

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

*In Regard to the Public Hearing Held on February 1st and 2nd, 2005*

**DETERMINATIONS**

A duly noticed public hearing was held by the Department of Food and Agriculture (Department) on February 1st and 2nd, 2005, to consider adjustments to the Class 2, 3, 4a and 4b pricing formulas. The Department called the hearing after receiving a petition from Land O' Lakes, a dairy producer cooperative. Six alternative proposals were subsequently submitted to the Department from the Milk Producers Council, California Dairy Campaign, Western United Dairymen, California Dairies Incorporated, the Alliance of Western Milk Producers, and the Dairy Institute of California. 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 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 Panel Report, the Secretary accepts the Hearing Panel's Report and Recommendations but modifies one element, that the CDFA whey manufacturing allowance be set at 20 cents per pound rather than removed from the Class 4b formula.

*Annual Cost Study Updates and Formula Amendments*

CDFA is 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 2003, the Department amends the three manufacturing allowances.

Concerning amendments to the f.o.b. price adjusters, the most recent twenty-four month survey shows a narrowing gap between California prices for butter and cheese and Chicago Mercantile Exchange prices for the same.

Through the public hearing process the Department carefully reviewed the use of the whey factor in the 4b formula over the past two years, especially in light of the dry whey cost studies that were recently completed. Hearing testimony was sharply divided on the use of the whey factor. Dry whey cost studies conducted by the Department show whey costs are considerably higher than the 17 cent per pound allowance level. The Panel was challenged to reconcile the divergent whey factor testimony provided by hearing participants and recommended removal of the whey factor from the 4b formula. In an effort to balance the input offered by producer and processor witnesses on this matter, the Department sets the whey manufacturing allowance at 20 cents per hundredweight in the 4b formula. A whey manufacturing allowance at this level, although not as high as the levels sought by processors, is 3 cents per pound higher than the current formula and is within the range of costs obtained from whey processing plants in the CDFA whey cost survey.

Concerning the removal of the support purchase price floors for butter, nonfat powder and Cheddar cheese from the Class 4a and 4b formulas, two safety net programs for producers, the federal support purchase price program as well as the federal Milk Income Loss Program remain in effect. California support purchase price floors only operated one month in 2003 and only for cheese. All sectors of the California dairy industry must continue to remain viable and responsive to free-market factors.

## **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 butter and nonfat dry powder and cheese manufacturing cost allowances, the f.o.b. California price adjusters for butter and block Cheddar cheese and the removal of the support purchase price floor factor plus the modification of the Panel Report to set the whey manufacturing cost in the Class 4b Formula to 20 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 45) and for Southern California (Order Number 60) become effective on and after April 1, 2005.

*Original signed by:*

Kim I. Myrman, 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 March 22, 2005

Attachments

**DEPARTMENT OF FOOD AND AGRICULTURE**

A. G. KAWAMURA, Secretary

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March 22, 2005

TO ALL INTERESTED PARTIES:

In conjunction with the March 22<sup>nd</sup> announcement of the results of the February 1<sup>st</sup> and 2<sup>nd</sup>, 2005 hearing, an impact analysis of the changes that will take effect on April 1, 2005 has been completed as follows:

<b>Impact of Secretary's Determinations</b>			
<b>Annual and Five-Year Averages, 2000 to 2004</b>			
	<b>Classes</b>	<b>Class</b>	<b>Pool</b>
<b>Year</b>	<b>2, 3, 4a</b>	<b>4b</b>	<b>Impact</b>
2000	-\$0.11	-\$0.22	-\$0.13
2001	-\$0.10	-\$0.12	-\$0.09
2002	-\$0.10	-\$0.19	-\$0.12
2003	-\$0.10	-\$0.18	-\$0.11
2004	-\$0.10	-\$0.10	-\$0.08
<b>5-Year Average</b>	<b>-\$0.10</b>	<b>-\$0.16</b>	<b>-\$0.11</b>

<b>Impact of Secretary's Determinations</b>			
<b>During January and February 2005 (assuming determinations were in place)</b>			
	<b>Classes</b>	<b>Class</b>	<b>Pool</b>
	<b>2, 3, 4a</b>	<b>4b</b>	<b>Impact</b>
February 2005	-\$0.09	-\$0.10	unable to be determined at this time

Sincerely,

David K. Ikari, Chief  
 Dairy Marketing Branch