

Department of Agriculture
Nevada Dairy Commission
Public Meeting

Wednesday, September 18, 2013

405 South 21st Street

Sparks, NV 89431

Appearances

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Christopher Cook, Chairman

John Collier, Commission Member

Troy Crowther, Commission Member

Thomas Orzech, Commission Secretary

Also Present:

Kathy Easley

Anna Vickrey

Kimberly Whitfield

Gary Reck

Dave DeMars

Sparks, Nevada; Wednesday, September 18, 2013

The meeting was brought to order by Chairman Cook at 9:01 AM.

Opening statement was given by Tom Orzech:

THIS IS THE TIME AND PLACE SET FOR A REGULARLY SCHEDULED
MEETING OF THE NEVADA STATE DAIRY COMMISSION FOR THE MONTH OF
SEPTEMBER, 2013

THIS MEETING HAS BEEN SCHEDULED AND NOTICED IN
COMPLIANCE WITH PERTINENT STATUTES, INCLUDING THE OPEN
MEETING LAW.

A COPY OF THE AGENDA HAS BEEN HANDED TO THE COURT
REPORTER WITH THE REQUEST THAT IT BE PART OF THE OFFICIAL
TRANSCRIPT OF THESE PROCEEDINGS.

MY NAME IS **TOM ORZECZ, OPERATIONS MANAGER** FOR THE
NEVADA STATE DAIRY COMMISSION.

PRESENT TODAY ARE:

MR. CHRISTOPHER COOK, CHAIRMAN

MR. TROY G. CROWTHER, MEMBER OF THE COMMISSION

MR. JOHN COLLIER, MEMBER OF THE COMMISSION

AND CERTAIN MEMBERS OF THE DAIRY COMMISSION STAFF

THOSE WHO PRESENT STATEMENTS OR EVIDENCE TO THE
COMMISSION DURING THIS MEETING ARE REQUESTED TO FIRST BE
ACKNOWLEDGED BY THE CHAIRMAN AND TO IDENTIFY THEMSELVES FOR
THE RECORD.

Agenda item #1 Public Comments and Discussions:

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There were no comments from the public present.

Agenda item #2 License Application:

Los Altos Food Products, Inc.
450 Baldwin Park Blvd.
City of Industry, CA 91746
Corin Andrade, Chief Financial Officer

The applicant seeks a license to distribute fluid milk and fluid cream in the Northern and Southern Nevada Marketing Areas. The applicant is only distributing fluid cream products at this time.

The applicant's prices and costs have been reviewed by members of the Dairy Commission staff and are in compliance with this agency's laws and regulations.

The applicant will be responsible for the assessments.

Troy Crowther asked what they sell and Tom Orzech replied that they sell a type of Mexican style cream.

Motion was made to grant a license by John Collier and seconded by Troy Crowther.

Having no dissenting votes, the motion carried, and the license was granted.

Agenda item #3 Approval of the minutes for August 21, 2013, meeting:

Corrections were read:

Page 6 Line 2
Page 10, Line 22
Page 15, Line 4
Page 20, Line 21

Change "Mr. Orzech" to "Mr. Collier"
Change "Mr. Orzech" to "Mr. Collier"
Change "Sharon" to "Sarin"
Change "Mr. Orzech" to "Mr. Collier"

A motion was made by John Collier to approve the minutes with the indicated changes for the August 21, 2013, meeting, and seconded by Troy Crowther.

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Having no dissenting votes, the motion carried, and the minutes were adopted as corrected.

Agenda item #4 Staff report by Tom Orzech:

The tour of the new dry powder plant will be on October 16th. We will depart from here right after the meeting next month.

We are continuing to work on the notice of violation against Legacy Ice Cream for failure to file the required monthly remittance reports and pay the required assessments.

Work on renewing Warren's contract is still ongoing.

We have begun the process to hire a new Auditor II in Las Vegas.

The agency reserve is \$548,600. We have mailed out letters to all licensees informing them of the amount they may deduct for the "Tax Holiday" so we may reduce this total.

This concludes the report.

Questions were raised by the Commissioners regarding amount of credit to licensees.

Troy Crowther inquired about the notice of violation against Legacy Ice Cream.

Gary Reck would like to join the tour of the dry powder plant.

Agenda item #5 Briefing on proposed changes to NAC 584 by Anna Vickrey:

(see attachment)

The only questions were by Gary Reck regarding the reducing of pricing discussed in NAC 584.6507.

Agenda item #6 Legal Report:

Warren Goedert was not present so no report was given.

Agenda item #7 Consideration of any other matters relating to the Dairy Industry:

Troy Crowther inquired what the impact would be to Model Dairy with the dry powder plant receiving its milk supply from the local farmers.

Gary Reck replied that he was not sure but was told they will still get what they need from the local dairies.

Agenda item #8 Public Comment:

There were no comments from the public present.

The meeting was adjourned at 9:30 AM.

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NAC 584.0103 Adoption by reference of standards of identity for certain dairy products. ([NRS 584.067](#), [584.103](#), [584.135](#))

2. A copy of the publications which contain these parts may be obtained from the United States Government Printing Office free of charge on the Internet website <http://www.gpo.gov/fdsys>, ~~or by mail at P.O. Box 979050, St. Louis, Missouri 63197-9000, for the following prices:~~

~~—(a) For Title 7, Parts 53-209, \$42;~~

~~—(b) For Title 21, Parts 100-169, \$55; and~~

~~—(c) For Title 21, Parts 170-199, \$56.~~

Updating information on obtaining publications.

MANUFACTURED DAIRY PRODUCTS

1. The Commission hereby adopts by reference the following sections of *Milk for Manufacturing Purposes and Its Production and Processing: Recommended Requirements*, ~~September 2005~~ *July 2011*, published by the United States Department of Agriculture, and any subsequent revision of the publication that has been approved by the Executive Director for use in this State. Each revision of the publication shall be deemed approved by the Executive Director unless, after review and consultation with the Commission, the Executive Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision. The following sections are hereby adopted:

Adopting the most recent USDA publication for Milk for Manufacturing Purposes.

(a) Subpart B - Definitions.

(b) Subpart C - Quality Requirements for Milk for Manufacturing Purposes.

(c) Subpart D - Farm Requirements for Milk for Manufacturing.

(d) Subpart E - Requirements for Licensed Dairy Plants:

(1) Sec. E1. General Requirements.

(2) *Sec. E2. Supplemental requirements for plants manufacturing, processing and packaging instant nonfat dry milk, nonfat dry milk, dry whole milk, dry buttermilk, dry whey, and other dry milk products.*

Adopting previously omitted sections for dry milk condensed milk and equipment. Other sections renumbered.

(~~2~~3) Sec. E3. Supplemental requirements for plants manufacturing, processing and packaging butter and related products.

(~~3~~4) Sec. E4. Supplemental requirements for plants manufacturing and packaging cheese.

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(5). *Sec.E5. Equipment and Utensils.*

(46) Sec. E6. Supplemental requirements for plants manufacturing, processing and packaging pasteurized process cheese and related products.

(7) *Sec E7. Supplemental requirements for plants manufacturing, processing and packaging pasteurized evaporated, condensed, or sterilized milk products.*

(e) Subpart F - Administrative Procedures.

2. Copies of this publication are available, ~~free of charge, from the United States Department of Agriculture, P.O. Box 96456, Washington, D.C. 20090-6456, or on the Internet at <http://www.ams.usda.gov/dairy.htm>~~ www.gpo.gov.

Updating information on obtaining USDA publications.

NAC 584.2091 Samples of certified raw milk and its products. ([NRS 584.067](#), [584.208](#))

2. Samples must be analyzed at an official laboratory *approved by the State Dairy Commission*. ~~All sampling procedures and laboratory examinations must substantially comply with the requirements set forth in:~~

~~—(a) *Standard Methods for the Examination of Dairy Products* published by the American Public Health Association at 800 I Street, N.W., Washington, D.C. 20001-3710, available for a price of \$58.50 for members and \$85 for nonmembers; and~~

~~—(b) *Official Methods of Analysis of AOAC INTERNATIONAL* published by AOAC INTERNATIONAL at 481 North Frederick Avenue, Suite 500, Gaithersburg, Maryland 20877-2417, available for a price of \$660.~~

Omitting outdated references to documents used to establish standard methods for the examination of dairy products and allowing the Dairy Commission to approve the methods.

[Bd. of Health, Raw Milk Reg. §§ 4.1-4.2.2 & 5.2, eff. 1-7-82]—(NAC A by Dairy Comm'n by R151-01, 12-17-2001, eff. 1-1-2002; R082-11, 5-30-2012)

NAC 584.3001 Adoption by reference of certain federal publications. ([NRS 584.067](#))

1. The Commission hereby adopts by reference the following publications:

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(a) *Grade "A" Pasteurized Milk Ordinance (Includes provisions from the Grade "A" Condensed and Dry Milk Products and Condensed and Dry Whey-Supplement I to the Grade "A" PMO)*, 2009 2011 Revision, except as otherwise noted in this section, and any subsequent revision of the publication that has been approved by the Executive Director for use in this State. Each revision of the publication shall be deemed approved by the Executive Director unless, after review and consultation with the Commission, the Executive Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision. The following items are deleted from the *Ordinance*:

- (1) The fourth paragraph of section 3.
- (2) Section 15.
- (3) Section 16.
- (4) Section 17.
- (5) Appendix P.

In the following sections the Somatic Cell Counts are changed from 750,000 per mL for an individual producer to 400,000 per mL (exclusive of goat milk):

Section 7. Standards for Grade "A" Milk and Milk Products, Table 1.

Appendix E. Examples of 3-out-of-5 Compliance Enforcement Procedures, Table 11.

(b) *Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments*, 2009 2011 Revision, and any subsequent revision of the publication that has been approved by the Executive Director for use in this State. Each revision of the publication shall be deemed approved by the Executive Director unless, after review and consultation with the Commission, the Executive Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision.

(c) *Methods of Making Sanitation Ratings of Milk Shippers*, 2009 2011 Revision, and any subsequent revision of the publication that has been approved by the Executive Director for use in this State. Each revision of the publication shall be deemed approved by the Executive Director unless, after review and consultation with the Commission, the Executive Director files an objection to the revision with the Office of the Secretary of State within 60 days after the date of publication of the revision.

Adopting the most recent (2011) FDA publication of the Pasteurized Milk Ordinance.

Changing the somatic cell counts from 750,000 per mL to 400,000 per mL. For the dairymen in the state of Nevada to compete with the international market the somatic cell counts for each dairy must be compliant with international standards.

Adopting the most recent FDA publication of the Procedures Governing the Cooperative State-Public Health Service/Food and Drug Administration Program of the National Conference on Interstate Milk Shipments.

Adopting the most recent FDA publication of the Methods of Making Sanitation Ratings of Milk Shippers.

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<p>NAC 584.5751 “Wholesale customer” defined. (NRS 584.067, 584.547) “Wholesale customer” means any customer of a processing distributor or a Peddler-d Distributor, other than a home-delivery <i>retail</i> customer.</p> <p>[NAC 584.5792 Report of distributor’s monthly remittance. (NRS 584.067, 584.547)</p> <p>1. Each distributor subject to the stabilization and marketing plan set forth in NAC 584.5551 to 584.6712, inclusive, shall submit to the Commission, on a form prescribed and furnished by the Commission, or on a facsimile of the form, a monthly remittance report showing the distributor’s monthly distribution of fluid milk, fluid cream, butter and fresh dairy by-products.</p> <p>NAC 584.6482 Establishment of minimum price for fluid milk and fluid cream to be paid to producer by distributor. (NRS 584.067, 584.547)</p> <p>1. Except as otherwise provided in this subsection, the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area is the minimum price established for fluid milk and fluid cream set each month by the State of California Department of Food and Agriculture for the Northern California Marketing Area. If the minimum price for fluid milk and fluid cream established for the Northern California Marketing Area is revised, the Commission will review the revised price to determine whether it is acceptable. Unless the Commission, within 5 days after the price for the Northern California Marketing Area is revised, determines that the revised price is unacceptable, the revised price for the Northern California Marketing Area shall be deemed the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area. The minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Northern Nevada Marketing Area may be obtained at no cost:</p> <p>(a) By mail, from the Nevada Department of Agriculture, Food & Nutrition Division, State Dairy Commission , 4600 Kietzke Lane, Building A, Suite 107, Reno, Nevada 89502 405 S.21st. Street, Sparks, Nevada 89431;</p> <p>(b) By telephone, at (775) 688-1211 353-3758;</p> <p>(c) By electronic mail, at dairycom@dairy.state.nv.us fnd@agri.nv.gov; or</p> <p>(d) On the Internet, at http://dairy.nv.gov.</p> <p>2. Except as otherwise provided in this subsection, the minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Southern Nevada Marketing Area is the advanced pricing factors or the</p>	<p>..... 20</p> <p><i>Removal of “home delivery” to clarify the definition.</i></p> <p><i>Cleanup of the wording.</i></p> <p><i>New address.</i></p>
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component prices set each month by the United States Department of Agriculture, as applicable, plus the class differential set by the Commission. The minimum price for fluid milk and fluid cream to be paid to a producer by a distributor located in the Southern Nevada Marketing Area may be obtained at no cost:

(a) By mail, from the Nevada Department of Agriculture, Food & Nutrition Division, State Dairy Commission, ~~1830 East Sahara Avenue, Suite 112~~ 2300 McLeod, Las Vegas, Nevada 89104;

New address.

(b) By telephone, at (702) ~~486-8212~~ 668-4585;

(c) By electronic mail, at dairycom@dairy.state.nv.us; or

(d) On the Internet, at <http://dairy.nv.gov>.

(Added to NAC by Dairy Comm'n, eff. 8-26-96; A by R121-99, 9-27-99, eff. 10-1-99; R067-00, 6-2-2000; R150-01, 12-17-2001, eff. 1-1-2002; R017-07, 10-31-2007; R082-11, 5-30-2012)

NAC 584.6507 Minimum markup of butter, milk and fresh dairy by-products by retailers; reduction of markup. ([NRS 584.067](#), [584.547](#))

1. A retailer may apply to butter a minimum markup of 6 percent of the purchase price and may apply to milk and fresh dairy by-products a minimum markup of 10 percent of the purchase price. Retailers shall file statements of costs for butter and fresh dairy by-products in accordance with [NRS 584.583](#), unless they are using *a markup equal to or greater than* the *minimum* markup permitted by this subsection.

Clarification of the section.

2. A retailer may reduce ~~the prescribed markup~~ *its price* to the extent necessary to meet a lawful competitive price *and is not subject to penalty* if it submits information to the Commission in the manner set forth for distributors in [NRS 584.584](#).

Added to agree with NRS.

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