

## **DETERMINATIONS OF THE DEPARTMENT OF FOOD AND AGRICULTURE**

A duly noticed public hearing was held by the Department of Food and Agriculture (Department) on November 29, 2001 to consider adjustments to the Class 2, 3, 4a and 4b pricing formulas. At that hearing, testimony and evidence was introduced into the record regarding proposals to make various modifications to all four formulas. Additional testimony was submitted in the form of briefs during a seven-day period following the close of the hearing. A summary of witnesses' testimony and evidence can be found in the Panel Report to the Secretary of Food and Agriculture. In weighing all available information, the Department has determined to change the current Stabilization and Marketing Plans for Market Milk because these plans no longer continue to effectuate the declared purposes of the Food and Agricultural Code.

The hearing was called to address proposals generated in response to updated Departmental manufacturing cost studies regarding electricity and natural gas costs incurred by dairy processing plants. The updated studies reflected energy costs incurred by processing plants for the month of August 2001. The results of these updates were published by the Department on October 17, 2001. An additional update requested by two producer organizations was released on November 28. This update reflected electricity and natural gas costs incurred by processing plants during the month of September 2001.

The Record reflects that, comparing the October 2000, and March, August and September 2001 costs to the 1998-99 unadjusted base period, combined costs increased across all Class 4a and 4b (butter, nonfat dry milk and cheese) plants (HE #19 and 47). The impacts of these increases are well documented in the Record with little dispute from witnesses. While costs for natural gas have declined significantly in the recent months prior to the hearing, they remain above costs during the base period of the studies. The Record indicates that natural gas prices are volatile, making any projections for future costs difficult. Electricity costs have increased significantly as a result of rate changes by the Public Utilities Commission that became effective in June 2001.

The Record also reflects that the combined energy costs borne by Class 2 and 3 (creams, yogurt, cottage cheese and frozen dairy products) processing plants increased in similar magnitude to those experienced by Class 4a and 4b plants (HE #46). This Exhibit shows electricity and natural gas prices for Class 2 and 3 plants for the months of August 1999 and August 2001.

Testimony and evidence from the November 29 hearing, when combined with testimony and evidence entered into the Record of a previous hearing on energy costs held on May 31, 2001, indicates that the higher costs experienced by dairy processors for natural gas and electricity are not a short-term phenomenon, but have continued over sufficient time to warrant an adjustment in manufacturing cost allowances. Data presented at the most recent hearing indicated that the current energy cost level is not a short-run phenomenon. The adjustments taken will assist in maintaining the long-term competitiveness of the California dairy industry.

The Department adopts the Panel report and recommendations as set out in Attachment A.

## **FINDINGS OF THE DEPARTMENT OF FOOD AND AGRICULTURE**

The Department of Food and Agriculture makes the following findings based upon the testimony and evidence presented at the public hearing held on November 29, 2001 in Sacramento, California and in subsequent post-hearing briefs submitted within the period of time provided by the hearing officer at the above hearing.

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 specifically mentioned herein, in rendering these findings. The Department has considered all provisions set forth in Chapter 2, Part 3, Division 21 of the Food and Agricultural Code, whether 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:

- (1) The current Stabilization and Marketing Plans for Market Milk now in effect are no longer in conformity with the standards prescribed in, and will not tend to effectuate the purposes of, said Chapters 2 and 3.
- (2) The amendments contained in the Stabilization and Marketing Plan for Market Milk for Northern California Order Number 42 and the Stabilization and Marketing Plan for Market Milk for Southern California Order Number 57 shall become effective as of 12:01 a.m. on January 1, 2002.
- (3) The above referenced changes included in the Stabilization Plans for Market Milk will tend to accomplish the purposes of said Chapters 2 and 3 within the standards therein prescribed.

**ORDER OF THE SECRETARY OF FOOD AND AGRICULTURE**

Therefore, I order that the Stabilization and Marketing Plan for Market Milk for Northern California Order Number 42, and the Stabilization and Marketing Plan for Market Milk for Southern California Order Number 57 shall become effective at 12:01 a.m., January 1, 2002.

Recommendation:

***Original signed by:***

\_\_\_\_\_  
Dan Webb, Deputy Secretary  
California Department of Food and Agriculture

\_\_\_\_\_  
Date

Concurrence:

***Original signed by:***

\_\_\_\_\_  
Tad Bell, Undersecretary  
California Department of Food and Agriculture

\_\_\_\_\_  
Date

Signed and entered in  
the Office of the Secretary  
of Food and Agriculture at  
Sacramento, California,  
On December 21, 2001