

**BEFORE THE UNITED STATES DEPARTMENT OF
AGRICULTURE
AGRICULTURAL MARKETING SERVICE**

In the Matter of Proposed Amendments	)	Docket Number
To Tentative Marketing Agreements	)	AO-14-A74, et al.,
And Orders	)	DA-06-01

Post Hearing Brief
Of
LACTALIS AMERICAN GROUP, INC.

Hearing Clerk
Stop 9200 - Room 1031
United States Department of Agriculture
South Building
1400 Independence Ave., S.W.
Washington, DC 20250-9200

Docket No. AO-14-A74, *et al.*; DA-06-01

Lactalis American Group, Inc is filing this post-hearing brief regarding the proposed updating of the Class III and IV make allowances.

Rodney Carlson, Director of Milk Procurement, testified in person at the January 2006 make allowance hearing.

Mr. Carlson testified that the current make allowances, which are based on 1997 through 1999 cost data, had become very outdated, and failed to reflect the true costs of processing. His testimony stated some of the price/cost increases plants within the organization had experienced in the past six years.

Mr. Carlson also urged USDA for expedient action to update the make allowances and implement changes in light of the fact that most processors of Class III and IV products must rely entirely on make allowances to cover all of their costs of processing. This is because the federal milk order system requires by law that 100% of the proceeds received from the sale of commodity products (based on NASS average prices), minus the make allowance, be passed on to producers in the form of minimum milk price.

Unfortunately, eight months have now passed without any change in the make allowances. The federal order system therefore continues to operate as if processors still faced 1997-99 costs, when their true costs are significantly higher. The recent considerable increases in energy costs have only made things worse.

USDA recently reopened the make allowance hearing to receive evidence regarding a recently completed Cornell University study of the costs of producing the products used by USDA to set minimum milk prices. Given that the Cornell data is the only truly national (outside of California) data source regarding the costs of processing these products, we believe that it provides the best available data for setting make allowances. We therefore support its use by USDA for that purpose.

We heard Dr. Stephenson of Cornell University present the results of the study at the hearing. Dr. Stephenson also testified as to the reliability of the data and the method in which it can be used to set make allowances.

Dr. Stephenson presented a “total population” weighted average cost of processing for commercial cheese plants outside of California. That cost is more appropriate than the sample weighted average price because it takes into account the population to which the make allowances will apply. *The “weighted average cost for the population” of 20.28 cents per pound should be the starting point for setting cheese make allowances.* Dr. Stephenson expressed his support for that statement in cross examination.

(Transcript pg 82, Sept. 14.)

12 **Q.** Okay. And if USDA were to conclude that
13 the starting point for determining make
14 allowances should be the weighted average cost
15 of producing for commercial cheddar cheese
16 plants located outside of California, then 20.28
17 cents is the number they should use. Is that
18 correct, based upon your work?
19 **A.** If only one number could come out of my
20 lips, that would be the best I could give.

The limited sample and lack of plant volume information suggests that *Dr. Stephenson’s weighted average cost of processing for the surveyed whey (19.41 cents), butter (11.08 cents) and nonfat dry milk (14.23 cents) plants should be the starting point for setting the make allowance for those products.*

Because none of Dr. Stephenson’s data includes marketing costs, *we urge USDA to add 0.15 cents to the surveyed cost data for each of the commodities surveyed, in order to capture this necessary expense in the make allowance.* USDA took this same step when it last set make allowances.

We also understand that Dr. Stephenson presented data with which one can update the energy costs components of the make allowance, in order to reflect increased energy costs between the time periods covered by his survey data and the end of 2005. We strongly urge that USDA include that energy adjustment, but also urge that the

USDA leave consideration of ongoing, future adjustments to make allowances to a later hearing.

Finally, we urge USDA in the strongest possible terms to issue a decision as soon as possible. We believe that the emergency need for action, as to which significant evidence was presented last January, has only gotten worse. *We therefore urge USDA to issue an interim final decision as soon as possible that will adopt make allowances no lower than those reflected in Dr. Stephenson's data as to the costs of processing, adjusted for marketing costs and increased energy costs.*

Sincerely,

Rodney K. Carlson
Director: Milk Procurement
Lactalis American Group, Inc.