



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE
Karen Ross, 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 to consider amendments to the Stabilization and Marketing Plans for Market Milk for the Northern California and Southern California Marketing Areas (Plans).

Hearing Date, Place and Time - The hearing will be held on June 30 and July 1, 2011 in the Department Auditorium, 1220 N Street, Sacramento, CA 95814. The hearing will begin both days at 9:00 a.m. The hearing on the second day will close once all testimony has been received.

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 May 11, 2011, the Department received a petition from California Dairies, Inc. (CDI) requesting a public hearing to consider amendments to the Plans. The CDI petition proposes changes to the butter and nonfat dry milk manufacturing cost allowances and the butter f.o.b. price adjuster in the Class 4a pricing formula. On May 24, 2011, the Department received a petition from Land O’Lakes, Inc. (LOL) requesting a public hearing to consider amendments to the Plans. Specifically, the LOL petition proposes changes to the manufacturing cost allowance and f.o.b. adjuster for cheese and the whey portion of the Class 4b pricing formula.

The CDI and LOL petitions are considered pursuant to FAC Sections 62031 through 62079, and 3 CCR 2080.2. A copy 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*, then go to *Current Hearings*; and click on *Class 4a & 4b Pricing Formula Hearing – June 30 and July 1, 2011*.

Department’s Proposed Amendments – The Department’s Dairy Marketing Branch is proposing to make administrative changes to the Class 4a and 4b pricing formulas to include language to implement the collection of security charges provided by the Milk Producers Security Trust Fund (Fund) as found in Section 62561, Article 4, Chapter 2.5, Part 3, Division 21 of the FAC.



The recent financial evaluation of the Fund by an accounting firm (performed every two years) indicated that Section 62561 of the FAC amended the authority of the Department to collect Fund charges on all classes of milk. Fund charges would take effect if the Fund goes below \$30 million. The Plans are now in conflict with Section 62561 of the FAC.

Originally, money collected for the Fund came from assessments on milk in Classes 1, 2 and 3. However, in 2006 (effective January 1, 2007) A.B. 2343 modified the Fund so that assessments from all classes of milk, including Classes 4a and 4b, are collected.

Call of Hearing - The hearing will consider the CDI proposed changes to the Class 4a pricing formula and the LOL proposed changes to the Class 4b pricing formula. The hearing will also consider the Department's administrative changes to the Class 4a and 4b pricing formulas and 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 amend or change the provisions contained in Article III, Section 300, Paragraphs (D) and (E) of the Stabilization and Marketing 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 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 in the Class 4a and 4b pricing formulas. 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 June 10, 2011. The Dairy Marketing Branch's office location is the Downtown Plaza, 560 J Street, Suite 150, Sacramento, CA 95814. The Department strongly encourages all alternative proposals to be sent electronically via email to dairy@cdfa.ca.gov or faxed to (916) 341-6697. Alternative proposals may be mailed to Hearing Officer, c/o CDFA Dairy Marketing Branch, 1220 N Street, Sacramento, CA 95814, but five (5) business days in addition to normal mailing times should be allotted if mailed.

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 and 2.5 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 Monday, June 20, 2011 in the Department Auditorium, 1220 N Street, Sacramento, CA 95814 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 June 10th 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 June 23, 2011.

If any interested party has questions regarding the call of this hearing please contact Hyrum Eastman or Candace Gates at (916) 341-5988.

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 Amber Rankin at (916) 341-5988 or TDD (800) 735-0193 at least five days before the workshop or hearing date.



Kevin Masuhara, Director
Division of Marketing Services

Date May 25, 2011