

April 27, 2006

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The Honorable A.G. Kawamura, Secretary
California Department of Food and Agriculture
1220 N. Street
Sacramento, CA 95814

Re: Alternative Proposal for the June 1, 2006 Class 2,3, 4a and 4b hearing

Dear Mr. Secretary,

Milk Producers Council is gravely concerned about the increasingly aggressive approach being taken by Dairy Institute with regard to Class 4b pricing. We offer the following alternatives which apply only to Class 4b pricing in an effort to address the underlying issues with a new set of rules that are somewhat innovative but are mostly common sense approaches to the issues that concern both the producer and handler segments of the California dairy industry. Upon reading the alternatives, which we have labeled as Package A, Package B and Package C (labeled to correspond to the subparagraphs of 300.0(e)(1)), it will be clear that within Packages A and C there are major compromises offered and it is our intent that each of these packages should be considered and implemented as a group.

Package A pertains to the calculation of the Cheese hundredweight price as required in Section 300.0(E)(1)(a) and also adds a new Market Service. The objective of this package is to establish a formula by which producers can be assured that the support price will indeed be the floor price but in a way that does not require handlers to lose money on sales to CCC. The plain language description of the package is that in exchange for a reduced f.o.b. California price adjuster and a snubber on cheese prices at support, producers are willing to allow handlers a percentage of the increase in prices over support as additional margin as well as a direct credit to handlers who actually sell Cheddar Cheese to the Commodity Credit Corporation thru the operation of the support program.

The alternative proposals are:

Section 300.0(E)(1)(a)

1. Change the f.o.b. California Price Adjuster to be 50% of the difference between the California Cheddar Cheese price received and the average of the Chicago Mercantile Exchange (CME). Department data recently released shows this difference to be \$0.0234. The price adjuster in this case would be \$0.012.
2. Implement a snubber at Support Purchase Price whenever the average price used in any month dips below the Support Purchase Price.
3. Install a "Market Margin Allowance" to be deducted from the Cheese Price of 2.5% of the difference between the current Cheese Price and the Support Purchase Price, in the same manner the f.o.b. California price adjuster and cheese manufacturing cost allowance are currently deducted.

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Section 300.3

4. Add a new paragraph, which allows any handler that sells cheese directly to CCC as part of the support price program to deduct a "CCC transaction allowance" of \$0.038 per pound of cheese so sold. The credit will be allowed in the month of actual delivery of said cheese to CCC.

Package B pertains the calculation of whey butterfat value. The objective of our proposal is to have the formula recognize that modern cheese plants seldom, if ever, make whey cream butter (Grade B) but recover their whey cream as cheese.

The alternative proposal is:

1. Value the whey butterfat the same as any other butterfat used in Class 4b products; that is the price computed pursuant to Subparagraph (D)(1) of this section.

Package C pertains to the calculation of whey values. The objective of this package is to address concerns expressed by the petitioner that not only does dry whey not represent a large enough part of the total whey processed but also that dry whey is a market separate (with its own supply and demand situation) from the market to which most whey goes – Whey Protein Concentrate in its various forms. We are proposing to include Whey Protein Concentrate 34% in the formula and use the simple average of the existing net dry whey value and the proposed WPC 34 values in determining the hundredweight value of whey. We do not believe that whey values should be allowed to drop below zero and therefore are proposing to snub both the dry whey value and the WPC 34% value at zero prior to calculating the hundredweight price.

The alternative proposals are:

1. Add a snubber that prevents the whey value from dropping below zero.
2. Adjust the current formula to use the simple average of the net value of dry whey and WPC 34.
3. Add a new subparagraph to define the WPC formula with a yield of 1.8 pounds per hundredweight, a cost per pound of \$.26, and based on the monthly average of the weekly average of "mostly quotes" reported weekly by AMS for the west.

Thank you for your consideration of these alternative proposals. We feel these alternatives provide a balanced approach to the issues raised by Dairy Institute and the concerns of producers. We look forward to supporting our proposals at the hearing.

Sincerely,

William C. Van Dam
Executive Director

Geoffrey Vanden Heuvel
Second Vice President

Enclosure: Proposed Amendments

cc: A. J. Yates, Undersecretary
Kelly Krug, Director, Marketing Services
David Ikari, Dairy Marketing Branch Chief
Board of Directors, Milk Producers Council

Proposed Language Changes to the Northern and Southern California Stabilization and Marketing Plans

Article III

Class Prices

SECTION 300.0 The minimum class prices for the milk fat

(E) The minimum prices to be paid for components used for Class 4b shall be computed as follows:

(1) The Cheese hundredweight price shall be the price per hundredweight computed by the sum of the following:

(a) The price per hundredweight computed by the formula using the Cheddar cheese price, less an f.o.b. California price adjuster of one and two tenths cents (\$0.0120), less a Cheddar cheese manufacturing cost allowance of seventeen and one tenths cents (\$0.171), less a market margin allowance equal to two and one half percent (2.5%) of the result of the subtraction of the support purchase price of block cheese from the Cheddar cheese price, all multiplied by a yield factor of ten and two tenths ((10.2)

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(b) The price per hundredweight computed by the formula using the price per pound of milkfat pursuant to Subparagraph (D)(1) of this Section, multiplied by a yield factor of twenty-seven-hundredths (0.27).

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(c) One half (50%) of the price per hundredweight computed by the formula using the dry whey price, less a manufacturing cost allowance of twenty cents (\$0.20), all multiplied by a yield factor of 5.8; provided that this value shall not be less than zero.

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(d) One half (50%) of the price per hundredweight computed by the fomula using the whey protein concentrate 34% price, less a manufacturing cost allowance of twenty six cents (\$0.26), all multiplied by a yield factor of 1.8; provided that this value shall not be less than zero.

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(2) For all milk fat, not less than the price per pound computed pursuant to Subparagraph (D)(1) of this Section.

(3) For all milk solids-not-fat, not less than the price per pound computed by the formula using the Cheese hundredweight price established pursuant to Subparagraph (E)(1) less the product of three and seventy-two hundredths (3.72) multiplied by the Class 4b fat price established pursuant to Subparagraph (E)(2), all divided by eight and eighty hundredths (8.80).

(4) The Cheddar cheese prices used in calculations pursuant this Paragraph shall be the higher of the simple average of the 40 pound block Cheddar cheese price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month, or the federal support purchase price for block cheese in effect for the 26th of the previous month and concluding the 25th day of the current month as announced by the United State Department of Agriculture.

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(5) The whey protein concentrate 34% prices used in calculations pursuant to this Paragraph shall be the simple average of the f.o.b. Extra Grade 34% Protein – Central and West Mostly prices as published in the Dairy Market News between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.

Deleted: (5) The butter prices used in calculations pursuant this Paragraph shall be the simple average of the Grade AA butter price quotations for the last significant trading action for sale, offer or bid at the Chicago Mercantile Exchange falling between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.¶

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(6) The dry whey prices used in calculations pursuant to this Paragraph shall be the simple average of the Dry Whey – West Mostly prices as published in Dairy Market News between the period beginning the 26th day of the previous month and concluding the 25th day of the current month.

(7) In the event the Chicago Mercantile Exchange 40 pound block Cheddar cheese price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the cheese price used in the prior month's calculation of the Cheese hundredweight price.

(8) In the event that the Chicago Mercantile Exchange Grade AA butter price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the Grade AA butter price used in the prior month's calculation of the Cheese hundredweight price.

(9) In the event that the Dry Whey – West Mostly price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the Dry Whey – West Mostly price used in the prior month's calculation of the Cheese hundredweight price.

(10) In the event that the f.o.b. Extra Grade 34% Protein Central and West Mostly price is not available to calculate the Cheese hundredweight price, pursuant to Subparagraph (E)(1), then used in its place shall be the f.o.b. Extra Grade 34% Protein Central and West Mostly price used in the prior month's calculation of the Cheese hundredweight price.

Section 300.3. Marketing Services.

- (A) Each handler, who installs or maintains handler-owned refrigeration equipment or holding tanks at a producer's dairy location, may make a deduction from the amount due the producer for the services performed, provided said handler has on file a written authorization from the producer stating the amount of the deduction. This deduction may not exceed interest on investment computed at the rate of 6 percent per annum and an allowance for depreciation computed in accordance with depreciation rates established or allowed by the United States Internal Revenue Service.
- (B) Each handler, using nonfat dry milk for fortifying Class 1 products during the current month, may deduct for each pound of milk solids-not-fat in such nonfat dry milk a maximum charge equal to the current Class 1 solids-not-fat price established in Section 300.0, Paragraph (A) less the current Class 4a solids-not-fat price established in Section 300.0, Subparagraph (D)(2). However, in no case shall the deduction be less than zero cents (\$0.0000) nor more than nineteen and eighty-five hundredths cents (\$0.1985). This deduction shall be allowed in calculating the gross pool obligation of such handler, pursuant to the provisions of the Pooling Plan.
- (C) Each handler, using condensed market skim milk for fortifying Class 1 products, may deduct for each pound of milk solids-not-fat in such condensed market skim milk a maximum charge of nine and eighty-seven hundredths cents (\$0.0987). This deduction shall be allowed in calculating the gross pool obligation of such handler, pursuant to the provisions of the Pooling Plan.
- (D) Each handler, concentrating market milk at the plant first receiving such milk direct from the producer's dairy which concentrated milk is used in standardizing or fortifying market milk or any dairy product defined as Class 1, may deduct for each pound of solids in such market milk that is concentrated a maximum charge of nine and eighty-seven hundredths cents (\$0.0987). This deduction shall be allowed in calculating the gross pool obligation of such handler, pursuant to the provisions of the Pooling Plan.
- (E) Each handler, in the month of delivery of block cheddar cheese that is sold to the Commodity Credit Corporation (CCC) as part of CCC's support price activities, may deduct for each pound of such cheese a maximum charge of three and eight tenths cents (\$0.038). This deduction shall be allowed in calculating the gross pool obligation of such handler, pursuant to the provisions of the Pooling Plan.

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(F) In addition to the minimum prices specified, pursuant to Section 300.0, Paragraph (A), each handler, as defined in Article I, Section 100.6, Paragraph (A) or Paragraph (D), shall pay an additional amount to handlers, as defined in Article I, Section 100.6, Paragraph (B), for services performed under the stated conditions as follows:

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- (1) When the handler, as defined in Article I, Section 100.6, Paragraph (B), performs the function of separation of market milk sold as market cream or market skim milk to handlers and used as Class 1, a minimum of one and one-half cents (\$0.015) per pound milk fat and thirty-four hundredths cents (\$0.0034) per pound milk solids-not-fat shall be paid to such handler performing the separation service.
- (2) When the handler, as defined in Article I, Section 100.6, Paragraph (B) performs the function of fortifying market milk with milk solids-not-fat or fortifying market skim milk with milk solids-not-fat, or fortifying and standardizing market milk sold as lowfat milk or standardizing market milk to a prescribed milk fat content, a minimum of forty-five hundredths cents (\$0.0045) per pound solids shall be paid to such selling handler.

(G) In addition to the minimum prices specified pursuant to Section 300.0, Paragraphs (A) and (B), each designated supply handler may charge a call handler for services performed in a sale of bulk market milk for Class 1 use. Such additional charge for bulk milk shall not exceed:

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- (1) The actual rate charged under like terms and conditions for the same or similar bulk milk handling services provided to other bulk milk purchasers, or if no such rate exists,
- (2) The prevailing rates charged by other supply handlers in the procurement region under like terms and conditions for the same or similar bulk milk handling services provided to other bulk milk purchasers, or if no such rates exist,
- (3) A rate subject to review or approval by the Secretary.

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