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Richard McKee
Deputy Administrator, Dairy Programs
Agricultural Marketing Service
U.S. Department of Agriculture
South Agriculture Building
Room 2968
1400 Independence Avenue, SW
Washington, DC 20250

December 20, 2000

Dear Sir:

**USDA SHOULD DELAY IMPLEMENTATION OF A SEPARTE
CLASS III BUTTERFAT PRICE AT LEAST UNTIL
COMMENTS CAN BE COLLECTED**

The December 7, 2000 "Tentative Final Decision" that particularly impacts the method of calculating the value of Class III butterfat is very disconcerting. As a milk processor in the Mid Atlantic and Northeastern U.S., HP Hood buys and sells a great deal of cream each and every week.

In our evaluation of this "decision", HP Hood has determined that it will have a significant exposure to reclassification of cream sales. We don't believe that we would have any recourse, if cream that we sold, were to get reclassified into Class III during an audit. We would also expect difficulties at the time of the sale, trying to stipulate Class use of the cream we sell.

Had HP Hood been aware that testimony was going to be accepted during the hearing in May on this particular topic, we would certainly have taken the opportunity to voice our opinions. Since USDA did not offer our organization a chance to provide input, we feel USDA should delay implementation of providing a separate Class III butterfat price at least until full comments can be offered.

Sincerely,

A handwritten signature in cursive script, appearing to read "Michael Suever".

Michael Suever
VP Milk Procurement
HP HOOD



United States
Department of
Agriculture

Agricultural
Marketing
Service

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Mr. Michael Suever
Vice President, Milk Procurement
HP Hood Inc.
90 Everett Avenue, Suite 200
Chelsea, Massachusetts 02150-2301

Dear Mr. Suever:

Thank you for your comments on the tentative final decision filed on December 20, 2000. Your comments and our response will be filed with the Hearing Clerk and considered with other comments received in response to the tentative final decision issued November 29 in the process of formulating a final decision on amending the Class III and Class IV pricing formulas. An interim final rule was issued on December 21, after producers approved the amended orders. The interim amended orders will become effective for milk marketed on or after January 1, 2001.

As you may know by now, we have denied the motion for a stay of the implementation of the tentative final decision. The congressional mandate that we hold a hearing requires that any amendments adopted be effective on January 1, 2001. As a result of issuance of a tentative final decision instead of a final decision, interested persons have until February 5, 2001, to comment on the decision.

As stated in the decision, the current butterfat price does not reflect the value of butterfat used in cheese, and our attempt to adjust for that shortcoming in Federal order reform by incorporating a differential value for butterfat in the protein price formula results in a protein price that fails to reflect the value of protein in cheese. The Class III butterfat and protein price formulas in the tentative final decision do reflect the role of these components in contributing to cheese yield.

It should also be noted that a hearing notice was published in the Federal Register on April 14, 2000, which contained proposals dealing with the Class III and IV butterfat price calculations. All interested persons had an opportunity to testify during the May 8-12, 2000, hearing in Alexandria, Virginia, on these proposals.

Mr. Michael Suever
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As we continue to be under *ex parte* rules, we cannot discuss the merits of the decision beyond the reasons stated for adoption of the tentatively adopted formulas in the decision. We look forward to receiving your further comments.

Thank you again for sharing your views.

Sincerely,
John R. Mengel

John Mengel
Acting Deputy Administrator
Dairy Programs

AMS:DP:OFB:CBrenner:csw:720-2357:01/05/01
Mydocs:hphood-ltr.wpd