



Via U.S. Mail and Email to
FMMOhearing@usda.gov

June 20, 2023

Ms. Dana H. Coale
USDA/AMS/Dairy Programs
U.S. Department of Agriculture
STOP-0225 Room 2530
1400 Independence Avenue, S.W.
Washington, D.C. 20250-0225

Re: Modified Petition of the International Dairy Foods Association for a Hearing to Amend Federal Milk Marketing Order Make Allowances

Dear Deputy Administrator Coale:

By letter dated March 28, 2023, as supplemented by letters dated April 3, 2023, May 8, 2023 and May 30, 2023, the International Dairy Foods Association (“IDFA”) petitioned the Secretary of Agriculture to institute a proceeding to amend all current Federal Milk Market Orders (FMMOs), 7 C.F.R. Parts 1000–1135, by updating the current manufacturing cost factors (make allowances), which were established based on industry cost data from 2005–2006, so that the make allowances will reflect current manufacturing costs. This petition was in keeping with USDA’s consistent practice of holding hearings to update make allowances when so requested, which USDA had done on four prior occasions since product formulas, including make allowances, were first implemented in 2000.

USDA raised certain points of clarification regarding IDFA’s proposal during the June 16, 2023 Pre-Hearing Information Session. Consistent with the schedule set by the Secretary, IDFA by this letter is modifying its make allowance proposal, to address the following issues:

1. We have modified the IDFA proposal so that it now amends the existing make allowance provisions to substitute “AMS” for “NASS” wherever “NASS” appears, in order to reflect that AMS now conducts the product pricing surveys.
2. We have modified the IDFA proposal to make clear that the "audited surveys" that would replace IDFA's proposed make allowances (if authorized by Congress), would be paid for by “additional” funding, not by existing funding, and would extend to all manufacturers of products used to set Class III and Class IV prices.
3. We have modified the IDFA proposal to add \$0.0015 to the make allowances, to reflect marketing costs that are not reflected in the 2023 Stephenson cost study and the 2022 Schiek cost study.

4. We are confirming that the make allowances as set forth in the IDFA proposal reflect a simple average of the costs of manufacture as determined by the 2023 Stephenson study and the 2022 Schiek study.

IDFA's modified proposal is as follows (inclusive of all proposed revisions):

Amend 7 C.F.R. § 1000.50(l), (m), (n), (o), and (q), and add a new subsection 1000.50(r), applicable to all federal milk marketing orders, to provide (deletions appear as strike-throughs; additions appear in red font):

§ 1000.50 Class prices, component prices, and advanced pricing factors.

* * * * *

(l) *Butterfat price.* The butterfat price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS~~ **AMS** AA Butter survey price reported by the Department for the month, less ~~17.15 cents~~ **22.51 cents effective January 1, 2025, 24.28 cents effective January 1, 2026, 26.07 cents effective January 1, 2027, and 27.85 cents effective January 1, 2028**, with the result multiplied by 1.211.

(m) *Nonfat solids price.* The nonfat solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS~~ **AMS** nonfat dry milk survey price reported by the Department for the month, less ~~16.78 cents~~ **21.98 cents effective January 1, 2025, 23.70 cents effective January 1, 2026, 25.44 cents effective January 1, 2027, and 27.16 cents effective January 1, 2028** and multiplying the result by 0.99.

(n) *Protein price.* The protein price per pound, rounded to the nearest one-hundredth cent, shall be computed as follows:

* * * * *

(1) Compute a weighted average of the amounts described in paragraphs (n)(1)(i) and (ii) of this section:

(i) The U.S. average ~~NASS~~ **AMS** survey price for 40-lb. block cheese reported by the Department for the month; and

(ii) The U.S. average ~~NASS~~ **AMS** survey price for 500-pound barrel cheddar cheese (38 percent moisture) reported by the Department for the month plus 3 cents;

(2) Subtract ~~20.03 cents~~ **24.22 cents effective January 1, 2025, 25.61 cents effective January 1, 2026, 27.01 cents effective January 1, 2027, and 28.40 cents effective January 1, 2028** from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.383;

(3) Add to the amount computed pursuant to paragraph (n)(2) of this section an amount computed as follows:

(i) Subtract ~~20.03 cents~~ **24.22 cents effective January 1, 2025, 25.61 cents effective January 1, 2026, 27.01 cents effective January 1, 2027, and 28.40 cents effective January 1, 2028** from the price computed pursuant to paragraph (n)(1) of this section and multiply the result by 1.572; and

* * * * *

(o) *Other solids price.* The other solids price per pound, rounded to the nearest one-hundredth cent, shall be the U.S. average ~~NASS~~ **AMS** dry whey survey price reported by the Department for the month minus

~~19.91 cents~~ 25.82 cents effective January 1, 2025, 27.78 cents effective January 1, 2026, 29.76 cents effective January 1, 2027, and 31.72 cents effective January 1, 2028, with the result multiplied by 1.03.

* * * * *

(q)(3) An advanced butterfat price per pound rounded to the nearest one-hundredth cent, shall be calculated by computing a weighted average of the 2 most recent U.S. average ~~NASS~~ **AMS** AA Butter survey prices announced before the 24th day of the month, subtracting ~~17.15 cents~~ **22.51 cents effective January 1, 2025, 24.28 cents effective January 1, 2026, 26.07 cents effective January 1, 2027, and 27.85 cents effective January 1, 2028** from this average, and multiplying the result by 1.211.

* * * * *

(r). The increase in the amounts subtracted from the AMS survey prices effective January 1 of each year as set forth in 7 C.F.R. § 1000.50(l), (m), (n), (o), and (q) shall not become effective if prior to January 1 of that year the United States Department of Agriculture has been provided authority and additional funding to conduct audited dairy product cost studies of all manufacturers of products used to set Class III and Class IV prices, has promulgated regulations implementing that authority, and adopted make allowances pursuant thereto.

Respectfully Submitted,



Mike Brown
Chief Economist
International Dairy Foods Association
1250 H Street NW, Suite 900
Washington, DC 20005
202-737-4332

cc: Bruce Summers, Administrator, Agricultural Marketing Service, USDA
Erin Taylor, Director, Order Formulation and Enforcement Division, USDA/AMS/Dairy