

June __, 2009

Comments by _____
to the
U.S. Department of Agriculture
Regarding the Proposed Amendments to the
Dairy Promotion and Research Order

[Insert introductory paragraph or two regarding you and your business and its location.]

We urge the Secretary to swiftly consider comments submitted regarding implementation of the amendments to the rule, and to move as quickly as possible to publish a final rule. It is time – indeed, the time is long overdue -- to implement the changes in the Dairy Research and Promotion Order that were mandated by Congress in both the 2002 and 2008 Farm Bills. In both of those Acts, Congress granted authority to the Secretary to promulgate changes to the rule without having to conduct a notice-and-comment proceeding. The Congressional mandate to require an assessment on both domestic production and on imported dairy products has been a matter of law in the United States for seven years and there is no reason to delay implementing this mandate any longer.

Most of the changes being implemented in the proposed rule are required as a matter of statutory law, and so there is no guidance that public comment can provide on those issues that is necessary for the actions the Secretary proposes to take. With respect to the two issues on which the Secretary has specifically sought public comment – the designation of imported products to be assessed under the Order, and the method of assessment – these are issues about which AMS has significant technical expertise, and that can be resolved quickly. In any event, the Secretary had already been given the latitude under the statute to promulgate a final rule without having to conduct notice-and-comment, and so should publish a final rule as quickly as possible.

Dairy producers throughout this country have waited long enough to see this change to the Dairy Research and Promotion Order put in place to require imported dairy products to pay at least some of the costs of growing the demand in the U.S. for dairy products, given that they have long enjoyed the benefits of this expanding market. Congress has declared twice now, in the 2002 and 2008 Farm Bills, that this basic fairness issue must be addressed. Dairy producers have had to fight long and hard to get to this stage and are eager to see USDA move swiftly to finally bring this into effect so that importers will no longer enjoy the benefits of our expanding market without shouldering any of the costs related to fostering that growth.

From a review of the proposed rule, it is clear that AMS has very carefully analyzed the complex question of precisely how to translate the 7.5 cent per cwt assessment into an equivalent assessment on the various products containing notable amounts of dairy products that the U.S. imports. We applaud their diligent efforts and urge that their calculations be adopted in the final rule without adjustment.

For USDA's further consideration in fine-tuning the final rule, we would like to associate ourselves with the comments submitted by the National Milk Producers Federation regarding four additional concerns that merit USDA attention. Further details on these points are contained in NMPF's submitted comments.

- New HTS codes
- "National" qualified organizations
- Use of the Default Rate
- Regular and Annual Reporting

In closing, your name or business is pleased to have had the opportunity to provide comments on this issue of essential fairness and adequate promotional funding for dairy producers. As stated above, we urge USDA to move swiftly to issue a final rule. America's dairy producers have waited long enough; it's well past time for importers to help share the costs and not just the benefits of operating in the U.S. market.