

United State Department of Agriculture
Before the Secretary of Agriculture

In re:) Docket Nos. AO 14-A69, et al.; DA-00-03
Milk in the Northeast and)
Other Marketing Areas)
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Comments of Hilmar Cheese Company Regarding the Recommended Decision

Hilmar Cheese Company files these comments with respect to the recommended decision regarding changes to the Class III and IV pricing formulas, published October 25, 2001 (66 Fed. Reg. 54063-96). Hilmar Cheese Company operates a cheese and whey products facility in Hilmar, California. We are the largest cheese and whey facility in the world, with daily production of up to one million pounds of cheese.

It may seem odd that we, a California dairy plant, would comment on the decision of a Federal Market Order system that does not regulate us. However, we feel that the recommended decision sets a dangerous precedent for dairy product pricing as a whole.

Hilmar Cheese Company disagrees with some details of the recommended decision, but more importantly, we disagree with the attempt to capture every conceivable component of the cheese making process, therefore removing flexibility and innovation from the menu of business options.

Our main concerns are lack of flexibility, overvaluation of components, and the price enhancement effect of the recommended decision.

1. Flexibility. The formal rulemaking required in Federal Orders makes it very difficult to adjust Federal Order regulations. Unlike California, where we can expect decisions from the California Department of Food and Agriculture (CDFA) within two months, Federal Order hearing processes and decisions can take more than a year.

Because formulas are designed using the data and manufacturing processes that are available at the time of the hearing, and because those formulas are not likely to be

changed quickly and will be in place during various economic and market conditions, it is imperative that USDA recognize the necessity of allowing for inevitable variations. Market over-order premiums can, and will, respond to market conditions to provide appropriate market signals to producers to move their milk to the most appropriate use. Over-order premiums will also provide a buffer for changes in costs of manufacturing.

As many producers and processors across the country are finally beginning to work on innovative dairy products, it is critical that incentives are available to them to develop new and forward-thinking products that will meet the consumer's demands, both here and abroad. Over-order market premiums allow for this innovation, both on the farm and in the plant. We urge you to use yield factors and make allowances that minimize the intrusion of regulated prices on real-world market economics. This point was made in testimony by a noted dairy economist (Stephenson (Cornell) Testimony, Tr. 1004-1006).

2. Overvaluation. Yield factors should account for loss of components. Milk is measured and paid for based on its volume and component level in the farm milk tank. However, the volume and market price for finished product is used to calculate minimum component values. This does not account for any losses in components between the farm and processor. Fat's tendency to cling to tank, pipe and silo surfaces means that there is a difference between farm components and plant components. Taylor ((Leprino) Testimony, Tr. 1728) testified that the differences in fat tests average 0.015. We find that our fat loss is similar to that.

Cost studies do not account for this shrinkage because they only reflect operating costs, not the cost of milk that is paid for but not actually converted into marketable products. I have confirmed with CDFA that there is no adjustment in their cost studies to account for shrinkage between farm and plant. Their cost studies begin in the plant receiving area.

In addition, the recommended decision prices the fat that is lost to the whey stream and collected as whey cream at the sweet butter price. This is unrealistic. Reinke ((Kraft) Testimony, Tr. 1041) testified that the value of butterfat in whey cream is discounted versus its value in sweet cream. Our California regulated pricing system recognizes a discount to value whey fat in its 4b formula (milk for cheese).

3. Price enhancement. If regulated prices are to be calculated using end-product pricing formulas, those formulas must be low enough to allow competitive premiums generated by market forces. This will move milk to its highest and best use. The rigid nature of regulated end-product pricing endangers the very qualities which will propel the dairy industry forward—innovation and investment. The regulated price level, even if using end-product pricing, must be set at a point that allows the market to work and allows producers and processors to make adjustments to respond to those forces outside the regulated system. This is the only way that innovation and investment can be rewarded and become an integral part of the dairy industry.

The Class III formula, as suggested by the recommended decision, results in a regulated price that is too high. This formula should be adjusted to result in a lower regulated price level to provide room above it to react more quickly and directly to market forces.

Respectfully submitted,



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FROM: John PeterDATE: 1-25-02 PAGES (Including Cover Sheet) 4MESSAGE: Comments onDocket Nos. AO 14-A69, et al.; DA-00-03

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