



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

- Revised -

**REVISED 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
AND
NOTICE OF PUBLIC HEARING
TO CONSIDER AMENDMENTS TO THE POOLING PLAN FOR MARKET MILK**

In accordance with a new petition to address Class 4b issues, it has become necessary to include considerations of amendments to the Pooling Plan for Market Milk (Pool Plan). Therefore, the Class 4a and 4b pricing formula hearing scheduled to be held on October 10, 2007 has been expanded to include implementing language in the Pool Plan. No change has been made in the date of the pre-hearing workshop, October 3, 2007, or for the deadline for alternative proposals due on September 26, 2007.

Notice is hereby given that the California Department of Food and Agriculture is calling a public hearing to consider amendments to the milk movement incentives as provided in the Pool Plan and the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas (Stab Plans).

Hearing Date, Place and Time - The hearing will be held on October 10, 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 August 15, 2007, the Department received a petition from F & A Dairy of California, Inc (F & A) and a group of other California cheese processors, requesting a public hearing to consider amendments to the Plans. The F & A petition proposes to remove the dry whey factor from the Class 4b formula.

On September 21, 2007, the Department received a petition from the Alliance of Western Milk Producers (Alliance) requesting a public hearing to consider amendments to the Pool Plan and the Stab Plans. The Alliance proposes to modify the Class 4b formula in the Stab Plans by providing a pool credit and requested implementing language changing the computation of handler obligations in the Pool Plan.



The hearing will also consider any other aspect of the Class 4a and 4b pricing formulas that are raised by alternative proposals received in the time and format specified below. Specific proposals that would both amend or change the provisions contained in Article 9, Sections 900 and 906; Article 10, Section 1001; and any changes in the Pool Plan to make effective the proposal by the Alliance and amend or change the provisions contained in Article III, Section 300, Paragraphs (D) and (E) of the Stab Plans will be open for consideration at the hearing. 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 Stab Plans and the Pool Plan.

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 *Hearing Matrix* and then go to *Class 4a/4b Pricing Formula*.

Call of Hearing - The hearing will consider the F & A proposed change to the dry whey factor in the Class 4b formula. The hearing will also consider the Alliance proposed change both to the Class 4b formula and to the implementing language changing the computation of handler obligations in the Pool Plan. The hearing will also consider any other aspect of the Class 4a and 4b pricing formulas that are raised by alternative proposals received in the time and format specified below. Specific proposals that would both amend or change the provisions contained in Article 9, Sections 900 and 906; Article 10, Section 1001; and any changes in the Pool Plan to make effective the proposal by the Alliance and amend or change the provisions contained in Article III, Section 300, Paragraphs (D) and (E) of the Stab Plans will be open for consideration at the hearing. 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 Stab Plans and the Pool Plan.

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 in the Class 4a and 4b price formulas and the Pool Plan. Alternative proposals must be signed by a responsible party and received by the Department's Dairy Marketing Branch no later than 4:00 p.m. on September 26, 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 ten (10) 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 amendments to the Pool Plan are necessary to effectuate the purposes of Chapters 3 and 3.5 of Part 3 of Division 21 of the FAC;
- Whether proposed Pool Plan amendments are substantive in nature thereby requiring a statewide referendum in accordance with FAC Section 62717;
- 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 Wednesday, October 3, 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 petition and only those alternative proposals submitted by the September 26, 2007 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 October 3, 2007.

If any interested party has questions regarding the call of this hearing please contact Dave Ikari at (916) 341-5988 or John Lee at (916) 341-5901.

Media contacts and publication staff are asked to contact the Department's Public Affairs Office by e-mail at cdfapublicaffairs@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 J. Cesca for

September 24, 2007

Kelly Krug, Director
Division of Marketing Services

Date _____