

DETERMINATIONS, FINDINGS, CONCLUSIONS AND ORDER OF THE SECRETARY OF FOOD AND AGRICULTURE

In Regard to the Public Hearing Held on June 4th, 2003

DETERMINATIONS

A duly noticed public hearing was held by the Department of Food and Agriculture (Department) on June 4th, 2003, to consider amendments to the Milk Stabilization and Marketing Plans for Market Milk (Stab Plans) and the Pooling Plan for Market Milk (Pool Plan). The amendments under consideration regarded changes to milk movement incentives, namely, transportation allowances and transportation credits. The Department called the hearing after receiving a petition from Land O'Lakes, a dairy cooperative with processing plants. Testimony and evidence pertinent to proposed changes were received into the hearing record; additional material was submitted by means of post-hearing briefs following the close of the hearing. The Secretary's decision is based on both the hearing record and on the Panel Report to the Secretary of Food and Agriculture (Attachment A).

In weighing all available information, the Department has determined that changes to the current Stab Plans and Pool Plan are warranted and necessary to continue to effectuate the declared purposes of the Food and Agricultural Code.

Based on the hearing record and Panel Report, the Secretary accepts the following Panel's recommendations:

- The transportation allowance rate for milk in the 0 to 89 mile bracket in the Southern California and San Diego receiving areas will be increased from \$0.00 to \$0.09 per hundredweight with no further changes to the remaining mileage brackets and rates.
- Extend transportation allowances to qualifying plants in Riverside County by including Riverside County in the Southern California receiving area.
- Make condensed skim eligible for transportation credits at the same level as bulk milk from all designated supply counties to their corresponding designated deficit counties.

The Secretary modified two of the Panel's recommendations. The Secretary has determined that

- The transportation credits should be increased by \$0.10 for all eligible milk shipped to Los Angeles, Orange and Ventura counties,
- With an additional \$0.08 increase (for a total of \$0.18) for shipments from the Southern San Joaquin Valley to Riverside and San Diego Counties.

The Secretary agrees with the CDI proposal to increase transportation credits in Southern California by \$0.10 and \$0.18 per hundredweight. The Secretary agrees with the Panel's

adoption of three objectives on which there was general stakeholder consensus at the 2000 workshops:

- (1) closest milk serves the Class 1, 2 and 3;
- (2) minimizing the cost to the pool; and
- (3) "incentivize" those producers who are serving Class 1, 2 and 3 markets.

However, the Secretary believes that the Panel placed too much emphasis on minimization of the total cost to the Pool. Equally important is the need to ensure that the available milk supplies are adequate to serve the needs of Class 1 plants in the Southern California deficit counties. The Class 1 plants in Riverside County are quite dependent upon quantities of plant-to-plant shipments from the South Valley; it cannot be predicted whether or not sufficient ranch-to-plant milk will be made available because of the Panel's recommended changes. Therefore, the Secretary feels it is prudent to increase the transportation credits for plant-to-plant shipments from all designated supply counties to all Southern California designated deficit counties.

The implementation of:

- (1) 9 cent per hundredweight transportation allowances in the Southern California and San Diego receiving areas for distances of less than 89 miles;
- (2) the extension of a transportation allowance to qualifying plants in Riverside County;
- (3) the increases in the transportation credits for milk serving Southern California; and (4) the extension of transportation credits for condensed skim

...should result in changes in the patterns of milk shipments both for milk and condensed skim. The exact changes in patterns cannot be predicted. As a result, it is difficult to estimate what the cost of the allowances and credits will be in the future. However, an estimate can be made using historical data. Assume that the historical patterns of shipments would not have changed and the amended Pool Plan and Stab Plans been in effect for all of 2002. Then, the annual increased cost for adoption of the panel's recommendations for transportation allowances and for transportation credits for condensed skim would have been, respectively, \$2.11 million and about a quarter of a million dollars. Using this scenario, the annual increased cost for the Secretary's decision regarding transportation credits for bulk milk during this period would have been \$0.82 million.

FINDINGS AND CONCLUSIONS

The Department has considered all relevant information, including, but not limited to, testimony and items of evidence submitted by all parties to these proceedings, whether or not specifically mentioned herein, in rendering these findings. The Department has considered all provisions set forth in Chapters 2 and 3, Part 3, Division 21 of the Food and Agricultural Code, whether or not specifically mentioned herein, in rendering these findings. These include, without exception, all provisions and declarations regarding public interest considerations.

It is hereby found and concluded that:

- The current Milk Pooling Plan and Stabilization and Marketing Plans for Market Milk now in effect no longer conform to the standards prescribed in nor tend to effectuate the purposes of said Chapters 2 and 3.
- The proposed changes in the Panel Report (Attachment A) to increase from \$0.00 to \$0.09 the transportation allowance rate in the 0 to 89 mile bracket in the Southern California and San Diego receiving areas; to include Riverside County in the Southern California receiving area; and to make condensed skim eligible for transportation credits will tend to effectuate the purposes of said Chapters 2 and 3.
- The addition of a \$0.10 increase in the transportation credits to Los Angeles, Orange and Ventura counties (\$0.18 increase from the Southern San Joaquin Valley to Riverside and San Diego Counties) will also tend to effectuate the purposes of said Chapters 2 and 3.
- The new Pooling Plan for Market Milk (Attachment B showing just the amended pages: cover, 17, 18 & 23), and the new Stabilization and Marketing Plans for Market Milk for Northern California (Attachment C showing just the amended pages: cover & 10) and Southern California (Attachment D showing just the amended pages: cover & 10) conform to the standards prescribed in and tend to effectuate the purposes of said Chapters 2 and 3.

ORDER

It is hereby ordered that the Pooling Plan for Market Milk Order Number 101, the Stabilization and Marketing Plan for Market Milk for Northern California Order Number 44 and the Stabilization and Marketing Plans for Market Milk for Southern California Order Number 59 shall become effective at 12:00am, August 1, 2003.

Original signed by:

Daniel Webb, Deputy Secretary
California Department of Food and Agriculture

Signed and entered in
the Office of the Secretary
of Food and Agriculture at
Sacramento, California,

On July 18, 2003