

EXHIBIT 18

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[Proposed Rules]
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Proposed Rules

Federal Register

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1040

[Docket No. AO-225-A45-R01; DA-92-10]

Milk in the Southern Michigan Marketing Area; Decision on Proposed Amendments to Marketing Agreement and to Order

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This final decision adopts a multiple component pricing (MCP) plan in the Southern Michigan Federal milk order. The three components to be priced are butterfat, protein, and a "fluid carrier" residual. The proposed plan includes adjustments to the producer protein price based on the somatic cell count of producer milk. The decision also adopts changes in qualifying shipments from pool supply plants and gives the market administrator the authority to adjust the monthly shipping percentage requirements for both proprietary and cooperative supply plants or units of supply plants. In addition, the maximum allowable administrative and marketing service assessment rates are increased to 4 and 7 cents, respectively. The amendments are based on industry proposals considered at public hearings held during February 1993 and March 1994 in Novi, Michigan, and in Grand Rapids, Michigan, respectively.

FOR FURTHER INFORMATION CONTACT: Constance M. Brenner, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 720-7183.

SUPPLEMENTARY INFORMATION: This administrative action is governed by



Each of the proposals would result in a lower protein value than in the recommended decision or in orders containing MCP plans, such as the Indiana, Ohio Valley, and Eastern Ohio-Western Pennsylvania Federal orders. The handler protein price per pound for these orders would have averaged \$2.77 and \$2.82 in 1992 and 1993, respectively.

Because the percent of the skim milk value allocated to protein differs under the two proposed plans, the protein price also differs. Under the original recommended MCP plan, 79 percent of the total milk price would be allocated to protein on the basis of 1993 prices. For 1993, the NAJ proposal would allocate 59 percent to protein, and the Leprino proposal would allocate 46 percent of the total M-W price to protein. The Leprino plan assigns less value to protein than the NAJ plan because this plan does not value the protein in whey.

Undisputed by hearing participants was the 1.32 factor, which represents the pounds of 38 percent moisture Cheddar cheese obtained from one pound of protein with 75 percent of the protein going into the cheese as calculated by the modified Van Slyke cheese yield formula. The hearing record indicates that the modified Van Slyke formula accurately measures incremental changes in protein. This accuracy supports the concept that

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cheese plants would be able to maintain consistent margins from the processing of small increases of protein content in milk. Assuming butterfat is constant, a change of protein by one pound in this formula will change cheese yield by 1.32 pounds. Therefore, the 1.32 factor is appropriate for determining an order protein price based on a market-determined cheese price.

Use of a Cheddar cheese price as a basis for valuation recognizes that, for Cheddar cheese: (1) a well-established national market price exists; (2) standards for manufacture and grading are accepted widely on a national basis; (3) the Van Slyke formula calculates yields that are well-known and verifiable; (4) a majority of other cheese manufactured in the U.S. is traded in relation to Cheddar values with economic differences in costs of manufacturing being reflected in the marketplace; and (5) using Cheddar as a standard significantly simplifies the process.

The question of which cheese price to use in the market protein value calculation, either the NCE block or barrel price, will determine the degree to which the value of the skim portion of milk will be assigned or allocated to protein. For the purpose of reflecting changes in Cheddar cheese market prices (as opposed to the level of such prices), it makes little difference whether the barrel or block price is used because the prices move very similarly, with the barrel price approximately 3 to 4 cents per pound lower than the block price during 1991-93. The difference between the average block and barrel prices from 1992 to 1993 was \$0.0383 per pound. Multiplying this difference by the 1.32 factor results in an average difference of \$0.0506 per pound of protein between the prices derived from the barrel and the block cheese prices.

In comments filed in response to the revised recommended decision, NAJ and Tri-State supported the use of the NCE 40-pound block cheese price to calculate the protein price and adjust the protein price for somatic cell count level. However, Dean Foods, Farmers Dairies, Inc., Anderson-Erickson Dairy Company (Anderson-Erickson), and Southern Food Groups, Inc., took exception to using the 40-pound block Cheddar cheese price in determining the protein value and the somatic cell adjustment, and instead supported using the barrel Cheddar cheese price. The exceptions stated that prices in the Federal order program are based on a concept of minimum prices and the barrel Cheddar cheese price would better approximate a minimum price.

The monthly average price for 40-pound block Cheddar cheese on the NCE is the appropriate price to use for determining the protein price. Use of the block price results in producers receiving a higher price

RECONCILIATION
 75% OF PROTEIN GOING INTO CHEESE
 3.2 # PROTEIN
 X .78 CASEIN/ # PROTEIN IN MILK

 2.496 # CASEIN IN MILK
 - .1 CASEIN LOSS IN FORMULA

 2.396 CASEIN IN CHEESE
 ÷ 3.2 # PROTEIN IN RAW MILK

 74.83% ~~CHEESE~~ PROTEIN IN CHEESE