



July 13, 2016

NOTICE OF PUBLIC HEARING
To Consider Proposed Major Amendments
To the Marketing Order for Processing Strawberries
For the Purpose of Incorporating Strawberry Producers into the Program
Hearing Date: August 15, 2016

At the request of the Processing Strawberry Advisory Board (Board) the California Department of Food and Agriculture (Department) has scheduled a public hearing to receive comments from the processing strawberry industry and from the general public on proposed major amendments to the Marketing Order for Processing Strawberries (Marketing Order). The amendments were proposed by the Board in order to formally incorporate strawberry producers into the Marketing Order. The Board believes that incorporating producers into the Marketing Order will positively contribute to the Board’s deliberations and administrative decisions.

The public hearing is scheduled as follows: (There is plenty of free parking at this location.)

Date & Time	Location
Monday August 15, 2016 1:30 p.m.	UC Cooperative Extension Office – Auditorium 2156 Sierra Way San Luis Obispo, CA 93401

As you may be aware, the Board is a California marketing order program, acting under the oversight of the Department, which establishes and administers the following two mandatory activities for the California processing strawberry industry:

1. Mandatory incoming inspections for all fresh strawberries received for processing
2. Mandatory public posting of prices paid to strawberry producers

OVERVIEW OF THE PROPOSED AMENDMENTS

The primary purpose of the proposed amendments is to formally incorporate producers into the Marketing Order. A copy of the Marketing Order showing the text of the proposed amendments is



viewable at <http://www.cdfa.ca.gov/mkt/mkt/ordslaws.html>. Following is an overview of how the Board would function if the proposed amendments were implemented.

1. *There would be no producer assessments.* – Under this proposal, processors would continue to pay all Board assessments just as they have done in the past. Strawberry producers would not be required to pay any Board assessments.
2. *Producers would be afforded 20% of the positions on the Board.* – In light of the fact that producers would not be required to pay any Board assessments under this proposal, it is proposed that producer representation on the Board would be somewhat limited relative to processor representation. It is proposed that producers would be afforded 20 percent of the available board positions under this proposal. As is the case now, each year all processors would have the opportunity to designate one member and one alternate to represent their firm on the Board. And as the case is now, a processor could decide to not have representation on the Board. Once the number of processors wishing to have representation on the Board is determined each year, a calculation would be made to determine how many producer Board positions would be needed that year so that the resulting Board would consist of approximately 80 percent processor representation and 20 percent producer representation.
3. *Producer positions on the Board would be filled via nominations received from the producer representatives currently serving on the California Strawberry Commission.* – In order to acquire nominations for producer positions on the Board each year, the Department would ask the producer representatives currently serving on the California Strawberry Commission board of directors to nominate from among themselves the appropriate number of producer members and alternate members for that year.
4. *The method for considering the Board's continuation every five years would switch from having a processor continuation vote to having a public continuation hearing.* – By law, all California marketing order programs must undergo some kind of continuation procedure every five years to determine if the industry favors the program's continuation. To fulfill this requirement, the Marketing Order currently calls for a processor vote every five years. Under this proposal, the processor continuation vote would be replaced by a public continuation hearing conducted by the every five years which would be open to all processors and producers to participate in. Under the public hearing procedure, Department could continue the Marketing Order without an industry vote if the hearing record supported continuation. However, if the hearing record raised substantial questions about the Board's continuation, the Department would conduct a vote of all processors and producers to determine whether or not the Marketing Order should be continued.

5. *Successful industry approval of this proposal would simultaneously fulfill the Marketing Order's mandatory continuation requirement and would thus authorize the Board to operate for another 5 years.* – As stated above, all California marketing order programs must undergo some kind of continuation procedure every five years to determine if the industry favors the program's continuation. The Board is currently slated to have a continuation procedure in 2017. However, industry consideration of major amendments such as this proposal may be used to reset the timing for the next required continuation procedure if such intent is specifically expressed as one of the proposed amendments.

For this reason, this proposal contains a provision which states that successful passage of a major amendment substitutes for a continuation hearing and resets the timing for the next required continuation hearing.

6. *There would be no change in the Board's Authorized Activities.* – The PSAB would continue to be authorized to conduct mandatory incoming inspections of all strawberries received for processing and would continue to be authorized to conduct a mandatory price reporting program.

HEARING PROCEDURE

All California strawberry processors, all California strawberry producers and all other interested persons are invited to provide testimony for this hearing. Testimony may be provided in person or may be submitted in writing prior to the hearing. Written comments submitted prior to the hearing can be mailed to Dennis Manderfield in the Department's Marketing Branch at 1220 N Street, Sacramento, CA 95814-5603, or can be e-mailed to dennis.manderfield@cdfa.ca.gov. In order for written comments to be accepted and entered into the hearing record, they must be received at this office no later than August 12, 2016.

At the hearing, a Department representative will present testimony regarding the procedure used to develop the official list of strawberry processors and strawberry producers to whom this notice was mailed. The Hearing Panel will receive testimony and evidence, both oral and documentary, regarding the following matters:

- 1) The production, economic, and marketing conditions affecting the California strawberry industry.
- 2) The possible effect of the proposed amendments upon such conditions.
- 3) Whether the proposed amendments are reasonably calculated to:

- Attain the objectives which are sought in the Marketing Order for Processing Strawberries
- Tend to effectuate the declared purposes and attain the declared objectives for marketing orders as specified in the California Marketing Act (Chapter 1 of Part 2, Division 21 of the Food and Agricultural Code)
- Protect the interests of consumers of strawberry products
- Further the interests of the residents of the state of California

PREPARATION OF TESTIMONY

Supporters of the proposed amendments should provide testimony that substantiates why the amendments should be implemented. On the other hand, opponents of the proposed amendments should provide testimony that substantiates why the amendments should not be implemented. Following are some examples of questions that providers of testimony may wish to consider in preparing their testimony.

- What is the current state (*including recent past and perceived future*) of the California strawberry industry in general and more specifically of the California processing strawberry industry?
- How do the proposed amendments relate to the current conditions of the processing strawberry industry?
- Can the Board benefit from having producers serve as voting members on the Board? Please explain.
- Is the proposed allocation of 80% processors board positions and 20% producer board positions on the proposed processor-producer Board reasonable under the conditions proposed? Please explain.
- Is it reasonable to use the producer representatives serving on the California Strawberry Commission as the source for receiving producer nominations for the Board? Please explain.
- Is it reasonable to switch from a mandatory continuation vote every five years to a mandatory public hearing every five years? Please explain.
- Is it reasonable to use passage of this proposed major amendment to the Marketing Order as a substitute for a required continuation process and thus reset the timing for the next required continuation process for five years from now? Please explain.
- Is there broad industry support for the proposed amendments? Please explain.

STEPS SUBSEQUENT TO THE HEARING

The hearing transcript, submitted exhibits, and written comments will be combined to form the hearing record which be considered by Department in determining whether or not to move forward and conduct the second phase of the major amendment implementation process; referenda of producers and processors of strawberries. If the hearing record supports the implementation of the proposed amendments, the Department may decide to conduct the industry votes. However, if the Department finds from the hearing record that a substantial question exists as to whether the proposed amendments should be implemented, it may decide to terminate the amendment implementation process.

IF YOU HAVE QUESTIONS

Once again, all interested persons are invited to introduce oral or written testimony and evidence into the hearing record. If you have questions about this hearing, please call Dennis Manderfield of this office at 916-900-5018. If you have specific questions about the activities of the Processing Strawberry Advisory Board, please call Gabe Moreno, Board Manager, at 831-724-5454.

Sincerely,

A handwritten signature in blue ink that reads "Robert Maxie".

Robert Maxie, Chief
Marketing Branch