



International Dairy Foods Association
Milk Industry Foundation
National Cheese Institute
International Ice Cream Association

February 29, 2000

Deputy Administrator Richard M. McKee
Agriculture Marketing Service, Dairy Programs
U. S. Department of Agriculture
1400 Independence Avenue, S.W.
Washington, D.C. 20250



Dear Mr. McKee,

The International Dairy Foods Association is pleased to respond to USDA's request for proposals regarding the Class III and IV milk pricing formulas used in Federal Milk Marketing Orders.

The International Dairy Foods Association (IDFA) is the Washington, D.C.-based organization representing the nation's dairy processing and manufacturing industries. IDFA is composed of three constituent organizations: the Milk Industry Foundation, the National Cheese Institute, and the International Ice Cream Association. MIF has over 165 member companies that process 85% of the fluid milk and milk products consumed nationwide. NCI has over 80 member companies that manufacture, process or market 80% of the cheese consumed in the United States. IICA has over 130 member companies that manufacture and distribute an estimated 85% of the ice cream and ice cream related products consumed in the United States.

IDFA does not believe a hearing on these issues is warranted or necessary. However, in view of Congress' mandate requiring USDA to conduct such a hearing, IDFA believes it is extremely important that any decision to change any part of the Final Rule be based on evidence advanced at the hearing.

IDFA proposes the following for the Class III and IV product price formula hearing:

1. IDFA proposes that USDA follow normal formal-rulemaking procedures, with a recommended decision followed by a period for comment prior to issuing a Final Decision.

Justification:

IDFA supports having a recommended decision with the opportunity to file comments. This need for a comment period is especially critical in light of the controversial nature of the subject of this upcoming hearing. Comments filed by industry

were especially useful to USDA after publication of the proposed rule on federal order reform, as USDA used those comments to alter the proposed rule significantly, especially with respect to the make allowances used in the product price formulas.

2. IDFA proposes that USDA continue to rely on data contained in the NASS Dairy Products Prices report for any and all wholesale dairy price data used in federal order Class III and IV product price formulas.

Justification:

IDFA supports continued use of wholesale product price data from the weekly survey conducted by the National Agricultural Statistics Service and published in the Dairy Products Prices report. This price series is the only source of data based on the national market for manufactured dairy products, and is the only source of data representing a sizable volume of the cheddar cheese marketed in the U.S.

3. IDFA proposes that industry participation in the survey used for the NASS Dairy Products Prices report become mandatory, rather than voluntary, for all manufacturers of dairy products for which data is collected. In addition, IDFA proposes that all survey data submitted by respondents on wholesale dairy product prices be subject to verification or audit by NASS.

Justification:

IDFA proposes that participation in the NASS survey from which this price data is drawn be mandatory. This is the only data collected by USDA which is used to set administrated minimum prices in the marketplace, which makes this survey unique among those conducted by USDA.

Mandatory reporting would allow NASS to collect wholesale price data on cheddar cheese packaged as 640-pound blocks in addition to that collected on 40-pound block and 500-pound barrel package sizes. When NASS began the dairy product prices survey, 640-pound blocks were included in the survey. However, because of a lack of consistent reporting of price data on this package size, NASS discontinued collecting and publishing this data. A mandatory reporting requirement would allow the volume of cheddar cheese packaged in 640-pound blocks to be included in the survey, thereby increasing the volume of cheddar cheese represented in the survey.

In addition, we propose that the NASS survey of wholesale dairy product prices be subject to verification. The reliance on unaudited surveys as the sole source of information for setting minimum prices under federal milk marketing orders is of great concern to IDFA members. Information collected currently by auditors in the federal order system reveals that incorrect data is reported to market administrators.

The potential for even inadvertent errors in reporting these dairy product price data, which will be the sole source of data for minimum prices under federal milk marketing orders, is cause for serious concern.

We recognize that actual cheese manufacturer audits of bulk cheese sales would be an additional regulatory burden, both on the part of USDA and the cheese manufacturers. Therefore, IDFA proposes the following procedure for bulk cheese price verification. First, modify the existing transaction survey form to include reporting by each cheese manufacturer of their largest three or four buying firms that week. USDA could then select a small sample of survey respondents each week and contact the indicated bulk cheese buyers regarding confirmation of such a purchase, and the average price paid to that cheese manufacturer. This verification process minimizes the reporting burden on any party to the bulk cheese transaction.

4. IDFA proposes that all make allowances and yield factors used in the Class III and IV product price formulas be based on actual industry cost and yield data, as was generally the case in the Final Rule (the most notable exception was the make allowance for dry whey, which USDA assumed to be the same as for nonfat dry milk - see proposal 8 below). The make allowances and yield factors currently in the Class III and IV product price formulas should not be changed unless data submitted for the hearing unequivocally demonstrate that the Final Rule make allowances and yield factors are not consistent with actual industry data.

Justification:

USDA, in most instances, based the make allowances, yield factors and other considerations used in the Final Rule Class III and IV product price formulas on actual industry data submitted during the informal rule making process. IDFA strongly supports this approach, and would encourage USDA to use the most currently available data on actual industry costs of manufacturing.

5. IDFA proposes that the upcoming hearing on the Class III and IV product price formulas allow for the official notice of significant amounts of data submitted during the informal rule-making procedure conducted for the Final Rule. IDFA will identify specific data submitted during the informal rule-making period later in testimony at the upcoming hearings.

NCI proposes the following:

6. NCI proposes that USDA include price data for 640-pound block cheddar cheese in addition to that for 40-pound block and 500-pound barrel package sizes in the Class III product price formula.

Justification:

NCI believes that cheddar cheese in the form of 640 pound blocks represents a significant volume of the total amount sold. The addition of 640-pound block cheddar cheese to the Class III product price formula will improve the representativeness of the cheddar cheese price used in the formula (see proposal 3 above).

7. NCI proposes that the price adjustor used in the Class III product price formula for 500-pound barrels be based on actual industry data on the difference in manufacturing costs between cheddar cheese packaged in blocks and barrels. NCI further proposes that if USDA expands the NASS product price survey to include 640-pound block cheddar cheese (as suggested in proposal 5 above), the cost of production difference for this package size also be incorporated by using a cost-based price adjustor.

Justification:

The Final Rule requires that 3 cents be added to the moisture-adjusted price of cheddar cheese in 500-pound barrels. This was based on the historical difference in price between cheddar cheese packaged in 40-pound blocks and 500-pound barrels. The 3 cents per pound of cheese, as is reflected in the Federal Dairy Price Support Program, was assumed to represent the difference in the cost of manufacturing cheddar cheese in these two package types. NCI believes that actual industry data will show that this difference is less than 3 cents. This hearing should be used as an opportunity for the industry to present actual data on the differences in the cost of manufacturing cheddar cheese in these two package sizes.

8. NCI proposes that the make allowance for dry whey used in the Class III product price formula be based on actual industry data of the cost of manufacturing this product, instead of the cost of manufacturing nonfat dry milk.

Justification:

NCI believes the Final Rule make allowance for dry whey was derived largely from the cost of manufacturing data for nonfat dry milk, and as such understates the manufacturing costs for dry whey. However, there are some key differences in the processing of these two products. Dilute whey, used to produce sweet whey, is about 6% solids, while skim milk, used to produce nonfat dry milk, averages closer to 9% solids. Therefore, the costs of condensing and evaporating these two products to a dry form with similar moisture content is such that dry whey has a higher cost of manufacturing. In addition, processing of dry whey requires a crystallization process that is not required for nonfat dry milk, also resulting in a higher cost of manufacturing. IDFA's original comments to USDA on the proposed rule included a make allowance for nonfat dry milk of 13.7 cents, which was adopted by USDA in the Final Rule, and a make allowance of 17.1 cents for dry whey, based on differences between dry whey and nonfat dry milk processing costs found in a study conducted by the Rural Cooperative Business Service of USDA.

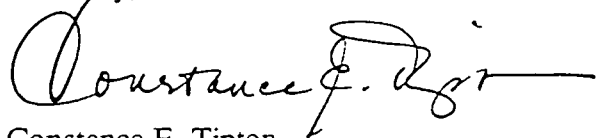
MIF and IICA propose the following:

9. Adjust the NASS grade AA butter price used in determining the butterfat value in Class III and IV milk to reflect the value of milkfat in grade A butter historically used in federal order determinations of the value of milkfat, by subtracting 6 cents from the NASS grade AA butter price per pound. This change should apply to the butter price used in determining the minimum butterfat value in all classes of milk use (see CFR 1000.50 (l) and CFR 1000.50 (q) (3)).

Justification:

USDA historically has used the wholesale grade A butter price in any formulas to determine the minimum price of milkfat used under federal order regulation. This was true when the Chicago Mercantile Exchange's grade A butter market was operating, when this wholesale price was used in the calculation of the butterfat differential. When the CME eliminated trading of grade A butter, USDA adopted use of the CME grade AA butter price minus 9 cents, representing the historical difference between these two grades of butter. Currently, the NASS survey price for butter used in the Final Rule Class III and IV product price formula for butterfat is based on a survey of only grade AA butter prices. The Final Rule uses this NASS grade AA butter price without any adjustment to represent the difference between this and grade A butter. The resulting higher value for butterfat under the Final Rule appears to be unintended, as the Final Rule never discusses this.

Sincerely,



Constance E. Tipton
Senior Group Vice President