

**DEPARTMENT OF FOOD AND AGRICULTURE**

**MILK AND DAIRY FOOD SAFETY BRANCH**

**INITIAL STATEMENT OF REASONS**

**HEARING DATE**

No public hearing is scheduled for this proposal. A public hearing will be held if any interested person, or his or her duly authorized representative, submits a written request for a public hearing to the Department of Food and Agriculture no later than 15 days prior to the close of the written comment period.

**SUBJECT MATTER OF PROPOSED REGULATIONS**

Milk Inspection Services: Milk Inspection Advisory Committee

**SECTION AFFECTED**

Adopt Section 588

**SPECIFIC PURPOSE OF EACH ADOPTION, AMENDMENT, OR REPEAL**

Existing law, section 33085 of the Food and Agricultural Code, authorizes the Department of Food and Agriculture (Department) to establish an advisory committee to assist the Secretary in the administration of inspection services related to milk and milk products, as cited in Chapter 4, Part one, Division 15 of the Food and Agricultural Code. The members are appointed by and may hold office at the pleasure of the Secretary.

Existing law, section 33086 of the Food and Agricultural Code, authorizes the Department to include persons representing producers, milk products plants, approved milk inspection services personnel, and the public generally on the advisory committee, and to limit the number of members not to exceed 7 but to consist of such number of members as necessary to assist in the administration of Chapter 4.

Existing law, section 33087 of the Food and Agricultural Code, states a member of the advisory committee shall not receive a salary but may be reimbursed for expenses incurred while engaged in committee duties.

In compliance with sections 33085 through 33087, the Department proposes to adopt section 588 of Article 21 (Milk Inspection Services), of Chapter 1, Division 2, of Title 3 of the California Code of Regulations. This proposal specifies the terms of service for members of the Milk Inspection Advisory Committee (MIAC).

**STATEMENT OF FACTUAL BASIS AND RATIONALE**

California is the leading milk producing state in the nation producing 40.4 billion pounds of milk, valued at approximately \$5.9 billion in 2010. California currently produces about 21% of the nation's milk supply.

The Department's Milk and Dairy Food Safety Branch is charged with the mission and responsibility of ensuring that California's milk, milk products, and products resembling milk products are safe and wholesome, and meet microbiological and compositional requirements. The Department is the only state agency with comprehensive expertise, experience and training in dairy product processing and handling from farm to table, including milk pasteurization technology.

The Department is proposing to adopt regulations relating to its Milk Inspection Advisory Committee. This proposal will adopt section 588 of Article 21, Chapter 1, Division 2, of Title 3 of the California Code of Regulations, as outlined below.

### **Section 588. Milk Inspection Advisory Committee.**

The Department is proposing to add a new section to its regulations regarding the Milk Inspection Advisory Committee at the beginning of Article 21. Inspection activities authorized by the California Milk and Milk Products Act, not only serve the dairy industry, but also have a vital role in protecting the health, safety and welfare of the people of this state. In order to ensure balanced representation of diverse dairy industry stakeholders as well as the general public, standardized procedures are needed for committee member selection, terms of service, and frequency of meetings. This section specifies the criteria for MIAC members under the Department's regulatory authority.

Subsection (a) Committee Members: The Branch considers it important for voting members of the committee to be those directly affected by milk and milk product inspection services and any associated fees and assessments. This is consistent with other proven advisory board frameworks where members are required by statute to be persons licensed under the program authority involved. Although the Food and Agricultural Code governing the make-up of the MIAC does not specify that representatives must only be licensees, the Branch considers this approach to be in the strictest keeping with the statutory requirement for representation from affected sectors of the dairy industry. It would also mitigate potential conflicting interests, whether real or perceived, during official committee actions for leaders of major industry organizations and lobbying groups by allowing for such organizations to attend, address or update the committee on issues of concern, and otherwise participate in committee discussions, but not serve as voting members.

Subsection (b) Terms of Office: Although members may hold office at the pleasure of the Secretary, absence of clearly defined terms of office results in little to no turnover in the committee. With the exception of the loss of one member due to retirement, the membership of the MIAC has remained unchanged for over 9 years. Development of standardized member appointment and tenure procedures would help to ensure balanced representation of the major sectors of the dairy industry, as well as foster fair and reasonable turnover of individuals influencing committee recommendations to the Secretary on changing challenges to the industry and to the safety of milk and dairy foods.

Specifying the proposed terms of office will allow for terms to expire on a predictable basis and for appropriate turnover of members without compromising the continuity of committee function.

Subsection (c) Election of Officers: Current law does not address specific committee operational protocols such as election of a committee chairperson or other officers. Establishment of such procedures would facilitate open and efficient committee operations, and be conducive to overall program quality and accountability.

Subsection (d) Filling of Vacancies: Although members may hold office at the pleasure of the Secretary, absence of clearly defined procedures to address vacancies could lead to uneven representation in the make-up of this committee. Specifying a procedure to fill vacancies will allow appropriate turnover of members without compromising the continuity of committee function.

Subsection (e) Selection of the Public Member: Specifying a procedure to fill the public member position will foster fair and reasonable selection of individuals influencing committee recommendations to the Secretary.

Subsection (f) Meetings: Current law does not address specific committee operational protocols such as the calling of a meeting, or a minimum meeting frequency. Establishment of such procedures would facilitate open and efficient committee operations, and be conducive to overall program quality and accountability.

#### **TECHNICAL, THEORETICAL, AND EMPIRICAL STUDY, REPORT, OR SIMILAR DOCUMENT**

None

#### **SPECIFIC TECHNOLOGIES OR EQUIPMENT**

This regulation does not mandate the use of specific technologies or equipment.

#### **CONSIDERATION OF REASONABLE ALTERNATIVES**

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Department would either be more effective in carrying out the purpose for which the action is proposed or would be as effective as and less burdensome to affected private persons than the proposed regulation.

#### **REASONABLE ALTERNATIVES THE DEPARTMENT HAS IDENTIFIED THAT WOULD LESSEN ANY ADVERSE IMPACT ON SMALL BUSINESS**

The Department has not identified any reasonable alternatives to the proposed action and no adverse impacts to small businesses are expected as a result of this proposal.

#### **FACTS, EVIDENCE, DOCUMENTS, TESTIMONY, OR OTHER EVIDENCE OF NO SIGNIFICANT ADVERSE IMPACT ON BUSINESS**

No facts, evidence, documents, testimony, or other evidence of any significant adverse economic impact on business have been identified.

#### **DUPLICATION OR CONFLICTS WITH FEDERAL REGULATIONS**

There are no comparable federal regulations relating to this proposal.