

THE BOARD OF SUPERVISORS OF THE COUNTY OF STANISLAUS  
ACTION AGENDA SUMMARY

DEPT: Environmental Resources

BOARD AGENDA # \*B- 3

Urgent  Routine

AGENDA DATE September 11, 2012

CEO Concurs with Recommendation YES  NO   
(Information Attached)

4/5 Vote Required YES  NO

SUBJECT:

Approval to Authorize the Department of Environmental Resources to Collect the State Milk and Dairy Farm Inspection Fee Surcharge, on Behalf of the State of California, Effective October 1, 2012, as Required by Section 33253 of the California Food and Agricultural Code

STAFF RECOMMENDATIONS:

1. Authorize the Department of Environmental Resources to collect the 15% State milk and dairy farm inspection fee surcharge, on behalf of the State of California, effective October 1, 2012, as required in Section 33253 of the California Food and Agricultural Code.
2. Authorize the Department of Environmental Resources to transmit the collected surcharge to the California Department of Food and Agriculture.
3. Direct the Auditor-Controller to establish a State Trust Fund for the State milk and dairy farm inspection surcharge.

FISCAL IMPACT:

The Department of Environmental Resources would collect an estimated \$57,600 annually on behalf of the State from approximately 233 regulated businesses in the Milk and Dairy Program in Stanislaus County. Roughly one-fourth of this total amount collected would be transferred to the California Department of Food and Agriculture on a quarterly basis, with the first payment being due on January 30, 2013.

(Continued on next page)

BOARD ACTION AS FOLLOWS:

No. 2012-455

On motion of Supervisor Withdraw and approved by the following vote, Seconded by Supervisor Monteith

Ayes: Supervisors: Chiesa, Withdraw, Monteith, De Martini and Chairman O'Brien

Noes: Supervisors: None

Excused or Absent: Supervisors: None

Abstaining: Supervisor: None

1) X Approved as recommended

2) \_\_\_\_\_ Denied

3) \_\_\_\_\_ Approved as amended

4) \_\_\_\_\_ Other:

MOTION:



ATTEST: CHRISTINE FERRARO TALLMAN, Clerk

File No.

Approval to Authorize the Department of Environmental Resources to Collect the State Milk and Dairy Farm Inspection Fee Surcharge, on Behalf of the State of California, Effective October 1, 2012, as Required by Section 33253 of the California Food and Agricultural Code

**FISCAL IMPACT (Continued):**

Currently, the County's maximum quarterly inspection charge to a Grade A dairy is \$393.75 for an annual amount of \$1,575. The State's 15% surcharge will increase the cost to Grade A dairies in the amount of \$59.06 quarterly for an annual amount of \$236.24. The County's maximum quarterly inspection charge to a Grade B dairy is \$192.50 for an annual amount of \$770. The State's 15% surcharge will increase the cost to Grade B dairies in the amount of \$28.88 quarterly for an annual amount of \$115.52. In total, the maximum annual inspection charges (with the State surcharge) for Grade A and B dairies will be \$1,811.24 and \$885.52, respectively.

**DISCUSSION:**

On June 27, 2012, Senate Bill 1018, Chapter 19, Statutes of 2012, was signed into law by the Governor and amended Section 33253 (Attachment A) of the California Food and Agricultural Code, requiring that all counties which provide inspection services for local dairies, impose a 15% surcharge on the dairy inspection fee and remit that surcharge to the State. This surcharge is levied to cover the cost of administrative oversight, by the California Department of Food and Agriculture, of county milk and dairy inspection programs.

The Department of Environmental Resources, Milk and Dairy Program (Department), charges inspection fees to the dairymen to pay for the cost of inspecting dairies. The Department has worked diligently to keep the program costs and thus the fees to the dairies as low as possible. The last time the dairy inspection fees were increased was in March of 2008, from \$360 per quarter to \$393.75 per quarter. This was a 9.375% increase.

Effective July 1, 2012, the State increased the maximum inspection fee, to the dairies they inspect, to \$578.40 per quarter or \$2,313.60 annually, which is 27.7% higher than Stanislaus County's inspection fee plus the State surcharge that dairies would be paying. The State's higher fees are associated with administrative costs to oversee the program and higher travel costs to inspect the dairies in less populated areas.

On July 18, 2012, the Department received a letter from Dr. Stephen Beam, Chief of Milk and Dairy Food Safety Branch, California Department of Food and Agriculture, notifying the County of the fee collection and remittance requirement, effective July 1, 2012 (Attachment B) due to the passage of Senate Bill 1018. Dr. Beam recently gave staff verbal approval to begin the collection of the surcharge on October 1, 2012, as the effective date of July 1, 2012, had already passed when the Department received his letter and due to the time that would be needed to complete the County's approval process. There are five other counties (Tulare, San Joaquin, Sonoma, Fresno, and Imperial) that also have a local milk and dairy inspection program. San Joaquin County

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has implemented the 15% surcharge and the remaining four are currently in the approval process.

**POLICY ISSUES:**

Approval of this agenda item to authorize the Department to collect fees on behalf of the State is consistent with the Board's priorities of A Safe Community and A Healthy Community. Collecting and remitting fees imposed by the State allows the Department to meet the State mandate and assist in promoting a safe and healthy environment and improving the quality of life in Stanislaus County.

**STAFFING IMPACTS:**

There are no staffing impacts associated with this item.

**CONTACT PERSON:**

Jami Aggers, Interim Director of Environmental Resources  
Telephone: 209-525-6770

(e) This section does not prohibit or restrict nonmotorized recreational mining activities, including panning for gold.

SEC. 8. The Legislature finds and declares that licensing, permitting, and inspection fees collected from milk producers, semifrozen milk product plants, hotels, restaurants, or boardinghouses issued limited manufacturing permits, and those engaged in the manufacture and testing of butter have not kept pace with the true cost of providing those services. Sections 10, 12, 13, 15, 16, and 17 of this act address those deficiencies by raising the fees charged for those services to a level that more accurately reflects the reasonable costs incurred by the agency providing those services.

SEC. 9. Section 33222 of the Food and Agricultural Code is amended to read:

33222. Every person, before engaging in the business of producing market milk or manufacturing milk, shall obtain a permit from the secretary or from the approved milk inspection service that is maintained by the county designated by the secretary pursuant to this chapter for each dairy farm.

SEC. 10. Section 33223 of the Food and Agricultural Code is amended to read:

33223. If a permit is issued by an approved milk inspection service designated by the secretary to a producer of market milk or manufacturing milk, no other permit shall be required of the producer by any other approved milk inspection service.

SEC. 11. Section 33225 of the Food and Agricultural Code is amended to read:

33225. If this division and the standards that are established by or adopted pursuant to the authority that is granted in this division are complied with, a permit shall be issued by the secretary or the designated approved milk inspection service, to the dairy farm. The permit shall be issued for a period not to exceed one year.

SEC. 12. Section 33251 of the Food and Agricultural Code is amended to read:

33251. The county that maintains an approved milk inspection service where an inspection fee is levied and collected shall determine the actual cost of making an inspection of a dairy farm that produces milk within the area that is designated and assigned to that service by the secretary. Records of the cost determination shall be made and maintained by the county for examination by the secretary or other interested person.

SEC. 13. Section 33252 of the Food and Agricultural Code is amended to read:

33252. For the purpose of maintaining an approved milk inspection service, the county may, but is not required to, levy and collect an inspection fee or fees from producers of milk that is produced at dairy farms within the area that is designated and assigned to that service by the secretary.

SEC. 14. Section 33253 of the Food and Agricultural Code is amended to read:

33253. The dairy farm inspection fee shall not exceed the actual cost to the county of making the dairy farm inspection, provided that an additional

15 percent of the fees collected shall be remitted to the secretary to cover the reasonable cost of administering Sections 33082, 33118, and 33119, and the oversight requirements of the National Conference on Interstate Milk Shipments.

SEC. 15. Section 33257 of the Food and Agricultural Code is amended to read:

33257. If an approved milk inspection service inspects a dairy farm, the dairy farm inspection fee, if levied, shall be collected from the producer of milk that is produced on the dairy farm.

SEC. 16. Section 33291 of the Food and Agricultural Code is amended to read:

33291. Every person that is engaged in the production of milk outside the jurisdiction of an approved milk inspection service and every person engaged in the processing, manufacture, or distribution of milk, milk products, or products resembling milk products, in the cleaning or sanitizing of bulk milk tanker trucks, or in the processing, manufacture, or freezing of ice cream, ice milk, sherbet, or any similar frozen product shall pay a cost-related inspection fee, not to exceed the reasonable costs of the services provided, to the secretary.

SEC. 17. Section 33292 of the Food and Agricultural Code is amended to read:

33292. (a) Every milk products plant or milk handler that purchases, or otherwise acquires possession or control of, milk directly from producers shall deduct from payments that are due producers for milk, and shall pay to the secretary, the fee, not to exceed the reasonable costs of the services provided, required to be paid by the producer.

(b) For purposes of this article, "milk handler" means any person that, as owner, agent, broker, or intermediary, receives, purchases, or otherwise acquires ownership, possession, or control of milk or manufacturing milk in unprocessed or bulk form from a producer for the purpose of manufacture, processing, sale, distribution, or other handling.

(c) For purposes of this article, "producer" means any person that operates a dairy farm as defined in Section 32505.

SEC. 18. Section 33294 of the Food and Agricultural Code is repealed.

SEC. 19. Section 33294 is added to the Food and Agricultural Code, to read:

33294. (a) Every producer shall pay an inspection fee not to exceed twelve cents (\$0.12) per hundredweight of the first 482,000 pounds only on milk produced by him or her during the quarter year preceding the date the inspection fee becomes due and payable or two hundred fifty dollars (\$250), whichever is greater.

(b) Notwithstanding the fee limit specified in this section for producers, the secretary may increase the inspection fee by an amount not to exceed one-half cent (\$0.005) per hundredweight per annum.

(c) The secretary shall annually fix the fees at an amount not to exceed actual reasonable program costs for administration of this chapter, and may adjust the per hundredweight fee whenever he or she finds that the cost of

administering the provisions of this chapter can be defrayed from revenues derived from lower rates. Any money collected by the secretary pursuant to this section shall be paid into the Department of Food and Agriculture Fund.

(d) The secretary shall charge a dairy farm all actual direct costs for initial and any followup dairy farm inspections for a facility out of compliance with the initial inspection. However, in no event shall the fee for an initial inspection exceed the limitation established in subdivisions (a) and (b).

(e) The secretary shall establish plan review fees for sanitary design and construction review activities relating to dairy farms pursuant to Chapter 5 (commencing with Section 33451).

SEC. 20. Section 35221 of the Food and Agricultural Code is amended to read:

35221. (a) Every person that is engaged in the business of dealing in, receiving, manufacturing, freezing, or processing ice cream, ice milk, sherbet, or any similar frozen product, of manufacturing, freezing, or processing imitation ice cream, imitation ice milk, or any similar frozen product, or of processing any other dairy product for which a license is required, shall pay the following fees:

(1) For a license for all frozen milk products and all imitation frozen milk products, one hundred dollars (\$100) for the calendar year for which the license is issued. The fee for the renewal of this license is one hundred dollars (\$100), plus one dollar (\$1) for each additional 10,000 gallons or fraction of 10,000 gallons over and above 20,000 gallons that were manufactured during the preceding year, ending December 31.

(2) For a semifrozen (soft-serve) milk products plant license issued to persons making application under Section 33704, two hundred twenty-five dollars (\$225) for the calendar year for which the semifrozen (soft-serve) milk products plant license is issued. The fee for the renewal of this license is two hundred twenty-five dollars (\$225).

(3) For a limited packaging permit issued to a licensed semifrozen (soft-serve) milk products plant making application under subdivision (b) of Section 33704, three hundred dollars (\$300) for issuance of the initial permit. The fee for the annual renewal of this permit is one hundred fifty dollars (\$150).

(4) For a limited manufacturing permit issued to a hotel, restaurant, or boardinghouse pursuant to Section 35016, two hundred twenty-five dollars (\$225) for the initial permit. The fee for the annual renewal of this permit shall be two hundred twenty-five dollars (\$225).

(5) For a person, except a hospital or sanitarium, that is engaged in the business of manufacturing any diabetic or dietetic frozen milk product or mix, one hundred dollars (\$100) for the calendar year for which a diabetic or dietetic frozen milk products license is issued. The fee for the renewal of this license is one hundred dollars (\$100).

(6) For any other product for which a license is required, one hundred dollars (\$100) for the calendar year for which the license is issued. The fee



CALIFORNIA DEPARTMENT OF  
FOOD & AGRICULTURE

Karen Ross, Secretary

July 18, 2012

**To: Approved Milk Inspection Services (AMIS) that conduct inspections of dairy farms**

**Subject: Statutory Changes to Dairy Farm Inspection Fees**

In order to maintain essential milk and milk product inspection services following General Fund reductions, several dairy related fees including dairy farm inspection fees were amended in the Food and Agricultural Code (FAC) effective July 1, 2012 (Senate Bill 1018, Ch. 39, Statutes of 2012).

Inspection fees for dairy farms inspected by CDFA have been revised to twelve cents (\$0.12) per hundredweight (cwt) of the first four hundred eighty two thousand (482,000) pounds (lbs) of milk produced during each quarter-year period or a minimum of \$250 per quarter, whichever is greater (FAC Section 33294). Market milk and manufacturing milk dairy farms are assessed at the same rate. CDFA is authorized to increase the fee a maximum of one-half cent (\$0.005) per cwt per annum, not to exceed program costs.

Based on the new fee structure, the maximum dairy farm fee has increased to \$578.40 per quarter, beginning with the quarter-year period of July 1 to September 30, 2012.

In addition, pursuant to amended FAC Section 33253, inspection fees levied by a county-operated AMIS shall not exceed the actual cost to the county of making the dairy farm inspection, provided that an additional 15 percent of the fees collected shall be remitted to CDFA to cover the cost of administering FAC Sections 33082, 33118 and 33119, and the oversight requirements of the National Conference on Interstate Milk Shipments.

Please contact us at the number below regarding procedures for remittance of fees to CDFA or with any other questions concerning implementation of the above changes in state law.

Sincerely,

Dr. Stephen W. Beam, Chief  
Milk and Dairy Food Safety Branch  
Animal Health and Food Safety Services

cc: Dr. Annette Whiteford, Director, AHFSS

