

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

*In Regard to the Public Hearing Held on June 1 and 2, 2006*

### **DETERMINATIONS**

A duly noticed public hearing was held by the Department of Food and Agriculture (Department) on June 1 and 2, 2006, to consider adjustments to the Class 2, 3, 4a and 4b pricing formulas. The Department called the hearing after receiving a petition from Dairy Institute of California, a dairy processor trade association. Six alternative proposals were subsequently submitted to the Department.

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 Hearing 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 Stabilization and Marketing Plans for Market Milk are warranted and necessary to continue to effectuate the declared purposes of the Food and Agricultural Code.

Based on the hearing record and Hearing Panel Report, the Secretary accepts the Hearing Panel's Report including the option to set the whey manufacturing allowance at 26.7 cents per pound (rather than removing it as a factor from the Class 4b formula).

#### *Annual Cost Study Updates and Formula Amendments*

CDFA continues to be committed to the long-term viability of the producer, producer-cooperative and processor sectors of the California dairy industry and to the consumption of healthy dairy products by consumers at reasonable prices. The Department annually updates manufacturing cost allowance studies for butter, powder and cheese. Public hearings to consider formula adjustments may be called if economic conditions warrant change. From this hearing process and using survey data from all major processing plants for 2004, the Department amends nonfat dry milk powder and cheese manufacturing allowance levels.

The amendments to the f.o.b. price adjusters are set at the most recent twenty-four month survey averages which show a narrowing gap between California prices for butter and cheese and Chicago Mercantile Exchange prices for the same.

### **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 specifically mentioned herein, in rendering these findings. The Department has considered all provisions set forth in Chapter 2 and 3, 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:

\* The current 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 the nonfat dry powder and cheese manufacturing cost allowances, the f.o.b. California price adjusters for butter and block Cheddar cheese and Panel Report recommendation to set the whey manufacturing cost in the Class 4b Formula to 26.7 cents per pound will tend to effectuate the purposes of said Chapters 2 and 3.

\* The new Stabilization and Marketing Plans for Market Milk for Northern California (Attachment B) and Southern California (Attachment C) 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 Stabilization and Marketing Plans for Market Milk for Northern California (Order Number 46) and for Southern California (Order Number 61) effective on and after August 1, 2006.

The department's decision is stayed for an estimated 60 days for the conduct of an initial study under 14 CCR 15063 (Attachment D). The department reserves any judgment as to how CEQA may apply pending the outcome of the study, and further reserves the right to conform its decision to any findings or recommendations the study may make.

*Original signed by:*

A.J. Yates, Undersecretary  
California Department of Food and Agriculture  
Signed and entered in  
the Office of the Secretary  
of Food and Agriculture at  
Sacramento, California,  
On July 21, 2006

Attachments