



1400 Independence Avenue, SW  
Room 2530-S, STOP 0225  
Washington, D.C. 20250-0225

July 24, 2023

Mr. Samuel Kieffer  
Vice President, Public Policy  
American Farm Bureau Federation  
500 Maryland Ave., S.W.  
Suite 1000W  
Washington, DC 20024

Dear Mr. Kieffer:

This letter is in reply to American Farm Bureau Federation's (AFBF) proposals submitted in response to a Request for Additional Proposals relating to the pricing formulas of the Federal milk marketing order (FMMO) program. USDA received AFBF's 14 proposals on June 14, 2023, and subsequent modifications on June 20, 2023.

A Hearing Notice has been published in the Federal Register announcing a hearing will convene at 9:00 a.m. ET on Wednesday, August 23, 2023, at 502 East Event Centre in Carmel, Indiana. Testimony and evidence will be taken on the following proposals submitted by AFBF:

- Proposal 8 to eliminate advanced pricing of Class I milk and Class II skim milk;
- Proposal 9 to update the Class II differential with current drying costs;
- Proposal 10 to add 640-pound blocks to the Class III protein calculation and National Dairy Products Sales Report (NDPSR) survey; and
- Proposal 11 to add unsalted butter to the butterfat and protein calculation and NDPSR survey.

Testimony and evidence will also be taken on AFBF's Proposals 1 through 4 supporting proposals submitted by National Milk Producers Federation and included in the Hearing Notice. We encourage AFBF to participate in the hearing to provide evidence regarding why your proposals should be adopted. Please refer to the Hearing website ([www.ams.usda.gov/rules-regulations/moa/dairy/hearings/national-fmmo-pricing-hearing](http://www.ams.usda.gov/rules-regulations/moa/dairy/hearings/national-fmmo-pricing-hearing)) for full information on how to participate.

The Secretary has determined the hearing will be limited in scope to amendments directly impacting the uniform pricing formulas of all FMMOs. USDA received several proposals that did not relate directly to the uniform FMMO pricing formulas and are beyond the scope of the upcoming rulemaking. Not including the proposals in this rulemaking proceeding does not prevent AFBF from offering the proposals for consideration in a separate rulemaking proceeding. Requirements for submitting a proposal are outlined in 7 CFR 900.22 and are outlined at [www.ams.usda.gov/sites/default/files/media/DairyMarketingOrderAmendmentBrochure.pdf](http://www.ams.usda.gov/sites/default/files/media/DairyMarketingOrderAmendmentBrochure.pdf)

Regarding proposals submitted by AFBF specifically, the following will not be heard:

Proposal 5 and Proposal 6

Proposals 5 and 6 seek to adjust Class III and IV make allowances and yields using a mandatory and audited USDA cost and yield survey. USDA does not currently have the legal authority to conduct a mandatory cost and yield survey. Congress must grant additional authority for USDA to conduct a mandatory cost and yield survey. Therefore, these proposals are denied.

Proposal 7

Proposal 7 recommends providing producers with additional market information by creating universal milk check transparency requirements, including clarification of the value of pooled milk. As this change does not seek to amend the uniform FMMO pricing formulas, the proposal does not fall within the scope of this hearing and will not be heard at this time. However, since this issue does not affect prices, USDA encourages AFBF to explore amendments on this subject through the informal rulemaking process.

Proposal 12

Proposal 12 seeks to adjust make allowances for cooperatives and plants that balance the market. As was discussed during the Information Session on June 16, 2023, this proposal would result in individual plant specific manufacturing allowances. As such, the proposal would conflict with the uniform handler pricing provision of the Agricultural Marketing Agreement Act (7 U.S.C. 608c(5)). Therefore, this proposal is denied.

Proposal 13

Proposal 13 recommends adjusting Class I differentials to address seasonal differences in supply and demand. This proposal was submitted without a developed process for setting appropriate seasonal Class I differential levels or how they could be determined. Therefore, the proposal will not be heard at this time.

Proposal 14

Proposal 14 seeks to extend the 30-day limit to 45 days for nonfat dry milk in the National Dairy Price Sales Report. As this change does not seek to amend the uniform FMMO pricing formulas, the proposal does not fall within the scope of this hearing and will not be heard at this time. AFBF may explore amendments on this subject through the informal rulemaking process.

Thank you for your interest in the FMMO program. We look forward to your participation in the hearing process.

Sincerely,

/s/

Dana H. Coale  
Deputy Administrator  
USDA-AMS-Dairy Program