EXHIBIT EIGHTY

Testimony of Dr. Robert Yonkers
Representing the International Dairy Foods Association
May 2009 Federal Milk Marketing Order Hearing
Docket No. AO-14-A78, et al.

This testimony is submitted on behalf of the International Dairy Foods Association (IDFA), a trade association representing manufacturers, marketers, distributors, and suppliers of fluid milk and related products, ice cream and frozen dairy deserts, and cheese. IDFA represents the nation's dairy manufacturing and marketing industries and their suppliers, with a membership of 530 companies representing an industry whose retail value of production exceeds $100 billion annually. IDFA is composed of three constituent organizations: the Milk Industry Foundation (MIF), the National Cheese Institute (NCI) and the International Ice Cream Association (IICA). IDFA's 220 dairy processing members run more than 600 plant operations, and range from large multi-national organizations to single-plant companies. Together they represent more than 80% of the fluid milk, cultured dairy products, cheeses and frozen dairy desserts produced and marketed in the United States.

As buyers and processors of milk, the members of IDFA and its constituent organizations have a critical interest in these hearings. Most of the milk bought and handled by IDFA members is purchased under the

Federal milk marketing orders promulgated pursuant to the Agricultural Marketing Agreement Act of 1937 (the "AMAA").

I am Dr. Robert Yonkers, Vice President and Chief Economist at the International Dairy Foods Association ("IDFA"), where I have worked since June 1998. I hold a Ph.D. in Agricultural Economics from Texas A&M University (1989); a Masters degree in Dairy Science from Texas A&M (1981); and a Bachelors degree in Dairy Production from Kansas State University (1979).

Prior to taking my current position at IDFA, I was a tenured faculty member in the Department of Agricultural Economics and Rural Sociology at The Pennsylvania State University, where I was employed for nine years. At Penn State, I conducted research on the impacts of changing marketing conditions, alternative public policies, and emerging technologies on the dairy industry. In addition, I had statewide responsibilities to develop and deliver extension materials and programs on topics related to dairy marketing and policy. I have written and spoken extensively on economic issues related to the dairy industry, and I have prepared and delivered expert witness testimony to state legislatures and to Congress.

IDFA submitted a petition simultaneously with National Milk Producers Federation (NMPF) to USDA on January 30, 2009 requesting that a hearing be held to consider our proposals to modify federal order regulations in all marketing areas with respect to producer-handlers and exempt handlers. These proposals are Proposals 1 and 2 in the notice of hearing for this proceeding. IDFA urges USDA to adopt Proposals 1 and 2 as they and only they best address the issues cited in the IDFA and NMPF petitions. Since my testimony today follows that of Dr. Roger Cryan of NMPF in support of Proposals 1 and 2, I do not plan to restate all the facts in his testimony, but rather will supplement his testimony from the perspective of IDFA.

Federal orders establish the minimum price that dairy handlers must pay dairy farmers and their cooperatives. The minimum price established for Class I (fluid) milk is intended by design to be the highest of these regulated prices. On the other hand, the regulated minimum price actually received by dairy farmers and cooperatives from handlers is the uniform or blend price, which reflects each Federal order's utilization of each class of milk and the minimum price for each class. Because the regulated minimum price for classes other than Class I are intended by design to be lower than the Class I price, the uniform price is nearly always lower than the Class I price.

Proposal 1 submitted by IDFA and NMPF would eliminate the existing producer-handler exemption from pricing and pooling provisions in all 10 federal milk marketing areas. Producer-handlers currently are entirely exempted from the obligation to pay minimum class prices in 8 of the 10 Federal order milk marketing areas, and are exempted in the other 2 marketing areas if their Class I use remains below 3 million pounds per month. This means that, with respect to Class I milk, a producer-handler can, in effect, pay their own farm milk the uniform price rather than the Class I price. As testified to in detail by Dr. Cryan, this provides a producer-handler a very substantial advantage in the cost of farm milk as compared to the cost incurred by regulated plants processing and marketing Class I fluid milk products, solely as a result of this regulatory exemption.

Having some but not all fluid milk plants subject to the Class I minimum price clearly creates disorderly marketing conditions. Handlers not subject to such regulations can use their artificial cost advantage to offer customers lower priced processed milk, or to offer increased customer services, or to invest additional funds in their plant operations; or they can engage in a combination of these business strategies. All of these opportunities stem from the increased profits artificially created by their regulatory exemption.

By the same token, exempting producer-handlers creates disorderly marketing, by excluding from the order pool the funds representing the difference between the Class I and uniform price with respect to the producer-handler's sales volumes. This denies other dairy farmers and their cooperatives a uniform price, because the producer-handler can derive and keep a price in excess of the uniform price by selling its fluid milk products to customers based on a farm milk price above the uniform price but still below the Class I minimum price.

Whatever historical justification may have once existed for the producer-handler exemption, it clearly no longer applies in light of the significant structural changes which have occurred at all levels of the dairy product marketing chain. This is true nowhere as much as at the farm level.

At the farm level, not only has the average farm size increased, whether measured in terms of number of milk cows or total farm milk marketings, but the share of total U.S. farm milk production from the largest farm size categories has also grown substantially. USDA reports that in 2008 the 730 dairy farms in the U.S. with 2000 or more milk cows accounted for 30.5% of all U.S. milk production that year. This is significantly up from 1998, the first year USDA began reporting the 2,000 or more milk cows category, when 235 such farms accounted for only 8.4% of milk production that year. Combined with the 2,620 dairy farms with between 500 and 1,999 milk cows, farms with more than 500 milk cows accounted for 58.5% of U.S. milk production last year.

To put this in perspective, the top five states ranked by milk production per cow had an average of more than 23,000 pounds produced per cow. This means that a farm in these states with 500 milk cows produced on average 11.5 million pound of milk per year, nearly 1 million pounds per month. A 2,000 cow herd with a 23,000 pound per cow average would produce 46 million pounds per year, nearly 4 million pounds per month. Clearly, very large farms, with levels of total milk production never contemplated during the decades when the producer-handlers were exempt from pricing and pooling regulations of federal orders, are a fact of life in the marketplace today. The pernicious impact of broad exemptions for producer handlers has simply grown too large to ignore any longer.

IDFA and NMPF also propose a concomitant increase in the exemption for all smaller handlers (Proposal 2), from 150,000 pounds of fluid milk a month to 450,000 pounds a month. This will preserve the exemption from regulation for those plants too small to cause material market disruption, including those small plants previously exempted as producer-handlers.

As Dr. Cryan noted in his testimony, the current 150,000 pounds per month threshold was adopted in all federal milk marketing areas beginning January 1, 2000 as part of what is known as federal order reform. In the final decision to implement that provision, USDA noted that this was the highest volume threshold then in existence in federal order marketing areas prior to 2000, and Dr. Cryan noted that this limit first was adopted in the West Texas - New Mexico marketing area in 1991.

Since the 1990 data that was available at the time this provision was adopted in the West Texas - New Mexico marketing area, the average volume of fluid milk products produced by U.S. fluid milk bottling plants operated by commercial processors has roughly doubled, from 93.9 million pounds annually in 1990 to 189.8 million pounds in 2007 (the most recent data available). While this might suggest the current threshold should also be doubled, IDFA and NMPF support tripling it; after all, the data clearly show that average fluid milk bottling plant volumes continue to increase over time, and Proposal 2 allows for future growth while keeping the limit in line with the industry structure at the time the threshold was first adopted in the early 1990's.

Proposal 2 also requires that an exempt plant sell its fluid milk products using unique labels, lest this exemption be abused through the establishment of numerous "small" plants effectively linked together so as to market their milk jointly and to garner the advantages of a large plant without being subjected to minimum price regulations. This is not intended to prevent an exempt plant from marketing packaged fluid milk under more than one label; for example, an exempt plant could have its own label, as well as another for a local home delivery distributor solely supplied by that exempt plant, and even have a third label for a local grocery store solely supplied by that exempt plant. This provision of Proposal 2 is intended to prevent a large distributor, retailer or other entity from coordinating the production of fluid milk products from a number of smaller, exempt plants under the same label. As an example only, an exempt plant under this proposal should not be able to distribute a fluid milk product under the name "IDFA Milk Company" if any other handler also distributes a fluid milk product using that same label name.

While a number of other proposals were submitted by other parties and included in the hearing notice, IDFA urges USDA to reject those and only adopt Proposals 1 and 2. The proposals which seek to continue the producer-handler exemption from pricing and pooling provisions with some volume limit could in effect continue the problem of disorderly marketing created by this exemption. In particular, Proposals 23 and 24 would create new incentives for existing regulated handlers to invest in dairy farms and/or retail stores for the sole purpose of gaining a new exemption from pricing and pooling regulations on at least a portion of their Class I sales.

Proposal 25, rather than being innovative, instead proposes going back many years when such a provision existed in federal orders. There were many hearings over many years in which this type of provision was found to contribute to disorderly marketing, and IDFA urges USDA to reject its adoption today.

Number and average size of U. S. fluid milk bottling plants operated by commercial processors, 1950-2007 1/

Year	Number	Average volume processed	Year	Number	Average volume processed
		Million pounds			Million pounds
1950	8,195	4.3	1980	1,066	50.1
1951	7,867	4.7	1981	1,036	51.3
1952	7,508	5.1	1982	952	55.1
1953	7,238	5.5	1983	863	61.5
1954	6,979	5.8	1984	846	63.9
1955	6,726	6.3	1985	803	68.9
1956	6,472	6.8	1986	754	74.1
1957	6,187	7.3	1987	710	78.8
1958	5,888	7.8	1988	665	83.6
1959	5,571	8.3	1989	638	89.2
1960	5,328	8.8	1990	605	93.9
1961	4,959	9.5	1991	580	98.5
1962	4,683	10.3	1992	555	103.0
1963	4,482	11.0	1993	550	103.2
1964	4,103	12.3	1994	521	109.6
1965	3,743	13.7	1995	504	113.3
1966	3,379	15.4	1996	475	121.3
1967	2,978	16.8	1997	462	124.4
1968	2,656	19.0	1998	442	130.0
1969	2,473	20.6	1999	435	133.6
1970	2,216	23.6	2000	405	143.2
1971	2,097	25.4	2001	393	150.2
1972	1,859	28.9	2002	385	154.2
1973	1,627	32.9	2003	386	155.9
1974	1,484	35.3	2004	368	162.0
1975	1,408	37.8	2005	336	180.7
1976	1,361	39.4	2006	335	185.5
1977	1,284	41.9	2007	327	189.8
1978	1,215	44.2			
1979	1,135	47.3			

1/ Most recent year are preliminary estimates.
Source: Compiled by ERS from Federal milk market order and various State data.
Contact: Don Blayney, (202) 694-5171,dblayney@ers,usda.gov.
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