

UNITED STATES DEPARTMENT OF AGRICULTURE
BEFORE THE SECRETARY OF AGRICULTURE

In re:) **Docket Nos. AO 14-A69, et al.; DA-00-03**
Milk in the Northeast and)
Other Marketing Areas)
)

JOINT COMMENTS OF INTERESTED PARTIES

The undersigned parties represent a broad spectrum of dairy industry participants, including both handlers and dairy producer organizations. We file these comments with respect to the recommended decision regarding changes to the Class III and IV pricing formulas, published on October 25, 2001 (66 Fed. Reg. 54063-96).

Many of these parties are also filing separate comments addressing specific issues raised by the recommended decision. But all of the parties share the view that certain fundamental principles should be applied by the Department in deciding which aspects of the recommended decision should be implemented and which should be altered:

1. The need for flexibility. Federal orders, once adopted, are difficult to change. The formal rulemaking procedure required by the AMAA helps make that so. The recommended decision itself is proof of this phenomenon; the hearings that lead to this recommended decision were held twenty months ago in May 2000.

Pricing formulas must therefore reflect the fact that they are not readily changed, and will likely be utilized during periods of both rising and falling demand for products, and rising and falling costs. A pricing formula that is tied too closely to data that was valid at the time of the hearing but invalid soon thereafter is a recipe for disaster.

USDA must recognize the need to allow for such changes, and must recognize that market over-order premiums can and will provide both a cushion for changes in costs of manufacturing and a signal to producers and cooperatives as to the best use, and best location of use, of milk. In addition, even USDA notes that the make allowances and yield factors used in the proposed rule are averages; by definition, one-half of the products manufactured from milk come from plants whose costs are at least as great as allowed for in the proposed rule.

2. The need to ensure competitive balance. Handlers and farmers subject to federal order regulation compete each and every day with handlers and farmers subject to the California state order and those that are completely unregulated. Buyers of dairy products are largely indifferent to milk source or production location. Pricing formulas under the federal system must not put federal order processors and handlers at a competitive disadvantage; even USDA, in the hearing notice which led to this proposed rule, noted that “prices paid for manufactured

milk under federal orders cannot get too far out of alignment with the value of milk for manufacturing in the rest of the United States.”

The recent changes in the California make allowances demonstrate just how easy it is for the competitive balance to be upset. Effective January 1, 2002, and in response to higher energy costs, California increased its make allowances by over two cents per pound of finished product for nonfat dry milk, by almost one cent for cheese, and by half a cent for butter. The relative rapidity with which California can amend its order only heightens our concerns.

Under provisions of the proposed rule, the FMO price for milk used in cheese-making in federal order areas would have exceeded that in California by \$0.62 over the period from January 1, 1999 through December 31, 2001. Using the make allowances adopted by California effective January 1, 2002, this difference grows to \$0.69.

3. The need to use current data. The concerns identified above are sufficiently great that we would urge the Department to re-open the record to allow the receipt of more up to date data relative to make allowances and the other inputs into the pricing formulas. By the time the recommended decision is finalized as much as two years or even more will have passed since the hearings. Changes in the marketplace and the economy require that interested parties be given the opportunity to submit data that will more closely reflect current conditions.

We ask that USDA adopt these principles as it moves toward the finalization of the proposed rule.

Alto Dairy Cooperative
Berner Foods, Inc.
Cedar Grove Cheese
Chalet Cheese Cooperative
Crowley Foods, Inc.
Davisco Foods International, Inc.
Dean Foods Company
F&A Dairy Products, Inc.
Foremost Farms USA, Cooperative
Galliker Dairy Company
Glanbia Foods Inc
Grande Cheese Company
Great Lakes Cheese Co., Inc.
Hershey Creamery Company
Holmes Cheese Co.
Kraft Foods N.A., Inc.
Leprino Foods Company
Marigold Foods, Inc.
Maytag Dairy Farms, Inc.
Northwest Dairy Association
Park Cheese Company
Raskas Foods, Inc.
Rosenberger's Dairies, Inc.
Safeway Inc.
Saputo Cheese USA Inc.
Sargento Foods Inc
Schreiber Foods, Inc.
Sorrento Lactalis, Inc.
SouthWest Dairy
Stewart's Processing Corp
Valley Queen Cheese Factory, Inc
Weyaywega Milk Products, Inc.
Wisconsin Cheesemakers Association