

# Federal Milk Marketing Order 2023 Pricing Formula Hearing Proposed Regulatory Text Changes Marked Up Version

The following proposals were contained in a Notice of Hearing published July 24, 2023 (88 FR 47396) and will be considered at a hearing to begin August 23, 2023, in Carmel Indiana.

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Proposal 22: Submitted by Dairy Programs, Agricultural Marketing Service

**The following proposed regulatory text changes were compiled by USDA-AMS based on proponent submissions of June 14, 2023, and June 20, 2023. AMS made slight modifications, where appropriate, to comply with regulatory text formatting requirements.**

# Milk Composition

## Proposal 1: Submitted by the National Milk Producers Federation

This proposal seeks to amend the milk component factors in the Class III and Class IV skim milk price formulas. Specifically, the proposal seeks to increase the skim component factors to equal the weighted average nonfat solids, true protein, and other solids factors for milk pooled on Federal orders using data for the three years prior to implementation, with a 12-month implementation lag. The factors are proposed to be updated as follows:

- Nonfat solids: from 9.0 to 9.41 per hundredweight of Class IV skim milk;
- Protein: from 3.1 to 3.39 per hundredweight of Class III skim milk; and
- Other solids: from 5.9 to 6.02 per hundredweight of Class III skim milk.

The proponent also proposes the skim component factors be updated no less than every three years, but only once the weighted average nonfat solids component for the prior three years changes by at least 0.07 percentage points. The updated component values would be calculated, and, if a change is warranted, formally announced in February of such year, with the implementation of such changes occurring March 1 of the following year.

## **§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(f) Class II nonfat solids price.** The Class II nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the Class II skim milk price divided by ~~9~~ the applicable nonfat solids component factor described in § 1000.51.

\* \* \* \* \*

**(i) Class III skim milk price.** The Class III skim milk price per hundredweight, rounded to the nearest cent, shall be the protein price per pound times ~~3.1~~ the applicable protein component factor described in § 1000.51 plus the other solids price per pound times ~~5.9~~ the applicable other solids component factor described in § 1000.51.

\* \* \* \* \*

**(k) Class IV skim milk price.** The Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be the nonfat solids price per pound times ~~9~~ the applicable nonfat solids component factor described in § 1000.51.

\* \* \* \* \*

**(q) Advanced pricing factors.**

(1) \*\*\*

(i) \*\*\*

(ii) Multiply the protein price computed in paragraph (q)(1)(i) of this section by ~~3.1~~ the applicable protein component factor described in § 1000.51;

(iii) Multiply the other solids price per pound computed in paragraph (q)(1)(i) of this section by ~~5.9~~ the applicable other solids component factor described in § 1000.51; and

(iv) \*\*\*

(2) \*\*\*

(i) \*\*\*

(ii) Multiply the nonfat solids price computed in paragraph (q)(2)(i) of this section by ~~9~~ the applicable nonfat solids component factor described in § 1000.51.

**§ 1000.51 ~~Reserved~~ Milk Component Factors**

(a) Upon the implementation of this Order, the component factors for protein, other solids and nonfat solids shall be the following:

(1) Protein 3.1;

(2) Other solids 5.9; and

(3) Nonfat solids 9.0.

(b) Beginning the first day of the 12th month after implementation of this Order, the component factors for protein, other solids and nonfat solids shall be the following:

- (1) Protein 3.39;
- (2) Other solids 6.02; and
- (3) Nonfat solids 9.41.

(c) By February 28th of the third year following the announcement of any change in the protein, other solids and nonfat solids component factors of producer skim milk under this section, those component factors shall each be updated to the simple averages of their respective three most recent calendar year weighted average component tests of producer skim milk in all Orders, rounded to two decimal places, as calculated by AMS, if the resulting nonfat solids factor differs by at least 0.07 percentage points from that currently in effect.

(1) Implementation of the updated component factors under this paragraph shall be announced no later than 5 days after the calculation that triggers a change and shall become effective the first day of March of the following year.

(2) If a change in the component factors is not indicated by the calculation described in this paragraph, then the calculation shall be repeated the following year, and any change in the existing skim milk component factors shall be announced and implemented as described in this paragraph.

**Proposal 2: Submitted by National All-Jersey Inc.**

This proposal seeks to amend the milk component factors in the Class III and Class IV skim milk price formulas. The proposal seeks to update the factors annually using the previous year's weighted average calculations, with a 12-month implementation lag.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(f) Class II nonfat solids price.** The Class II nonfat solids price per pound rounded to the nearest one-hundredth cent, shall be the Class II skim milk price divided by **9** the applicable nonfat solids component factor described in § 1000.51.

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**(i) Class III skim milk price.** The Class III skim milk price per hundredweight, rounded to the nearest cent, shall be the protein price per pound times ~~3.1~~ the applicable protein component factor described in § 1000.51 plus the other solids price per pound times ~~5.9~~ the applicable other solids component factor described in § 1000.51.

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**(k) Class IV skim milk price.** The Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be the nonfat solids price per pound times ~~9~~ the applicable nonfat solids component factor described in § 1000.51.

\* \* \* \* \*

**(q) Advanced pricing factors.**

(1) \*\*\*

(i) \*\*\*

(ii) Multiply the protein price computed in paragraph (q)(1)(i) of this section by ~~3.1~~ the applicable protein component factor described in § 1000.51;

(iii) Multiply the other solids price per pound computed in paragraph (q)(1)(i) of this section by ~~5.9~~ the applicable other solids component factor described in § 1000.51; and

(iv) \*\*\*

(2) \*\*\*

(i) \*\*\*

(ii) Multiply the nonfat solids price computed in paragraph (q)(2)(i) of this section by ~~9~~ the applicable nonfat solids component factor described in § 1000.51.

\* \* \* \* \*

**§ 1000.51 ~~Reserved~~ Milk Component Factors**

(a) Effective with milk marketed in January following the effective date of this section §1000.51, the component factors for protein, other solids and nonfat solids in this section 1000.51(a)(1)-(3) shall replace component factors for protein, other solids and nonfat solids for one

calendar year, January through December, and thereafter, § 1000.51(b) shall establish the component factors for protein, other solids and nonfat solids applicable to § 1000.50 annually thereafter as prescribed therein:

- (1) Protein 3.39;
- (2) Other solids 6.02; and
- (3) Nonfat solids 9.41.

(b) The component factors in § 1000.51(a)(1)-(3) shall be updated annually to reflect the weighted average component tests of producer milk in all Orders for the immediately preceding calendar year, January through December.

(c) The component factors for the immediately preceding calendar year as calculated in § 1000.51(b) shall be calculated on or before the last business day of February and shall be utilized in § 1000.50 for pricing effective in January of the subsequent year.

## **Surveyed Commodity Products**

### **Proposal 3: Submitted by the National Milk Producers Federation**

This proposal seeks to eliminate the Cheddar cheese 500-pound barrel price series from protein price formula.

### **§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(n) Protein price.** The protein price per pound, rounded to the nearest one- hundredth cent, shall be computed as follows:

~~(1) Compute a weighted average of the amounts described in paragraphs (n)(1)(i) and (ii) of this section;~~

~~(i) The U.S. average NASS survey price for 40-lb. block cheese reported by the Department for the month; and~~

~~(ii) The U.S. average NASS survey price for 500-pound barrel cheddar cheese (38 percent moisture) reported by the Department for the month plus 3 cents;~~

~~(2) Subtract 20.03 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.383;~~

~~(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:~~

~~(i) Subtract 20.03 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.572; and~~

~~(ii) Subtract 0.9 times the butterfat price computed pursuant to paragraph (l) of this section from the amount computed pursuant to paragraph (n)(3)(i) of this section; and~~

~~(iii) Multiply the amount computed pursuant to paragraph (n)(3)(ii) of this section by 1.17.~~

(1) Subtract 20.03 cents from the from the U.S. average AMS survey price for 40-lb. block cheese reported by the Department for the month and multiply the result by 1.383;

(2) Add to the amount computed pursuant to paragraph (n)(1) of this section an amount computed as follows:

(i) Subtract 20.03 cents from the U.S. average AMS survey price for 40-lb. block cheese reported by the Department for the month and multiply the result by 1.572; and

(ii) Subtract 0.9 times the butterfat price computed pursuant to paragraph (l) of this section from the amount computed pursuant to paragraph (n)(2)(i) of this section; and

(iii) Multiply the amount computed pursuant to paragraph (n)(2)(ii) of this section by 1.17.

#### **Proposal 4: Submitted by the American Farm Bureau Federation**

This proposal seeks to add 640-pound Cheddar cheese blocks to the protein price formula.

#### **§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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#### **(n) Protein price.**



(1) \*\*\*

(i) \*\*\*

(ii) \*\*\*

(iii) The U.S. average AMS survey price for 640-lb. block cheese reported by the Department for the month;

**Proposal 5: Submitted by the American Farm Bureau Federation**

This proposal seeks to add unsalted butter to the butterfat and protein price formulas.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(l) Butterfat price.** The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the weighted average of the U.S. average NASS AMS AA salted and unsalted Butter survey prices reported by the Department for the month, less 17.15 cents, with the result multiplied by 1.211.

**Proposal 6: Submitted by the California Dairy Campaign**

This proposal seeks to add mozzarella to the protein price formula.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(n) Protein price.**

(1) \*\*\*

(i) \*\*\*

(ii) \*\*\*

(iii) The U.S. average AMS survey price for mozzarella cheese (weighted average moisture and butterfat content) reported by the Department for the month;

## **Class III and Class IV Formula Factors**

### **Proposal 7: Submitted by the National Milk Producers Federation**

This proposal seeks to amend the manufacturing cost (make) allowances found in the four component price formulas. The proposal includes the following increases:

Butterfat: from \$0.1715 to \$0.2100 per pound of butter,

Nonfat Solids: from \$0.1678 to \$0.2100 per pound of nonfat dry milk (NFDM),

Protein: from \$0.2003 to \$0.2400 per pound of Cheddar cheese,

Other Solids: from \$0.1991 to \$0.2300 per pound of dry whey.

The requested changes are equivalent to an increase of \$0.0385 per pound in the butter make allowance, an increase of \$0.0422 per pound in the nonfat dry milk make allowance, an increase of \$0.0397 per pound in the Cheddar cheese make allowance, and an increase of \$0.0309 per pound in the dry whey make allowance.

### **§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(l) Butterfat price.** The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS~~ AMS AA Butter survey price reported by the Department for the month, less ~~17.15~~ 21.00 cents, with the result multiplied by 1.211.

**(m) Nonfat solids price.** The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS~~ AMS nonfat dry milk survey price reported by the Department for the month, less ~~16.78~~ 21.00 cents ~~and multiplying the result~~ with the result multiplied by 0.99.

**(n) Protein price.** The protein price per pound, rounded to the nearest one-hundredth cent, shall be computed as follows:

(1) \*\*\*

(i) \*\*\*

(ii) \*\*\*

(2) Subtract ~~20.03~~ 24.00 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.383;

(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:

(i) Subtract ~~20.03~~ 24.00 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.572; and

(ii) \*\*\*

(iii) \*\*\*

**(o) Other solids price.** The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS~~ AMS dry whey survey price reported by the Department for the month minus ~~19.91~~ 23.00 cents, with the result multiplied by 1.03.

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**(q) Advanced pricing factors.**

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(3) An advanced butterfat price per pound rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average ~~NASS-AMS~~ AA Butter survey prices announced before the 24th day of the month, subtracting ~~17.15~~ 21.00 cents from this average, and multiplying the result by 1.211.

**Proposal 8: Submitted by the Wisconsin Cheese Makers Association**

This proposal seeks to update the current make allowances with a 4-year phase-in implementation schedule.

Proposed Make Allowance Levels			
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Product	Current	Year 1	Year 2	Year 3	Year 4
Cheese	\$0.2003	\$0.2422	\$0.2561	\$0.2701	\$0.2840
Whey	\$0.1991	\$0.2582	\$0.2778	\$0.2976	\$0.3172
NFDM	\$0.1678	\$0.2198	\$0.2370	\$0.2544	\$0.2716
Butter	\$0.1715	\$0.2251	\$0.2428	\$0.2607	\$0.2785

This proposal also proposes not to adopt any of the increases described above if, prior to January 1 of that year, USDA has been provided authority and funding to conduct audited dairy product cost studies of all manufacturers of products used to set Class III and Class IV prices, has promulgated regulations implementing that authority, and has adopted make allowances pursuant thereto.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(l) Butterfat price.** The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS-AMS~~ AA Butter survey price reported by the Department for the month, less ~~17.15 cents~~ 22.51 cents effective January 1, 2025, 24.28 cents effective January 1, 2026, 26.07 cents effective January 1, 2027, and 27.85 cents effective January 1, 2028, with the result multiplied by 1.211.

**(m) Nonfat solids price.** The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS~~ AMS nonfat dry milk survey price reported by the Department for the month, less ~~16.78 cents~~ 21.98 cents effective January 1, 2025, 23.70 cents effective January 1, 2026, 25.44 cents effective January 1, 2027, and 27.16 cents effective January 1, 2028, and multiplying the result by 0.99.

**(n) Protein price.** The protein price per pound, rounded to the nearest one-hundredth cent, shall be computed as follows:

(1) Compute a weighted average of the amounts described in paragraphs (n)(1)(i) and (ii) of this section:

(i) The U.S. average ~~NASS-AMS~~ survey price for 40-lb. block cheese reported by the Department for the month; and

(ii) The U.S. average ~~NASS~~ AMS survey price for 500-pound barrel cheddar cheese (38 percent moisture) reported by the Department for the month plus 3 cents;

(2) Subtract ~~20.03 cents~~ 24.22 cents effective January 1, 2025, 25.61 cents effective January 1, 2026, 27.01 cents effective January 1, 2027, and 28.40 cents effective January 1, 2028, from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.383;

(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:

(i) Subtract ~~20.03 cents~~ 24.22 cents effective January 1, 2025, 25.61 cents effective January 1, 2026, 27.01 cents effective January 1, 2027, and 28.40 cents effective January 1, 2028, from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.572; and

\* \* \* \* \*

**(o) Other solids price.** The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS-AMS~~ dry whey survey price reported by the Department for the month minus ~~19.91 cents~~ 25.82 cents effective January 1, 2025, 27.78 cents effective January 1, 2026, 29.76 cents effective January 1, 2027, and 31.72 cents effective January 1, 2028, with the result multiplied by 1.03.

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**(q) Advanced pricing factors.**

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(3) An advanced butterfat price per pound rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average ~~NASS~~ AMS AA Butter survey prices announced before the 24th day of the month, subtracting ~~17.15 cents~~ 22.51 cents effective January 1, 2025, 24.28 cents effective January 1, 2026, 26.07 cents effective January 1, 2027, and 27.85 cents effective January 1, 2028 from this average, and multiplying the result by 1.211.

**(r).** The increase in the amounts subtracted from the AMS survey prices effective January 1 of each year as set forth in 7 C.F.R. § 1000.50(l), (m), (n), (o), and (q) shall not become effective if prior to January 1 of that year the United States Department of Agriculture has been provided authority and additional funding to conduct audited dairy product cost studies of all manufacturers of products used

to set Class III and Class IV prices, has promulgated regulations implementing that authority, and adopted make allowances pursuant thereto.

**Proposal 9: Submitted by the International Dairy Foods Association**

This proposal seeks to update the current make allowances with a 4-year phase-in implementation schedule.

Proposed Make Allowance Levels					
Product	Current	Year 1	Year 2	Year 3	Year 4
Cheese	\$0.2003	\$0.2422	\$0.2561	\$0.2701	\$0.2840
Whey	\$0.1991	\$0.2582	\$0.2778	\$0.2976	\$0.3172
NFDM	\$0.1678	\$0.2198	\$0.2370	\$0.2544	\$0.2716
Butter	\$0.1715	\$0.2251	\$0.2428	\$0.2607	\$0.2785

This proposal also proposes not to adopt any of the increases described above if, prior to January 1 of that year, USDA has been provided authority and funding to conduct audited dairy product cost studies of all manufacturers of products used to set Class III and Class IV prices, has promulgated regulations implementing that authority, and has adopted make allowances pursuant thereto.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(l) Butterfat price.** The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS-AMS~~ AA Butter survey price reported by the Department for the month, less ~~17.15 cents~~ 22.51 cents effective January 1, 2025, 24.28 cents effective January 1, 2026, 26.07 cents effective January 1, 2027, and 27.85 cents effective January 1, 2028, with the result multiplied by 1.211.

**(m) Nonfat solids price.** The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS-AMS~~ nonfat dry milk survey price reported by the Department for the month, less ~~16.78 cents~~ 21.98 cents effective January 1, 2025, 23.70 cents effective

January 1, 2026, 25.44 cents effective January 1, 2027, and 27.16 cents effective January 1, 2028, and multiplying the result by 0.99.

**(n) Protein price.** The protein price per pound, rounded to the nearest one-hundredth cent, shall be computed as follows:

(1) Compute a weighted average of the amounts described in paragraphs (n)(1)(i) and (ii) of this section:

(i) The U.S. average ~~NASS AMS~~ survey price for 40-lb. block cheese reported by the Department for the month; and

(ii) The U.S. average ~~NASS AMS~~ survey price for 500-pound barrel cheddar cheese (38 percent moisture) reported by the Department for the month plus 3 cents;

(2) Subtract ~~20.03 cents~~ 24.22 cents effective January 1, 2025, 25.61 cents effective January 1, 2026, 27.01 cents effective January 1, 2027, and 28.40 cents effective January 1, 2028, from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.383;

(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:

(i) Subtract ~~20.03 cents~~ 24.22 cents effective January 1, 2025, 25.61 cents effective January 1, 2026, 27.01 cents effective January 1, 2027, and 28.40 cents effective January 1, 2028, from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.572; and

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**(o) Other solids price.** The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS AMS~~ dry whey survey price reported by the Department for the month minus ~~19.91 cents~~ 25.82 cents effective January 1, 2025, 27.78 cents effective January 1, 2026, 29.76 cents effective January 1, 2027, and 31.72 cents effective January 1, 2028, with the result multiplied by 1.03.

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**(q) Advanced pricing factors.**

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(3) An advanced butterfat price per pound rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average ~~NASS AMS~~ AA Butter survey prices announced before the 24th day of the month, subtracting ~~17.15 cents~~ 22.51 cents effective January 1, 2025, 24.28 cents effective January 1, 2026, 26.07 cents effective January 1, 2027, and 27.85 cents effective January 1, 2028 from this average, and multiplying the result by 1.211.

(r) The increase in the amounts subtracted from the AMS survey prices effective January 1 of each year as set forth in 7 C.F.R. § 1000.50(l), (m), (n), (o), and (q) shall not become effective if prior to January 1 of that year the United States Department of Agriculture has been provided authority and additional funding to conduct audited dairy product cost studies of all manufacturers of products used to set Class III and Class IV prices, has promulgated regulations implementing that authority, and adopted make allowances pursuant thereto.

**Proposal 10: Submitted by Select Milk Producers, Inc.**

This proposal seeks to increase the butterfat recovery factor in the Class III price formula to 93 percent, which would necessitate a corresponding increase in the butterfat yield in cheese to 1.624.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(n) Protein price.**

\*\*\*\*\*

(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:

(i) Subtract 20.03 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by ~~1.572~~ 1.624; and

(ii) Subtract ~~0.9~~ 0.93 times the butterfat price computed pursuant to paragraph (l) of this section from the amount computed pursuant to paragraph (n)(3)(i) of this section; and

**Proposal 11: Submitted by Select Milk Producers, Inc.**



This proposal seeks to update the specified yield factors to reflect actual farm-to-plant shrink. The yield factors for nonfat solids and other solids would remain unchanged. The proposed yield factors are:

Butterfat: 1.22;

Protein value in cheese: 1.386; and

Butterfat value in cheese: 1.582.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(l) Butterfat price.** The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS AA Butter survey price reported by the Department for the month, less 17.15 cents, with the result multiplied by ~~1.211~~ 1.22.

\*\*\*\*\*

**(n) Protein price.**

\*\*\*\*\*

(2) Subtract 20.03 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by ~~1.383~~ 1.386;

(3) \*\*\*

(i) Subtract 20.03 cents from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by ~~1.572~~ 1.582; and

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**Proposal 12: Submitted by Select Milk Producers, Inc.**

This proposal seeks to update the nonfat solids factor from 0.99 to 1.03.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(m) Nonfat solids price.** The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average NASS nonfat dry milk survey price reported by the Department for the month, less 16.78 cents and multiplying the result by ~~0.99~~ 1.03.

## **Base Class I Skim Milk Price**

### **Proposal 13: Submitted by the National Milk Producers Federation**

This proposal seeks to amend the base Class I skim milk price in all Federal orders. Specifically, the proposal seeks to replace the simple average of the Class III and Class IV Advanced Skim Milk pricing factors with the “higher of” the two factors and remove the additional \$0.74 per hundredweight.

### **§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(b) Class I skim milk price.** The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52, ~~plus the adjustment to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) of this chapter,~~ plus the ~~simple average~~ higher of the advanced pricing factors computed in paragraph (q)(1) and (2) of this section ~~rounded to the nearest cent, plus \$0.74 per hundredweight.~~

**(c) Class I butterfat price.** The Class I butterfat price per pound shall be the adjusted Class I differential specified in § 1000.52 divided by 100, ~~plus the adjustments to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) divided by 100,~~ plus the advanced butterfat price computed in paragraph (q)(3) of this section.

### **Proposal 14: Submitted by the International Dairy Foods Association**

This proposal seeks to amend the base Class I skim milk price to equal the simple average of the Advanced Class III and Class IV prices, plus the “higher of” either \$0.74 or an adjustor equal to the

24-month (August – July) rolling simple average difference between the Advanced Class III and Class IV skim milk prices.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(b) Class I skim milk price.** The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52, plus the adjustment to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) of this chapter, plus the simple average of the advanced pricing factors computed in paragraph (q)(1) and (2) of this section rounded to the nearest cent, plus **the higher of: (a) \$0.74 per hundredweight or (b) the result reached in sub-paragraph (iii) of the following calculations:**

(1) for each month in the twenty-four-month period through July of the previous calendar year, select the higher of the advanced pricing factor computed in paragraph (q)(1) versus paragraph (q)(2), and determine the simple average of the twenty-four factors so selected, rounded to the nearest cent;

(2) for each month in the twenty-four-month period through July of the previous calendar year, calculate the simple average of the advanced pricing factors computed in paragraph (q)(1) and (2) of this section rounded to the nearest cent, and determine the simple average of the twenty-four factors so selected, rounded to the nearest cent; and

(3) calculate the difference between the amount determined in (1) and the amount determined in (2).

**Proposal 15: Submitted by the Milk Innovation Group**

This proposal seeks to retain the current “average of” formula for the base Class I skim milk price and proposes to update the adjuster monthly using a 24-month look back period with a 12-month lag, i.e., the preceding the 13-to-36-month period. The “rolling” adjuster calculation would be the *difference between* the “higher of” the advanced Class III or IV skim milk price for each month and the “average of” the advanced Class III or IV skim milk price, averaged over the preceding 13-to-36-month period, *plus* the “average of” the Class III and IV advanced skim milk prices for that month.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(b) Class I skim milk price.** The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52, plus the adjustment to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) of this chapter, plus the simple average of the advanced pricing factors computed in paragraph (q)(1) and (2) of this section rounded to the nearest cent, plus ~~\$0.74 per hundredweight~~ the Class I skim price adjuster rounded to the nearest cent.

(1) Class I skim price adjuster. The Class I skim price adjuster per hundredweight shall be a 24-month simple average of the difference between the higher of the advanced pricing factors computed in paragraph (q)(1) and (2) and the simple average of same for the preceding 13 to 36 month period.

(2) The Class I skim price adjuster shall change monthly.

**Proposal 16: Submitted by Edge Dairy Farmer Cooperative**

This proposal seeks to change the base Class I skim milk price to the announced Class III skim milk price, plus an adjuster. The proposal seeks to amend calculation of Class I prices to use announced rather than advanced prices. The proposed adjuster would be a 36-month average (August – July) of the monthly differences between the “higher of” the advanced Class III skim milk price or advanced Class IV skim milk price, and the Class III skim milk price.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(b) Class I skim milk price.** The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52, plus the adjustment to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) of this chapter, plus the ~~simple average of the advanced pricing factors~~ Class III skim milk price computed in paragraph ~~(q)(1) (i) and (2)~~ of this section rounded to the nearest cent, plus ~~\$0.74 per hundredweight~~ the adjustment to Class I skim milk price computed in paragraph (q)(3) of this section.

**(c) Class I butterfat price.** The Class I butterfat price per pound shall be the adjusted Class I differential specified in § 1000.52 divided by 100, plus the adjustments to Class I prices specified in §§

1005.51(b), 1006.51(b) and 1007.51(b) divided by 100, plus the ~~advanced~~-butterfat price computed in paragraph ~~(q)(3)~~ (l) of this section.

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**(e) Class II skim milk price.** The Class II skim milk price per hundredweight shall be the ~~advanced~~-Class IV skim milk price computed in paragraph ~~(q)(2)~~ (k) of this section plus 70 cents.

\*\*\*\*\*

**(q) Advanced pricing factors.** For the purpose of computing the Class I skim milk price, ~~the Class II skim milk price, the Class II nonfat solids price, and the Class I butterfat price for the following month,~~ the following pricing factors shall be computed ~~using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month by:~~

(1) An advanced Class III skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(i) Following the procedure set forth in paragraphs (n) and (o) of this section, but using the weighted average of the 2 most recent ~~NASS~~ **AMS** U.S. average weekly survey prices announced before the 24th day of the month, compute a protein price and an other solids price;

(ii) Multiply the protein price computed in paragraph (q)(1)(i) of this section by 3.1;

(iii) Multiply the other solids price per pound computed in paragraph (q)(1)(i) of this section by 5.9; and

(iv) Add the amounts computed in paragraphs (q)(1)(ii) and (iii) of this section.

(2) An advanced Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:

(i) Following the procedure set forth in paragraph (m) of this section, but using the weighted average of the 2 most recent ~~NASS~~ **AMS** U.S. average weekly survey prices announced before the 24th day of the month, compute a nonfat solids price;

(ii) Multiply the nonfat solids price computed in paragraph (q)(2)(i) of this section by 9.

~~(3) An advanced butterfat price per pound rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average NASS AA Butter~~

~~survey prices announced before the 24th day of the month, subtracting 17.15 cents from this average, and multiplying the result by 1.211.~~ Class I skim milk will be adjusted by an amount equal to the monthly difference between the higher-of advanced Class III skim milk price and advanced Class IV skim milk price as computed in paragraphs q(1) and (2) of this section, and the Class III skim milk price as computed in paragraph (i) of this section, 36-month average from August of four years prior to July of the previous year and rounded to the nearest cent.

**Proposal 17: Submitted by Edge Dairy Farmer Cooperative**

This proposal seeks to use the “higher of” the Class III skim milk price or the Class IV skim milk price to calculate the base Class I skim milk price. The proposal also seeks to amend calculation of Class I prices to use announced rather than advanced prices.

**§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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**(b) Class I skim milk price.** The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52, plus the adjustment to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) of this chapter, plus the ~~simple average~~ higher-of the ~~advanced pricing factors~~ Class III skim milk price and Class IV skim milk price computed in paragraphs ~~(q)(1)~~ (i) and (k) ~~(2)~~ of this section rounded to the nearest cent, ~~plus \$0.74 per hundredweight.~~

**(c) Class I butterfat price.** The Class I butterfat price per pound shall be the adjusted Class I differential specified in § 1000.52 divided by 100, plus the adjustments to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) divided by 100, plus the ~~advanced~~ butterfat price computed in paragraph ~~(q)(3)~~ (l) of this section.

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**(e) Class II skim milk price.** The Class II skim milk price per hundredweight shall be the ~~advanced~~ Class IV skim milk price computed in paragraph ~~(q)(2)~~ (k) of this section plus 70 cents.

\*\*\*\*\*

~~(q) **Advanced pricing factors.** For the purpose of computing the Class I skim milk price, the Class II skim milk price, the Class II nonfat solids price, and the Class I butterfat price for the following month, the following pricing factors shall be computed using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month:~~

~~(1) An advanced Class III skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:~~

~~(i) Following the procedure set forth in paragraphs (n) and (o) of this section, but using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month, compute a protein price and an other solids price;~~

~~(ii) Multiply the protein price computed in paragraph (q)(1)(i) of this section by 3.1;~~

~~(iii) Multiply the other solids price per pound computed in paragraph (q)(1)(i) of this section by 5.9; and~~

~~(iv) Add the amounts computed in paragraphs (q)(1)(ii) and (iii) of this section.~~

~~(2) An advanced Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:~~

~~(i) Following the procedure set forth in paragraph (m) of this section, but using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month, compute a nonfat solids price; and~~

~~(ii) Multiply the nonfat solids price computed in paragraph (q)(2)(i) of this section by 9.~~

~~(3) An advanced butterfat price per pound rounded to the nearest one hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average NASS AA Butter survey prices announced before the 24th day of the month, subtracting 17.15 cents from this average, and multiplying the result by 1.211.~~

**Proposal 18: Submitted by the American Farm Bureau Federation**

This proposal seeks to eliminate the advanced pricing of Class I milk and components, and Class II skim milk and components. As proposed, the Class II skim milk price would be equal to the Announced Class IV skim milk price plus the Class II differential; the Class II nonfat solids price

would be equal to the Announced Class IV nonfat solids price plus one-hundredth of the Class II differential. The proponent proposes the Class I skim milk price would be the “higher of” the Announced Class III or Class IV skim milk prices plus the Class I differential; and the Class I butterfat price would be equal to the butterfat price plus one-hundredth of the Class I differential.

### § 1000.50 Class prices, component prices, and advanced pricing factors.

Class prices per hundredweight of milk containing 3.5 percent butterfat, and component prices, and advanced pricing factors shall be as follows. ~~The prices and pricing factors described in paragraphs (a), (b), (c), (e), (f), and (g) of this section shall be based on a weighted average of the most recent weekly prices announced by the National Agricultural Statistical Service (NASS) before the 24th day of the month. These prices shall be announced on or before the 23rd day of the month and shall apply to milk received during the following month.~~ The prices described in paragraphs (g) through (p) of this section shall be based on a weighted average for the preceding month of weekly prices announced by NASS-AMS on or before the 5th day of the month and shall apply to milk received during the preceding month. ~~The price described in paragraph (d) of this section shall be derived from the Class II skim milk price announced on or before the 23rd day of the month preceding the month to which it applies and the butterfat price announced on or before the 5th day of the month following the month to which it applies.~~

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**(b) Class I skim milk price.** The Class I skim milk price per hundredweight shall be the adjusted Class I differential specified in § 1000.52, plus the adjustment to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) of this chapter, plus the higher of the Class III skim milk price and the Class IV skim milk price ~~simple average of the advanced pricing factors computed in paragraph (q)(1) and (2) of this section rounded to the nearest cent, plus \$0.74 per hundredweight.~~

**(c) Class I butterfat price.** The Class I butterfat price per pound shall be the adjusted Class I differential specified in § 1000.52 divided by 100, plus the adjustments to Class I prices specified in §§ 1005.51(b), 1006.51(b) and 1007.51(b) divided by 100, plus the advanced butterfat price computed in paragraph ~~(q)(3)~~(1) of this section.

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**(e) Class II skim milk price.** The Class II skim milk price per hundredweight shall be the ~~advanced~~ Class IV skim milk price ~~computed in paragraph (q)(2) of this section~~ plus 70 cents.

\*\*\*\*\*

~~**(q) Advanced pricing factors.** For the purpose of computing the Class I skim milk price, the Class II skim milk price, the Class II nonfat solids price, and the Class I butterfat price for the following month, the following pricing factors shall be computed using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month:~~

~~(1) An advanced Class III skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:~~

~~(i) Following the procedure set forth in paragraphs (n) and (o) of this section, but using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month, compute a protein price and an other solids price;~~

~~(ii) Multiply the protein price computed in paragraph (q)(1)(i) of this section by 3.1;~~

~~(iii) Multiply the other solids price per pound computed in paragraph (q)(1)(i) of this section by 5.9; and~~

~~(iv) Add the amounts computed in paragraphs (q)(1)(ii) and (iii) of this section.~~

~~(2) An advanced Class IV skim milk price per hundredweight, rounded to the nearest cent, shall be computed as follows:~~

~~(i) Following the procedure set forth in paragraph (m) of this section, but using the weighted average of the 2 most recent NASS U.S. average weekly survey prices announced before the 24th day of the month, compute a nonfat solids price; and~~

~~(ii) Multiply the nonfat solids price computed in paragraph (q)(2)(i) of this section by 9.~~

~~(3) An advanced butterfat price per pound rounded to the nearest one hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average NASS AA Butter survey prices announced before the 24th day of the month, subtracting 17.15 cents from this average, and multiplying the result by 1.211.~~

## **Class I and Class II Differentials**

### **Proposal 19: Submitted by the National Milk Producers Federation**

This proposal seeks to update the Adjusted Class I differentials as referenced in all Federal orders for the 3,108 named counties, parishes, and independent cities in the contiguous 48 United States. The proposed update would increase Class I differentials at all locations, in varying amounts.

#### **§ 1000.52 Adjusted Class I differentials.**

The Class I differentials adjusted for location to be used in § 1000.50(b) and (c) shall be as follows:

*Delete all that follows. Refer to Appendix A for NMPF proposed Class I Differentials.*

### **Proposal 20: Submitted by the Milk Innovation Group**

This proposal seeks to lower the current base Class I differential from \$1.60 to \$0.00.

#### **§ 1000.52 Adjusted Class I differentials.**

The Class I differentials adjusted for location to be used in § 1000.50(b) and (c) shall be as follows:

*Delete all that follows. Refer to Appendix B for MIG proposed Class I Differentials.*

### **Proposal 21: Submitted by the American Farm Bureau Federation**

This proposal seeks to update the Class II differential to \$1.56. Specifically, the proposal seeks to calculate the Class II differential using the current nonfat dry milk make allowance multiplied by the current nonfat solids yield factor and updated butterfat and nonfat solids tests for milk in the FMMOs.

#### **§ 1000.50 Class prices, component prices, and advanced pricing factors.**

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(e) **Class II skim milk price.** The Class II skim milk price per hundredweight shall be the ~~advanced~~-Class IV skim milk price computed in paragraph (q)(2) of this section plus ~~70-cents~~ \$1.56.

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(g) **Class II butterfat price.** The Class II butterfat price per pound shall be the butterfat price plus ~~\$0.007~~ \$0.0156.

## 6. AMS Proposal

### Proposal 22: Submitted by Dairy Programs, Agricultural Marketing Service

Make such changes as may be necessary to make the respective marketing orders conform with any amendments thereto that may result from this hearing.