

**DEPARTMENT OF FOOD AND AGRICULTURE**

William (Bill) J. Lyons, Secretary

1220 N Street, Room A-270  
Sacramento, CA 95814-5621  
Phone (916) 654-1240  
Fax (916) 657-2261  
E-mail: [dairy@cdfa.ca.gov](mailto:dairy@cdfa.ca.gov)



**NOTICE OF PUBLIC HEARINGS TO CONSIDER  
AMENDMENTS TO THE POOLING PLAN FOR MARKET MILK  
AND THE STABILIZATION AND MARKETING PLANS FOR  
MARKET MILK FOR THE NORTHERN CALIFORNIA AND  
SOUTHERN CALIFORNIA MARKETING AREAS**

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

**Hearing Dates, Places and Times** - The hearings will be held on June 28, 2001, in Ontario, California at the Airport Marriot Hotel, 2200 East Holt Boulevard and on July 2, 2001 in the California Department of Food and Agriculture Auditorium at 1220 N Street in Sacramento. Both hearings will begin at 8:30 a.m.

The hearings are being called pursuant to Sections 62031, 62032, 61991 et seq., and Section 62717 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).

**Imperial County Agricultural Commissioner's Petition** - On January 4, 2001, the Department received a petition submitted by the Imperial County Agricultural Commissioner's Office (hereafter "Commissioner") for a hearing to amend the Pooling Plan. The petition for a hearing to amend the Pooling Plan is considered pursuant to FAC Sections 62031 through 62079, Section 62717 and Section 2080.2 of the California Code of Regulations (3 CCR 2080.2). A copy of this petition can be obtained by contacting the Dairy Marketing Branch at (916) 654-1456 or by accessing the Department's web site at [www.cdfa.ca.gov/dairy](http://www.cdfa.ca.gov/dairy). From the web site, click on the "What's New" icon and scroll down to the reference to the petition.

While the Commissioner's petition did not propose amendments to the Stabilization Plans, the Department is opening all relevant Sections of the Stabilization Plans that provide for incentives to move milk to processing plants that produce higher-valued milk and dairy products.

While the Commissioner's petition did not fully reference the Department's authority to take this action, the Secretary may call a hearing to adopt, amend or terminate Plans on the Secretary's own motion (FAC Section 62032) or on receipt of a petition

from any interested party (3 CCR 2080.2). The hearings noticed herein will be conducted in accord with the procedures prescribed in 3 CCR 2080.4.

**Stabilization Plans and Pooling Plan to be Considered at the June 28 and July 2 Hearings will be Those in Effect on the Date of the Hearing** – The Department has scheduled public hearings to consider amendments to both the Stabilization Plans and the Pooling Plan prior to the hearings referenced in this Notice. These hearings are scheduled for March 28 and March 30, 2001. Additionally, a hearing to consider amendments to the Stabilization Plans was held on January 12, 2001. If the Stabilization Plans and/or the Pooling Plan is amended as a result of the January 12, March 28 or March 30 hearings, the hearing noticed herein will be considered as amendments to the Stabilization Plans and Pooling Plan in effect on June 28, 2001.

**Call of Hearings** - The hearings will consider the Commissioner's proposal to amend the Pooling Plan in effect on June 28, 2001, to provide for transportation allowances to haul milk from Imperial County into the Southern California receiving area. The petition also proposes to add San Diego County as part of the Southern California receiving area (Reference Section 921.2(e), (e)(1) and (e)(2) of the Pooling Plan).

In addition, the hearings will consider proposals to amend other Sections of the Pooling Plan and the Stabilization Plans in effect on June 28, 2001, that provide for incentives to move milk to higher usages (Reference FAC Section 62074.5). These include provisions for transportation allowances (Reference Article 9.2, beginning with Section 920, of the Pooling Plan), transportation credits (Reference Section 300.2 of the Stabilization and Marketing Plans), the milk movement requirements (Reference Article III, Section 300.3(F) and Article V, beginning with Section 500.0 of the Stabilization Plans, also reference Article 1, Sections 100.7 through 100.10 of the Stabilization Plans and Article 1, Sections 106.1 through 106.4 of the Pooling Plan), Regional Quota Adjusters (RQAs) (Reference Article 9.1, beginning with Section 910 of the Pooling Plan), and the Class 1 minimum price differential between the Southern and Northern California Marketing areas (Reference Section 300.0(A)(3) of the Stabilization Plan for Northern California).

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.

Interested parties should also refer to the pricing criteria established in FAC Article 9, Chapter 2, of Part 3, Division 21, and the statutes establishing and governing operation of the Pooling Plan set out in FAC Chapters 3 and 3.5, Part 3 of Division 21. Interested parties should also review the declarations, purposes, goals and requirements of the Milk Stabilization Program as codified in FAC Chapter 2 and FAC Sections 62062, and 62063. Interested parties should also review the declarations, purposes, goals and requirements of the Milk Pooling Program as codified in those Chapters referenced above and FAC Sections 62700, 62701, 62702 and 62702.1.

There will be one Department hearing exhibits folder for both hearings and the folder will contain recent relevant information and data to the call of the hearings.

**Alternative Proposals** - Interested parties are encouraged to submit proposals detailing alternatives to deal with the issues raised in the call of the hearing. Proposals must be received by the Department's Dairy Marketing Branch by 4:00 p.m. on May 18, 2001. Proposals may be mailed to the Branch at 1220 N Street, Room A-224, Sacramento, CA 95814 or may be faxed to (916) 654-0867. In order to expedite distribution of proposals to interested parties, an electronic copy of the proposal in addition to a signed copy or fax would be appreciated.

At the hearings the Department will receive testimony and evidence, both oral and documentary. Interested parties who wish to introduce testimony and/or exhibits should provide the Hearing Officer at the hearing with six (6) copies of such documents for the official record. Also, it would be helpful if additional copies are made available for use by hearing participants.

Copies of the transcripts of testimony taken at the hearings will not be available for distribution through 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 hearings.

**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 and/or Chapter 3 and 3.5 of Division 21 of the FAC, as necessary.

The Department's decision will also include consideration of the following:

- 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, 62074.5, 62076, and 62077;
- whether amendments to the Pooling Plan are necessary to effectuate the purposes of Chapters 3 and 3.5 of Part 3 of Division 21 of the FAC;
- whether proposed Pooling Plan amendments would result in payments to producers of amounts in accordance with FAC Section 62750;
- whether proposed Pooling 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 policies, purposes, goals and standards contained in Sections 62700, 62701, 62702, 62712, and 62714.

**Ex Parte Communications Prohibited** - From the time that a hearing notice is issued and until the issuance of a final decision in a proceeding, the Department employees involved in the decision-making process are prohibited from discussing the merits of the hearing issues on an ex parte basis 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 these hearings, a public workshop will be held in Sacramento on June 7, 2001. The workshop will be held in Room 102 in the Department's headquarters at 1220 N Street, Sacramento and will begin at 9:30 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 analysis of alternative proposals. The workshop will be informal and educational in nature. Discussion during the workshop will not be part of the official hearing record.

The Department's entire hearing exhibit for these hearings will be available for public inspection at the Sacramento office of the Dairy Marketing Branch on June 21, 2001.

If any interested party has questions regarding the call of these hearings or needs assistance in developing language for a proposal, please contact Eric Erba or Tom Gossard at (916) 654-1456.

All interested persons are invited to attend and participate in both the public workshop and the hearings. 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. Testimony and evidence received at each hearing will be cross-referenced in the record of the other 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 Cheryl Gilbertson at (916) 654-1456 or TDD (800) 735-0193 at least five days prior to the workshop or hearing date.

\_\_\_\_\_ Date  
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Kelly Krug, Director  
Division of Marketing Services