



**Exhibits of Tom Wegner**

**In Support of Proposal 1 of California Dairies, Inc.,  
Dairy Farmers of America, Inc., and Land O'Lakes, Inc.**

**Proposal to Establish a Federal Milk Marketing Order for the  
State of California**

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- Exhibit 3.A Uniform Provisions Sections 1051.25, .26, .27, .28, .77, .78, .85, .86 (7 pages)
- Exhibit 3.B 1051.61 Computation of Producer Component Prices and Producer Price Differential (1 page)

## Cooperatives' Exhibit 3.A

### Uniform Provisions Sections 1051.25, .26, .27, .28, .77, .78, .85, .86

#### **§ 1051.25 Market administrator.**

(a) Designation. The agency for the administration of the order shall be a market administrator selected by the Secretary and subject to removal at the Secretary's discretion. The market administrator shall be entitled to compensation determined by the Secretary.

(b) Powers. The market administrator shall have the following powers with respect to each order under his/her administration:

- (1) Administer the order in accordance with its terms and provisions;
- (2) Maintain and invest funds outside of the United States Department of the Treasury for the purpose of administering the order;
- (3) Make rules and regulations to effectuate the terms and provisions of the order;
- (4) Receive, investigate, and report complaints of violations to the Secretary; and
- (5) Recommend amendments to the Secretary.

(c) Duties. The market administrator shall perform all the duties necessary to administer the terms and provisions of each order under his/her administration, including, but not limited to, the following:

- (1) Employ and fix the compensation of persons necessary to enable him/her to exercise the powers and perform the duties of the office;
- (2) Pay out of funds provided by the administrative assessment, except expenses associated with functions for which the order provides a separate charge, all expenses necessarily incurred in the maintenance and functioning of the office and in the performance of the duties of the office, including the market administrator's compensation;
- (3) Keep records which will clearly reflect the transactions provided for in the order and upon request by the Secretary, surrender the records to a successor or such other person as the Secretary may designate;
- (4) Furnish information and reports requested by the Secretary and submit office records for examination by the Secretary;
- (5) Announce publicly at his/her discretion, unless otherwise directed by the Secretary, by such means as he/she deems

appropriate, the name of any handler who, after the date upon which the handler is required to perform such act, has not:

- (i) Made reports required by the order;
- (ii) Made payments required by the order; or
- (iii) Made available records and facilities as required pursuant to § 1000.27;

(6) Prescribe reports required of each handler under the order. Verify such reports and the payments required by the order by examining records (including such papers as copies of income tax reports, fiscal and product accounts, correspondence, contracts, documents or memoranda of the handler, and the records of any other persons that are relevant to the handler's obligation under the order), by examining such handler's milk handling facilities, and by such other investigation as the market administrator deems necessary for the purpose of ascertaining the correctness of any report or any obligation under the order. Reclassify skim milk and butterfat received by any handler if such examination and investigation discloses that the original classification was incorrect;

(7) Furnish each regulated handler a written statement of such handler's accounts with the market administrator promptly each month. Furnish a corrected statement to such handler if verification discloses that the original statement was incorrect; and

(8) Prepare and disseminate publicly for the benefit of producers, handlers, and consumers such statistics and other information concerning operation of the order and facts relevant to the provisions thereof (or proposed provisions) as do not reveal confidential information.

#### **§ 1051.26 Continuity and separability of provisions.**

(a) Effective time. The provisions of the order or any amendment to the order shall become effective at such time as the Secretary may declare and shall continue in force until suspended or terminated.

(b) Suspension or termination. The Secretary shall suspend or terminate any or all of the provisions of the order whenever he/she finds that such provision(s) obstructs or does not tend to effectuate the declared policy of the Act. The order shall terminate whenever the provisions of the Act authorizing it cease to be in effect.

(c) Continuing obligations. If upon the suspension or termination of any or all of the provisions of the order there are any obligations arising under the order, the final accrual or ascertainment of which requires acts by any handler, by the market administrator or by any

other person, the power and duty to perform such further acts shall continue notwithstanding such suspension or termination.

(d) Liquidation.

(1) Upon the suspension or termination of any or all provisions of the order the market administrator, or such other liquidating agent designated by the Secretary, shall, if so directed by the Secretary, liquidate the business of the market administrator's office, dispose of all property in his/her possession or control, including accounts receivable, and execute and deliver all assignments or other instruments necessary or appropriate to effectuate any such disposition; and

(2) If a liquidating agent is so designated, all assets and records of the market administrator shall be transferred promptly to such liquidating agent. If, upon such liquidation, the funds on hand exceed the amounts required to pay outstanding obligations of the office of the market administrator and to pay necessary expenses of liquidation and distribution, such excess shall be distributed to contributing handlers and producers in an equitable manner.

(e) Separability of provisions. If any provision of the order or its application to any person or circumstances is held invalid, the application of such provision and of the remaining provisions of the order to other persons or circumstances shall not be affected thereby.

**§ 1051.27 Handler responsibility for records and facilities.**

Each handler shall maintain and retain records of its operations and make such records and its facilities available to the market administrator. If adequate records of a handler, or of any other persons, that are relevant to the obligation of such handler are not maintained and made available, any skim milk and butterfat required to be reported by such handler for which adequate records are not available shall be considered as used in the highest priced class.

(a) Records to be maintained.

(1) Each handler shall maintain records of its operations (including, but not limited to, records of purchases, sales, processing, packaging, and disposition) as are necessary to verify whether such handler has any obligation under the order and if so, the amount of such obligation. Such records shall be such as to establish for each plant or other receiving point for each month:

(i) The quantities of skim milk and butterfat contained in, or represented by, products received in any form, including inventories on hand at the beginning of the month.

- according to form, time, and source of each receipt;
- (ii) The utilization of all skim milk and butterfat showing the respective quantities of such skim milk and butterfat in each form disposed of or on hand at the end of the month; and
  - (iii) Payments to producers, dairy farmers, and cooperative associations, including the amount and nature of any deductions and the disbursement of money so deducted.

(2) Each handler shall keep such other specific records as the market administrator deems necessary to verify or establish such handler's obligation under the order.

(b) Availability of records and facilities. Each handler shall make available all records pertaining to such handler's operations and all facilities the market administrator finds are necessary to verify the information required to be reported by the order and/or to ascertain such handler's reporting, monetary, or other obligation under the order. Each handler shall permit the market administrator to weigh, sample, and test milk and milk products and observe plant operations and equipment and make available to the market administrator such facilities as are necessary to carry out his/her duties.

(c) Retention of records. All records required under the order to be made available to the market administrator shall be retained by the handler for a period of 3 years to begin at the end of the month to which such records pertain. If, within such 3-year period, the market administrator notifies the handler in writing that the retention of such records, or of specified court action specified in such notice, the handler shall retain such records, or specified records, until further written notification from the market administrator. The market administrator shall give further written notification to the handler promptly upon the termination of the litigation or when the records are no longer necessary in connection therewith.

**§ 1051.28 Termination of obligations.**

(a) Except as provided in paragraphs (b) and (c) of this section, the obligation of any handler to pay money required to be paid under the terms of the order shall terminate 2 years after the last day of the month during which the market administrator receives the handler's report of receipts and utilization on which such obligation is based, unless within such 2-year period, the market administrator notifies the handler in writing that such money is due and payable. Service of such written notice shall be complete upon

mailing to the handler's last known address and it shall contain, but need not be limited to, the following information:

- (1) The amount of the obligation;
- (2) The month(s) on which such obligation is based; and
- (3) If the obligation is payable to one or more producers or to a cooperative association, the name of such producer(s) or such cooperative association, or if the obligation is payable to the market administrator, the account for which it is to be paid.

(b) If a handler fails or refuses, with respect to any obligation under the order, to make available to the market administrator all records required by the order to be made available, the market administrator may notify the handler in writing, within the 2-year period provided for in paragraph (a) of this section, of such failure or refusal. If the market administrator so notifies a handler, the said 2-year period with respect to such obligation shall not begin to run until the first day of the month following the month during which all such records pertaining to such obligation are made available to the market administrator.

(c) Notwithstanding the provisions of paragraphs (a) and (b) of this section, a handler's obligation under the order to pay money shall not be terminated with respect to any transaction involving fraud or willful concealment of a fact, material to the obligation, on the part of the handler against whom the obligation is sought to be imposed.

(d) Unless the handler files a petition pursuant to section 8c(15)(A) of the Act and the applicable rules and regulations (7 CFR 900.50 through 900.71) within the applicable 2-year period indicated below, the obligation of the market administrator:

- (1) To pay a handler any money which such handler claims is due under the terms of the order shall terminate 2 years after the end of the month during which the skim milk and butterfat involved in the claim were received; or
- (2) To refund any payment made by a handler (including a deduction or offset by the market administrator) shall terminate 2 years after the end of the month during which payment was made by the handler.

#### **1051.77 Adjustment of accounts**

Whenever audit by the market administrator of any handler's reports, books, records, or accounts, or other verification discloses errors resulting in money due the market administrator from a handler, or due a handler from the market administrator, or due a producer or cooperative association from a handler, the market

administrator shall promptly notify such handler of any amount so due and payment thereof shall be made on or before the next date for making payments as set forth in the provisions under which the error(s) occurred.

**1051.78 Charges on overdue accounts**

Any unpaid obligation due the market administrator, producers, or cooperative associations from a handler pursuant to the provisions of the order shall be increased 1.0 percent each month beginning with the day following the date such obligation was due under the order. Any remaining amount due shall be increased at the same rate on the corresponding day of each succeeding month until paid. The amounts payable pursuant to this section shall be computed monthly on each unpaid obligation and shall include any unpaid charges previously computed pursuant to this section. The late charges shall accrue to the administrative assessment fund. For the purpose of this section, any obligation that was determined at a date later than prescribed by the order because of a handler's failure to submit a report to the market administrator when due shall be considered to have been payable by the date it would have been due if the report had been filed when due.

**1051.85 Assessment for order administration**

On or before the payment receipt date specified under ~~1050.71~~, *Section 1051.71*, each handler shall pay to the market administrator its pro rata share of the expense of administration of the order at a rate specified by the market administrator that is no more than 8 cents per hundredweight with respect to:

- (a) Receipts of producer milk (including the handler's own production) other than such receipts by a handler described in Section 1000.9(c) that were delivered to pool plants of other handlers;
- (b) Receipts from a handler described in Section 1000.9(c);
- (c) Receipts of concentrated fluid milk products from unregulated supply plants and receipts of nonfluid milk products assigned to Class I use pursuant to Section 1000.43(d) and other source milk allocated to Class I pursuant to Sections 1000.44(a)(3) and (8) and the corresponding steps of Section 1000.44(b), except other source milk that is excluded from the computations pursuant to Sections ~~1050.60(h)~~ and (i); and

*1051.60(h)*

(d) Route disposition in the marketing area from a partially regulated distributing plant that exceeds the skim milk and butterfat subtracted pursuant to Sections 1000.76(a)(1)(i) and (ii).

#### **1051.86 Deductions for marketing services**

(a) Except as provided in paragraph (b) of this section, each handler in making payments to producers for milk (other than milk of such handler's own production) pursuant to Section \_\_\_\_\_.73 of each Federal milk order shall deduct an amount specified by the market administrator that is no more than 7 cents per hundredweight and shall pay the amount deducted to the market administrator not later than the payment receipt date specified under Section \_\_\_\_\_.71 of each Federal milk order. The money shall be used by the market administrator to verify or establish weights, samples and tests of producer milk and provide market information for producers who are not receiving such services from a cooperative association. The services shall be performed in whole or in part by the market administrator or an agent engaged by and responsible to the market administrator.

(b) In the case of producers for whom the market administrator has determined that a cooperative association is actually performing the services set forth in paragraph (a) of this section, each handler shall make deductions from the payments to be made to producers as may be authorized by the membership agreement or marketing contract between the cooperative association and the producers. On or before the 15th day after the end of the month (except as provided in Section 1000.90), such deductions shall be paid to the cooperative association rendering the services accompanied by a statement showing the amount of any deductions and the amount of milk for which the deduction was computed for each producer. These deductions shall be made in lieu of the deduction specified in paragraph (a) of this section.



**Cooperatives' Exhibit 3.B      1051.61 Computation of Producer Component Prices and Producer Price Differential**

Month		Total Butterfat Pounds in Producer Milk	Total Protein Pounds in Producer Milk	Total Other Solids Pounds in Producer Milk
<b>December</b>	<b>2013</b>	<b>112,348,468</b>	<b>91,887,703</b>	<b>163,453,498</b>

PPD Value	Class III Butterfat Price	Class III Protein Price	Class III Other Solids Price	PPD
<b>\$ 11,178,073.29</b>	<b>\$ 1.7672</b>	<b>\$ 3.5390</b>	<b>\$ 0.3826</b>	<b>\$ 0.39</b>

Percentage Contribution of Butterfat to Value of Class III Components to Producers	Percentage Contribution of Protein to Value of Class III Components to Producers	Percentage Contribution of Other Solids to Value of Class III Components to Producers
<b>32%</b>	<b>55%</b>	<b>13%</b>

Annually computed by the Market Administrator and reported on January 1 of the year for which the percentages will apply; the percentages will be computed as an average based on the prior fiscal year of December 1<sup>st</sup> through November 30<sup>th</sup>.

PPD Adjusted Producer Butterfat Price	PPD Adjusted Producer Protein Price	PPD Adjusted Producer Other Solids Price
<b>\$ 1.7990</b>	<b>\$ 3.6059</b>	<b>\$ 0.3915</b>

$$\begin{aligned}
 \text{PPD Adjusted Producer Butterfat Price} &= \$1.7672 + (((\$11,178,073.29) 0.32) / 112,348,468)) \\
 &= ~~\$1.7673 + \$0.0318~~ \quad \$1.7672 + \$0.0318 \\
 &= \$1.7990
 \end{aligned}$$

$$\begin{aligned}
 \text{PPD Adjusted Producer Protein Price} &= \$3.5390 + (((\$11,178,073.29) 0.55) / 91,887,703)) \\
 &= \$3.5390 + \$0.0669 \\
 &= \$3.6059
 \end{aligned}$$

$$\begin{aligned}
 \text{PPD Adjusted Producer Other Solids Price} &= \$0.3826 + (((\$11,178,073.29) 0.13) / (163,458,498)) \\
 &= \$0.3826 + \$0.0089 \\
 &= \$0.3915
 \end{aligned}$$