National Family Farm Coalition
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Deputy Administrator Dana Coale
USDA - AMS - Dairy Programs
1400 Independence Avenue, SW
Washington, D.C. 20250-0225

September 28, 2006

Dear Deputy Administrator Coale,

The following proposals concerning Class III and IV pricing are submitted on behalf of the National Family Farm Coalition (NFFC), a non-profit 501 (c)(3) organization representing 30 grassroots farm and rural organizations across the nation.

The National Family Farm Coalition hereby requests a hearing to reform the price discovery mechanism for Class III and IV milk to conform to the mandates of Section 608c(18) of the 1937 Agricultural Marketing Agreement Act (AMAA). It is imperative that changes be made in light of the financial hardship that dairy farmers face under the current price discovery system.

Many forces at work today combine to hold farm milk prices down. Imported dairy products that keep the supply cup overflowing are a real problem. Concentration at the retail level and in the processing sector has created giants that seek to keep their suppliers' (often co-ops) prices down. Concentration among co-ops has led to co-ops that appear to be out of touch with their members and more concerned with the demands of their customers than they are with the farmer members. These factors have contributed to dairy farmers having little to no power in the marketplace. The result has been low farm milk prices, which have remained relatively flat for the past 25 years. In fact, late spring and summer 2006 milk prices have been below the prices in corresponding months 25 years ago. Dairy farms of all sizes face moderate to severe financial hardship because of prolonged periods of milk prices that fail to cover the cost of producing milk.

We believe that the current price discovery mechanism is inadequate in providing dairy farmers a price that will ". . . insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs and be in the public interest." [1]

In the St. Albans Cooperative Creamery, Inc., et al., Plaintiffs v. Dan Glickman, Secretary of Agriculture, Defendant case, US District Judge William Sessions III cited Dan Glickman for failure to consider dairy farmers' cost of production in the milk pricing

[1] Section 608c(18) 1937 Agricultural Marketing Agreement Act

formula. Judge Sessions made clear in his "Opinion and Order" that ". . . this court looks to the direct language of the statute to determine the sufficiency of the Secretary's consideration, which makes no mention of indirect consideration being adequate in meeting the requirements of 608c(18)." In the December 2000 "Tentative Decision on Proposed Amendments for Class III and IV Pricing", commenting on cost of production, USDA conceded that "If a sound mechanical concept could be advanced that overcomes the objections relative to supply and demand, it should be considered."

Proposals

We propose that the Class III and IV price for milk be determined by dairy farmers' average cost of production.

1. Basis for establishing Class III and IV price: Notwithstanding any other provision of law, the Secretary of Agriculture shall determine the value of Class III and IV milk used in all Federal, State, or unregulated areas by using the dairy farmers' average cost of producing milk in the 48 contiguous states as determined by the Economic Research Service (ERS) of the United States Department of Agriculture (USDA).

2. In determining the value of Class III and IV milk, the Secretary shall use the national average of both the operating cost and the allocated overhead cost minus the opportunity cost of unpaid labor.

3. In determining the national average cost of production in Section 2, the Secretary shall survey dairy farmers regulated by Federal and State milk marketing orders as is currently being done.

4. The national average cost of production figures released by the ERS for the calendar year of 2004 illustrates the following:

A. Total operating cost: $10.38 per hundredweight (cwt).

B. Total allocated overhead cost: $9.45 per cwt.

C. Total cost: $19.83 per cwt.

D. The national average of the opportunity cost of unpaid labor in the calendar year 2004 was $3.78 per cwt.

E. Subtracting the $3.78 per cwt. figure in Section (d) from the $19.83 per cwt. figure in Section (c) leaves a figure of $16.05 per cwt.

F. The opportunity cost of unpaid labor would, in most part, be covered by the existing Class I differentials in the Federal Milk Marketing Orders.

G. If the Class III and IV prices are set at $16.05 per cwt., the Class I price in Boston would be $19.30 per cwt.

5. **Price announcement**:

A. No later than November 1st of each calendar year, the Secretary shall announce the Class III and IV price for the upcoming year. The Secretary shall use the current national average cost of production figures as determined by the ERS, a division of the USDA.

B. The announced price for January 1st of each year shall be adjusted on April 1st, July 1st, and October 1st. The Secretary shall use the most current national average cost of production figures, as provided by the ERS, to make his adjustment.

6. **Estimation of annual milk production and domestic consumption levels**:

A. On November 1st of each calendar year, the Secretary, to the best of his ability, shall estimate the quantity of milk to be produced in the United States and marketed for commercial use during the next 12 months.

7. **Rules of estimate**: When making an estimate under this section, the Secretary shall:

A. Consider import projection of all dairy products.

B. When the imports of dairy products are capped at the current level, the Secretary shall implement the following inventory management program if needed:

a. At the conclusion of each calendar year, the Federal or State Milk Marketing Administrator shall assemble and record each dairy farmer's milk production totals for the concluded year. These figures shall be determined by February 1st of the following calendar year.

b. The Secretary of Agriculture still has the responsibility to clear the market of any possible excessive dairy products. After the Secretary has exhausted all normal and legal channels to dispose of dairy products, he shall be empowered on a "bi-monthly" basis to determine if an over abundance of milk is being produced for the entire domestic market.

c. In the event that an over abundance of milk is being produced, the Secretary shall have the authority to levy a charge on all dairy farmers up to half of the value of Class III and IV milk on up to five percent of total production. If this is not sufficient, the Secretary may levy an additional charge on producers who increase their production over the past year.

d. **Hardship case**: In the event that the Secretary levies additional charges on increased production, the producer will have the right to appeal production basis used for the purpose of determining these charges to the Federal Milk Marketing Administrator's office.

e. The funds shall be collected by the Federal Milk Marketing Administrators or State Milk Marketing Administrators and remitted in a timely fashion to the Commodity Credit Corporation to cover the cost of surplus product.

f. **New producers**: A start up producer could produce up to the average annual production in his/her Federal Milk Marketing Order without facing over- production penalties.

The Class III price will be known as the basic formula price in all milk marketing orders.

These proposals would not result in a windfall to dairy farmers but simply bring the stability that is necessary to adequately maintain their farming operations. It also would provide lenders a benchmark milk price to consider in extending credit. Furthermore, it would give stability to processors who would know what prices to expect and plan accordingly.

We urge you to consider these proposals for pricing and supply management in a timely manner in the upcoming hearing. We further urge that ample notice be given concerning the details of the hearing.