



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

NOTICE OF A CONSOLIDATED PUBLIC HEARING

**TO CONSIDER AMENDMENTS TO THE STABILIZATION AND MARKETING PLANS FOR
MARKET MILK FOR THE NORTHERN AND SOUTHERN CALIFORNIA MARKETING AREAS**

Notice is hereby given that the California Department of Food and Agriculture (Department) is calling a consolidated public hearing both to consider amendments to the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas (Plans) and to consider revisions to the Weekly and Monthly Nonfat Dry Milk Sales Reports.

Western United Dairymen's (WUD) petition does not involve amendments to the Stabilization Plans and would normally not require a formal hearing. WUD has requested a formal hearing in order to have a full disclosure of all implications of their proposed changes. A second hearing petition submitted by Milk Producers Council (MPC) has requested an amendment in the Stabilization Plans. The proposed MPC amendment would replace California's nonfat dry milk price data with a dataset published in the Dairy Market News in the Class 4a and Class 1 pricing formulas.

Hearing Date, Place and Time - The hearing will be held on August 28, 2007. The hearing will begin at 9:00 a.m. at the Department Auditorium, 1220 N Street, Sacramento. To ensure the opportunity for all persons in attendance to enter testimony and evidence into the hearing record, if necessary the hearing will be continued to the following day.

The hearing is called pursuant to Articles 4 through 9, Chapter 2, Part 3, Division 21 of the Food and Agricultural Code (FAC), as implemented by Title 3, Section 2080.2 of the California Code of Regulations (3 CCR 2080.2). The hearing noticed herein will be conducted in accordance with the procedures prescribed in 3 CCR 2080.4.

Petitions Received by the Department – On June 15, 2007, the Department received WUD's petition requesting a public hearing to consider revisions to the Weekly and Monthly Nonfat Dry Milk Sales Reports. The WUD petition proposes including only contracted sales that are delivered within 90 days of contract execution be in the nonfat dry milk sales reports. On June 18, 2007, the Department received the MPC petition requesting a public hearing to consider amendments to the Plans. The MPC petition proposes amending the nonfat dry milk price that is employed in both the Commodity Reference Price (CRP) of the Class 1 milk pricing formula and the Class 4a milk pricing formula, by replacing the California Weighted Average Price (CWAP) with the simple average of the Nonfat Dry Milk – West Mostly price published in the Dairy Market News.



These petitions are considered pursuant to FAC Sections 62031 through 62079, and 3 CCR 2080.2. Copies of the petitions can be obtained by accessing the Department's web site at www.cdfa.ca.gov/dairy or by contacting the Dairy Marketing Branch at (916) 341-5988. The web site information can be accessed from the dairy home page, by clicking on *Hearings*, then *Dairy Hearing Matrix*; then go to *NFDM Sales Reports*.

Call of Hearing - The hearing will consider WUD's proposed changes to the Weekly and Monthly Nonfat Dry Milk Sales Reports and MPC's proposed changes to nonfat dry milk price employed in the Class 1 and Class 4a milk pricing formulas. The hearing will also consider any other aspect of the Weekly and Monthly Nonfat Dry Milk Sales Reports and nonfat dry milk price employed in the Class 1 and Class 4a milk pricing formulas that are raised by alternative proposals received in the time and format specified below. The hearing will also consider the factual basis, evidence and the legal authority upon which to make any and/or all of the proposed amendments to the Plans. (Reference Article III, Section 300, Subparagraphs (A)(8), (D)(4), and (D)(6) of the Plans.)

Interested parties should also refer to the pricing criteria established in FAC Article 9, Chapter 2, of Part 3, Division 21 and the declarations, purposes, goals and requirements of the Milk Stabilization Program as codified in FAC Chapter 2 and FAC Sections 62062 and 62076.

Alternative Proposals – All interested parties are entitled to submit alternative proposals detailing alternative adjustments to the Weekly and Monthly Nonfat Dry Milk Sales Reports and/or the nonfat dry milk price used in the Class 1 and Class 4a pricing formulas. Alternative proposals must be signed by a responsible party and received by the Department's Dairy Marketing Branch no later than 4:00pm on Tuesday, July 31, 2007. The Dairy Marketing Branch's office location is the Downtown Plaza, 560 J Street, Suite 150, Sacramento. Alternative proposals may be sent electronically via email to dairy@cdfa.ca.gov, faxed to (916) 341-6697, or mailed to Hearing Officer, c/o CDFA Dairy Marketing Branch, 1220 N Street, Sacramento CA 95814.

At the hearing the Department will receive testimony and evidence, both oral and documentary. Interested parties who wish to introduce testimony and/or exhibits shall provide the Hearing Officer at the hearing seven (7) copies of such documents for the official record, as well as one copy for the court reporter.

Copies of the transcripts of testimony received at the hearing will not be available for distribution via the Department, but are available for inspection at the Dairy Marketing Branch. If interested parties wish to purchase copies, arrangements may be made with the reporting service at the hearing.

Final Decisions Resulting from the Hearing - The final decisions resulting from this hearing will be issued in accordance with the procedures and criteria contained in Chapter 2 of Division 21 of the FAC, as necessary.

The Department's decision will include consideration of all relevant economic factors including, but not limited to, the following:

- The reasonableness and economic soundness of market milk prices for all classes, giving consideration to combined income from those classes, in relation to cost of production and marketing for all purposes including manufacturing;
- Whether prices will insure an adequate and continuous supply, in relation to demand, of pure, fresh, wholesome market milk for all purposes, including manufacturing purposes, at prices to consumers which, when considered with relevant economic criteria, are fair and reasonable;
- Whether prices, including the prices of components of milk, established by the Secretary for the various classes of market milk bear a reasonable and sound economic relationship to each other;
- Whether the amendments would be in accord with all the purposes, policies, and standards contained in Sections 61801, 61802, 61805, 61806, 61807, 62062, 62063, 62074.5, 62076 and 62077.

Ex Parte Communications Prohibited - From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues with any person having an interest in the proceeding. Procedural matters are not subject to the above prohibition and may be discussed at any time.

Public Workshop - To assist interested persons in preparing for the hearing, a public workshop will be held on Tuesday, August 14, 2007 at the California Department of Food and Agriculture Auditorium, 1220 N Street, Sacramento beginning at 9:00 a.m. At this workshop, interested persons can review and discuss all proposals submitted with Department staff and other interested parties. The Department will supply background and limited analysis of the petitions and only those alternative proposals submitted by the July 31st deadline. The workshop will be informal and educational in nature. Discussion during the workshop will not be part of the official hearing record and shall not be considered in rendering a decision.

The Department's entire hearing exhibit for this hearing will be available for public inspection at the Dairy Marketing Branch office on August 21, 2007.

If any interested party has questions regarding the call of this hearing please contact Dave Ikari at (916) 341-5988.

Media contacts and publication staff are asked to contact the Department's Public Affairs Office by e-mail at cdafpublicaffairs@cdfa.ca.gov or by phone at (916) 654-0462.

All interested persons are invited to attend and participate in both the public workshop and the hearing. Interested parties are encouraged to present any data or information that is relevant to the consideration of the issues raised in the call of this hearing.

Persons with Disabilities - The Department of Food and Agriculture wishes to ensure that all members of the public have access to all public meetings. If you require a special accommodation, please contact Annie Pelletier at (916) 341-5988 or TDD (800) 735-0193 at least five days before the workshop or hearing date.

Original signed by:

George Gomes, Undersecretary

Date _____