**CALIFORNIA DEPARTMENT OF FOOD AND AGRICULTURE (CDFA)**

**FEED INSPECTION ADVISORY BOARD (FIAB) MEETING**

**Stanislaus County Farm Bureau**

**1201 L Street**

**Modesto, CA 95354-0919**

**(209) 522-7278**

**June 26, 2013**

**9:30 AM to 12:00 PM**

**MINUTES**

|  |  |  |
| --- | --- | --- |
| **MEMBERS**  John Kauffmann  John Walth  Marit Arana  Michael Koewler  Paul Parreira  Thomas Daly  Thomas Geary  Thomas Prokop  Tim Riordan | **CDFA**  Adriana Avalos  Elaine Wong  Gary Castro  Jenna Areias  Lisa Gonzales  Maria Hicks  Mike Davidson  Natalie Krout-Greenberg  Nirmal Saini | **INTERESTED PARTIES**  Kelly Covello  Tad Bell |

**INTRODUCTIONS AND ANNOUNCEMENTS**

The meeting was called to order at 9:32 a.m. by Vice Chairperson, Mr. John Walth. Self-introductions were made and a quorum was established. Ms. Natalie Krout-Greenberg informed the board that Dr. Asif Maan and Mr. Rick Jensen could not attend today’s meeting. Ms. Lisa Gonzales and Ms. Adriana Avalos arrived at 10:01 a.m.; Dr. Marit Arana arrived at 11:00 a.m. Ms. Krout-Greenberg informed the board that

Mr. Walth, Mr. Thomas Daly, and Mr. Paul Parreira have been appointed to the board.

**ELECT CHAIRPERSON AND VICE CHAIRPERSON**

Ms. Krout-Greenberg opened the meeting for recommendations for Chairperson and Vice Chairperson of the board.

**MOTION:** Mr. Thomas Prokop moved to elect Mr. John Walth as Chairperson and Mr. John Kauffmann as Vice Chairperson. Mr. Paul Parreira seconded; the board voted. The motion passed unanimously.

**APPROVE APRIL 30, 2013 MEETING MINUTES**

Mr. Walth requested the board review the meeting minutes from the previous board meeting.

**MOTION:** Mr. Michael Koewler moved to approve the meeting minutes from the April 30, 2013 meeting as submitted. Mr. John Kauffmann seconded; the board voted. The motion passed unanimously.

**DEPARTMENT / DIVISION / BRANCH UPDATES**

Mr. Krout-Greenberg stated that the Farm to Fork program is officially established. It is a contract between CDFA, Department of Education, and Department of Public Health; it is funded for a two-year period.

Ms. Krout-Greenberg informed the board the Certified Farmers’ Market Program had a few bills presented; one was amended. The program could sunset; the division is considering appropriate next steps if this occurred.

Ms. Krout-Greenberg stated that as one of the recommendations from the State Water Resource Control Board (SWRCB) report on nitrogen in ground water, the Fertilizer Research and Education Program (FREP) is working on a nitrogen tracking and reporting task force. CDFA and the SWRCB, at the secretary’s request, are coordinating in these efforts. Senate Bill (SB) X2 1 directed the SWRCB to address nitrates in ground water. FREP will send out invitation letters to individuals to request they attend a series of four meetings, in which the task force will put together their recommendations.

**PROGRAM UPDATES/FUND CONDITION**

Ms. Jenna Areias reviewed the Feed and SAFE fund conditions with the board. As of July 1, 2012, the Feed Program had $946,269 in the CDFA account and $848,688 in the Bank of America account, for a total of $1,794,957. There was $2,017,752 in revenue and $2,343,420 in expenditures. The ending balance on May 31, 2013 was $1,469,289.

As of July 1, 2012, the SAFE program had a beginning balance of $142,000. Revenue was $250,000 and expenditures were $218,435. The ending combined balance on May 31, 2013 was $173,565.

Ms. Areias provided the board with a historical perspective of the feed tonnage tax breakdown by fiscal year. In 2009, the board reduced the tonnage tax from $0.13 to $0.08 per ton to decrease the reserve; the reserve has gone down significantly since then. In 2012, the board recommended increasing the feed license fee from $300 to $400 and increasing the tonnage tax from $0.08 to $0.09 per ton.

Ms. Areias stated the program filed a regulation packet, to increase the commercial feed license fee, with the Office of Administrative Law (OAL) in early 2013. In past years, a regulation becomes law 30 days from the date filed with the Secretary of State. Effective January 1, 2013, OAL has implemented a new law that stipulates regulations take effect on a quarterly basis. To ensure that the license fee increase became effective on July 1, 2013, the program wrote a letter of good cause and was able to receive an exemption. The feed license fee will be increased from $300 to $400, effective July 1, 2013.

Ms. Areias reminded the board that in September 2012, the board approved a budget in the amount of $3,504,593 based on the current assessment of $0.09. At the end of fiscal year (FY) 2013/14, there will be $507,536 left in the reserve. The law requires a minimum of 25 percent in the reserve, and the division policy is that a 50 percent reserve is maintained. The adjusted balance does not include the revenue from the Tissue Residue (TR) or Bovine Spongiform Encephalopathy (BSE) contract. The TR work is not guaranteed; the BSE work is. The BSE revenue is approximately $120,000. If the board recommends increasing the tonnage tax to $0.11 per ton, it would put the program at the 25 percent reserve the law requires. If the board recommends the $0.13 proposal, it would put the program at approximately 50 percent of the budget in reserve, and would meet the division’s policy.

Mr. Prokop stated in 2011/12, there was around 25 million tons, and now there is only 19 million tons; that does not seem accurate.

Ms. Areias commented in 2011/12, the program was auditing firms and the program believes some of the 25 million tons reflects under reporting in the preceding year. A letter has been drafted and will be sent to industry informing them of the potential of being audited.

Ms. Krout-Greenberg informed the board tonnage is usually between 19 and 21 million tons.

Mr. Walth commented that if the license fee was raised to $500, it would not bring the program revenue until July 1, 2014.

Mr. Tad Bell stated in September 2012, there was discussion to increase the tonnage to $0.10 and increase the license fee to $400, in order to stabilize the reserve. Since the budget is the same, why is there a need for another increase?

Ms. Krout-Greenberg stated that two people retired from the Feed program in 2012; it cost about $160,000. Additionally, the board recommended hiring two additional inspectors, the furloughs will end July 1, 2013, and all staff that is at the maximum salary for their classification will receive a three percent raise due to bargaining unit contract agreements. All of these factors will cost the program approximately $300,000.

Mr. Walth commented that when the board approved the $3.5 million budget, the board discussed keeping a close eye on the budget, to make adjustments as needed.

Ms. Kelly Covello asked if the tonnage tax increase will have to go through the OAL process. Ms. Krout-Greenberg stated the secretary has the authority to make the change, with the recommendation from the board.

Mr. Prokop commented that going from $0.09 to $0.13 is a huge increase.

Mr. Bell asked what expenditures can be reduced.

Ms. Krout-Greenberg stated if the board wants to stay at $0.09 per ton or increase the tonnage tax to $0.10 per ton, proposed budget cuts will include reductions in: temporary help, new hires, truck purchases, communication devices, and a lab tech at the Center for Analytical Chemistry (CAC) would be laid off. If these expenditures were reduced, inspections and analytical services would also be reduced, and the industry would be negatively impacted.

Mr. Paul Parreira commented that it is not good to change the tonnage tax at every meeting; it should be reviewed annually.

Discussion ensued regarding the program’s budget and fund condition and it was decided to continue the discussion after the technical working group agenda item.

* A break was taken from 10:25 a.m. - 10:35 a.m.

**TECHNICAL WORKING GROUP REPORT**

Ms. Areias reviewed the recommendations from the technical working group.

1. Proposed optimal feed inspection program structure (i.e.: process verification, enforcement and compliance, outreach and education, and training)
2. Staffing levels for field operations: 1 field supervisor, 5 special Investigators, and 5 inspectors
3. Program sampling focus: 1,200 samples; primary focus feed/food safety, and secondary focus on label compliance
4. Program explore possibility to divert secondary samples to outside lab sources
5. Incorporate Hazard Analysis and Critical Control Point (HACCP)-like language (consistent with the Food Safety Modernization Act (FSMA)) into the Food and Agricultural Code
6. Move forward with the appropriate mechanisms to adopt Association of American Feed Control Officials definitions and standards, analytical variations, and FSMA regulations
7. Establish a Technical Advisory Sub-Committee to the FIAB
8. Continue participating in Food and Drug Administration’s alliances and training
9. Continue outreach and education to feed industry through the SAFE program
10. Use database to enhance information data gathering and transmission (Inspection, sampling, audits, and lab reports)
11. Line item to be added within the current budget authority for lab equipment replacement; and annual approval of expenditures by the FIAB ($250,000 for the first three years, then to be reevaluated)
12. Program annually report to the board the evaluation of lab capacity to ensure timely sample analysis
13. Change fee structure for Livestock Drugs licensing and registration for cost recovery purposes to make a zero balance or add to the reserve
14. Promulgate regulations for livestock drug registration requirements

Ms. Arieas stated that recommendations 3, 4, 5, and 11 were already approved as a concept by the board, but needed further clarification. Recommendation 13 and 14 were not yet approved by the board.

To clarify recommendations:

Recommendation 2 – Contract with Cooperative Agriculture Support Services (CASS) to carry out certain functions. The contract should be implemented within the next month.

Recommendation 3 – The program’s sampling goal is 1,200, but the primary focus will be on feed/food safety, and the secondary focus will be on label compliance. Communication between the program and the CAC will continue in order to ensure samples are being batched and scheduled, and process improvements are continuing to be reevaluated for gained efficiency.

Recommendation 4 – The program asked the legal office, in very general terms, if secondary samples can be outsourced to private labs, and if they were outsourced, if the program would have the ability to take regulatory action on them. The legal office stated the program must demonstrate that there is a cost savings and employees at the CAC cannot perform the duties. It is a complicated process; the program will write another legal referral request and be more specific about which outside labs are being referred to, including universities and other state agencies, if that is the desire of the board.

Recommendation 5 – A legal referral request was sent to the department’s legal office to determine if the program should adopt HACCP-like language in the law or the regulations. The legal office said the program can adopt HACCP-like language in the law, or it can be adopted through good manufacturing practices-which are already written into the current law.

Recommendation 11 – The working group discussed which lab repair costs and maintenance at the CAC should be the priority.

Ms. Elaine Wong informed the board that the protein analyzer is starting to malfunction; this should be considered priority.

Ms. Krout-Greenberg stated that the technical working group had discussed instead of having a blanket dollar amount line item and coming to the board every year with requests to replace or maintain equipment, there be a more proactive approach.

Recommendation 13 – The program has drafted language for a law change that would set the livestock drug fees using a sliding scale. It proposes the fee for a two-year registration certificate for a livestock drug be a minimum of $200, and not to exceed $800; and the fee for the renewal application for a license to be a minimum of $50, and not to exceed $100.

The program conducted a thorough workload analysis and recommended to the board the bi-annual fee be set at $600 for restricted livestock drugs and $250 for livestock drug registrations and a $50 annual license fee for renewals.

Ms. Areias went over the implementation timeline for recommendations, during FY 2013/14, 2014/15, and 2015/16.

Ms. Covello asked if the program was sure they wanted to use the proposed HACCP-like language, since the FSMA regulations are not published yet, and the comment period has been extended for the produce and preventive controls for human food rule.

Ms. Krout-Greenberg stated that the FDA has informed the department FSMA language will be consistent with the preventive control measures, for the human food rule.

**MOTION:** Mr. Michael Koewler moved that recommendation 13 (Change fee structure for Livestock Drugs licensing and registration for cost recovery purposes to make a zero balance or add to the reserve) be approved. Dr. Marit Arana seconded; the motion passed unanimously.

**MOTION:** Mr. Michael Koewler moved that recommendation 4 (Program explore possibility to divert secondary samples to universities/other state regulatory labs) be approved. Mr. Thomas Prokop seconded; the motion passed unanimously.

**MOTION:** Mr. Thomas Prokop moved that recommendation 5 (Incorporate HACCP-like language consistent with FSMA into the Food and Agricultural Code be approved. Mr. Tim Riordan seconded; the motion passed unanimously.

**MOTION:** Mr. Thomas Daly moved that recommendation 2 (Staffing levels for field operations: 1 field supervisor, 5 special investigators, and 5 inspectors) be approved. Dr. Marit Arana seconded; the motion passed unanimously.

The board discussed recommendation 11 (Line item to be added within the budget authority for laboratory equipment replacement; and annual approval of expenditures by the FIAB $250,000 per year for the first three years, then to be reevaluated. After discussion, the board agreed this recommendation should not be approved

The board discussed the need to replace and maintain equipment at the CAC. They determined an ongoing need for a replacement schedule which should be presented annually.

**MOTION:** Mr. Tim Riordan moved that the CAC lab budget be fully expended every year, by using the remaining budgeted funds to purchase and maintain laboratory equipment upon the approval from the advisory board, effective FY 2011/12. Mr. Paul Parreira seconded; the motion passed unanimously.

Discussion ensued regarding the program’s reserve and the need to increase the tonnage tax to a minimum of 25 percent of the program’s expenditures.

Mr. Thomas Geary stated he would support increasing the tonnage tax to $0.12 to stabilize and build the program’s reserve.

Mr. Koewler stated that he would support the tonnage tax being increased to $0.12 per ton and increasing the license fee. Mr. Walth reminded him the license fee cannot be raised without the promulgation of a regulation, and the revenue would not be noticed until July 2014.

Mr. Paul Parriera stated we are adjusting the tonnage tax too frequently. Mr. Riordan suggested raising the tonnage tax to $0.12 per ton to rebuild the reserve. Mr. Geary concurred.

**MOTION:** Mr. Thomas Geary moved to recommend to the secretary to increase the feed tonnage tax rate from $0.09 per ton to $0.12 per ton, effective July 1, 2013. Mr. Tim Riordan seconded; the motion passed unanimously.

**ADITIONAL ITEMS / NEXT MEETING**

Mr. Mike Davidson asked the board to confirm the approval of adopting AAFCO’s analytical variations, including fiber analyses. The board confirmed.

Ms. Areias provided field activities and regulatory enforcement updates. She stated that a notice was sent to the industry in May 2013 regarding the decrease of sampling of almond hulls and shells. There was a positive response from hullers and processors. The program assisted Almond Hullers and Processors Association in developing a quality assurance plan for their members. Since the plan was developed, there has been a significant decrease in violations; it has also assisted field staff in the reduction of complaints. Currently, two almond hullers are under quarantine.

Mr. Mike Davidson stated that the program recently witnessed the use of a Type A drug at a California dairy through the use of a micro mixer. Mr. Davidson iterated that Type A drugs are not a feed; it is considered a livestock drug in its pure form. There are currently no restrictions on the purchase of Category 1, Type A drugs on-farm.

Mr. Walth suggested this issue be discussed at the technical advisory subcommittee that will be formed.

Mr. Davidson stated that in May the program was notified there were detectable levels of Aflatoxin in milk at a central California dairy. This was determined by a quick test, which is not recognized by the department or by the FDA. The program took an official sample; it was analyzed by the lab, and there was no Aflatoxin detected by the CAC.

Mr. Bell encouraged the program to discuss this issue with Milk and Dairy Branch so they understand what the feed program does versus what they do. Ms. Krout-Greenberg stated Mr. Jensen will speak with Dr. Annette Whiteford at the Animal Health and Food Safety Services Division of CDFA to ensure communication is flowing routinely to address Aflatoxin and milk testing protocols.

Mr. Davidson stated all of the testing laboratories that certify total Aflatoxin for certificate of movements will be asked to participate in the following check sample program.

* Bi-annual analysis and verification
* Submit analysis method to program

Firms that choose not to participate will be subject to sampling and analysis of Aflatoxin at destination by the program.

Ms. Areias stated that two internships were established this year through scholarships from the California Grain and Feed Association and American Registry of Professional Animal Scientists. Ms. Samantha Moran, one of the interns, will create a complete FSMA-like plan for the program this summer. The second intern, Ms. Haley Imhof, will be working with the Feed Technical Advisory Subcommittee on unapproved feed ingredients; working with UC Davis toxicologists on pulling samples and compiling feed safety data for the department’s website; and on several other matters including almond hulls, the corn survey, cottonseed products, selenium, and more.

Mr. Parreira stated he and Mr. Riordan are working helping to resolve the almond hull issue, with the assistance of seven to nine people to set a direction and plan of what can be done. They will be working with nutritionists, shellers, and the Almond Hullers and Processors Association (AHPA) and ARPAS.

**MOTION:** Mr. Thomas Prokop moved to support testing check samples from laboratories that certify total aflatoxin for the certificate of movement utilizing bi-annual analysis verification, and submission of analytical methods to the program. Mr. Thomas Geary seconded; the motion passed unanimously.

Mr. Bell stated the compliance book that was put together by AHPA and Mr. Paul Parreira was very helpful for the industry. Ms. Areias agreed.

The next meeting will be on September 18, 2013 in Sacramento at 9:00 a.m.

**MOTION:** Mr. Paul Parreira moved to end the meeting at 12:35 p.m.; Mr. Michael Koewler seconded. The motion passed unanimously.

Respectfully submitted by:

*original signature on file*

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ 6/26/13

Jenna Areias, Program Specialist Date

Feed, Fertilizer and Livestock Drugs Regulatory Services