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UNITED STATES DEPARTMENT OF AGRICULTURE
AGRICULTURAL MARKETING SERVICE

IN RE:	)	
	)	**Docket Nos**
DAIRY PRODUCT MANDATORY	)	**AMS-07-0047;**
REPORTING	)	**DA-06-07**
72 Fed. Reg. 36341 (July 3, 2007)	)	

LEPRINO FOODS COMPANY'S COMMENTS ON INTERIM FINAL RULE

INTRODUCTION AND SUMMARY

The United States Department of Agriculture ("Department") issued an Interim Final Rule ("Rule") regarding mandatory dairy product reporting in the Federal Register dated July 3, 2007 (72 Fed. Reg. 36341). The Rule relates to price reporting for those products currently used to establish milk prices under the Federal Milk Marketing Orders ("Orders") as well as to the reporting of certain dairy product inventories. Leprino Foods Company ("Leprino") purchases milk pooled under the Orders and also produces dairy products that will be subject to mandatory inventory reporting under the Rule.

Mandatory Price Reporting

Leprino supports the provisions of the Rule that result in price reporting for those products used in the Order milk price calculations being mandatory and subject

to audit. The products that are reported and the prices used under the Order should continue to represent undifferentiated commodity products defined in a way to avoid capturing value-added characteristics. Organic variations of these products should not be included in the price survey since organic products are differentiated in the marketplace due to perceived value associated with the methods of production.

Product Pricing Term

The Rule properly limits price reporting to those products for which a price was agreed within 30 days prior to ship date. This criteria will result in the price series being representative of current market conditions. The timeliness of this data is important for several reasons. First, the minimum regulated milk pricing system should be reflective of current market conditions so that the intersection of current supply and demand factors provides the proper signals to producers regarding whether to expand or contract production. Additionally, this principle is important to maintain in order to preserve the transparency that is necessary to maintain viable futures markets. We believe that futures markets are important and necessary tools that facilitate the industry's ability to provide risk management tools for our customers. The existence of viable risk management tools is critical to the continued growth in demand in the context of the highly volatile dairy markets.

The nonfat dry milk markets have historically been a key example of the difficulties created when long-term contracts are included in prices reported for milk pricing purposes. Although there are likely additional factors, we believe that the historic practice of certain nonfat manufacturers of including long-term contracts in prices reported and used in establishing the underlying milk prices have substantially limited the establishment of viable nonfat dry milk futures. Specifically, the inclusion of these contracts in the underlying price series has provided the manufacturers with a natural hedge against milk costs and

eliminated their interest in hedging on a futures market. At the same time, the knowledge of the contract levels and terms are held by relatively few individuals. This lack of transparency reduces the speculative interest that is necessary to create a viable futures market.

The Rule improperly includes sales of nonfat dry milk through the Dairy Export Incentive Program "DEIP" as eligible product. Product sold with the assistance of a DEIP subsidy should be subject to the same timeliness criteria as all other product. That is to say, if the sale price was established greater than 30 days prior to the ship date, the sale should be excluded from eligibility for reporting because it may not be reflective of current market conditions.

Product f.o.b. Points

The Rule currently states that the pricing should be reported f.o.b. processing plant or storage center. The Rule should be modified to eliminate the potential of pricing being quoted f.o.b. storage location. Pricing f.o.b. storage center is inappropriate because the price at the storage center reflects a location value that is different than that which exists at the manufacturing plant. For example, a manufacturer in the west might position product in a storage location in the central part of the country closer to their customers. The manufacturer incurs costs transporting the product and these costs are not included in the cost of processing studies used as the basis of formulating manufacturing allowances. To be consistent, therefore, the price reported must be f.o.b. manufacturer. This is not to say that product sold f.o.b. storage location should be excluded from the survey. Rather, the price reported on such product should be reduced by the cost to transport the product from the manufacturer to the storage location.

Product Specifications

Cheddar. The Rule properly defines the cheddar forms for which prices will be reported as 40 pound blocks and 500 pound barrels. The age, grade, and color

requirements are consistent with commercial specifications for commodity cheddar and should be adopted as proposed.

Whey. The Rule properly defines the dry whey product for which prices will be reported as extra grade whey. We believe that extra grade whey is the prevalent commodity dry whey product. In the case of whey, grade A whey is considered a premium product and should not be included in price reporting.

Respectfully submitted,

Sue M. Taylor
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Leprino Foods Company