

Land O'Lakes, Inc.



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Dairy Foods

September 27, 2005

MS. Dana Coale, Deputy Administrator
USDA – AMS – Dairy Programs
1400 Independence Avenue, SW
Washington, DC 20250-0225

Re: Request for Emergency Hearing on Class III and IV Make Allowances

Dear Ms Coale,

Land O'Lakes joins Agri-Mark and other parties in requesting a Federal Order hearing to update the cost calculations that determine the Class III and IV make allowances.

Land O'Lakes is a Capper-Volstead cooperative with a national membership base of 3,500 dairy-farmers, pooled on six federal orders. Land O'Lakes operates numerous dairy manufacturing plants throughout the United States and is very aware of the differences in current processing costs from those cited in the hearing record of the May 2000 hearing. That hearing record established the current make allowances. Land O'Lakes is prepared to testify regarding current costs at its cheese and butter/powder plants and we believe the difference in processing costs justify an emergency hearing.

The May 2000 Hearing record included 1998 and 1999 costs from federal order and California manufacturing plants. Current processing costs are not reflective of those base surveys. For example, the U.S. Energy Information Administration reports that the national average price of commercial natural gas was \$5.48 per mcf in 1998, compared to an average price of \$9.26 in 2004, representing an increase of almost 70-percent for a critical processing input. Other processing inputs have also increased during the six-year period. The California Department of Food and Agriculture (CDFA) annually collect and audit processing costs from the state's manufacturing plants. The weighted average processing costs for butter, powder and cheese in 1999 were \$0.096; \$0.136 and \$0.169, respectively. The most recent (2003) CDFA weighted average processing costs were \$0.1299; \$0.1560 and \$0.1706 for the same commodities. Land O'Lakes believes these changes in processing costs adequately justify an emergency hearing.

Specifically Land O'Lakes requests that the make allowances contained in Section 1000.50 (l), (m), (n), (o) and (q) be updated to reflect current processing costs. These sections

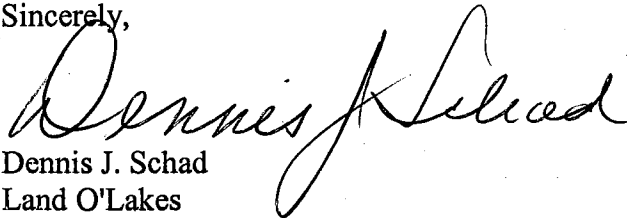
define the butterfat, non-fat solids, protein, other solids and advance butterfat prices under the federal orders. In order to expedite a decision on this hearing, Land O'Lakes proposes that the Hearing Call specifically limit testimony to processing costs and leave yield and product pricing issues for another hearing.

In the Federal Order Reform Final Rule and the Final Decision of the May 2000 Hearing [Docket No. AO-14-A69, et al.: DA-00-03] the Secretary outlined a process of collecting information from various cost surveys to determine manufacturing and processing make allowances. In the Final Decision of the May 2000 Hearing the Secretary relied on the cost data contained Rural Cooperative Business Survey (RCBS) and the CDFA Manufacturing Cost Survey to determine the current make allowances. Currently the RCBS is collecting 2004 processing cost data from cooperatives that operate manufacturing plants and a CDFA is expected to release its 2004 Manufacturing Cost Survey before year's end. At the Hearing, processing costs were submitted by other parties, but they were found defective for various reasons. Land O'Lakes proposes that the Department be open to all manufacturing costs surveys submitted by interested parties engaged in operating cheddar cheese and butter/powder plants.

Through Federal Order Reform and other Decisions, the Secretary has repeatedly stated that the Class III and Class IV prices are meant to represent market clearing prices. To that end, the Secretary has adjusted the relative weighting of the cost surveys so that balancing costs are reflected in the make allowances. When the make allowance formulae no longer represent current processing costs, those handlers who provide a market balancing function suffer the greatest pain. As already stated, Land O'Lakes operates a multiple manufacturing plants with in the federal order system.

Land O'Lakes respectfully requests that the Secretary convene an emergency hearing to address manufacturing make allowances for federal order class prices. If you have any questions, please feel free to contact me at (717) 486-2276.

Sincerely,

A handwritten signature in black ink, appearing to read "Dennis J. Schad". The signature is fluid and cursive, with the first name "Dennis" being more prominent and the last name "Schad" following in a similar style.

Dennis J. Schad
Land O'Lakes
Director of Regulatory Affairs