

STATE OF CALIFORNIA
DEPARTMENT OF FOOD AND AGRICULTURE
DIVISION OF MARKETING SERVICES



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

BULK MILK MARKETING GUIDE

Revised December 10, 2009

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Introduction

For more than 50 years, California has been the number one ranking agricultural producer and exporter in the United States, growing more than half of the nation's fruits and vegetables. California is also the largest dairy producer and has some of the largest dairies in the country, averaging 1,017 cows per dairy. In the year 2008, California accounted for 21.7 percent of the milk produced in the United States and cash farm receipts from the marketing of milk and cream reached \$6.9 billion. California dairy farmers produce either "market" (Grade A) or "manufacturing" (Grade B) milk, with Grade B milk accounting for 1.7 percent of California's milk supply.

The Department of Food and Agriculture (Department) promotes the intelligent production and orderly marketing of milk and dairy product distribution, including the monitoring of accounting procedures for manufacturing and market milk purchased from producers. This guide will help producers and handlers directly affected by the statutes and regulations governing the marketing of milk and dairy products in California, and details the enforcement authority of the Department. The purpose of this guide is to clarify the California Food and Agricultural Code as it relates to producers and handlers, not replace it in any way.

In 1994, the Milk Stabilization Branch was officially changed to the Dairy Marketing Branch. The Dairy Marketing Branch, Milk Pooling Branch, and Milk & Dairy Foods Control Branch are separate entities with their own distinct set of responsibilities and functions as outlined below:

Milk Pooling Branch

The Milk Pooling Branch (Branch) Administers the California Pooling Plan for Market Milk which, together with the Dairy Marketing Branch, promotes, fosters and encourages the intelligent production and orderly marketing of fluid milk. Through the statewide pooling of revenue and distribution to producers, gradual equalization of Class 1 usage is achieved. These activities maintain satisfactory marketing conditions and a reasonable amount of stability and prosperity in the production of California milk.

Since 1969, the Branch has been computing the statewide dollar value of class usage for all handlers. Distribution of this value to producers is based on their quota, base, and overbase entitlement with the highest usage assigned to the quota pool. Under the Pooling Plan, the monthly quota and monthly base amounts are computed for each producer based on amounts he or she produced. The current quota allocation decides the maximum monthly quota amount. The difference between production base and quota determines the maximum monthly base. Any production more than the total of these two figures is overbase production.

Each handler's obligation for milk purchases is computed and statements are prepared which detail monthly transactions. The Branch prepares settlement statements and gives handlers an accounting for the month's production broken down by quota, base, and overbase values. Handlers are charged or reimbursed for the difference between their class values and the amounts paid to producers. The Branch maintains an accounts receivable system of the monies owed for pool activities and other dairy-related assessments. It also maintains the official records of the base and quota allocations held by each producer and processes transfers of quota between producers. Due to the necessary accuracy of running the pool, it is incumbent upon the Handler to maintain adequate records of all information pertaining to the purchases and manufacturing of milk products. The Branch audit program validates the accuracy of all handler transactions.

The Producer Security Assurance Team is responsible for enforcing the proper and timely payment by handlers to producers for milk delivered to the handler. Proper and timely payment is determined both by payment provisions of the Food and Agricultural Code and terms of the written contract between the producer and handler.

This Unit also administers the Milk Producers Security Trust Fund, which was created by law in 1987 to reimburse eligible producers in the event a handler (processor) defaults in payments for bulk milk purchases.

The Milk Producers Security Trust Fund (Fund) protects producers against loss of payment for bulk milk by establishing a system to provide payment security for producers. Milk is vital to the public health and welfare and is a necessary article of food for human consumption. However, because of the perishable quality of milk, the potential exists for economic disruption in the milk industry. To ensure a continuous supply of milk, producers must receive prompt payment from the processors. Payments for producers are governed by the following provisions of Part 3, Division 21 of the California Food and Agricultural Code:

Chapter 1	Marketing of milk and other dairy products
Chapter 2	Stabilization and marketing of milk
Chapter 2.5	Milk Producers Security Trust Fund
Chapter 3	Equalization Plan

Dairy Marketing Branch

The Dairy Marketing Branch (Branch) is responsible for enforcing the provisions of the California Food and Agricultural Code and related regulations concerning the marketing of milk and dairy products. These regulations were adopted to maintain an orderly and stable market for milk and dairy products by discouraging marketing tactics that may cause sudden market price fluctuations. The laws also deter the formation of monopolies in the wholesale and retail sectors of the dairy industry, which if left unmonitored, could lead to discriminatory practices and predatory pricing designed to force competitors out of business. Branch responsibilities include: encouraging sound production and marketing of dairy products by resolving public policy issues and providing key market information, establishing minimum milk farm prices and enforcement of statutes prohibiting unlawful marketing practices relating to milk and dairy products, and formulating a comprehensive plan of regulating the marketing of milk, ensuring availability to consumers of an adequate and continuous supply of pure, fresh, wholesome market milk. The Food and Agricultural Code and regulations, Pooling Plan, and Stabilization and Marketing Plan provisions apply equally to all producers and handlers.

The Dairy Marketing Branch is organized into several smaller units, each of which concentrates on a specific area of work but contributes to the overall purpose of the Branch:

The Enforcement Unit is responsible for enforcing regulations pertaining to marketing and trade practices associated with distribution of milk and dairy products. The staff perform investigations to verify handler compliance with dairy industry regulations and may exercise its authority to take enforcement actions.

The Statistics Unit collects and compiles information on the production and utilization of dairy products produced in California. This information is supplied on a monthly basis by the milk processors and handlers in the State. Data is analyzed and is used to establish the minimum farm price and is summarized and published into publicly available reports.

The Economics Unit works closely with the Cost of Production, Manufacturing Cost and Statistics Units and utilizes their information resources to develop reports and analyses. Some of the frequently used information includes monthly data for milk production, milk utilization and production of manufactured dairy products. The Economics Unit is responsible for establishing the monthly minimum farm prices that are published in the price letter. In addition, the Unit also researches and publishes policy issues and alternatives. During public hearings to amend the Milk Stabilization Plans, personnel from the Economics Unit typically sit on the Hearing Panel and receive testimony from witnesses.

The Cost of Production Unit surveys about 275 dairies to obtain costs by individual categories associated with milk production. The data from all dairies are combined to generate two-month cost of production indexes. Regulations require the Department to consider the cost of producing and marketing Grade A milk when establishing prices.

The Manufacturing Cost Unit is responsible for collecting and summarizing cost data from butter, nonfat dry milk (NFDM), and Cheddar cheese plants as required by the Food and Agricultural Code. Any plant that produces Class 4a or 4b products may be asked to participate in the cost studies. The data from the cost studies are used to establish reasonable manufacturing cost allowances and, in the case of NFDM, to assist in the establishment of a price for Class 4a milk.

Milk & Dairy Foods Safety Branch

The Milk and Dairy Foods Control Branch (Branch) ensures that milk, milk products, and products resembling milk products are safe and wholesome, meet state and federal microbiological and compositional requirements, and are properly labeled. The Branch provides training and supervision for local Approved Milk Inspection Services to develop statewide uniformity. Branch staff inspect dairy farms and milk processing plants, and take samples of milk and milk products to assure consumer safety. The Branch also ensures that tests used to determine the basis of payment for milk are accurate. This Branch also evaluates dairy farms, milk plants, and laboratories for the United States Food and Drug Administration for dairy products in interstate commerce, and provides product grading services for the United States Department of Food and Agriculture.

Handler Rights & Responsibilities

A handler must meet specific responsibilities and obligations before he or she can purchase bulk milk. It is an unlawful practice for a handler to purchase bulk milk without obtaining a surety bond and a milk handler's license. Handlers must have a written contract with the producer before purchasing bulk milk from the producer.

MILK HANDLER'S LICENSE (61490, et seq. & 62141, et seq.)

Every person who purchases, handles, or receives bulk manufacturing or market milk must have a milk handler's license. The license is required by the owner, agent, broker, or intermediary purchasing bulk or unprocessed milk from a producer (including a cooperative), a producer-handler, or another handler. The milk may be used for manufacturing, processing, sale, or other handling.

A Milk Handler's License is separate from the license required to operate a Milk Products Plant. The license issued by Milk and Dairy Foods Safety Branch is for receiving, processing, or manufacturing milk products or manufacturing frozen and semi-frozen milk products (soft serve).

Application

Application for a milk handler's license must be on a form approved by the Department. Applications must include any details relating to the nature of the applicant's business that the Department may require. The applicant must also satisfy the Department of his or her character, responsibility, and good faith in carrying out the business stated on the application. (See Appendix for processor milk handler license)

License Issuance Refused

The Department may refuse to grant or renew a license to a handler if the applicant or handler has:

- 1) Violated Chapters 1, 2, or 3 of the Code, stabilization and marketing plan, or other regulation in the California Code of Regulations
- 2) Failed to pay for any bulk milk as specified in the Code or the contract with the producer.

Conditional or Probationary License

The Department may affix conditional or probationary orders on a milk handler's license to insure proper enforcement of the Code.

License Suspension or Revocation The Department may revoke or suspend any license of a handler that has:

- 1) Violated Chapters 1, 2, or 3 of the Code, stabilization and marketing plan, or other regulation in the California Code of Regulations
- 2) Failed to pay for any bulk milk as specified in the Code or the contract with the producer.

SURETY BONDS (61404, et seq. & 62181, et seq.)

Each handler must provide the Department with a properly executed surety bond before purchasing bulk milk. The bond must be drawn on a form approved by the Department. (See Appendix for example of form) It must be presented to the State in favor of every producer of bulk milk.

Bond Amounts

The minimum bond amounts are as follows:

\$5,000 – for any handler purchasing an average daily quantity of 1 to 999 gallons.

\$10,000 – for any handler purchasing an average daily quantity of 1,000-3,999 gallons.

\$15,000 – for any handler purchasing an average daily quantity of 4,000-7,999 gallons.

\$20,000 – for any handler purchasing an average daily quantity of 8,000 gallons or more.

More Than One Milk Plant

Before purchasing bulk milk from a producer, every handler operating more than one milk plant in California must provide a \$20,000 surety bond to the Department for each milk plant. For example, a handler operating three milk plants in the State must provide the Department with one surety bond for \$60,000.

Additional Bond

Besides the bonding requirements of the Code, the producer or Department may require a handler to provide supplemental bonding. The producer has the right to stipulate in the purchase agreement (contract) that the handler provide additional surety bonds, guarantees, or other forms of security. If a handler fails to pay the producer as required by the Code, the Department may require a new or additional surety bond in an amount sufficient to satisfy claims for payments to the producer.

CONTRACTS (61411, 62191)

It is an unlawful practice for anyone to purchase more than 1,000 gallons of bulk milk monthly without a written contract. The only exceptions are for unanticipated shipments and cash-on-delivery (COD) payments.

One primary responsibility of the producer is to submit a contract to the Department within five (5) days of its execution. We suggest that the handler encourage the producer to promptly file the contract with the Department.

Contract Contents

A contract must contain the following information:

- **Type of Milk:** Examples are Marketing, Grade A or Manufacturing, Grade B

- **The date and method of payment):**

Pool Plants (Pooling Plan, Section 1001)

Individual producers: for milk deliveries from the 1st to the 15th of the month, payment is due by the last day of the same month. For milk deliveries from the 16th through the end of the month, payment is due by the 15th of the following month.

Cooperatives: For milk deliveries from the 1st to the 15th of the month, payment is due by the 28th of the same month. For milk deliveries from the 16th through the end of the month, payment is due by the 13th of the following month.

Non-Pool Plants (61411(c) and 62191 (b)(4)) For milk deliveries from the 1st through the 15th of the month, payment is due by the 1st of the following month. For milk deliveries from The 16th through the end of the month, payment is due by the 15th of the following month.

Stabilization Plan (Pooling Plan, Section 1001) Note: Payment for bulk milk may be more stringent than the Code, pooling plan, or stabilization plan; however, payment cannot be more lenient.

- **The amount of milk purchased for any period, including the effective date.**
- **The price paid for all bulk milk received.**
- **Transportation Charges, if milk is hauled by the handler.**

A contract may contain other provisions, such as quality of milk, which do not conflict with the Code. In addition, we require the producer include the effective date and that all parties sign or initial and date amendments to the contract.

Voidable Contract

A producer may void a contract with a handler within 45 days for either of the following reasons:

- 1) A handler fails to pay the producer the full price in the contract or the Code for milk delivered and the failure has not been corrected within one business day after notification by the producer or Department.
- 2) The handler fails on three separate occasions within a 12-month period to pay the producer the full price specified in the contract or the Code.

Interest

The handler must pay for milk received from a producer as specified in the contract. If the payment is not timely, the handler owes the producer 12% per annum interest on the unpaid amount from the time the payment is due until paid in full. The handler must pay the Department any penalty.

No Contract

Without a contract on file with the Department, the producer is not eligible for coverage by the Fund and relinquishes his or her claim to the interest on the unpaid amount for milk deliveries to a handler. The handler will pay the Department 12% interest per annum on the unpaid balance until paid in full.

PAYMENTS FOR BULK MILK

Failure to Pay (61415, 62196) It is an unlawful trade practice for any handler to fail to pay for bulk milk delivered to him or her as specified in the contract with the producer.

Penalty (61415.3, 62202) If a handler fails to pay for bulk milk as specified in the contract or Code, the Department may assess a penalty. If the unpaid amount is \$40,000 or less, the minimum penalty assessment is \$100. If the unpaid amount is more than \$40,000 the assessment is one-fourth of 1 percent (.0025). The maximum penalty is \$5,000.

Reducible to Cash(61415.1, 62200) A producer has the right to expect payment for bulk milk by cash or check. If paid by cash, the producer must provide the handler with a signed and dated receipt. If paid by check, it must be reducible to cash in no more than one business day. According to the Code, a promissory note is not considered payment for bulk milk. Sections 1880 and 2040 of the California Code of Regulations stipulate that payment for bulk milk shall not be made by promissory note, post-dated check, or other evidence of indebtedness.

CIVIL ACTIONS & PENALTIES (61571, et seq. & 62401, et seq.)

The violation of any provisions in Chapters 1 or 2 of the Code, any provisions of any stabilization and marketing plan, or any regulation is a misdemeanor. A misdemeanor is punishable by a fine of not less than \$100 and not exceeding \$1,000, and/or by imprisonment in a county jail not exceeding six months. Any person who violates the previously mentioned provisions is civilly liable in an amount not less than \$100 and not exceeding \$1,000 for each violation. Besides the civil penalty, the court may award reasonably incurred investigative costs, enforcement costs, and attorneys' fees to the Department. The Department may bring an action to prohibit the violation, or threatened violation, of these provisions in the superior court in the county in which the violation occurs, or is about to occur.

UNLAWFUL TRADE PRACTICES (62091, et seq., 62195, 62196)

In addition to a handler not paying a producer for bulk milk as required by the contract, the following unlawful trade practices apply to all handlers:

- The payment, allowance, or acceptance of any secret refund, secret rebate, or unearned discount,
- Giving any milk, cream, dairy product, or service for securing or retaining the market milk business of any customer,
- The payment, gift, or offer of a payment or gift of money or other thing of value for:
 1. Convincing a person to become or remain a wholesale customer,
 2. Inducing a handler or producer to enter a new contract or to renew, extend, or modify an existing contract for the purchase of market milk from the producer,
 3. Enabling a handler to pay to a producer, or the producer to receive from a handler, less than the minimum class usage prices for market milk. A handler may pay producers more than the minimum prices provided all producers supplying the handler under the same terms and conditions receive the same price.
- The payment by a handler of less than the minimum producer price established by the Department or under the applicable stabilization and marketing plan.
- The handler may only deduct the gross transportation charge from the producer's dairy location to the first receiving plant computed from the lowest of the following:
 - (A) A rate not in excess of the rate charged for actual or reasonably similar services by highway carriers, as the term "highway carriers" is defined in Section 3511 of the Public Utilities Code;
 - (B) The actual amount paid by the handler for such transportation

MILK PRODUCERS SECURITY TRUST FUND (62500, et seq.)

The California Legislature established the Milk Producers Security Trust Fund (Fund) in 1987 due to the failure of a large California dairy products processor. The Legislature's intent is to have the trust fund provide payment security for producers of bulk milk.

Financing Plan

Security charges levied against Class 1, Class 2, and Class 3 dairy products financed the Fund. The assessment rate was approximately five cents per hundredweight. Currently, the security charges deposited in the Fund are equal to 110 percent of the monthly payment obligation for bulk milk purchases of California's largest handler. Until a significant claim is filed against the Fund, additional assessments are not anticipated.

One Business Day Demand Notice

After determining that a payment is delinquent, the Department notifies the handler that he or she must correct the payment default. The handler has one business day from the receipt of the notification to correct the default. If the handler does not correct the default, the Department issues a notice (Ineligible List) identifying the defaulting handler. (See Appendix for sample of notice)

Ineligible List

A handler is placed on a list showing that future shipments are not eligible for coverage by the Fund if any of the following events occur:

1. The handler fails to maintain a valid license or bond as required by the Code,
2. The handler fails to pay producers for bulk milk as required by the Code,
3. The handler fails to pay assessments due to the pool equalization plan.

Periodically, the Department publishes a list of all handlers to whom shipments are not eligible for coverage under the Fund.

If a handler is placed on the “Ineligible List,” the Department may again qualify shipments to the handler if any of the following occur:

- The handler:
 1. Pays all amounts owed, including interest, to the producers,
 2. Reimburses the Fund for any amounts owed, including interest,
 3. Pays the amount owed to the pool equalization fund, and
 4. Pays all assessments, penalties, or other amounts due to federal, state, or local governmental agencies.
- Four years have elapsed since the date of the default in payment.

ADMINISTRATIVE FEES (61412, et seq. & 62211, et seq.)

It is the milk handler’s responsibility to remit the Dairy Marketing assessments. These charges are assessed via Milk Pooling’s Statement of Accounts for handlers. Every handler subject to the provisions of any stabilization and marketing plan shall deduct an assessment from payments made to producers. Maximum assessments are two and four-tenths (\$0.024) per hundredweight of market (Grade A) milk and one and eight-tenths (\$0.018) per hundredweight of manufacturing (Grade B) milk. The total assessment obligation is two-thirds by producers and one-third by dairy food handlers. These assessments finance the operation of the Dairy Marketing Branch. Periodically, the Dairy Marketing Branch may suspend the assessment rate to reduce the Branch’s operating reserves to an appropriate level.

RECORDS, REPORTS, & STATISTICS (61441, et seq. & 62241, et seq.)

Every handler, distributor, wholesaler, or manufacturer of any dairy product must maintain all of the following records for three years:

- All milk, cream, and dairy products received and their use,
- All milk, cream, and dairy products sold,
- All wastage or loss of milk or any dairy product,
- All costs of manufacturing, processing, handling, sale, and delivery,
- All property or financial transactions between a handler and a wholesale customer,
- Other records needed by the Department.

Every handler that purchases market milk must maintain records detailing the following concerning handling, sale, or storage of the milk:

- The name and address of the seller,
- The date the market milk was received,
- The amount of market milk the handler received,
- The official tests of the market milk purchased,
- The usage of the market milk,
- Evidence of payment for the market milk purchased,
- Other records that the Department may require.

Each month, every handler must report to the Department the name, address, and date of all terminated, new, and amended contracts. For each report not filed, the Department may assess a \$100 penalty against the handler.

Producer Rights & Responsibilities

A primary responsibility for all producers is to execute a contract with a licensed, bonded handler and file the contract with the Department. Without a valid contract on file, the producer is not eligible for coverage by the Milk Producers Security Trust Fund (Fund). Also, the Department, instead of the producer, is entitled to receive interest for delinquent payments. It is important for the producer to promptly notify the Department of any handler's payment default. Prompt notification insures the producer's right to file a claim against the Fund.

CONTRACTS (61411, 62191)

It is an unlawful practice for anyone to purchase more than 1,000 gallons of bulk milk monthly without a written contract. The only exceptions are for unanticipated shipments (spot shipments) and cash-on-delivery (COD) payments.

The producer is required to submit a contract to the Department within five days of its execution. A contract must contain the following information:

- **Type of Milk:** Marketing, Grade A or Manufacturing, Grade B
- **The date and method of payment):**
Pool Plants (Pooling Plan, Section 1001)
Individual producers: For milk deliveries from the 1st to the 15th of the month, payment is due by the last day of the same month. For milk deliveries from the 16th through the end of the month, payment is due by the 15th of the following month.

Cooperatives: For milk deliveries from the 1st to the 15th of the month, payment is due by the 28th of the same month. For milk deliveries from the 16th through the end of the month, payment is due by the 13th of the following month.

Non-Pool Plants (61411(c) and 62191 (b)(4))
For milk deliveries from the 1st through the 15th of the month, payment is due by the 1st of the following month. For milk deliveries from the 16th through the end of the month, payment is due by the 15th of the following month.

Stabilization Plan (Pooling Plan, Section 1001)
Note: Payment provisions for bulk milk may be more stringent than the Code, Pooling Plan, or Stabilization Plan; however, payment cannot be more lenient.
- **The amount of milk purchased for any period, including the effective date.**
- **The price paid for all bulk milk received.**
- **Transportation Charges, if milk is hauled by the handler.**

A contract may contain other provisions, such as quality of milk, which are not in conflict with the Code. The Department recommends that a contract include payment provisions for degraded milk delivered by a producer to a handler.

The producer should file a copy of the contract and any amendments with the Department within five (5) days from the date of its execution. Contracts must be signed and dated by both parties. A producer may void a contract with a handler within 45 days for either of the following reasons:

- 1) A handler fails to pay the producer the full price in the contract or the Code for milk delivered and the failure has not been corrected within one business day after notification by the producer or Department.
- 2) The handler fails on three separate occasions within a 12-month period to pay the producer the full price specified in the contract or the Code.

Interest

The handler must pay for milk received from a producer as specified in the contract. If the payment is not timely, the handler owes the producer 12% per annum interest on the unpaid amount from the time the payment is due until paid in full. The handler must pay the Department any penalty.

Penalties

If a handler fails to pay for market milk delivered to him or her at the time and in the manner specified in this chapter, the director may assess a penalty for each payment date that producers were not fully paid. Any penalty assessed shall be a minimum of one hundred dollars (\$100) for each payment date. If the amount not director may assess a penalty for each payment date that producers penalty assessed will be five thousand dollars (\$5,000) or one-fourth of 1 percent of the amount not properly paid for, whichever is less.

No Contract

Without a valid contract on file with the Department, the producer is not eligible for coverage by the Fund and relinquishes his or her claim to the interest on the unpaid amount for milk deliveries to a handler. The handler will pay the Department 12% interest per annum on the unpaid balance until paid in full.

SURETY BONDS (61404, et seq., 62181, et seq.)

Before purchasing bulk milk, each handler must provide the Department with a properly executed surety bond. The bond must be drawn upon a form approved by the Department (see Appendix). If a payment default occurs, the State will submit a claim in favor of every producer. As a producer, you should verify that a handler has obtained a surety bond before selling your milk to him or her. A producer may elect to include a statement in the contract that the handler has properly filed the surety bond with the Department. Minimum amounts of the bond will range from \$5,000 to \$20,000 depending on the amount of milk the handler purchases during any calendar month of the license year. (See Appendix for minimum bond amounts)

Additional Bond

Besides the bonding requirements of the Code, the producer or Department may require a handler to provide supplemental bonding. The producer has the right to stipulate in the purchase agreement (contract) that the handler provide additional surety bonds, guarantees, or other forms of security. If a handler fails to pay the producer as required by the Code, the Department may require that the handler file a new or additional surety bond in an amount sufficient to satisfy claims for payments to the producer.

Pro Rata

If the Department makes a claim against a bond that is not sufficient to pay all claims, the amount recovered must be divided pro rata among all the producer-creditors.

PAYMENT VERIFICATION

If a handler fails to pay a producer for bulk milk as required by the Code, the Department will:

- Obtain the names and addresses of the producers owed money,
- Determine the amounts owed,
- Request that all producers file a verified claim statement.

The producer needs only to verify that the handler owes an amount to him or her. The Department shall confirm the actual amount owed to the producer.

REDUCIBLE TO CASH (61415.1, 62200)

A producer has the right to expect payment for bulk milk by cash or check. If paid by cash, the producer must provide the handler with a signed and dated receipt. If paid by check, it must be reducible to cash in no more than one business day. According to the Code, a promissory note is not considered payment for bulk milk. Sections 1880 and 2040 of the California Code of Regulations stipulate that payment for bulk milk shall not be made by promissory note, post-dated check, or other evidence of indebtedness.

UNLAWFUL TRADE PRACTICES (62095 & 62095.1)

Unlawful trade practices include the payment, gift, or offer of a payment or gift of money or other thing of value for any of the following:

- Inducing a handler or producer to enter a new contract or to renew, extend, or modify an existing contract for the purchase of market milk from the producer.
- Enabling a handler to pay to a producer, or the producer to receive from a handler, less than the minimum class usage prices for market milk. A handler may pay producers more than the minimum prices provided all producers supplying the handler under the same terms and conditions receive the same price.
- The payment by a handler of less than the minimum producer price established by the Department or under the applicable stabilization and marketing plan.

MILK PRODUCER SECURITY TRUST FUND (62500, et seq.)

The California Legislature established the Fund in 1987 due to the failure of a large California dairy products processor. The Legislature's intent is to have the trust fund provide payment security for producers of bulk milk.

Notification of Defaults in Payments (62600) Any producer who does not receive payment for milk sold or delivered to a handler shall promptly notify the Department. Prompt notification of payment defaults reduces the financial exposure to the producer and the Fund.

Coverage (62580, et seq.)

Milk shipped by a producer to a handler must meet the following criteria to be eligible for coverage by the Fund:

- 1) A valid contract between the producer and the handler is on file with the Department before the date of the first milk shipment. The contract is acceptable if the shipment is within the first five days after execution of the contract.
- 2) The handler is licensed and bonded when the contract is filed with the Department.
- 3) The milk is produced and delivered to a plant within California.
- 4) The Department has not issued a prior notice that shipments are not covered by the Fund (Ineligible List).

- 5) The shipment is not under a custom processing agreement in which the producer retains title to the milk.
- 6) The producer or cooperative shipping the milk has a direct contract with the handler. The contract covers only milk shipped by a cooperative's members. The Fund does not cover milk shipped by intermediaries, brokers, or agents.
- 7) The producer must not have a beneficial ownership interest in the handler to whom shipments are made.
- 8) The producer meets requirements of Chapters 1, 2, 2.5, and 3 of the Code.

PRODUCER CLAIMS (62620, et seq.)

If the Department decides that the Fund is liable for nonpayment to producers, the Department will provide a claim form. To be eligible, the producer must have a contract with the delinquent handler on file with the Department. A producer must verify and return the claim form to the Department within 60 days from the mailing date; otherwise, the Department and the Fund are relieved of any further duty or liability. The producer needs only to verify that nonpayment has occurred. The Department shall determine the amount of the nonpayment.

A producer not satisfied with the Department's calculations has 30 days to request the Department to review his or her calculated amount. The amounts due are calculated as follows:

- 1) Use shipments which occur during the first 35 days from the date of the earliest shipment for which a producer has not been paid.
- 2) For cooperatives, find minimum prices by usage assigned under the Pooling Plan.
- 3) For manufacturing milk, use the lesser amount between the contract price and the stabilization and marketing plan price.
- 4) Direct shippers of market milk, not shipping their milk under the Pooling Plan, will use the stabilization and marketing plan to establish minimum prices.
- 5) Producers, other than cooperatives, shipping their milk directly to handlers shall use quota, base, and overbase prices.
- 6) Deduct customary handler deductions, such as milk separation and fortification, from payments. However, do not subtract deductions that violate the Code or are for voluntary producer assignments.
- 7) Deduct the producer's share of the bond recovery.

\$200,000 Deductible

The Fund will have no exposure on payment defaults under \$200,000. Two hundred thousand dollars is deducted from the total amount owed to all producers before the balance is paid from the Fund on a pro rata basis. The payment is prorated if there is insufficient money in the trust fund to pay all affected producers. Producers will receive quarterly payments until the total amount due is paid.

Financing Plan

The fund is required to maintain an amount equal to 110 percent of any handler's average monthly milk purchases. The fund consists of the combination of the security charges collected on Class 1, 2, and 3 dairy products and the acceptable securities provided by handlers. Handlers must provide acceptable securities by the amount that exceeds the fund cash in order to meet 110 percent of their average monthly milk purchases. After January 1, 2007, if the fund cash is reduced below thirty million dollars, the secretary may resume collecting security charges on all classes of dairy products in order that the fund cash is thereafter maintained at thirty million dollars.

Department's Enforcement Authority

The purpose of the Dairy Marketing and Milk Pooling Branches is to establish terms and conditions that will insure an adequate and continuous supply of pure, fresh, wholesome milk to California consumers. Establishing these conditions helps prevent monopolies in the production of market milk.

CONFIDENTIALITY (61443, 62243)

Any record or report made to the Department or any contract filed with the Department is confidential. Information contained in records, reports, or contracts will not be divulged except for the proper determination of any court proceedings or hearings before the Department.

INVESTIGATIVE AUTHORITY (61894), and **ACCESS TO RECORDS** (61442, 61894, 62663)

Investigators and auditors acting for the Department have the authority to investigate all transactions involving virtually the entire California milk industry. Investigative authority includes the following transactions:

- Between producers and handlers,
- Between nonprofit cooperative associations and producers,
- Among handlers,
- Between brokers, agents, or other intermediaries and producers,
- Between handlers and wholesale customers,
- Among wholesale customers
- Between handlers and consumers, or
- Between wholesale customers (retailers) and consumers.

The Department has access during reasonable hours to any place where:

- Milk is stored, bottled, or used to manufacture dairy products, or
- Books, papers, records, or documents that relate to those transactions are kept.

The Department may inspect and copy these books, papers, records, or documents anywhere in California.

PRODUCER PAYMENT VERIFICATION (61415.2-61415.3, 62201-62202, 62601)

Handlers are required by Code to pay producers for bulk milk in a timely manner. The Department generally verifies timeliness of payments by investigation, audit, or notification by a producer.

When handling defaults on a payment to a producer, the department investigates and takes appropriate enforcement action. The Department enforces the Code by charging the handler 12 percent per annum interest on delinquent payments to producers. He or she may also assess a penalty for each payment date the producer was not paid in full. The minimum penalty is \$100 for each delinquent payment date. If the unpaid amount is more than \$40,000, the penalty will be one-fourth of 1 percent to a maximum of \$5,000.

Charging interest and assessing penalties is the first step in gaining compliance with the Code. The Department may take additional enforcement action such as holding an investigational hearing, issuing a One Business Day Demand Notice, and placing the handler on the Milk Producers Security Trust Fund Ineligible List.

INVESTIGATIONS & HEARINGS (61471, 61419, 62155)

The Department may investigate all provisions of the Code dealing with transactions involving the marketing of milk and dairy products. The Code also requires the Department to initiate an investigation upon receipt of a verified complaint. As part of the investigation procedures, the Department may call and conduct a hearing.

Investigational Hearing

During an investigation, the Department may call and conduct an investigational hearing. For example: If a producer's complaint is valid, the Secretary will serve personally or by mail a copy of the complaint to the handler at least 10 days before the hearing. The notice will also include the time and place of the hearing. The hearing will occur in the handler's local city or county or the place where the transaction occurred.

At an investigational hearing, the Department may do any of the following:

- (a) Administer oaths and take testimony from any sworn witness;
- (b) Issue subpoenas that require the attendance of witnesses, with all books, memorandum, papers, and other documents, articles, or instruments;
- (c) Compel subpoenaed witnesses to reveal all known facts concerning the investigation.

Any person that disobeys any order or subpoena of the Department is guilty of contempt. Sections 11180 through 11191 of the Government Code authorize the Department to provide essential information to the superior court in the county where the contempt occurs. This information permits the court to charge the handler with contempt and dispense punishment.

Administrative Hearing

Besides the procedures granted for an investigational hearing, the Department may also conduct an administrative hearing. The primary purpose of an administrative hearing is to determine whether a handler is capable of paying the producer for milk that he or she has received. The Department also wants to learn whether allowing the handler to continue acquiring milk, prior to the producer receiving payment, will cause serious loss to the producer.

At the hearing, the handler may have to show cause why the Department should not suspend, revoke, or continue under probationary conditions his or her milk handler's license. By statute, the Department must protect the best interests of the producer. The Department's decision will become effective at his or her discretion.

The Department calls the hearing by serving a written notice, either personally or by mail, to the handler. The hearing is held 10 days after it is called, unless an emergency exists which allows the Department to call the hearing with a five-day notice. The Department normally holds the hearing at the nearest office of the Department. However at the Department's discretion, he or she may also hold the hearing at any place that is most convenient for all parties involved.

ACTIONS AGAINST THE SURETY BOND (61407.1(a), 62186.1)

The Department may bring actions against a surety bond company if the company fails to do any of the following:

- 1) Promptly acknowledge a bond demand from the Department. Upon receiving the demand, the company must take reasonable action.
- 2) Promptly investigate and process claims
- 3) Make a fair and equitable settlement of claims.
- 4) Pay the bond amount to the Department for disbursement to producers.

Besides the bond proceeds, the bond company may have to pay interest at the prevailing prime rate on the bond amounts owed to producers. Interest calculations are from the date the claim is filed.

VERIFICATION STATEMENT (61407, 62185)

If a handler fails to pay a producer for bulk Milk as required by the Code, the Department will request that the producer file a verified statement. The statement shows that the handler owes an amount to the producer. If the producer has not shown the amount owed, the Department may determine the actual amount.

MILK PRODUCER SECURITY TRUST FUND (62500, et. Seq.)

The seven-member Milk Producers Security Trust Fund Board is an advisory board appointed by the Secretary to advise on the administration of the Fund. By statute, three milk producer representatives, two licensed handler representatives, and two non-producer cooperative association representatives are included on the Board.

The Board's primary responsibility is to administer the Milk Producers Security Trust Fund. To protect producers, a reserve amount sufficient to cover approximately 110 percent of one month's milk purchases by the milk handler with the largest monthly payment obligation to milk producers was developed.

If a producer files a claim, the Fund covers only milk produced and delivered in California. Monies from the Fund also pay for pool equalization fund obligations, attorneys' fees, auditing expenses, and reduction of producer and handler assessments.

One Business Day Demand Notice (62603) The Department determines by investigation, audit, or notification if a handler has properly paid a producer for the delivery of bulk milk. If the handler has not paid, the Department notifies the handler that he or she has one business day from receipt of the notification to correct the payment deficiency.

Ineligible List (62582, et seq)

A producer's future shipments to a handler are deemed ineligible for coverage by the Fund when any of the following occur:

- A handler fails to maintain a valid license and/or bond,
- A handler defaults on a payment to a producer, or
- A handler fails to pay pool equalization fund assessments.
- A handler engages in an unlawful trade practice.

The Department will notify all producers having contracts on file with the Department, all nonprofit cooperative associations, and all other interested parties if the handler has not paid the producer within one business day. The notification will include the following:

- 1) That the handler is ineligible for coverage by the Fund for failure to pay producers,
- 2) That shipments after 5 days from the date of the notice will not be covered by the Fund.

If the producer has not filed a contract with the Department, the Fund only covers shipments delivered to a handler within five days of the notice. The Department will periodically publish a list of all handlers to whom shipments are not eligible for coverage under the Fund (Ineligible List).

35-Day Eligibility (62581) If the handler does not pay the producer, the amount of the claim that can be filed is limited to the sum of the shipments which occur during the first 35 days from the date of the earliest shipment for which a producer has not been paid.

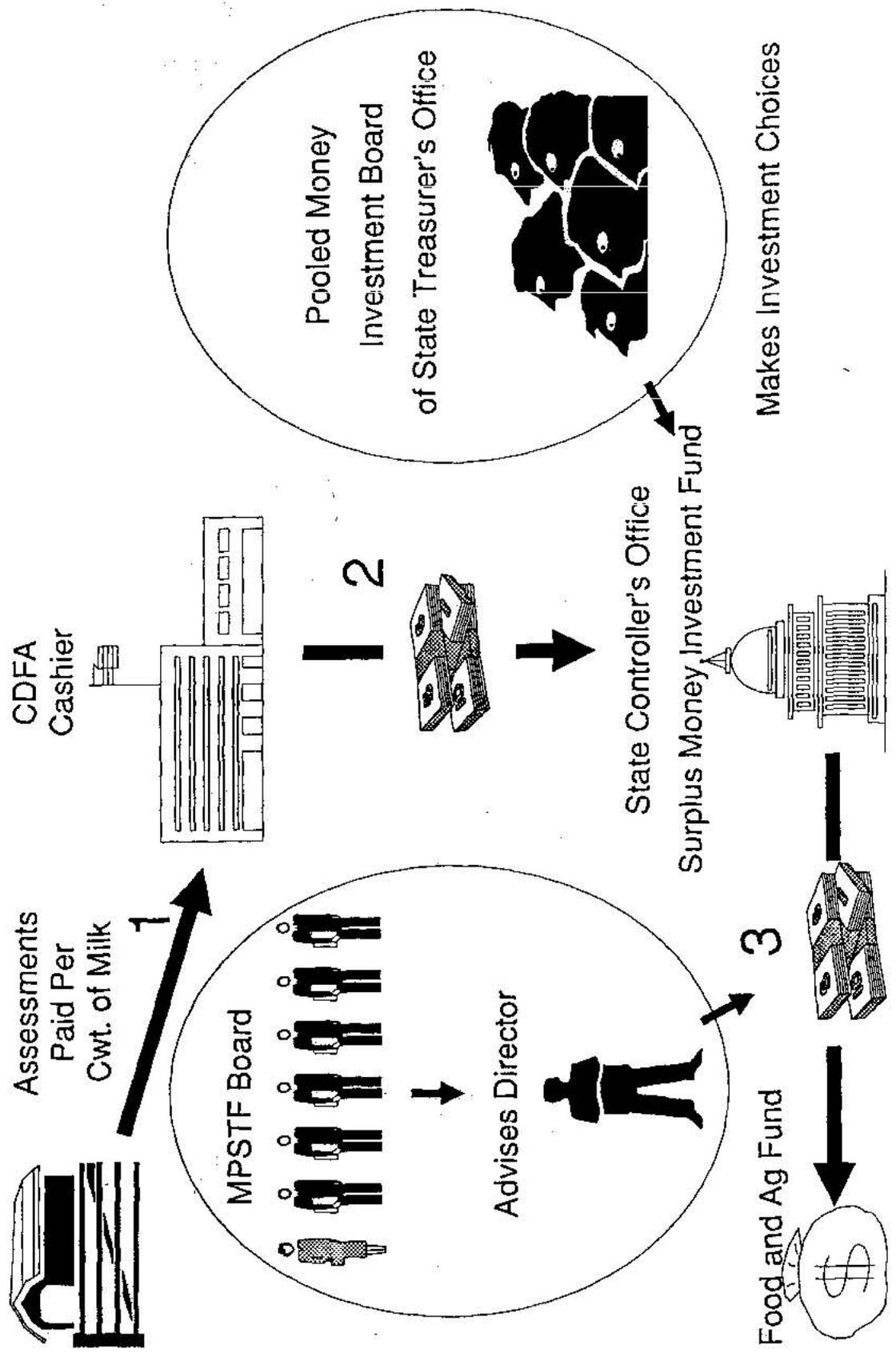
Producer Claims (62620-62623)

The Department may learn of a payment default by a handler either through investigation or notification by producers. The Department will then take the following action:

- The Department determines whether the trust fund is liable for any nonpayment to producers,
- If the Fund is liable, the Department provides a claim form to the producers who have a contract with the defaulting handler on file with the Department.
- The claim form must be returned to the Department within 60 days from the date the claim forms are mailed by the Department.
- The Department verifies whether the producer received payment and, if not, determines the amount.
- After receipt of all claims, the Department will calculate the amount due to each producer and notify each producer of his or her prorated amount.

If a producer does not file a claim within 60 days after it is mailed, the Department and the trust fund are relieved of any further duty or liability for that claim.

OPERATION OF MILK PRODUCERS' SECURITY TRUST FUND



Glossary of Terms/Definitions

The definitions listed below are guidelines, for more specific definitions refer to the Food and Agricultural Code, Milk Pooling Plan sections listed in parenthesis, or visit our website at www.cdfa.ca.gov/dairy.

Code: Food and Agricultural Code

Cooperative (61331, 61871): A nonprofit association of producers which accounts to producer-members on a patronage basis. The cooperative can be a distributor, handler, or producer.

Distributor (61306): 1) Any handler, broker, agent, nonprofit cooperative, delivery route operator that sells market milk, market cream, or dairy products to wholesale customers, or 2) wholesale customers who actively process, manufacture, or package milk, cream, or dairy products.

Secretary (50, Pooling Plan Section 103): The Secretary of the California Department of Food and Agriculture or any employee duly assigned or delegated to perform the functions required pursuant to the Pooling Plan, Stabilization and Marketing Plan, or Code.

Handler (61826, 62521(d)): Any person who, as owner, agent, broker, or intermediary, either directly or indirectly, receives, purchases, or otherwise acquires ownership, possession, or control of market milk in unprocessed or bulk form from a producer, a producer-handler, or another handler for the purpose of manufacture, processing, sale, or other handling, regardless of whether such market milk is produced within or outside this state.

Milk (61302, 62521(e)): Bulk whole milk, bulk lowfat milk, bulk skim milk, bulk condensed skim, and bulk cream that have not had nondairy ingredients added. Section 61302 defines bulk milk or bulk cream as milk or cream that has not been pasteurized or packaged and is delivered in tanks, cans, or other bulk containers. Bulk skim milk or bulk cream that has not been preheated or pasteurized more than once is not defined as pasteurized.

Classes of Milk (61931)

Class 1 – Milk supplied to a consumer as a fluid product
Class 2 – Milk used for heavy cream, cottage cheese, yogurt, and sterilized milk products
Class 3 – Milk used in frozen dairy products
Class 4a – Milk used in the manufacture of butter and dry milk
Class 4b – Milk used in the manufacture of hard cheese (See Appendix for listing of milk products and their classifications)

Market Milk (Grade A) (32510, 35893): Milk produced under the strictest sanitary regulations prescribed, inspected, and approved by public health authorities. In most markets, milk used in any products intended for consumption in fluid form must meet this inspection standard.

Manufacturing Milk (Grade B) (32509; Pooling Plan, Section 113.2): Milk produced and processed with sanitary regulations prescribed, inspected, and approved by public health authorities for milk to be used for manufactured products only.

Milk Plant (61403, 62143): Any place, structure, or building where a handler receives bulk milk for weighing, testing, standardizing, pasteurizing, homogenizing, separating, bottling or packaging the milk.

Milk Producers Security Trust Fund (62500, et. seq.): A fund held in trust in the event handlers cannot pay producers for prior milk shipments. The trust fund is administered by the Milk Producers Security Trust Fund Board appointed by the Secretary.

Person (61313, 61834): Any individual, firm, corporation, partnership, association, nonprofit cooperative association, or any other business organization.

Pooling Plan (62704, et. seq.): Provides the authority and methodology for calculating the producer prices that handlers are to pay to dairy farmers or nonprofit cooperative associations for bulk milk.

Pool Plant (Pooling Plan, Section 106): 1) Any milk plant in California that receives, processes, bottles, or manufactures Class 1 or mandatory Class 2 market milk (Direct usage: processed in own processing plant); or 2) any milk plant in California that indirectly disposes of Class 1 or mandatory Class 2 market milk to a pool plant with direct Class 1 and mandatory Class 2 usage each month (Indirect usage: Shipments of market milk to a plant that has Class 1 or mandatory Class 2 usage).

Producer (61314, 61836, 62521(f)): Any person that produces milk from five or more cows conforming to local health regulations whose bulk milk is received, acquired, or handled by a handler or a cooperative.

Producer/Handler (61837): Any person that is both a producer selling or delivering bulk market milk of his or her own production and is a handler purchasing, acquiring, or receiving market milk, pasteurizing or packaging market milk, or selling or delivering market milk.

Regulation: California Code of Regulations, Title 3, Chapter 3, Subchapter 3, Milk Marketing.

Restricted Use Milk (32516.3): Restricted use market milk is market milk that does not conform to the standards specified in the Code and may only be utilized in manufacturing milk products.

Stabilization and Marketing Plan (61838): Any plan formulated by the Secretary to establish prices paid to producers for any class of market milk. (See Appendix for an example of price letter derived from information gathered using the Stabilization and Marketing Plans)

Unanticipated Shipment, Often Referred to Spot Shipment (61411.2, 62193): A contract is not required to purchase bulk milk because of an unanticipated increase in demand. If purchases occur regularly, it is not considered an unanticipated shipment. In order for an unanticipated shipment situation to exist, both of the following must occur: 1) The quantity of bulk milk purchased must not exceed 5,000 gallons in any one month (30,000 gallons for a cooperative); and 2) The price paid for the milk must be based on in-plant usage. Unless milk is subject to a pooling plan, payment for milk delivered during the first 15 days of any calendar month, must be paid by the 1st day of the following month and milk delivered during the remainder of the month must be paid by the 15th day of the next month.



Classification of Dairy Products

PRODUCT DESCRIPTION

CLASSIFICATION

- Acidified Half-and-Half 1
- Fluid Milk Products:
 - Acidophilus 1
 - Concentrated 1
 - Filled 1
 - Flavored 1
 - High Nutrient 1
 - Imitation 1
 - With Lactobacillus Acidophilus Culture 1
 - Lactose Reduced 1
 - Modified 1
 - Whole, Reduced Fat, Lowfat, Fat Free 1
- Half-and-Half 1
- Kefir and Fruit Kefir 1
- Milk Drink 1
- Milk Drink Mix 1
- Acidified Buttermilk 2
- Acidified Half-and-Half Dressing 2
- Buttermilk 2
- Clotted Cream 2
- Condensed (Sweetened and Unsweetened)
 - Milk 2
 - Lowfat Milk 2
 - Fat Free Milk 2
- Cottage Cheese:
 - Acidified or directly set 2
 - Creamed 2
 - Creamed Spread 2
 - Lowfat 2
 - Fat free 2
 - Partially Creamed 2
 - Uncreamed 2
- Cream
 - Acidified Cream 2
 - Coffee Cream 2
 - Light Cream 2
 - Table Cream 2
 - Whipping Cream 2
- Cream Dressing (Sour and Acidified Sour) 2
- Dry Whey (from Cottage Cheese) 2
- Egg Nog (all varieties) 2
- Evaporated (Sweetened and Unsweetened):
 - Cream 2
 - Milk 2
 - Lowfat Milk 2
 - Fat free Milk 2
- Fromage Frais (Lowfat, Fat free) 2
- Hoop Cheese 2
- Sour Cream and Light Sour Cream 2
- Sour Flavored Half-and-Half 2
- Sour Half-and-Half Dressing 2
- Ultra High Temperature (UHT) and
 - Fluid Flavored Milk (Whole, Lowfat, Fat Free) 1
 - Fluid Milk (Whole, Lowfat, Fat Free) 1
 - Half-and-Half 1

These products are assigned to Class 2 if packaged in pre-sterilized containers to meet out-of-state requirements and sold outside California.

These products must be assigned to the classification of ultimate usage when utilized in bulk by handlers, but are assigned to Class 4a when sold to consumers.

These products are assigned to Class 4a if sold outside the U.S.

These products are assigned to the classification of ultimate usage when utilized in bulk by handlers, but are assigned to Class 4a when sold to consumers.

These products are assigned to Class 4a if sold outside the U.S.

These products are assigned to Class 2 if sold for use outside California and Class 4a if sold for use outside the 48 contiguous states.



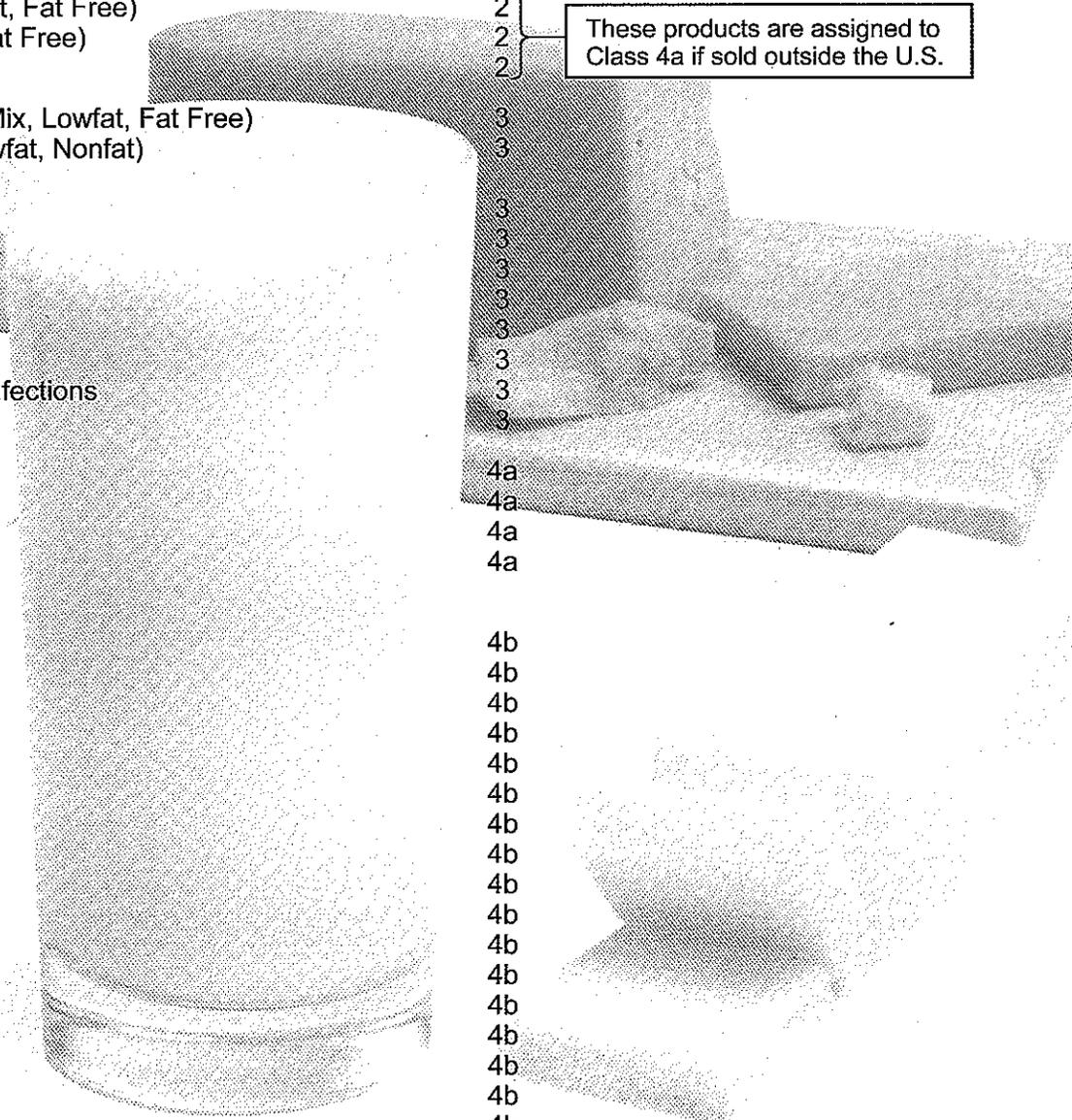


Classification of Dairy Products, Continued

PRODUCT DESCRIPTION

CLASSIFICATION

Cream	2	These products are assigned to Class 4a if sold outside the U.S.
Dairy Spread	2	
Egg Nog	2	
Flavored Cream	2	
Flavored Drink	2	
Lowfat Milk	2	
Milk	2	
Milk Drink Mix	2	
Sour Cream	2	
Sour Flavored Half-and-Half	2	
Ultrapasteurized Half-and-Half (Hermetically)	2	
Whipped Cream (Cream Topping)	2	
Whipped Nonfat Yogurt Topping	2	These products are assigned to Class 4a if sold outside the U.S.
Yogurt (Flavored, Lowfat, Fat Free)	2	
Yogurt Drink (Lowfat, Fat Free)	2	
Yogurt Sherbet	2	
Frozen Dairy Dessert (Mix, Lowfat, Fat Free)	3	
Frozen Yogurt (Mix, Lowfat, Nonfat)	3	
Ice Cream and Ice Milk:		
Diabetic	3	
Dietetic	3	
Imitation	3	
Mix	3	
Nonfat	3	
Light Dairy Dessert	3	
Quiescently Frozen Confections	3	
Sherbet	3	
Butter	4a	
Dry Buttermilk	4a	
Nonfat Dry Milk	4a	
Whole Dry Milk	4a	
Cheese:		
Bakers	4b	
Blue	4b	
Brick	4b	
Cheddar	4b	
Colby	4b	
Cream	4b	
Full Skim	4b	
Gorgonzola	4b	
Limburger	4b	
Monterey Jack	4b	
Mozzarella	4b	
Muenster	4b	
Neufchatel	4b	
Parmesan	4b	
Part Skim	4b	
Provolone	4b	
Ricotta	4b	
Romano	4b	
Swiss	4b	
Dry Modified Whey	4b	
Dry Whey (from other Cheese)	4b	





CALIFORNIA DEPARTMENT OF
FOOD AND AGRICULTURE
DAIRY MARKETING BRANCH

Department No. _____
Bonding Co. No. _____
Premium Amount _____

MILK HANDLER'S BOND

(Food and Agricultural Code Sections 61405 and 62182)

Know All Persons by These Presents:

That we _____
having a principal place of business at _____,
with plant(s) located at _____

(Use additional sheet if necessary.)
as Principal and _____
a corporation duly authorized as an admitted surety insurer in the State of California, as Surety, are held and firmly bound to the State of California,
and in favor of every producer of market or manufacturing milk or cream purchased by said Principal, in the sum of
_____ Dollars (\$ _____), for the payment of which we bind ourselves, our heirs,
executors, successors, and assigns, joint and severally, firmly by these presents.

WHEREAS, the above-named Principal has applied to the Secretary of Food and Agriculture of the State of California for a license entitling said Principal to conduct the business of Milk Handler at the place named in the application, in accordance with the provisions of Division 21, Part 3, Chapters 1 and 2 of the Food and Agricultural Code of the State of California; and

WHEREAS, the provisions of the Food and Agricultural Code sections 61405 and 62182 require that the Principal file a bond in connection with said Milk Handler's license and this bond is executed and tendered in accordance therewith.

NOW, THEREFORE, if said Principal shall pay all amounts due to producers for market or manufacturing milk or cream purchased by the Principal, then this obligation is void; otherwise it is to remain in full force and effect. The aggregate liability of the Surety for all claims whatsoever shall not exceed the stated sum of this bond.

SURETY WAIVES any right it may have to exoneration based on any extension or extensions of time given or participated in by the Secretary of Food and Agriculture to the Principal to pay for market or manufacturing milk or cream in accordance with the requirements of the Food and Agricultural Code.

This bond shall be deemed continuous in form and shall remain in full force and effect, and run concurrently with each year of each license period and any and all renewals, or until cancellation or withdrawal of the Surety from the bond.

This bond shall become effective on _____. Surety may cancel or withdraw from this bond pursuant to the provisions of Code of Civil Procedure sections 996.310 et seq.

This bond is executed to comply with the provisions of Chapters 1 and 2 of Part 3, Division 21 of the Food and Agricultural Code and of Chapter 2, Title 14, Part 2 of the Code of Civil Procedure, and said bond shall be subject to all of the terms and provisions thereof.

Name of Surety

Address

This bond is executed under an unrevoked appointment or power of attorney.

I certify (or declare) under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date

Signature of Attorney-In-Fact

Printed or Typed Name of Attorney-In-Fact



State of California

MILK HANDLER'S LICENSE

New Processor

Department of Food and Agriculture
Dairy Marketing Branch
1220 N Street
Sacramento, CA 95814
Telephone: (916) 341-5988
Fax: (916) 341-6697
E-mail: dairy@cdfa.ca.gov

The undersigned hereby applies for a license pursuant to Chapter 1 or 2; Part 3, Division 21 of the Food and Agricultural Code

Two year License Fee \$25.00 for the Period Ending December 31, 2008

PLEASE PRINT OR TYPE

1. Handler Number		2. Date Business Started Operation	
3. Business Name			
4. DBA (if applicable)			
5. Parent Company (if applicable)			
6. Plant Location			
7. Mailing Address (if same as above, mark same)			
8. Telephone Number	9. Fax Number	10. E-mail Address	
11. Type of Business Entity			
<input type="checkbox"/> Individual	<input type="checkbox"/> Partnership	<input type="checkbox"/> Corporation	<input type="checkbox"/> LLC <input type="checkbox"/> LLP

12. Owners/Members of Partnership/Officers of Corporation	Title	Address	Phone Number

13. If a corporation:		
State Incorporated In	Corporate Number	Date Incorporated

14. If a corporation, list the names and addresses of persons/entities who hold more than 10% of the company's stock on a separate sheet (If none, please write none)

--

15. Will you purchase or acquire ownership of milk in unprocessed or bulk form from a producer, producer-cooperative, or another milk handler for the purpose of manufacturing, processing, sales or other handlings?

Yes No

16. Will you purchase or acquire milk which has had non-dairy additives or ingredients added to it?

Yes No

17. Source of bulk raw milk being purchased

Type	Daily Gallons	Name of Source
Own Production		
Contract Producers (Direct Shippers)		
Cooperative Association		
Producer-Handler		
Bonded Handler		

18. Have you entered into a written contract with all *producers* from whom bulk milk is purchased?

Yes No

19. Type of product(s) processed or manufactured (example: fluid milk, yogurt, ice cream, butter, cheese, etc.)

--

20. If purchasing from a producer(s) or a producer-cooperative(s), a bond is required. If not purchasing from a producer, please write "None" under Name of bonding company. (Please note, the name on the license application and the milk handler's bond must match.)

Name of bonding company	Phone Number	Bond amount

21. Has the owner, or any member of the partnership, or any officer of the corporation ever: (Please check one for each of the following questions)

a. Been denied or refused a license? <input type="checkbox"/> Yes <input type="checkbox"/> No	b. Had a license revoked or suspended? <input type="checkbox"/> Yes <input type="checkbox"/> No
c. Received a conditional license? <input type="checkbox"/> Yes <input type="checkbox"/> No	d. Had a payment made from a surety bond? <input type="checkbox"/> Yes <input type="checkbox"/> No
e. Received a One Business Day Demand Notice for failure to pay producers or the Pool Settlement Fund? <input type="checkbox"/> Yes <input type="checkbox"/> No	f. If so, is payment still owed to producers or the Pool Settlement Fund? <input type="checkbox"/> Yes <input type="checkbox"/> No
g. Failed to pay agricultural producers for products? <input type="checkbox"/> Yes <input type="checkbox"/> No	h. Been convicted of a felony? <input type="checkbox"/> Yes <input type="checkbox"/> No

If any of the above boxes are checked "Yes" for question 21, please explain fully on a separate sheet

22. Are you now, or have you ever been licensed as a milk producer in any other state?

Yes (specify) _____ No

*****The application *must* be signed by an owner, a member of the partnership, or an officer of the corporation under penalty of perjury and submitted with an original signature*****

Authorized Signature	Print Name
Title	Date:

Food and Agricultural Code Section 62144. Applications for the license provided by this article shall be made on forms prescribed by the director, accompanied by a fee as prescribed in Section 62145, and state the name and address of the applicant and any details specifically related to the nature of the applicant's business that the director may require. The applicant shall further satisfy the director of his or her character, responsibility, and good faith in seeking to carry on the business stated in the application.

The Department of Food and Agriculture has established time periods for the processing of permit applications, in compliance with government Code sections 15374 – 15378. Failure to comply with these time periods may be appealed to the Secretary of Food and Agriculture, 1220 N Street, Sacramento, CA 95814, pursuant to regulations set forth in Title 3, California Code of Regulations, section 301. Under certain circumstances, the Secretary may order that the applicant receive a reimbursement of filing fees.

**Attach check or money order made payable to:
CASHIER, CDFA 34004 – L**

**and return completed application to:
CASHIER, DEPARTMENT OF FOOD AND AGRICULTURE
PO BOX 942872
SACRAMENTO, CA 94271-2872**

FOR DEPARTMENT USE ONLY			
LICENSE #			
RC#		DATE	
AMOUNT		LINE	
LICENSE FEE		PENALTY	
RC#		DATE	
AMOUNT		LINE	

**INSTRUCTIONS FOR COMPLETION OF APPLICATION FOR MILK HANDLER'S
LICENSE - PROCESSOR**

Question 1

Enter handler number issued by the Milk Pooling Branch (six digits). If your company does not have a handler number, enter "None." If your company has not had a handler number issued yet, enter "Not issued."

Question 2

Enter the date your business began operations.

Question 3

Enter the legal name under which you will conduct business.

Question 4

If the business operates under a "Doing Business As" name, enter here.

Question 5

Are you a subsidiary and/or associated with a parent company? If so, please indicate name of the parent company.

Question 6

Enter the physical address of the plant which is to be licensed.

Question 7

Enter the mailing address, if different from the plant location. If the mailing address and the plant address are the same, please mark "Same."

Question 8

Enter the telephone number for the business.

Question 9

Enter the fax number for the business.

Question 10

Enter the email address for the business.

Question 11

Please check what type of business entity you will operate; an Individual, Partnership, Corporation, LLC or LLP.

Question 12

List the Name, Title, Address and Phone Number for: the individual Owner(s); or all Members of the Partnership, LLC or LLP; or Officers of the corporation.

Question 13

Enter the:

- state jurisdiction of which your corporation is registered
- the corporate number issued by the California Secretary of State (starts with C followed by seven digits, i.e. C1234567)
- date your business was incorporated

Question 14

For Corporations: Please list on a separate sheet, the names and address of persons who hold more than 10% of the stock.

Question 15

If you are purchasing bulk milk from a producer or cooperative association of producers, please check "yes." If purchasing from other sources, please check "no."

Question 16

If you are purchasing milk which has had non-dairy additives or ingredients added to it, please check "yes." If you are purchasing bulk milk, please check "no."

Question 17

Enter the total daily gallons of milk purchased and/or received from the following:

- Own Production
- Contract Producers (Direct Shippers)
- Cooperative Associations
- Producer-Handler
- Bonded Handler

Enter the names from each source of milk. Attach a separate sheet if more room is needed.

Question 18

Please indicate if you have entered into contracts with every producer, including cooperative associations of producers, from whom you will make bulk milk purchases.

Question 19

Enter all the products manufactured or processed at the plant.

Question 20

If purchasing from a producer, a bond is required. Please enter the:

- Name of the bonding company
- Phone number for the bonding company
- Amount of the bond

If you do not have a bond, or are not required to obtain a bond, please write "None."

MILK HANDLER'S BONDS REQUIRED IN THE FOLLOWING AMOUNTS

(Sections 61405 and 62182 of the Food and Agricultural Code)

Surety bonds are required in the following amounts for single plants:

When the daily average purchase of milk from producers is less than 1,000 gallons (1 to 999 inclusive).....\$5,000.00

When the daily average purchase of milk from producers is 1,000 gallons, but less than 4,000 gallons (1,000 to 3,999).....\$10,000.00

When the daily average purchase of milk from producers is 4,000 gallons, but less than 8,000 gallons (4,000 to 7,999).....\$15,000.00

When the daily average purchase of milk from producers is 8,000 gallons or more.....\$20,000.00

Handlers operating more than one plant in California must obtain a single bond covering all plants. The amount of the bond is determined by multiplying \$20,000 by the number of plants.

CREAM CONVERSION RATE

The same bond requirements apply to the purchase of cream, except that for the purposes of computation of the required bond amount, 10 gallons of cream shall be deemed to be the equivalent of 100 gallons of milk.

Question 21

Please enter "yes" or "no" as appropriate for each of the eight parts of this question. If the answer is "yes" to any part, please explain fully on a separate sheet.

Question 22

If the business has been licensed as a milk producer in any other state, please check "yes" and specify which state. If the business is a producer or producer organization which has not been licensed in any state other than California, or the business is not a producer or producer organization, please check "no."

SIGNATURE

The application must be signed by: an Owner; a Member of the Partnership, LLC or LLP; or Officer of the Corporation; or an authorized representative of the business. Also, please print the name and title of the person, and enter the date the form was completed.

LICENSES

Food and Agricultural Code Sections 61404,61490,61491,61492,61493,61494,62142, 62143, 62144, and 62145

A Milk Handler's license is required of every person who purchases, handles, receives, or otherwise acquires ownership, possession or control, directly or indirectly, as owner, agent, broker intermediary of **market milk** or **manufacturing milk** in unprocessed or bulk form from a producer, including a cooperative, a producer-handler or another handler for the purpose of manufacturing, processing, sale or other handling.

No person who qualifies as a handler shall deal in market milk or manufacturing milk without first obtaining a Milk Handler's License for each market milk or manufacturing milk plant owned or operated.

"PERSON" includes any individual, firm, corporation, partnership, association, nonprofit cooperative association, or any other business organization.

BEFORE THE SECRETARY OF THE
DEPARTMENT OF FOOD AND AGRICULTURE
STATE OF CALIFORNIA

In the Matter of the Producer Payment
Delinquency of: **«Total»**

ADMINISTRATIVE DOCKET
#<<Docket >>

«Business» Respondent _____ /

DEMAND ORDER TO PAY WITHIN ONE BUSINESS DAY

On **«Notice_Mailed»** notification was mailed to **«Business»** of its delinquency to the Pool Settlement Fund. This notification included a second and final invoice with instructions to pay the full amount by the 15th of **«Month»** to avoid being cited for a violation of the Food and Agricultural Code. The notification also stated that failure to pay would result in being placed on the Department's List of Handlers Ineligible for Coverage by the Milk Producers Security Trust Fund.

To bring this account into compliance with Section **«Code Number»** of the Food and Agricultural Code, you are ordered to pay the delinquent amount due to the Department within one business day of receipt by facsimile of this notice. Payment must be in the form of cash, check or wire transfer.

Please provide documentation that payment was made.

Respondent is aware of the Department's findings that Respondent is delinquent in its payments.

Failure to abide by this Order will subject Respondent to enforcement action and will cause your firm to be placed on the list of handlers ineligible for coverage under the Milk Producers Security Trust Fund.

_____ Date: _____

Name
Branch Chief
Milk Pooling Branch

Handler:
 A. Cheddar Cheese, Inc.
 Mr. A Cheddar
 123 City Drive
 Metro, CA 00000

Producer: North Forty Dairy
Period: June 1, 2008 - June 1, 2009
Date: June 21, 2009

INTEREST AND PENALTIES ASSESSED AS A RESULT OF LATE PAYMENTS								
SHIPMENT PERIODS	CHARGES	DUE DATE	PAYMENT DATE	PAYMENTS	UNPAID BALANCE	DAYS LATE	INTEREST	PENALTIES
2008-2009								
June 1-15, 2008	235,000.00	06/30/08			235,000.00			
Check #1			7/10/08	235,000.00	0.00	10	772.60	587.50
					0.00			
June 16-30, 2008	322,500.00	07/15/08			322,500.00			
			7/22/08	322,500.00	0.00	7	742.19	806.25
Totals					0.00		1,514.79	1,393.75
							INTEREST	PENALTIES

Auditor: I. M. Wright

Comments: Your contract with **North Forty Dairy**, requires that payment for milk received the 1st through the 15th shall be paid by the 30th of the month; and payment for milk received during the 16th through the last day of the month shall be paid by the 15th of the following month. The above payments were made beyond contracted due dates.

Interest is assessed at the rate of 12% per annum (F & A Code, Section 62201). The penalty is a minimum of \$100 for each payment. If the amount not properly paid is over \$40,000, the penalty will be \$5,000, or one-fourth of 1% of the amount not properly paid, whichever is less (F & A Code, Section 62202).



CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

October 12, 2009

RE: ANNOUNCEMENT OF MINIMUM PRICES FOR CLASS 1 MARKET MILK

TO ALL INTERESTED PARTIES:

On the reverse side of this page are the minimum prices for Class 1 market milk for November 2009. All prices are f.o.b. milk processing plant. As provided in the Stabilization and Marketing Plans for Market Milk (Plans), milk handlers shall pay producers the minimum prices for market milk components sold or used for all Class 1 purposes as specified on the reverse side of this page.

If market milk components are purchased f.o.b. producer's dairy location, haul deductions may be made as provided in the Plans.

Equivalent hundredweight prices shown in the right-hand column are based upon milk that is 3.5% fat and 8.7% solids-not-fat (SNF). These classified minimum prices that processors must pay for milk received from producers are calculated based upon mathematical formulas. The formulas are established and amended as needed through a public hearing process. These formulas include commercial prices for manufactured dairy products (butter, Cheddar cheese, Western dry whey and nonfat dry milk). These commercial prices are also listed on the reverse side of this page.

You can access class price information over the Internet on the Department's dairy homepage at <http://www.cdfa.ca.gov/dairy>. From the main menu, select the [Dairy Prices] link and then the [Minimum Class Price Letters] link. Once there, be sure to make a bookmark for future reference. Current class price information is also available on a recorded message. Please call (800) 503-3490 to hear the recording. If you are calling from Sacramento, or from outside of California, please call (916) 442-MILK.

For more information, please contact us at the telephone number or e-mail address below.

Sincerely,

David K. Ikari, Chief
Dairy Marketing Branch





CALIFORNIA DEPARTMENT OF
FOOD & AGRICULTURE

A. G. Kawamura, Secretary

October 1, 2009

**RE: ANNOUNCEMENT OF MINIMUM PRICES FOR CLASSES 2, 3, 4a and 4b
MARKET MILK**

TO ALL INTERESTED PARTIES:

On the reverse side of this page are the minimum prices for Classes 2, 3, 4a and 4b market milk for September, October and November. All prices are f.o.b. milk processing plant. As provided in the Stabilization and Marketing Plans for Market Milk (Plans), milk handlers shall pay producers the minimum prices for market milk components sold or used for all Classes 2, 3, 4a and 4b purposes as specified on the reverse side of this page. The calculated monthly California weighted average price for Extra Grade & Grade A Nonfat Dry Milk reflects the audit verification process. This price can differ from the reported weekly prices.

If market milk components are purchased f.o.b. producer's dairy location, haul deductions may be made as provided in the Plans.

Equivalent hundredweight prices shown in the right-hand column are based upon milk that is 3.5% fat and 8.7% solids-not-fat (SNF). These classified minimum prices that processors must pay for milk received from producers are calculated based upon mathematical formulas. The formulas are established and amended as needed through a public hearing process. These formulas include commercial prices for manufactured dairy products (butter, Cheddar cheese, and nonfat dry milk). These commercial prices are also listed on the reverse side of this page.

You can access class price information over the Internet on the Department's dairy homepage at <http://www.cdfa.ca.gov/dairy>. From the main menu, select the [Dairy Prices] link and then the [Minimum Class Price Letters] link. Once there, be sure to make a bookmark for future reference. Current class price information is also available on a recorded message. Please call (800) 503-3490 to hear the recording. If you are calling from Sacramento, or from outside of California, please call (916) 442-MILK.

For more information, please contact us at the telephone number or e-mail address below.

Sincerely,

David K. Ikari, Chief
Dairy Marketing Branch



**MINIMUM PRICES FOR CLASSES 2, 3, 4a and 4b MARKET MILK
F.O.B. PROCESSING PLANT**

Released: October 1, 2009

CLASS 2: For October and November 2009	LB. FAT	LB. SNF	EQUIVALENT PER CWT.
Northern California	\$1.2302	\$0.7778	\$11.07
Southern California	\$1.2302	\$0.8045	\$11.30

CLASS 3: For October and November 2009	LB. FAT	LB. SNF	EQUIVALENT PER CWT.
Statewide	\$1.2302	\$0.7721	\$11.02

CLASS 4a: September 2009	LB. FAT	LB. SNF	EQUIVALENT PER CWT.
Statewide	\$1.2239	\$0.7816	\$11.08

CLASS 4b: September 2009	LB. FAT	LB. SNF	EQUIVALENT PER CWT.
Statewide	\$1.2239	\$0.8176	\$11.40

COMMODITY MARKET PRICES:	\$ PER LB.
Chicago Mercantile Exchange Grade AA Butter - Daily Simple Average (August 26th - September 25th)	\$1.2068
Chicago Mercantile Exchange Block Cheddar Cheese - Daily Simple Average (August 26th - September 25th)	\$1.3261
California Extra Grade & Grade A Nonfat Dry Milk - Monthly Weighted Average (August 26th - September 25th)	\$0.9514

November 2009 Class 1 prices will be announced no later than 4:00 p.m. on October 12, 2009.
 December 2009 and January 2010 Class 2 and 3 prices will be announced no later than 4:00 p.m. on December 1, 2009.
 October 2009 Class 4a and 4b prices will be announced no later than 4:00 p.m. on November 2, 2009.