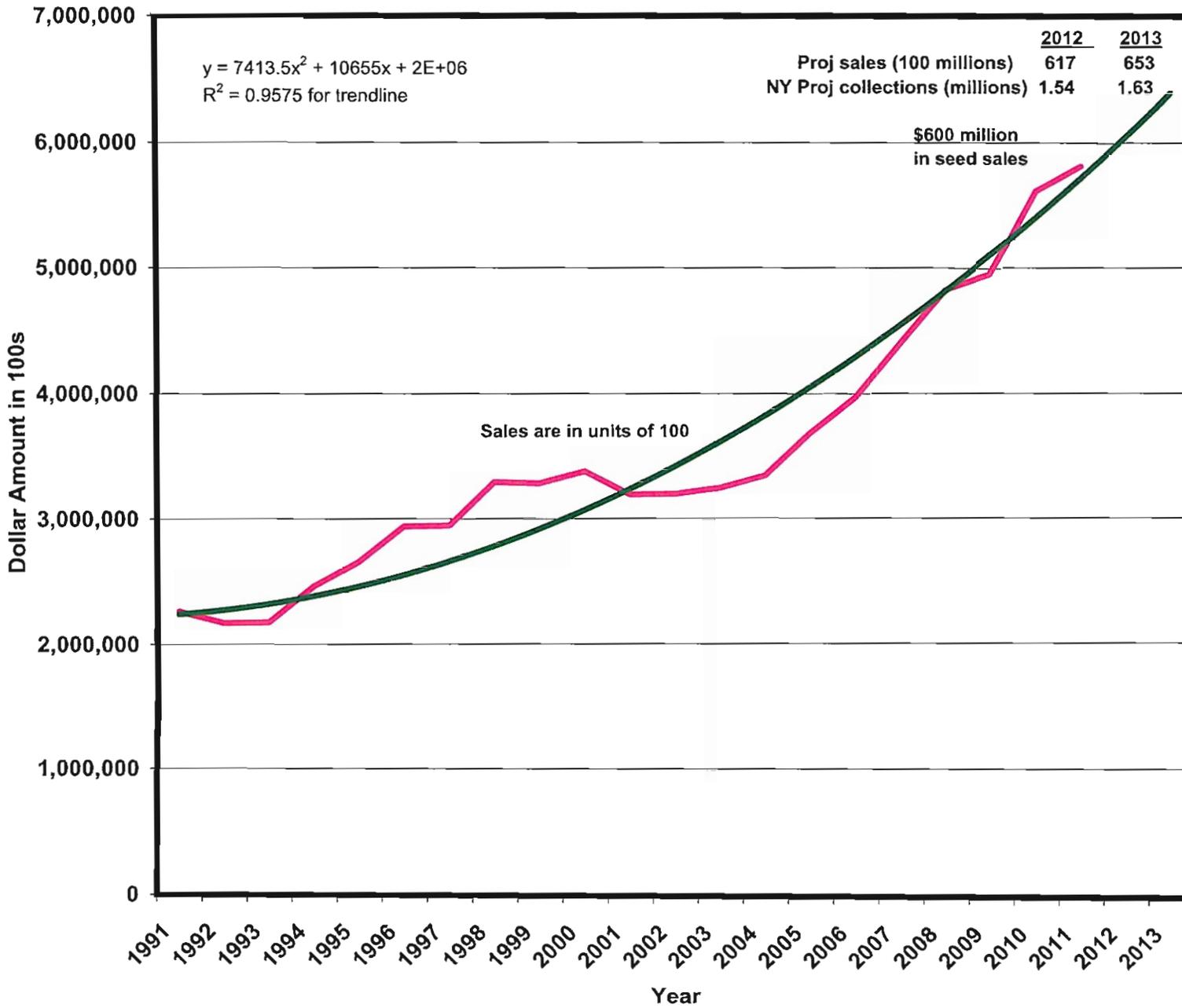
\* Reported seed sales of \$581,729,717 are within 1% of the previously projected sales of \$584 million.

\* Reported seed sales for FY2011 increased ~ 3.5% over sales reported for FY2010.

**Reported Seed Sales by Category Compared to Prior Year**

<u>FY Sales</u>	<u>Ag Seed Sales</u>	<u>Veg Seed Sales</u>	<u>Grass Seed Sales</u>	<u>Total Sales</u>
<b>2010</b>	\$ 202,640,866	\$ 318,217,349	\$ 40,781,761	\$ 561,641,986
<b>2011</b>	\$ 228,353,926	\$ 308,107,329	\$ 45,268,462	\$ 581,729,717
<b>All Change</b>	<b>12.7%</b>	<b>-3.2%</b>	<b>11.0%</b>	<b>3.6%</b>
<b>2010 CA</b>	\$ 121,477,267	\$ 165,052,547	\$ 14,234,339	\$ 300,764,153
<b>2011 CA</b>	\$ 124,186,983	\$ 181,441,463	\$ 15,150,972	\$ 320,779,418
<b>CA Change</b>	<b>2.2%</b>	<b>9.9%</b>	<b>6.4%</b>	<b>6.7%</b>
<b>2010 OS</b>	\$ 81,163,599	\$ 153,164,802	\$ 26,547,422	\$ 260,875,823
<b>2011 OS</b>	\$ 104,166,943	\$ 126,665,866	\$ 30,117,490	\$ 260,950,299
<b>OS Change</b>	<b>28.3%</b>	<b>-17.3%</b>	<b>13.4%</b>	<b>0.0%</b>

# Reported CA Seed Sales from 1991-2011 with Projections



Year	\$100 dollars of sales
2011	\$5,817,297
2010	\$5,616,399
2009	\$4,954,315
2008	\$4,829,363
2007	\$4,402,766
2006	\$3,971,359
2005	\$3,686,153
2004	\$3,350,000
2003	\$3,250,000
2002	\$3,200,000
2001	\$3,197,346
2000	\$3,380,385
1999	\$3,283,827
1998	\$3,293,315
1997	\$2,946,993
1996	\$2,940,475
1995	\$2,660,177
1994	\$2,464,793
1993	\$2,178,931
1992	\$2,172,856
1991	\$2,266,056

Over the last 20 years, the seed sales have increased an average of 4.98 % per year

**SEED INSPECTION REPORT**  
**REPORT NUMBER 6**

Report work online at

<https://secure.cdffa.ca.gov/egov/crs/login.aspx>

653 Total Months Reported

Date Printed: 10/29/2012

**Summary across all Counties for Fiscal Year 2011****1. ENFORCEMENT OF THE CALIFORNIA SEED LAW**

ACTIVITY	NUMBER	HOURS
PREMISES INSPECTED	640	456.6
LOTS/UNIQUE LABELS INSPECTED PER THE UNITS OF ACTIVITY LIST	2386	506.1
STOP-SALE ORDERS ISSUED	15	3.2
LBS. OF SEED ISSUED STOP-SALES VEG 0 AG 500 GRASS 51850		
STOP-SALE ORDERS RELEASED	5	1.7
LBS. OF SEED RELEASED VEG 0 AG 500 GRASS 54760		
UNREGISTERED LABELERS IDENTIFIED OR NOTIFIED TO REGISTER	19	19.75
OFFICIAL SAMPLES DRAWN	50	3
SEED COMPLAINTS	18	16.5
LABELS OF SEED SHIPMENTS AND/OR 008 REPORTS EVALUATED	2900	820.25
<b>LEGAL ACTION</b>		
HEARINGS		COURT ACTION
OFFICE	DIST. ATTY.	CITATIONS CONVICTIONS
1	0	0 0
<b>TOTAL HOURS OF SEED LAW ENFORCEMENT</b>		<b>1827.1</b>

**2. SEED CERTIFICATION**

ACTIVITY	NUMBER	HOURS
SAMPLES DRAWN	104	58.6
CERTIFIED MILSS INSPECTED	111	218.05
HARVESTERS AND FIELD EQUIPMENT INSPECTED	1601	713.2
INTERCOUNTY PERMITS ISSUED	670	219
INTERSTATE PERMITS ISSUED	382	61.45
<b>TOTAL HOURS FOR SEED CERTIFICATION</b>		<b>1270.3</b>

**3. MISCELLANEOUS ACTIVITY**

ACTIVITY	NUMBER	HOURS
SAMPLES DRAWN, SERVICE	494	279.5
SAMPLES DRAWN, US CUSTOMS	16	0.75
ADMINISTRATIVE SUPPORT		1393.22
<b>TOTAL HOURS FOR MISCELLANEOUS ACTIVITY</b>		<b>1673.47</b>

1827 + 1/2(1393) = 2523 total hours. \$120,000/ 2523 = \$47.56 / hour



DATE: September 11, 2012

TO: All County Agricultural Commissioners

FROM: Plant Health and Pest Prevention Services

SUBJECT: **PEST EXCLUSION ADVISORY NO. 30-2012**  
Charging Fees for Incoming Nursery Stock Inspections

The California Department of Food and Agriculture (CDFA) is issuing this advisory to reiterate when County Agricultural Commissioners (CAC) may and may not assess charges for inspections.

CDFA recently referred this matter to our Legal Office and received confirmation that CACs may not charge for routine quarantine inspections of incoming nursery stock or other agricultural commodities. Such inspections are required by the Food and Agricultural Code (FAC) and are not a requested service.

[FAC 6303\(d\)](#) reads:

*(d) If a shipment of plants or things requires a state or county plant quarantine officer to be present at the destination to supervise the unloading, inspection, or treatment of a quarantine shipment, the director or commissioner, as the case may be, may charge the shipper or receiver a service fee for the cost of the services. Service fees shall be determined based on the director or commissioner's costs for the services rendered.*

CDFA has interpreted and made specific when charges under FAC 6303(d) are authorized through regulation in the California Code of Regulations (CCR) Title 3, Section 3160(a):

*Pursuant to Section 6303(d), Food and Agricultural Code, fees may be charged for reimbursable services. Reimbursable services are those which a shipper or receiver requests; or those services which are required prior to the release of any quarantined shipment which has been prohibited entry into California or which must be returned out of state unless the shipment is unloaded under supervision, inspected, or treated under supervision as necessary to eliminate any pest or pest risk.*

[FAC 6401](#) specifies the following requirement for holding incoming material for inspection:

*It is unlawful for any person to transport, receive, or import into the state any plant or any thing against which a quarantine has been established, or any plant, unless he does both of the following:*

- (a) Notifies the director or the commissioner of the county in which the plant or thing is received, of the arrival of the plant or thing immediately after its arrival.*
- (b) Holds the plant, or thing for immediate inspection by the director or commissioner, without unnecessarily moving it, or placing it where it may be harmful.*

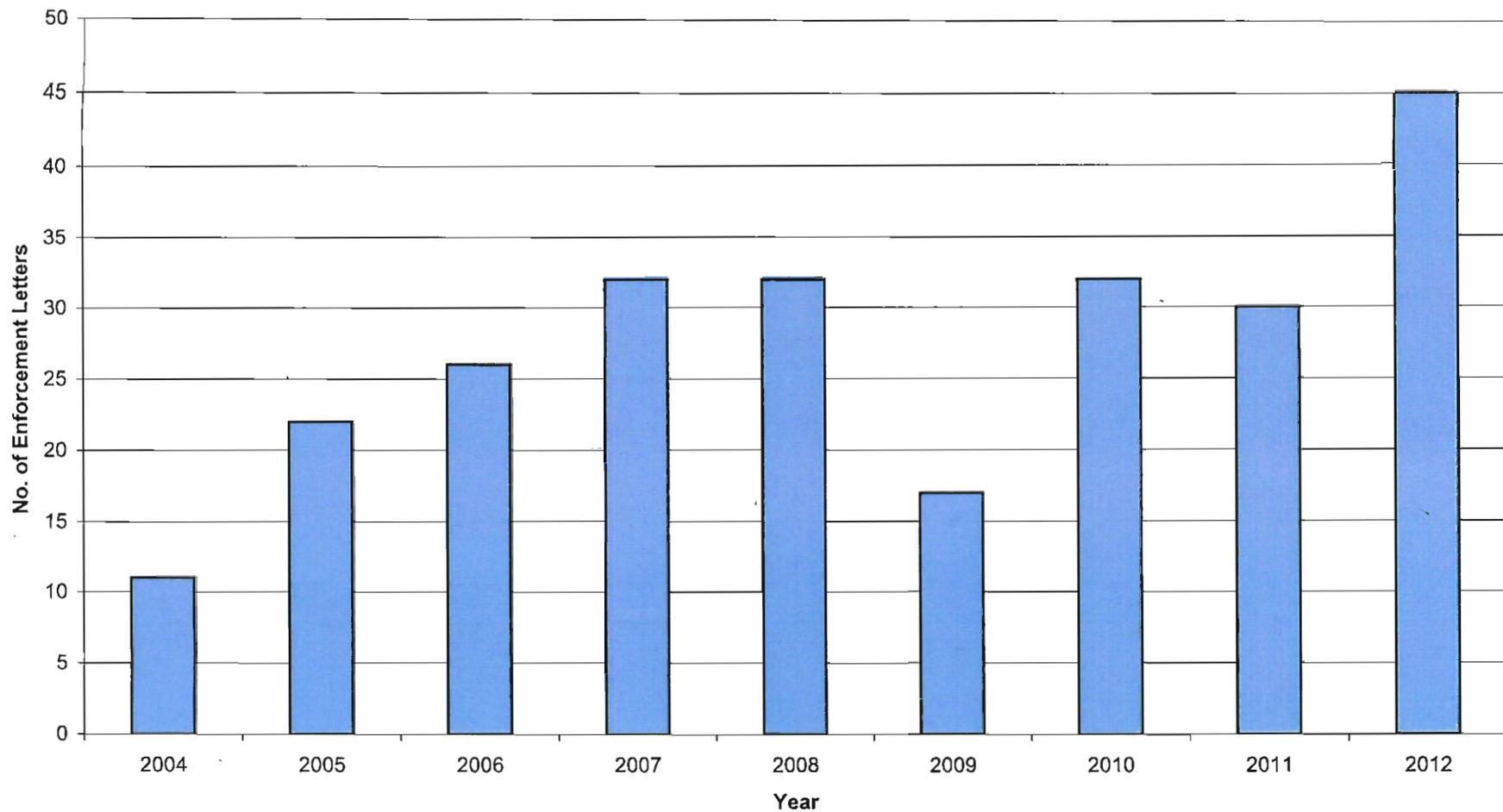


FAC 6401 mandates that such shipments are held and the Department or the CAC's office be contacted for immediate inspection. Therefore, inspection and release of shipments under hold is not a request but a requirement, and such inspections should be performed free of charge unless otherwise specified in CCR 3160. This also applies to shipments arriving at destination under a Warning Hold Notice ([Form 66-008](#)) which clearly states receivers must contact the CAC's office to obtain release.

It is inappropriate for counties to charge for inspection of incoming shipments when inspection can be performed during normal business hours, and CAC staff does not have to be present to oversee the offloading of the shipment (i.e., the shipment has not been forwarded under border station seal).

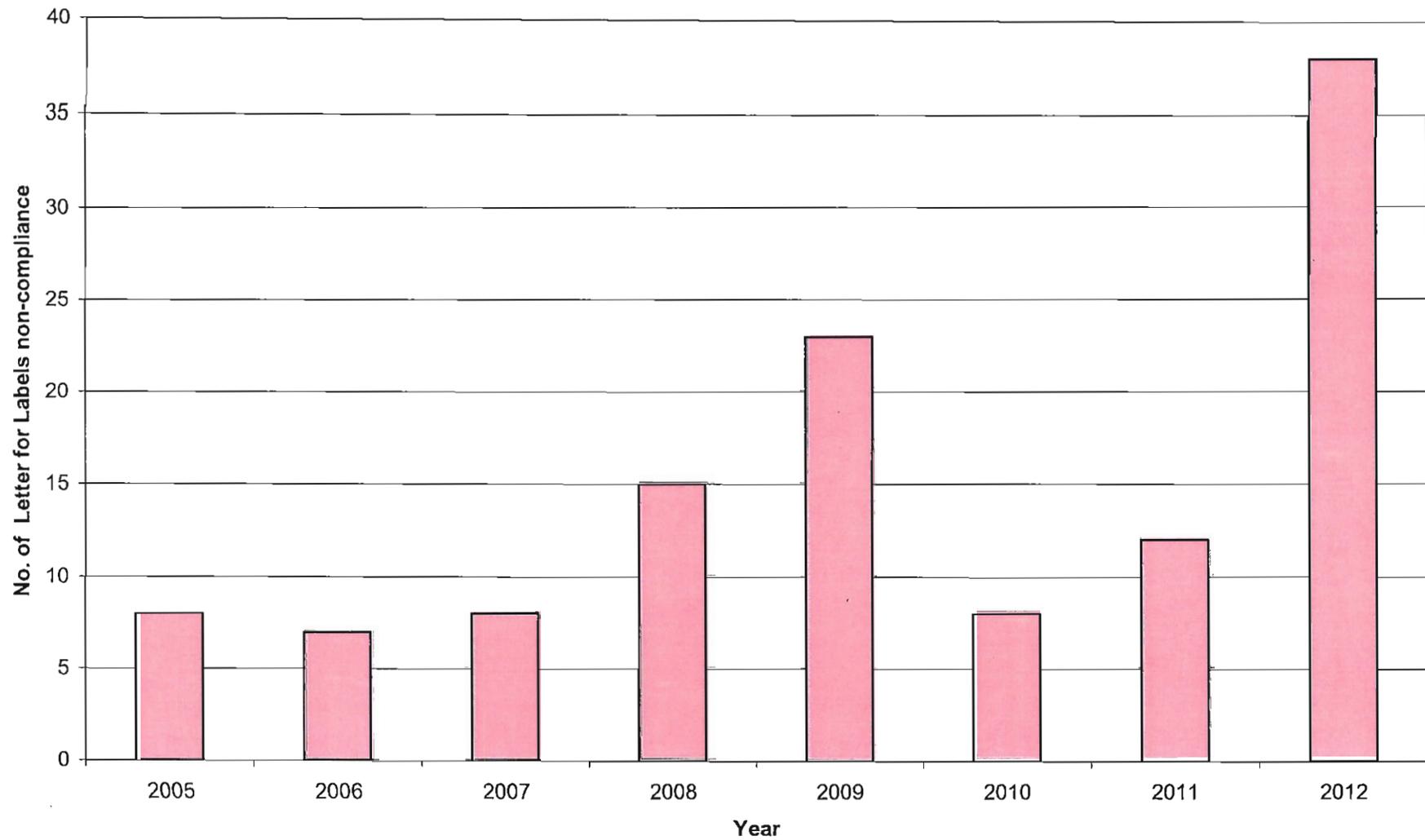
For questions regarding this advisory, please contact Amber Morris at (916) 654-0312 or by e-mail at [amber.morris@cdfa.ca.gov](mailto:amber.morris@cdfa.ca.gov).

## Enforcement Letters for Not Authorized to Sell\*



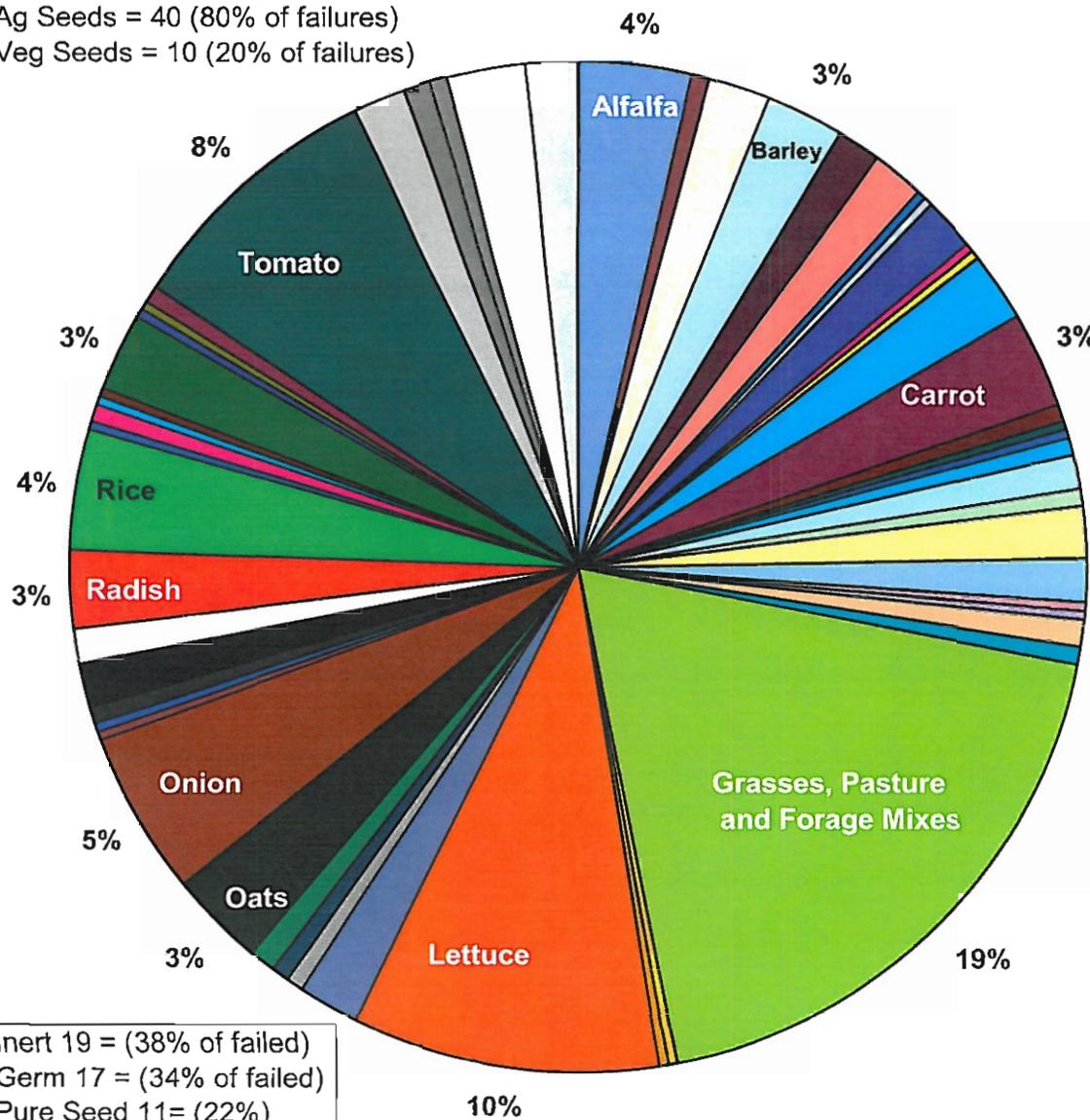
\* Does not include letters from Border Inspections database.

## Enforcement Letters for Labels not in Compliance



# Analysis of Regulatory Seed Samples Collected in FY2011

n = 515  
 39% Ag & 61% Veg  
 Failure rate = 9.7%  
 Ag Seeds = 40 (80% of failures)  
 Veg Seeds = 10 (20% of failures)



Alfalfa	Arugula	Asparagus
Barley	Basil	Bean
Beet	Bok Choi	Broccoli
Brussels Sprouts	Bunching Onions	Cabbage
Carrot	Cauliflower	Chives
Collards	Coriander	Corn
Cotton	Clovers	Cucumber
Dill	Eggplant	Endive
Escarole	Fennel	Grass/Pasture Mixes
Honeydew Melon	Kohlrabi	Lettuce
Lima bean	Melon	Muskmelon
Mustard	Oat	Okra
Onion	Pak Choi	Parsley
Pea	Pepper	Pumpkin
Radish	Rice	Rucola
Safflower	Sorghum	Soybean
Spinach	Squash	Sudangrass
Sunflower	Swiss Chard	Tomato
Triticale	Turnip	Vetch
Watercress	Watermelon	Wheat

Inert 19 = (38% of failed)  
 Germ 17 = (34% of failed)  
 Pure Seed 11 = (22%)  
 Weed 1 = (2% of failed)  
 Hard & NE 100% = (4%)

*The following list was generated from a database of firms authorized to sell seed in your county during the present fiscal year. This list was compared to last year's list but there may be corrections, deletions, or additions that you would like to make. Please review the list and make corrections on this form and return a copy to the Seed Services Program. If no changes are sent to the Seed Services Program, this list will serve as the benchmark to determine your county's performance and subsequent apportionment of seed subvention funds for the contracted fiscal year. You may wish to contact firms that did not renew so you can recapture those units.*

Firm	Location	Type	No. of Seed Lots to Eval.	No. of Premises Inspections	Please Note
Horst Farm Supply	Alturas	RLblaos	0	0	
Newell Grain Growers Association	Tulelake	Labeler	0	0	
Winema Elevators (Siskiyou but assign M	Tulelake	Labeler	3	1	

**12/13 PERFORMANCE STANDARDS FOR MODOC COUNTY**

Number of unique seed lots that must have labels evaluated 3  
 Number of premises inspections to conduct 1

*Note: Your MOU for last year had:  
 3 unique labels to evaluate  
 1 premises to inspect*

*Payment for the proposed work will be made in FY 11-12 and will be calculated using the reported units of activity. A reduction in assigned or reported units of activity may result in a reduction in payment. For points of reference, your county was paid the following amounts for seed-law work in recent years.*

*Payment for work in FY 08-09 was \$498.84                      Payment for work in FY 10-11 was \$100.00  
 Payment for work in FY 09-10 was \$494.70                      Payment for work in FY 11-12 was*

*\*Work performed in 12-13 will be tallied and payment will be made in FY 13-14 per statute.*

**FIRM** = Facility registered to label and or sell seed, or a major distribution center.  
**TYPE** = Types of seed operations are as follows:

*Labeler - attaches label and offers seed for sale in California  
 Dealer - sells seed but does not attach his or her own label.  
 Distribution Center - receives seed from an out-of-state registered labeler and distributes to local retail outlets.  
 RLblaos - registered labeler but limited amount of seed.  
 Conditioner - only cleans or conditions seed. Does not label or sell seed.  
 NE - nursery exempt. Authorized to sell seed under nursery license.*

**INVOICE FOR 10/11 WORK****CDFA CONTRACT #10-sd25****County: Modoc**

The Seed Services Program proposes to pay \$ 100.00 to Modoc County for seed law enforcement activities performed during FY 2010/2011. This amount includes \$100 per FAC 52324(a) plus an amount determined from calculations using information provided in Report 6s.

The number of labels or lots specified per the MOU and to be evaluated at ~\$133.88/lot was 3.

The number of premises inspections to be performed per the MOU was 1.

The total number of labels or unique seed lots that your county evaluated and reported on Report 6 was 0. This amount differs from the agreed scope of work by -3 label evaluations.

Premise inspections that your county performed and reported in the Report 6 were 0.

The number of premises inspections your county failed to complete was 1.

The penalty for not conducting and reporting premises inspections was -3 label evaluations.

The total number of unique seed labels that were evaluated by your county and then accepted toward fulfillment of the MOU after adjustment for penalties when premise inspections were not performed or reported, was 0.

The number of extra label evaluations associated with 008 Border Inspection Reports was 0

If your county signed the MOU, the value of each extra label, for the 1<sup>st</sup> one-hundred extra labels, was: \$3.17. Your county had 0 of these extra labels (i.e. labels beyond those assigned per the MOU plus labels evaluated because of 008 Border Inspection Reports).

The value for each extra label evaluated after the 1<sup>st</sup> one-hundred extra labels, was \$0.98. Modoc County had 0 of these extra labels.

**Overall calculation:**  $\$100 + (0 \times \$133.88) + (0 \times \$3.17) + (0 \times \$0.98) \pm \text{rounding error.}$

**The proposed payment for work in 2010/2011 is \$ 100.00**

This proposed payment is in addition to \$0 already received as reimbursement for possibly attending Federal Seed Sampler Training when offered. [Not applicable this year].

Please review the above figures and contact me if you believe there are any major errors. Every effort was made to minimize the percent difference in payments from your 4-year average of \$ 400.47. Some counties got exactly the same as their 4-year average while others got more or less. **Please keep in mind that your payment may be less because firms in your county closed and your contracted work was correspondingly less, or your county did not entirely complete the agreed work.** Also understand that the amount proposed is part of the entire \$120,000 allocated statewide for Seed Subvention. Any objections and subsequent changes will trigger the need to recalculate all of the amounts proposed for the participating counties, as well as new letters of proposed amounts. While you may not entirely agree with the amount proposed, please consider if the additional amount you would like is adequate to offset the cost your program and Seed Services will incur to change or delay payment.

Your signature below means that you accept the amount proposed and that you wish to **submit this document as an invoice** for seed subvention work done by your county in FY 2010/2011.

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 Print Name & Title

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 Signature & Date