

United States Department of Agriculture
Before the Secretary of Agriculture
(Agricultural Marketing Service)

USDA
OALJ/HCO
2000 JUL 17 A 10:14

IN RE:

MILK IN THE NORTHEAST AND
OTHER MARKETING AREAS

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Docket No. : 10-14-A69 et al,
DA-003

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BRIEF ON CLASS III AND CLASS IV PRICING FORMULAS

Brief Submitted on Behalf of:

National All-Jersey Inc.
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By: Michael Brown
General Manager
National All-Jersey Inc.

July 14, 2000

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PROPOSED FINDINGS OF FACT AND CONCLUSIONS

I. Introduction

This Brief is submitted on behalf of National All-Jersey Inc.

This Brief will cover proposed findings of fact relating to Class III and IV price hearing, held May 8-12, 2000 in Alexandria, VA. National All-Jersey does not support any specific position on manufacturing allowance levels, and thus will not specifically address that issue. NAJ does support the general calculations currently used to determine component values, particularly on Class III Milk, and will provide evidence supporting retention of the current component formulas. NAJ also encourages USDA provide industry an opportunity for additional comment on a proposed or interim final rule.

Proposals

II. Proposed Finding of Fact

National All-Jersey respectfully requests that the Administrator and Secretary make a ruling, based on

The following is National All-Jersey's submission of proposed findings of fact, and proposed conclusions. All references to the transcript of the hearing will be designated as "Tr. " with the line numbers referenced after the page. References to hearing exhibits will be designated as "Ex. " with page references, where applicable. All statements for which citations to the hearing transcript and exhibits are made are intended to be proposed findings of fact or proposed conclusions subject to a ruling.

A. THE VAST MAJORITY OF PARTIES REPRESENTED SUPPORT RETAINING THE GENERAL FORMAT OF THE CLASS III AND IV MILK COMPONENT FORMULAS AT THIS TIME.

1. No industry proposals related to class III and IV milk components included in the hearing notice support the adoption of significantly different yield relationships between milk component values and the respective product yields for Class III milk components butterfat, protein, and other solids and for Class IV milk components butterfat and nonfat solids. (Ex. 1; Tr. 1650, 24-25; Tr. 1651, 1-8)

2. The amount of money flowing the producers is different because primarily due to differences in milk composition. (Tr. 667, 2-7)

B. THE CLASS III BUTTERFAT PRICE SHOULD REMAIN RELATED TO THE VALUE OF FAT IN BUTTER, RATHER THAN CHEESE.

1. No industry proposals related to class III and IV milk components included in the hearing notice support the adoption of significantly different yield relationships between milk component values and the respective product yields for Class III milk components butterfat, protein, and other solids and for Class IV milk components butterfat and nonfat solids. (Ex. 1; Tr. 1650, 24-25; Tr. 1651, 1-8)
2. Pricing Class III butterfat using the current yield relationship to butter price, reflects historical fat pricing practice and the price of milk ingredients, such as cream. The yield factor between butterfat and butter currently adopted in the butter price formulas is accepted by industry, and will provide less confusion than a Class III butterfat price not related to butter. (Tr. 254, 20-25; Tr. 246, 1-10; Tr. 576, 6-14; Tr. 1543, 19-21; Tr. 1656, 8-25 Tr. 1657 1-22 Tr. 1816, 11-23)

C. THE CURRENT FEDERAL ORDER PROTEIN FORMULA ASSUMES THAT CRUDE PROTEIN CONTAINS 78% CASEIN, AND THAT TRUE PROTEIN CONTAINS 82.9% CASEIN.

1. The current Class III protein formula assumes crude protein contains 78% casein, as was the case in the previous Federal Order component pricing decisions in seven different federal milk marketing orders. (Ex. 18; Tr. 1653, 17-25; Tr. 1654, 1-2)
2. The current Class III protein formula adequately reflects the value of milk protein in cheese and reflects a 78% casein content of crude milk protein or 82.9% casein content of true milk protein. The casein loss of 0.1 lbs. per cwt. milk must be assigned to protein, as is the current case, or to cwt. milk, and cannot be ignored. (Ex. 49, Ex. 50; Tr. 1651, 21-25; Tr. 1652-1655; Tr. 1656 1-7; Tr. 1729, 12-25)

D. USDA SHOULD BASE ANY CHANGES TO THE FAT:PROTEIN RATIO USED IN THE CLASS III PROTEIN PRICE BASED ON CURRENT AND FUTURE FEDERAL ORDER STATISTICS.

1. USDA should look at all available component data on a weighted basis to determine the fat to protein ratio in producer milk. (Tr. 665, 18-25; Tr. 666, 1-25; Tr. 667, 1)

E. USDA SHOULD RETAIN THE CURRENT PRACTICE OF PRICING PRODUCER COMPONENT VALUES THE SAME AS CLASS III MILK COMPONENT VALUES.

1. Using the same Producer and Class III component values provides for easier use of accepted hedging tools, such as Class III futures contracts, and helps simplify pricing for producers. It also keeps the Producer Butterfat Price the same in all Federal Orders with multiple component pricing. (Tr. 245, 20-25; Tr. 26, 1-10; Tr. 576, 6-14; Tr. 1543, 19-21; Tr. 1658, 22-25; Tr. 1659, 1-12; Tr. 1816, 11-23)
2. Pricing Class III butterfat using the current yield relationship to butter price, reflects historical fat pricing practice and the price of milk ingredients, such as cream. The yield factor between butterfat and butter currently adopted in the butter price formulas is accepted by industry, and will provide less confusion than a Class III butterfat price not related to butter. (Tr. 254, 20-25; Tr. 246, 1-10; Tr. 576, 6-14; Tr. 1543, 19-21; Tr. 1656, 8-25 Tr. 1657 1-22 Tr. 1816, 11-23)

F. USDA SHOULD PROVIDE OPPORTUNITY FOR INDUSTRY COMMENTS BEFORE IMPLEMENTING A FINAL DECISION.

1. No emergency exists because current Class III and IV pricing is not inconsistent with BFP and III-A pricing for the period that like data was available, September 1998 - December 1999. (Tr. 1716, 14-25; Tr. 1717, 1-7)
2. Providing a recommended decision or an interim final decision will allow industry the opportunity to suggest any fine-tuning necessary to provide for a workable system, without the need for an additional hearing. (Tr. 201, 21-25; Tr. 202, 1-8; Tr. 331, 4-25; Tr. 332, 1-6; Tr. 1659, 13-20)

III. Conclusion.

There is strong consensus among industry at this hearing that major changes to the yield factors used to determine milk component values are not necessary at this time. Use of the same component values for Producer and Class III milk will prevent additional confusion and complications under the pricing system, and will allow producers to better use tools such as futures markets to hedge future milk prices. No major cooperative, private processor, or their trade associations are recommending major overhauls of yield formulas at this time. The majority of argument appears to be on the issue of manufacturing allowances. National All-Jersey has no formal position on this issue.

For these reasons, we respectfully request that USDA adopt a rule on Class III and IV pricing formulas consistent with the positions outlined in this brief.

Respectfully Submitted,

(signature)

Michael L. Brown

General Manager, National All-Jersey Inc.