

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1099, 1106, 1108, 1124, 1126, 1131, 1134, 1135, 1137, 1138, 1139

[Docket No. AO-14-A66, etc.; DA-92-11]

RIN 0581-AA57

Milk in the New England and Other Marketing Areas; Decision on Proposed Amendments to Tentative Marketing Agreements and Orders

7 CFR part	Marketing area	AO Nos.
1001	New England	AO-14-A66
1002	New York-New Jersey	AO-71-A81
1004	Middle Atlantic	AO-160-A69
1005	Carolina	AO-388-A6
1006	Upper Florida	AO-356-A30
1007	Georgia	AO-366-A35
1011	Tennessee Valley	AO-251-A37
1012	Tampa Bay	AO-347-A33
1013	Southeastern Florida	AO-286-A40
1030	Chicago Regional	AO-361-A30
1032	Southern Illinois-Eastern Mis-souri	AO-313-A40
1033	Ohio Valley	AO-166-A63
1036	Eastern Ohio-Western Penn-sylvania	AO-179-A58
1040	Southern Michi-gan	AO-225-A44
1044	Michigan Upper Peninsula	AO-299-A28
1046	Louisville-Lexing-ton-Evansville ..	AO-123-A64
1049	Indiana	AO-319-A41
1050	Central Illinois	AO-355-A28
1064	Greater Kansas City	AO-23-A61
1065	Nebraska-West-ern Iowa	AO-86-A49
1068	Upper Midwest	AO-178-A47
1075	Black Hills, South Dakota	AO-248-A22
1076	Eastern South Dakota	AO-260-A31
1079	Iowa	AO-295-A43
1093	Alabama-West Florida	AO-386-A13
1094	New Orleans-Mis-sissippi	AO-103-A55
1096	Greater Louisiana	AO-257-A42
1097	Memphis, Ten-nessee	AO-219-A48
1098	Nashville, Ten-nessee	AO-184-A57
1099	Paducah, Ken-tucky	AO-183-A47
1106	Southwest Plains	AO-210-A54
1108	Central Arkansas	AO-243-A45
1124	Pacific Northwest	AO-368-A22
1126	Texas	AO-231-A62

7 CFR part	Marketing area	AO Nos.
1131	Central Arizona ...	AO-271-A31
1134	Western Colorado	AO-301-A23
1135	Southwestern Idaho-Eastern Oregon	AO-380-A12
1137	Eastern Colorado	AO-326-A27
1138	New Mexico-West Texas	AO-335-A38
1139	Great Basin	AO-309-A32

¹ The Memphis, Tennessee, and Nashville, Tennessee, orders were terminated, effective July 31, 1993.

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This decision adopts the base month Minnesota-Wisconsin (M-W) price updated with a butter/powder/cheese formula as the replacement for the Minnesota-Wisconsin price series, which establishes minimum prices for milk under all Federal milk orders. The amendments adopted in this decision are based on evidence received at a public hearing held June 15-19, 1992. The amendments differ from the Recommended Decision in that they use the Western Dry Buttermilk and Nonfat Dry Milk prices in the updating formula instead of the Central States Dry Buttermilk and Nonfat Dry Milk prices. Referenda will be conducted in five markets, and dairy farmer cooperatives will be polled in the other markets to determine whether dairy farmers approve the issuance of the orders as amended to incorporate the base month M-W price updated with a butter/powder/cheese formula.

FOR FURTHER INFORMATION CONTACT: John F. Borovies, Branch Chief, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, D.C. 20090-6456, (202) 720-6274.

SUPPLEMENTARY INFORMATION: This administrative rule is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and therefore is excluded from the requirements of Executive Order 12866.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendments will promote orderly marketing of milk by producers and regulated handlers.

The U.S. Small Business Administration (SBA) objected to the

previous certification in a letter to the Administrator of the Agricultural Marketing Service. The SBA indicated that the certification does not comply with the analytical mandate of the Regulatory Flexibility Act (RFA) in that at least a brief explanation of the reasons for the certification must be provided to inform the regulated community of the reasons for the certification. Furthermore, the SBA contends that the simple assertion that the amendments would promote the orderly marketing of milk by producers and regulated handlers is insufficient and is contradicted by the findings in the recommended decision. Specifically, the SBA contends that the recommended decision "acknowledges that the proposed modifications could result in wide swings in price for any given month (59 FR 40428)." The SBA contends that these price changes could be significant for small handlers and processors.

Since the SBA letter refers to a specific finding in the recommended decision to question the certification, the letter was filed with the Hearing Clerk as an exception to the decision. Also, since the "exception" refers to a specific finding, it is dealt with in the findings and conclusions below. With regards to the basis for the certification, SBA ignores the fact that the recommended decision contained an extensive analysis of the effect of the proposed amendments, as well as numerous alternatives, and their comparative effect on the current price series. Reference by SBA only to the conclusory statements in the recommended decision, therefore, is not justified.

At this point, we reaffirm that the proposed rule will not have a significant economic impact on a substantial number of small entities for reasons that are set forth later in this decision. The base month M-W price, updated by a product price formula, will continue to apply in the same manner as the current M-W price but has a greater degree of reliability for reasons that are set forth in this decision.

These proposed amendments have been reviewed under Executive Order 12778, Civil Justice Reform. This action is not intended to have retroactive effect. If adopted, this proposed rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Agricultural Marketing Agreement Act of 1937, as amended (the Act), provides that administrative proceedings must be exhausted before parties may file suit in court. Under

section 608c(15)(A) of the Act, any handler subject to an order may file with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law and requesting a modification of an order or to be exempted from the order. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the District Court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after date of the entry of the ruling.

No amendatory action is taken in this decision for two other markets (Memphis, Tennessee, and Nashville, Tennessee) that were involved in this proceeding and listed in the original hearing notice. These orders were terminated effective July 31, 1993. This proceeding is hereby terminated with respect to those two markets. Thus, of the 40 orders originally involved in this proceeding, the new pricing amendments are adopted herein for only 38 orders.

At the time of publication of this decision in the **Federal Register**, a proposed termination is being considered for the Paducah, Kentucky, milk order. If the proposed termination is approved, then a referendum on the amendments contained in this decision will not be necessary and will not be conducted. However, if the proposed termination is not approved for the Paducah, Kentucky, order then proper notice will be given in the **Federal Register** and a referendum will be conducted to determine approval of the amendments contained in this decision.

The amendments adopted in this final decision are tailored to conform with the amendments adopted on the basis of the national hearing adopting a new Class II price.

Prior documents in this proceeding: Notice of Hearing: Issued May 12, 1992; published May 15, 1992 (57 FR 20790).

Recommended Decision: Issued August 3, 1994; published August 6, 1994 (59 FR 40418).

Preliminary Statement

A public hearing was held upon proposed amendments to the marketing agreements and the orders regulating the handling of milk in the New England and other specified marketing areas. The hearing was held pursuant to the

provisions of the Act and the applicable rules of practice (7 CFR part 900), in Alexandria, Virginia, on June 15-19, 1992, pursuant to notice issued May 12, 1992 (57 FR 20790).

Upon the basis of the evidence introduced at the hearing and the record thereof, the Administrator, on August 3, 1994, issued the recommended decision containing notice of the opportunity to file written exceptions thereto.

The material issues, findings and conclusions, rulings, and general findings of the recommended decision are hereby approved and adopted and are set forth in full herein, subject to the following modifications:

1. Four paragraphs are added after paragraph 74;
2. One paragraph is added after paragraph 76;
3. Three paragraphs are added after paragraph 88;
4. One paragraph is added after paragraph 92;
5. Twelve paragraphs and one table are added after paragraph 93;
6. Paragraph 95 is revised;
7. Five paragraphs are added after paragraph 95;
8. In paragraph 96, subparagraph 3(a) is revised;
9. Paragraphs 97-98 are revised, the table after paragraph 98 is removed, and seven paragraphs are added; and
10. One paragraph is added after paragraph 99.

The material issue on the record of the hearing relates to: *Replacement of the Minnesota-Wisconsin price series used to establish minimum prices under the Federal orders.*

Findings and Conclusions

The following findings and conclusions on the material issues are based on evidence presented at the hearing and the record thereof:

Background Statement

This proceeding was initiated in response to concerns expressed regarding the reliability of the Minnesota-Wisconsin price series (M-W price) as an accurate indicator of the average price of milk used in manufactured products because of a continuing decline in manufacturing grade (Grade B) milk production and the number of plants that compete for the Grade B milk supply. Prior to the announcement of this hearing, a study of possible alternative pricing mechanisms was undertaken by the Department and was released in November 1991. A study was also mandated by Congress in the 1990 Farm Bill, which further required that a public hearing be held on the issue and

that the statistical information developed in the study be made available to the public.

A Notice of Hearing issued on May 15, 1992, listed ten proposals to be considered during the M-W price replacement hearing. The proposals fell into four main categories: (1) Competitive pay prices, (2) product price formulas, (3) cost-of-production formulas, and (4) the price support level. Several of the competitive pay prices were also proposed in conjunction with product price formulas for price-updating purposes. The hearing was specifically limited to a replacement for the M-W price. The hearing notice also specified that any proposals that would change the price level would have to be justified under the supply and demand pricing standards of the Act (7 U.S.C. 608c(18)).

Replacement for the Minnesota-Wisconsin Price Series

All Federal milk orders should be amended to provide for a new price series that will establish minimum prices under Federal milk orders utilizing the base month M-W competitive pay price updated with a butter/powder/cheese product price formula.

Adoption of the updated base month M-W price will result in a basic formula price that adequately reflects the value of milk used in manufactured products and will allow for the continued use of an unregulated, competitive market price. Hence, supply and demand conditions will continue to be directly reflected in the basic formula price that serves as a basis for minimum pricing of regulated milk.

Since the M-W price was first adopted in 1961 in the Chicago Regional marketing area, it has been used as a basis for setting minimum prices paid by regulated handlers. The M-W price is the mover of all Class I and Class II prices and is essentially the Class III price under all orders. Using the M-W price as the Class III price maintains price coordination between Grade B and Grade A milk supplies used for manufacturing purposes.

The M-W price is a competitive price that represents an estimate of the average of prices paid for Grade B milk in Minnesota and Wisconsin by plants that manufacture butter, nonfat dry milk, and cheese. These products are sold in a national market in competition with such products made from Grade A milk that is in excess of fluid milk needs. Month-to-month changes in the M-W price reflect changes in overall supply and demand conditions for milk and its products nationally.

The M-W price is currently computed by the National Agricultural Statistics Service (NASS). It is announced on or before the 5th day of every month and applies to Grade B milk delivered during the previous month. For example, the M-W price for February is announced on March 5 (in 1994 it was announced on March 4). The M-W price determination is a two-step process. It involves (1) determining the average of actual pay prices at a large number of plants purchasing Grade B milk for the base month (in the above example, January), and (2) based on a sample of these plants, determining what the expected change in pay prices will be from the base month (January) to the following month (February), the month for which the M-W price is being determined. The reason for the updating procedure is that actual pay prices for a month are not available until late in the following month. Thus, updating the base month M-W price results in an M-W price that better reflects current marketing conditions.

To calculate the base month M-W price, NASS collects actual data for the entire previous month from approximately 160-170 plants located in Minnesota and Wisconsin. The plants report the total pounds of Grade B milk received from producers and the total dollars paid to producers for the entire month. These plants represent approximately two-thirds of all Grade B milk sold in the two States.

NASS derives the estimated portion of the M-W price series based on reports of a sample of approximately 67 of the base-month plants. These plants account for about 35 percent of the total manufacturing grade milk sold in the two States. These plants provide actual pay price data for the first half of the month and estimate prices for the second half of the month to which the M-W price relates. NASS then calculates the estimated change in price between the base month and the current month and applies this estimated change to the base month M-W price to determine the M-W price. According to the NASS witness who testified at the hearing, some plants in the estimate survey are unable to provide actual price data and can only estimate purchases for the first half of the month. Thus, the plants in the estimate survey that report actual price information account for about 25 percent of the Grade B milk in the two States.

When the price series was first adopted in 1961, Grade B milk production accounted for 68 percent, or 18 billion pounds, of the total milk production in the two States. This production was purchased by about

1,200 plants. By 1992, Grade B production had declined to five billion pounds or 14 percent of the total milk production in the two States, with 272 plants purchasing the milk. Due to the decline in Grade B production and the number of plants purchasing the milk, along with the number of plants which can provide actual pay price data for the first half of the month, the statistical reliability of the M-W price has been questioned.

Several proposals considered during this proceeding were based on competitive pay prices. There was support by a large majority of the witnesses who testified during the hearing and in post-hearing briefs for the adoption of a competitive pay price series. Most witnesses testified in opposition to the use of product price formulas, the support price, and cost-of-production formulas as replacements for the M-W price. Three main competitive pay price series were considered during the hearing: the A/B price series, the base month M-W (which is currently used to calculate the M-W price), and the Agricultural Prices M-W. These competitive pay price series were proposed in combination with a product price formula to be used to update the previous month's price to the current month with one exception which will be addressed later.

An A/B manufacturing price series (A/B price) was developed based on industry proposals and comments submitted in connection with the Department's study. NASS developed this new competitive pay price series that represents prices paid for milk used in the manufacturing of dairy products, regardless of grade. NASS collects data from 150 plants in Minnesota and Wisconsin that receive Grade B and/or Grade A milk used primarily to manufacture cheese, butter, and nonfat dry milk. The sample represents 78 percent of Minnesota's total milk production, of which approximately 75 percent is Grade A, and 65 percent of Wisconsin's total milk production, of which about 84 percent is Grade A.

The calculation of the A/B price requires the deduction of the "pool draw," which is money that the Grade A plants receive from the Federal order pool as part of their share of the Class I market. This information is obtained by NASS from the Chicago Regional and Upper Midwest market administrators. The A/B prices are reported routinely in "Dairy Market News." As currently calculated, the A/B price that is available on or before the 5th day of the month is the price for the second preceding month.

Proponents of proposals one and two, as listed in the hearing notice, were the main supporters of the adoption of an A/B price to replace the current M-W price. The National Farmers Organization (NFO), a cooperative association that proposed proposal one, advocated the usage of an A/B price updated by 50 percent of a product price formula. In connection with the A/B price, NFO recommended the adoption of a floor price for the basic formula price equal to the cost of production.

Two witnesses testified on behalf of NFO. The first witness primarily focused on the cost-of-production floor price. He stated that a fundamental purpose of NFO is to seek the cost of production plus a reasonable profit for dairy farmers. To meet this organizational purpose, NFO proposed using the national average economic (full ownership) costs, as calculated by the Economic Research Service for the most recently reported calendar year, as the floor price. The floor price would be utilized as the basic formula price whenever the competitive A/B price fell below the cost of production. The witness contended that establishing a floor price for the basic formula price would provide dairy farmers with stability in their milk price. The witness further stated that NFO did not believe that establishing a floor price at the cost-of-production level would have any impact on stimulating production.

The second witness for NFO testified regarding the need to adopt an A/B price with a product price updater as a replacement for the M-W price. This witness asserted that a competitive pay price based solely on Grade B milk does not represent the true farm value of milk because of the decline in competition among plants purchasing Grade B milk. He contended that this lack of competition allows plants to shift money from Grade B milk producers and use this extra money to attract Grade A producers. Accordingly the witness stated that the A/B price series needed to be adopted to better reflect the true value of milk used in manufacturing.

The witness addressed the concern of regulated prices being reported within the A/B price calculation that may create an upward price bias. NFO recognizes that this is a major factor; however, they do not propose to deregulate any plants in the A/B survey since a majority of the reporting plants are cooperative plants. The witness stated that the "blend down" of the Grade A price by the Grade B price and the non-inclusion of hauling subsidies would provide room above federal order

minimum prices for flexibility in both upward and downward price movements. The witness asserted that this would negate any concern about an upward price bias in the A/B price series.

Because the A/B price announced on or before the 5th of each month would apply to milk marketed in the second preceding month, NFO proposed the use of a product price updating formula in conjunction with the A/B price. NFO advanced the use of 50 percent of a product price formula which included all primary products and by-products of milk. NFO maintains that all products should be used in a product price formula to reflect the full value of producer milk. The witness stated that NFO chose to use only 50 percent of the updater because producer prices are not as volatile as prices in the product markets and because NFO believes this would lend a further degree of stability to producer prices.

The Trade Association of Proprietary Plants (TAPP) and Farmers Union Milk Marketing Cooperative (FUMMC) also supported the adoption of the A/B price series to replace the M-W price. The TAPP and FUMMC's proposal (number two) would utilize an A/B price series updated by a weekly butter/powder/cheese product price formula. To this value a competitive premium would be added and 20 cents deducted yielding a tentative weekly M-W price. The final M-W price would be announced on or before the 5th of the following month and would be the weighted average of the tentative weekly M-W prices for the current month.

The witness representing these two groups testified that the current M-W price, which is based solely on Grade B milk, underrepresents the true competitive value of milk for manufacturing purposes by 45 to 60 cents per hundredweight. According to the witness, this difference is paid to producers in the form of premiums and hauling subsidies. The witness said that because these are not consistent between plants, this situation is creating chaotic marketing conditions. The witness stated that incorporating Grade A milk into the Minnesota and Wisconsin price survey would result in a price series which would reflect the true competitive value of milk and promote orderly marketing conditions.

The witness further testified that the industry is in need of current, or weekly, pricing to assist in marketing decisions. Using the A/B price in conjunction with a weekly updater to establish a tentative weekly M-W price would provide the industry with current information to be used as a pricing

guide for the following week. The witness claimed that the dairy industry needs this information for buying, selling, and determining the value of milk in manufactured products.

Two additional proposals noticed were based on the A/B price series. One proponent of proposal three, the Northeast Ad Hoc Federal Order Committee, withdrew its support for this proposal. This proposal would have expanded the amount of milk surveyed and/or expanded the states included in the survey. No other proponents of an expanded survey testified in support of this proposal. Thus, it is considered abandoned.

Land O'Lakes (LOL) was the proponent of proposal four, the A/B price updated with a product price formula. At the hearing the witness for LOL offered a modification to the proposal as noticed. This modification was ruled to be beyond the limited scope of the hearing. As a result, LOL removed their support for this proposal. Thus, it is considered abandoned.

One additional proposal, proposal number seven, utilizes the A/B price series in conjunction with a product price formula as a replacement alternative for the M-W price. This proposal will be addressed later in this decision.

Opposition to the adoption of the A/B price series was expressed specifically by two witnesses during the hearing and subsequently in several briefs. A witness for the Milk Industry Foundation and the International Ice Cream Association (MIF/IICA), trade associations representing a substantial number of dairy processors, stated that the adoption of an A/B price survey provides a broader sample of milk, but would enhance the basic formula price. This, according to MIF/IICA, does not meet the criteria set forth in the hearing notice that the M-W replacement alternative be revenue-neutral. The witness cited statistics which indicated that during the period of September 1990 through March 1992, the A/B price averaged 65 cents higher than the M-W price. The witness further expressed concern regarding an upward bias that is built into the A/B price because some of the milk included in the survey is regulated.

A second witness representing Kraft General Foods (Kraft), opposed the adoption of the A/B price and further addressed the question of the upward bias in the A/B price. The witness stated that the A/B price uses regulated Grade A prices in the survey which are not competitively determined and therefore cannot truly reflect the value of milk used in manufacturing. The witness

further explained that the A/B price also incorporates the highly competitive premium price structures that exist in the Midwest. Together these two factors, according to the Kraft witness, result in the upward price bias. The witness stated that this higher price level cannot be justified based on current supply and demand conditions as a replacement for the M-W price.

Briefs filed on behalf of Anderson-Erickson and Southern Foods Group (AE/SFG), Kraft, Southern Coalition of Dairy Farmers (SCDF), United Dairymen of Arizona (UDA), Wisconsin Farm Bureau Federation and Minnesota Milk Producers Association (WFBF/MMPA), and the United States Department of Justice reiterated that the nature of the A/B price survey results in an upward bias in the reported price because of the inclusion of the regulated Grade A milk and the lack of adjustment for some price premiums. The briefs also maintained that adopting the A/B price as a replacement for the M-W price would result in higher prices under the Federal order program, an outcome which has no economic justification based on current supply and demand conditions.

Substantial opposition to the adoption of a cost-of-production floor price was expressed by numerous witnesses at the hearing and subsequently in post-hearing briefs. The brief filed by AE/SFG specifically addressed the concept of establishing floor prices. The brief stated that "establishing floor prices would disassociate prices from the market needs." Official Notice is taken of the Final Decision (58 FR 12634, published March 5, 1993) from the 1990 National Hearing. The brief also pointed out that in the 1990 National Hearing final decision floor prices for Class I and Class II milk were rejected. The AE/SFG brief alleged that the proponents failed to provide supply and demand evidence which demonstrates that marketing conditions have changed substantially within the last two years to warrant a change from the Department's earlier decision. Additional opposition to proposals replacing the M-W price with cost-of-production formulas is addressed later in this decision.

The second competitive pay price series considered as a replacement for the M-W price is the base month M-W price. As explained previously, the base month M-W price is one component currently used by NASS to compute the M-W price. Adoption of the base month M-W price was advanced by five proponents in the notice of hearing. The MIF/IICA and AE/SFG proposed the use of the base month M-W price in

conjunction with a product price formula updater. This price would be available on or before the 5th day of the month and would be based on the price for the second preceding month updated by the change in a product price formula for the preceding month.

The witness representing the MIF/IICA testified that a basic formula price, based on an expanded, unregulated competitive pay price for Grade B milk in Minnesota and Wisconsin, would best reflect the supply and demand conditions for all major uses of manufactured dairy products and would provide the industry with a reliable price series. The witness stated that the base month M-W price survey represents about 60 percent of all Grade B milk in Minnesota and Wisconsin and incorporates a representative sample of both twice-a-month pay plants, as in the current M-W price, and once-a-month pay plants. Because the base month M-W price available on or before the 5th day of the month is for the second preceding month, the witness stated the need for a product price formula to update the base month M-W price. The MIF/IICA proposed adopting a butter/powder/cheese formula using annual product yields and Minnesota and Wisconsin product weights to update the base month M-W price. This formula was utilized in the Department's study to update the Agricultural Prices M-W. For example, the use of an updating formula would result in the price announced on March 5th being based on January pay prices updated by changes in product prices between January and February.

The witness testified that this proposal would be essentially revenue-neutral when compared to the current M-W price. Their comparison of these two price series from January 1988 through April 1992 resulted in an updated base month M-W price that averaged only five cents per hundredweight higher than the current M-W price.

A witness representing Country Fresh, Inc., the Morningstar Group, Inc., and Oak Farms Dairy (Country Fresh, et al.) also testified in support of the adoption of the updated base month M-W price as a replacement for the current M-W price. The witness supported this proposal for four main reasons: (1) It uses actual Grade B milk prices in Minnesota and Wisconsin, thus linking Federal order prices to the competitive markets; (2) it expands the Grade B survey to alleviate NASS' statistical concerns; (3) prices remain relatively equal to current M-W prices; and (4) the proposal provides the same amount of

advance pricing currently available under the Federal order program.

Kraft also supported the adoption of the base month M-W price as the replacement for the current M-W price. However, Kraft's proposal does not include an updater. Thus, the price announced on the 5th of each month would be the price for the second preceding month. For example, the price announced on March 5th would represent January pay prices. The witness representing Kraft testified that the adoption of the base month M-W without an updating adjuster would accomplish the following objectives: (1) Eliminate the use of estimated prices; (2) Keep the M-W price determined in a non-regulated market; (3) Reflect competitive conditions for milk rather than products; (4) Result in a more competitively determined price; and (5) Remain free from fine tuning.

The Kraft witness testified in opposition to the use of an updater in conjunction with the base month M-W price for two reasons. First, although he agreed that product prices and milk prices are related, he stated that changes in competitive milk prices do not correspond exactly with changes in product prices. Secondly, the witness asserted that product price formulas are subject to controversy based on which product prices, product yields, and weight factors are used.

The Kraft witness acknowledged that the additional lag created by Kraft's proposal may affect the way the industry conducts business, as the lag may create month-to-month differences in processor margins. However, the witness contended that over time this proposal does not change the competitive value of milk to either producers or processors.

Opposition to the adoption of the base month M-W price was presented by witnesses representing NFO, TAPP/FUMMC, and the United States Cheese Makers Association, the American Producers of Italian Type Cheese Association, the Ohio Swiss Cheese Association, and the Wisconsin Cheese Makers Association (Cheese Makers) and in briefs filed on behalf of these organizations and WFBF/MMPA. The witnesses for these organizations objected to the adoption of the base month M-W price for two primary reasons. First, the decline in the amount of Grade B milk production raises uncertainty about the statistical reliability of any survey based only on Grade B milk. Secondly, a Grade B only survey does not reflect the true value of milk used for manufacturing purposes.

The opposition recited statistics regarding the decline in Grade B milk

producers and processors that they claim has resulted in a lack of competition for the Grade B milk supply and an increased competition for the Grade A milk supply. The opposition further contended that as manufacturers shift money away from the Grade B supply, they can use this money to attract the Grade A milk supply. This results in Grade B prices which do not truly reflect the value of milk used for manufacturing purposes. The opponents argued that merely enlarging the sample size would neither affect the amount of competition nor the value of the milk.

The Cheese Makers also argued that the continued use of a Grade B survey results in the extended use of an untimely price announcement, announcing the price for the milk after it has been manufactured into products. The witness stated that the dairy industry is one of the last industries to engage in the receipt of a raw commodity, manufacture it into finished products, and price and sell these products before knowing the cost of the raw ingredient. This, according to the witness, is resulting in an unstable market.

To follow through on the argument presented by the Cheese Makers regarding the untimeliness of a Grade B survey, several witnesses opposed the additional lag in pricing created by Kraft's proposal. In fact, most witnesses who supported the adoption of a competitive pay price series advocated the use of a product formula for updating purposes. One witness for the Central Milk Producers Cooperative (CMPC) stated that the industry has long recognized one problem with the current M-W price being the time lag between changes in product markets and milk prices both on the upside and downside of the market. The combination of the M-W price lag and the forward pricing used in the Federal order program further complicates the timing problem and any additional lag would be unacceptable. In its brief, CMPC further asserted that an additional lag could create an opportunity for exploitation of the market by manufacturers.

The witness for Country Fresh, et al., stated that these organizations strongly oppose any reduction in the amount of forward notice the industry currently receives on its raw milk costs. This point of view was further addressed by the National Milk Producers Federation witness who stated that Federal order prices should, to the maximum extent possible, reflect current market conditions. The brief filed on behalf of AE/SFG stated that although we "understand Kraft's proposal * * * less

current pricing does not benefit anyone in the industry."

The third competitive pay price series advanced as an alternative to the current M-W price is the Agricultural Prices M-W (Ag Prices M-W), which was developed for the study in response to an industry request to make the least amount of change necessary to replace the current M-W price. The Ag Prices M-W is an approximation of the base month M-W price and is calculated from NASS' "Prices Received" series, which includes estimates of manufacturing grade milk prices for Minnesota and Wisconsin. The "Prices Received" estimates are computed approximately two weeks prior to the tabulation of the base month M-W price. These estimates are published around the end of each month in "Agricultural Prices", a NASS publication.

The "Prices Received" estimates are derived from reports of plants that are part of the base month sample. These prices for Minnesota and Wisconsin are weighted together using the same weights as in the M-W price to determine the Ag Prices M-W. Thus, the Ag Prices M-W available on the 5th day of the month would be the price for the second preceding month. The price announced March 5th would represent January pay prices. The volume of Grade B milk represented in the "Prices Received" sample represents about 30 percent of all Grade B milk sold in Minnesota and Wisconsin.

The adoption of the Ag Prices M-W updated with a product price formula was supported by numerous producer organizations during the hearing. One proponent of this replacement option, proposal number six, was the National Milk Producers Federation (NMPF), a federation that represents a substantial number of dairy cooperative marketing associations. A witness speaking on behalf of NMPF testified that there are currently sufficient quantities of Grade B milk being marketed in Minnesota and Wisconsin to allow NASS to collect reliable price information received by dairy producers for Grade B milk in those States.

The NMPF witness further stated that the Ag Prices M-W "will reflect a price level determined by competitive conditions which are affected by supply and demand in all the major uses of manufactured dairy products. It is a free market pay price resulting from competitive bidding among unregulated processors for milk for various manufacturing uses and is a good measure of changes in the value of milk for manufacturing." The witness also testified to the need for updating the Ag

Prices M-W because Federal order prices should reflect current market conditions as much as possible and the one-month lag created by this formula would be unacceptable. The proponents of the Ag Prices M-W recommended the use of the same product price updating formula that is currently used to update Class II prices. Use of the Ag Prices M-W was also supported by Darigold, Farmers Cooperative Creamery, Northwest Independent Milk Producers Association, and Tillamook Cooperative Creamery Association (Darigold, et al.), all of whom are additional proponents of the Ag Prices M-W. A witness representing Darigold, et al., concluded that an important element of this price series is its relative price stability compared with the current M-W price.

Opposition to the use of the Ag Prices M-W was advanced by the same organizations who opposed the adoption of the base month M-W price. The opposition cited the identical arguments for opposing the Ag Prices M-W as for the base month M-W price.

In post-hearing briefs, all of the proponents of the base month M-W price and the Ag Prices M-W reiterated the need for the adoption of a competitive pay price series as a replacement for the current M-W price. Most of the proponents of these two proposals, with the exception of Kraft, stated that the primary difference between the updated base month M-W price and the updated Ag Prices M-W was the sample size. Most of these proponents expressed a willingness to support either competitive pay price series based on the amount of milk the Department determined would be necessary to obtain an accurate estimate of the price paid for Grade B milk in Minnesota and Wisconsin.

Three other types of proposals were considered at the hearing: Product price formulas, the support price, and cost-of-production formulas. All three types of proposals received substantial opposition. One other proposal listed in the hearing notice, proposal number eight, would have established the basic formula price on wholesale prices of manufactured products. Two proponents, Lamers Dairy, Inc., and Empire Cheese, Inc., withdrew their support for this proposal. There was no other support for proposal eight during the hearing. Thus, it is considered abandoned.

The Cheese Makers proposed the adoption of a product price formula updated by a competitive pay price factor as a replacement for the M-W price, listed as proposal number seven in the hearing notice. This proposal is based on a current competitive pricing

mechanism designed to reflect the current true value for milk. This proposal would require the announcement of weekly prices based on a butter/powder/cheese formula using the most recent weekly product prices. This weekly basic formula price would be announced on Friday and would apply to the following Monday through Sunday. The weekly prices would then be used to compute a monthly average product price formula value. A competitive differential, the difference between the monthly A/B price and the average product price value, would be multiplied by 50 percent to yield a preliminary adjustor. The preliminary adjustor would be added to the monthly product price formula value to determine the calculated basic formula price. The final industry price would then be computed based on 75 percent of the difference between the competitive A/B price and the calculated basic formula price plus the blend price for the second preceding month. The intended result is a price to producers which would be more representative of the value of manufacturing grade milk.

The witness testifying on behalf of the Cheese Makers stated that their proposal would determine the true manufacturing value of milk by using a product price formula updated with a competitive pay price. The witness also testified to the need within the industry for current pricing or announcing a price on Friday of each week that could be used as a guideline for pricing milk the following week. According to the witness, current pricing is crucial to the dairy industry because the price of the raw milk used in manufacturing is unpriced when the finished product is sold.

Opposition to the Cheese Makers use of a product price formula as the basis for the basic formula price was presented by several organizations during the hearing and in post-hearing briefs. The witness representing Country Fresh, et al., stated that although product prices reflect supply and demand conditions in the marketplace, translating these into raw milk prices presents problems. According to the Country Fresh, et al., witness a product formula price has three key components: product prices, yield factors, and manufacturing allowances. Selecting the appropriate product prices, yield factors and manufacturing allowance to be used in the formula is difficult. The witness explained that there are several products and by-products of milk which can be used in a product price formula. Determining which products, and to a lesser extent

which by-products, are included directly influences the value represented by the formula. Selecting appropriate yield factors is also difficult because these vary both seasonally and annually. Finally, establishing appropriate manufacturing allowances that vary with each plant based on the modernness of the facility, management practices, milk supplies, and product yields further complicates a product price formula. Factors that may be appropriate at one time can quickly become unacceptable, said the Country Fresh, et al., witness. Kraft's witness reiterated the points set forth by the Country Fresh, et al., witness, stating that changes in competitive milk prices do not correspond exactly with changes in product prices.

In the post-hearing brief filed by AE/SFG, three supplementary reasons for opposing the Cheese Makers proposal were presented. According to the brief, product price formulas are unable to properly fulfill market-clearing functions. In addition to the assumptions concerning which products, yield factors, and manufacturing allowances are included in the formula, the AE/SFG brief contended that product price formulas will not send producers the needed production signals to increase or decrease production as quickly as would competitive pay prices. A second issue raised by AE/SFG related to the effect of the final price adjustor. According to the AE/SFG brief, the final price adjustor provides for more current pricing for cheese manufacturers at the expense of less current pricing for fluid processors. The final issue addressed in this brief concerned the price enhancement that AE/SFG projected would occur for which they believe there is no supporting economic analysis under current supply and demand conditions. The brief filed by Country Fresh, et al., also addressed the concern that this proposal would eliminate advance pricing, a result the brief considered unacceptable.

A brief filed by Alto Dairy Cooperative (Alto) stated that the Cheese Makers proposal attempts to set the stage for a long-run solution because it moves the industry toward a pricing system that reflects the value of milk products and their milk components. Alto felt that with some simplification and revisions, this proposal could form the basis for a long-term solution. However, Alto further stated that in this proceeding the revisions needed are not possible because the proceeding does not allow for consideration of the relationship between the Class I and Class III prices.

The Minnesota Milk Producers Association and the Wisconsin Farm Bureau Federation (MMPA/WFBF) proposed replacing the M-W price with the support price (proposal number nine in the hearing notice). Four witnesses testified in support of this proposal. In addition, Lamers Dairy, Inc., and Hansen's Dairy, Inc., stated support for this proposal during the hearing.

The first witness for MMPA/WFBF testified that the adoption of the support price as the basic formula price would establish consistency between the price support program and the Federal milk order program. The witness stated that this proposal would establish easily determined minimum prices for all classes of milk and would not set an effective, or market, price. According to the witness, this proposal would allow local market over-order pricing and over-order premiums to set the price for milk, resulting in a more market-driven system.

The second witness for MMPA/WFBF elaborated on the benefit created by this proposal, as perceived by the witness, because it would decouple classified pricing from the Upper Midwest. He contended that the supply and demand situation in this area is unique because competition for manufacturing milk is driving producer pay prices year round. He described the effect of adopting the support price as a decrease in class prices where the order prices are the effective prices, and little change in markets where competition is determining the effective prices. A third witness for MMPA/WFBF reiterated these points and testified that the adoption of this proposal would guarantee that minimum order prices were not leading to disparate regional profitability levels.

The final witness for MMPA/WFBF testifying in favor of adopting the support price as the basic formula price expounded on the points advanced by the previous witnesses. The witness also reiterated that this proposal would make the Federal milk order program consistent with the price support program in pursuing the objective of minimum prices. He observed that the minimum prices in all Federal orders are linked to the M-W price, not local supply and demand conditions. Thus, he stated, these prices are impacted by supply and demand conditions in Minnesota and Wisconsin regardless of what local marketing conditions may warrant. According to the witness, minimum prices established without regard to local supply and demand conditions result in disparate regional profitability. This witness testified that the adoption of the support price may

or may not have an impact on the producer prices. If the competitive conditions of the market warrant the current price then this price would remain. If not, it would decline to the support level. He argued that adoption of the support price as the basic formula price would succeed in establishing minimum prices and thus would allow the Federal order program to establish true minimum prices.

The witness stated that Federal order prices are intended to be minimum prices. However, he stated that the extent to which the Federal order prices represent minimum prices instead of effective prices varies among the orders as is evident by the cooperative pay prices. He asserted that if the cooperative pay price is above the order minimum blend price, then local marketing conditions are establishing the effective price. However, the witness concluded, if the cooperative pay price is below the order minimum blend price, the minimum prices are too high.

Besides the brief filed by the proponents, two additional briefs were filed in support of this proposal, one by the U.S. Department of Justice (DOJ) and the second on behalf of Lamers Dairy, Inc., and Hansen's Dairy, Inc. The DOJ brief stated that the adoption of the support price as the basic formula price would establish a low minimum price which would allow market forces to play the greatest possible role in determining milk production and price. The DOJ contended that a low minimum price would not result in inadequate milk supplies or harm efficient producers, but would facilitate the transition towards a free market; would provide for more efficient industry performance; and would result in lower prices to consumers.

Substantial opposition to the adoption of the support price as the basic formula price was presented during the hearing and in post-hearing briefs. A witness representing Pennmarva Dairymen's Federation and its member cooperatives and Milk Marketing, Inc. (Pennmarva, et al.), offered extensive testimony in opposition to adopting the support price. First, the witness stated that the milk value established under the Federal order program should be based on the competitive value of milk used to produce manufactured dairy products. Since 1990, he observed, the support price of \$10.10, adjusted to 3.5 percent butterfat, has yielded a price between \$9.88 and \$9.97 per hundredweight, depending on the support price calculation. He stated that during the same period, the M-W price at 3.5 percent butterfat has ranged from \$10.02 to \$13.94 per hundredweight.

The witness contended that these price fluctuations have provided the necessary signals to Federal order producers to make adjustments in supply according to demand.

The next point of objection by the Pennmarva, et al., witness focused on the disruption of orderly marketing conditions which he feared would be created by the adoption of the support price. According to the witness, this disruption would result because the Federal order price would be below the competitive value of milk. During the period between April 1988 through April 1992, the M-W price has exceeded the support price by amounts ranging from \$.12 to \$4.58.

The Pennmarva, et al., witness then explained that the Federal order program and the price support program have different objectives. He described the order program objective as maintaining an adequate supply of milk to meet the fluid needs of the market, while the support program provides a price floor for milk used to manufacture dairy products. Another point of opposition addressed by the witness was the fact that Federal order class prices would no longer be influenced by seasonal and other supply and demand factors.

Further objection by the Pennmarva, et al., witness addressed the fact that milk not regulated under the Federal order program would still be priced on a competitive basis, creating differences in price levels and further resulting in disorderly marketing. A substantial increase in over-order prices would become the means of improving the competitiveness of regulated handlers, resulting in greater inequities between producers and handlers. The witness projected that this would lead to increased instability between producers and handlers because of the increase in risks by both parties.

Several other witnesses, including but not limited to MIF/IICA, NMPF, CMPC, AE/SFG, Darigold, et al., SCDF, Dairylea and its affiliated cooperatives, and Country Fresh, et al., expounded on the points of opposition addressed by the Pennmarva, et al., witness during the hearing and in post-hearing briefs. The consensus of those opposing the adoption of the support price was that it would result in disorderly marketing conditions with the price received by dairy farmers being lowered. They contended that Federal order prices would no longer reflect supply and demand conditions but would be based on a politically determined price.

The final M-W price replacement alternative considered at the hearing, proposal number ten, was the use of a

cost-of-production formula to determine the basic formula price. Several independent dairy farmers and dairy farmer organizations proposed this alternative. Proposal number ten in the hearing notice listed a formula that might be utilized to determine the cost of production although none of the witnesses testifying in support of this proposal discussed the listed formula. The witness testifying on behalf of the Progressive Agriculture Organization and several other groups (PAO) and the witness representing the National Farmers Union (NFU) proposed using the national average cost of production published by USDA, adjusted annually, as the basic formula price.

The PAO witness stated that all dairy farmers should be treated equally and that the current basic formula price results in an inadequate pay price for producer milk. The witness contended that due to the inadequacy of this price, several dairy farmers have been either forced out of business or forced to increase production to maintain a constant cash flow. According to the witness, the PAO proposal would benefit producers, processors, and consumers because it would result in long-term price stability by eliminating the volatile price swings the industry currently experiences. Although the witness stated that this proposal would increase prices, he maintained that it would not stimulate production. Basically, these viewpoints were expressed by other witnesses representing the American Dairy Farmer Campaign and several other groups, Empire State Family Farm Alliance and several other groups, and the NFU. As mentioned previously, NFO also supported the adoption of the cost of production as a floor price for the basic formula price.

A witness from the University of Wisconsin—River Falls, testified exclusively in opposition to the cost of production as a replacement for the M-W price. The witness based his opposition on the theory that the price received for milk determines the cost of production. He cited historical data which he maintained proved that dairy farmers do adjust their inputs in response to milk prices. He further reiterated the point that the adoption of a cost-of-production formula would not monitor changes in national supply and demand conditions.

In addition to this witness, an overwhelming amount of opposition to the adoption of a cost-of-production formula was presented during the hearing and in post-hearing briefs. The general consensus of the opposition is that a cost-of-production formula

accounts for only factors affecting supply conditions; it does not factor demand conditions into the calculation. Also, the opposition argued that basing the cost of production on the national average would not account for the regional variations in production costs and would tend to advantage the larger, more efficient producers. It was further agreed by the opponents that the ultimate result of adopting a cost-of-production formula as the basic formula price would be an increase in production. Another problem cited with this proposal is the availability of data; USDA cost-of-production numbers tend to lag current production costs by two years.

The Agricultural Marketing Agreement Act of 1937, as amended (the Act), authorizes the Federal milk order program. 7 U.S.C. section 602 sets forth the declaration of policy and 7 U.S.C. section 608c(18) sets forth certain milk pricing requirements. Part of the policy of the Federal milk order program is to

Establish and maintain such orderly marketing conditions * * * as will provide, in the interests of producers and consumers, an orderly flow of the supply, thereof * * * to avoid unreasonable fluctuations in supplies and prices * * *.

The pricing provisions state in part, that

Whenever the Secretary finds, upon the basis of evidence adduced at the hearing * * *, that the parity prices of such commodities are not reasonable in view of the price of feeds, the available supplies of feeds, and other economic conditions which affect market supply and demand for milk and its products in the marketing area * * * he shall fix such prices as he finds will reflect such factors, insure a sufficient quantity of pure and wholesome milk to meet current needs and further to assure a level of farm income adequate to maintain productive capacity sufficient to meet anticipated future needs, and be in the public interest.

The hearing notice stated that any change in price levels must be justified under the supply and demand pricing standards mentioned above. The hearing record indicates that current price levels are achieving a reasonable balance between supply and demand for milk. Present price levels are ensuring consumers of an adequate supply of milk while maintaining sufficient reserve supplies.

The record conclusively demonstrates that three types of the proposals considered—product price formulas (except for updating purposes), the support price, and cost-of-production formulas—would change current price levels and do not have sufficient justification in the evidentiary record for such changes. In addition, the latter

two proposals do not comply with the criteria specified in the Act. Consequently, such proposals are denied.

A host of economic conditions affect both supply and demand. The interaction of supply and demand results in a "market" price. Thus, the M-W price, as a competitive pay price, reflects all of the economic conditions that affect both supply and demand and is automatically responsive to any changes that affect economic conditions.

The cost-of-production formulas and the price support level, as replacements for the M-W price, would ignore these economic factors and would establish price levels on a limited and different basis. While the cost of milk production is an economic factor that affects supply, it is not a price indicator that reflects all economic supply and demand factors. Likewise, the price support level is a price floor that is designed to prevent further price reductions that might otherwise be warranted by supply and demand conditions. As a result of not encompassing all economic supply and demand factors, these two types of proposals would establish prices on factors that are not in conformance with the requirements of the Act.

The use of cost-of-production formulas also would substantially enhance price levels, a result which was not justified on the basis of the evidentiary record of this proceeding. During the five-year period 1988-1992, the economic (full ownership) costs of producing a hundredweight of milk, as published by the Economic Research Service (ERS), annually averaged \$1.77 greater than the current M-W price, ranging from \$0.27 to \$3.04 more. The cost of production exceeded the M-W price during these five years in all but seven months, September 1989 through January 1990, and May and June 1990. This was an atypical period within the dairy industry that resulted in record level prices as milk production declined and demand in both the domestic and foreign markets increased. Official Notice is taken of "Economic Indicators of the Farm Sector, Costs of Production—Major Field Crops & Livestock and Dairy, 1991," February 1994, Economic Research Service.

The same five-year comparison of NFO's proposal, which is based on an A/B updated price with a cost-of-production floor price as the basic formula price, disclosed that the cost-of-production value would have been in effect for all but 14 months during this 60-month period. NFO's proposal results in a basic formula price that would have exceeded the current M-W

price by an annual average of \$2.01, ranging from \$0.93 to \$3.04.

The opposite of the price enhancement generated by the cost-of-production formula as the basic formula price could occur if the support price were adopted as a replacement. The support price as the basic formula price would result in a significant decrease in Federal order minimum prices, an outcome which was not justified on the basis of the evidentiary record of this proceeding. The same five-year comparison (1988-1992) of the support price to the current M-W price shows that the M-W price on a yearly basis averaged \$1.60 greater than the support price, ranging from a low in 1988 of \$0.70 to a high in 1990 of \$2.32. On a monthly basis, the M-W price equalled the support price only once during this period and exceeded the support price by as much as \$4.58. Official notice is taken of "Dairy Market News", Volume 60, Report 31, Agricultural Marketing Service. As a result, Federal order minimum prices would be static and would be virtually meaningless as indicators of supply and demand conditions and changes in such conditions. Minimum prices established on such a basis would not be consistent with the requirements of the Act.

The exception filed on behalf of WFBF/MMPA objected to the adoption of a competitive pay price based solely on Grade B milk. The exception stated that the recommended decision failed to recognize the decline in Grade B milk production and use and the increase in the use of Grade A milk for manufacturing purposes. The exception contends that Grade B milk prices in Minnesota and Wisconsin do not reflect national supply and demand conditions and is discriminatory to Upper Midwest producers, thus it should not be adopted.

The exception also states that the recommended decision rejected the support price proposal as a replacement for two reasons. According to the exception, these reasons were: 1) the support price was opposed by several witnesses testifying at the hearing and in several briefs, and 2) the support price would result in federal order minimum prices less than those that currently exist. The exception further reiterates WFBF/MMPA's position supporting the adoption of the support price as the replacement for the M-W price and attempts to discredit the Department's reasons for denying the proposal.

In fact, as the recommended decision concluded, there is not sufficient justification in the evidentiary record for any significant change in current

price levels, whether higher or lower. Furthermore, WFBF/MMPA fails to recognize that another important reason for denying the support price proposal is that it does not comply with the criteria specified in the Act requiring prices to be established based on the economic conditions that affect supply and demand. The price support level does not adequately reflect all of the factors that affect supply and demand. The recommended decision recognized the decline in Grade B milk production, but concluded that there is still ample competition for this milk in Minnesota and Wisconsin. The Department continues to believe, contrary to WFBF/MMPA arguments, that at this time the base month M-W price does represent supply and demand conditions throughout the United States because it is an area of significant reserve milk supplies. The additional information in the recommended decision regarding the support price proposal, which is mentioned in the WFBF/MMPA exception, further supports the denial of the proposal. Although the Pennmarva witness is referenced frequently in the summary of evidence within the record, this witness was supported by numerous other witnesses and in several briefs. The arguments presented by this witness serve to provide specific information as to the projected impact of adopting the support price. Consequently, the arguments advanced in the WFBF/MMPA exception are rejected.

The National Family Farm Coalition filed an exception requesting that the Department consider replacing the current M-W price with a cost-of-production formula. The exception does not provide any additional evidence supporting this proposal that has not already been discussed completely in the recommended decision. Therefore, the exception is denied.

As was indicated in the brief filed by Alto, the Cheese Makers formula needs to be further developed to be considered as a viable alternative for replacing the M-W price. The formula as presented during the hearing would still require the use of a competitive pay price series to be utilized in computing the final adjuster. The Cheese Makers proposed the use of the A/B price but stated that any competitive pay price could be utilized in their proposal. However, they provided no analysis as to what impact other competitive pay prices may have on the formula.

The Cheese Makers proposal, as presented, is also likely to be revenue-enhancing, and such enhancement is not justified on the basis of the evidentiary record of this proceeding.

The proponents contend that the proposal does not change current price levels. However, the proponents are comparing their proposal to the A/B price series, which increases price levels from the current M-W price, as previously discussed. The calculated basic formula price advanced by the Cheese Makers results in a moderate price increase over the M-W price. In 1989 the calculated basic formula price averaged \$0.29 above the M-W price and in 1990 averaged \$0.33 greater than the M-W price. A substantial increase in the M-W price is evident when the final adjuster is included in the comparison. This computation resulted in a 1989 price \$0.54 greater than the M-W price and \$0.62 greater in 1990. The use of the final adjuster, which adjusts the price after wholesale prices for fluid milk products have been determined, would effectively eliminate the advance Class I pricing feature that currently exists under the orders. The proposal also does not specify a clear procedure for the computation of minimum Class II prices. As a result of all the changes that would need to be adopted to make this a workable replacement, the Cheese Makers proposal goes beyond the scope of the hearing to consider a replacement for the M-W price as the basic formula price under all Federal milk orders.

Exceptions filed by the Wisconsin Cheese Makers Association (WCMA) object to the continued use of a competitive pay price and support the adoption of the Cheese Makers proposal. WCMA reiterated the positions stated on behalf of the Cheese Makers during the hearing in support of this proposal. WCMA's exception also contended that a number of statements in the recommended decision about the Cheese Makers proposal were misleading. The arguments presented by WCMA have not provided the Department with any substantial basis for changing the conclusion reached in the recommended decision regarding the deficiencies of the Cheese Makers proposal.

As demonstrated throughout the hearing record, the obvious problem with the current M-W price survey is the declining amount of Grade B milk and the declining number of plants that purchase such milk. These trends have resulted in concern about the validity of the M-W price as a measure of the competitive value of milk for manufacturing purposes. However, this was not an immediate concern of a large number of the parties that participated in this proceeding. The immediate concern expressed was the reliability of the procedure to update the base month

M-W price to compute the current month's M-W price. The NASS witness testified that the number of plants available for updating the base month has been declining as fewer plants pay twice a month. However, the NASS witness did not express any reservations about the reliability of the base month M-W price.

When the M-W price was first adopted in 1961 as the basic formula price in the Chicago order, the Secretary determined that a competitive pay price was superior to product formulas or the support price in establishing the basic formula price. That decision states:

The use of the competitive pay price method of pricing milk is based upon the premise that in a highly competitive economy dairy concerns will tend to purchase milk at prices commensurate with the more efficient concerns' ability to pay for the product. As shifts occur in the relationship between finished products prices, one group of processors may be able to pay higher prices. The other processors must meet or approximate these prices or lose their supplies. If a dairy concern fails to make the necessary adjustments, it will in time be forced out of business. Increasing labor and other costs will tend to reduce prices paid for milk. On the other hand, the use of new assembling, processing, packaging and marketing techniques which reduce costs or increase product returns will tend to increase prices paid for milk. These upward or downward adjustments in costs would be automatically reflected in reserve prices by using the competitive pay prices method of pricing.

The economic rationale stated when the M-W price was first adopted remains sound today. Consequently, the basic formula price replacement should continue to be based on a competitive pay price series.

Of the three competitive pay price series considered at the hearing, the evidence on the record supports the adoption of either the base month M-W price or the Ag Prices M-W, both updated by a product price formula. Each price series has tracked the M-W price in the past, thus reflecting the same supply and demand conditions. The majority of participants in this proceeding indicated that either price series would be acceptable, leaving the determination of the amount of milk and number of plants included in the sample size to the discretion of the Secretary. In cross examination, the NASS witness stated that the base month M-W price is expected to outlive the Ag Prices M-W in terms of statistical reliability because it relies on a larger sample size of actual pay prices compared to the Ag Prices M-W. Thus, this decision recommends adopting the base month M-W price updated with a

butter/powder/cheese formula, because this price is based on actual pay prices from a larger Grade B sample size and is projected to have greater statistical longevity than the Ag Prices M-W.

The price levels that would have resulted under the three alternative competitive pay price series, as compared to the M-W price, support the above recommendation. The degree of coordination between the current M-W price and the alternative replacements is a substantial indicator of the ability of the pricing alternatives to echo the supply and demand conditions reflected by the current M-W price. An accurate comparison of these prices without updates could not be made on a monthly basis because each of these prices lags the M-W price by a month. However, a three-year comparison essentially eliminates this problem.

During both 1990 and 1991, the average A/B price per hundredweight exceeded the M-W price per hundredweight by 63 cents, and by 85 cents in 1992. The average Ag Prices M-W per hundredweight exceeded the M-W price per hundredweight by nine cents in 1990, equalled the M-W price per hundredweight in 1991, and was two cents greater in 1992. The base month M-W price per hundredweight yielded an average of six cents more in 1990 and resulted in the same price differences as the Ag Prices M-W per hundredweight in 1991 and 1992. Over the three-year period, the base month M-W price per hundredweight and Ag Prices M-W per hundredweight averaged nearly the same as the current M-W price per hundredweight while the A/B price per hundredweight averaged about 70 cents higher. The most recently published information indicates that this trend is continuing. Official notice is taken of "Dairy Market News," Jan. 3-7, 1994, Volume 61, Report 1, Agricultural Marketing Service; "Agricultural Prices, 1992 Summary," July 1993, National Agricultural Statistics Service; "Minnesota-Wisconsin Manufacturing Grade Milk Price," monthly release, June 1992-February 1994, Wisconsin Agricultural Statistics Service; "Prices Received—Minnesota-Wisconsin Manufacturing Grade Milk, 1992 Summary," June 1993, National Agricultural Statistics Service.

The evidence on the record indicates that a large amount of Grade A milk is being manufactured into dairy products. However, the record does not validate the argument that this Grade A milk should be factored into the basic formula price. Additionally, there was no substantial evidence submitted regarding current supply and demand

conditions that warrants price increases of the magnitude generated by the A/B price.

The A/B proponents may be correct to state that this option represents an average value for a large proportion of milk used for manufacturing purposes in the Midwest. However, it does not represent a market-clearing price for supplies of milk in excess of fluid demand. This is evident by the amount of milk that is currently sold at prices below the A/B price, that is, at the current M-W price. The hearing record indicates that adopting this price series would tend to be revenue-enhancing.

To be considered in the future as a viable alternative, the A/B price series needs to address two inherent problems. First the A/B price is based in part on a regulated price. Regulated plants included in the survey that use Grade A milk for manufacturing are subject to minimum order pricing. This factor results in an upward bias in the A/B price. The price for this milk cannot be directly reduced to pay price levels warranted by supply and demand conditions for such milk. After the first month of implementation, survey plants would be reporting a pay price which could not be less than the minimum price required to be paid for Grade A milk under the Federal order program. Consequently, after the first month of implementation, supply and demand conditions would have a limited influence on the price.

The proponents of this series maintained that the "blend down" of the Grade A price with the Grade B price will eliminate this problem. However, a review of the amount of milk included in this survey, approximately 70 percent of the total milk production in the States of Minnesota and Wisconsin, of which almost 80 percent is Grade A, indicates that it is unlikely the Grade B price would have a "blending down" impact or effect on the Grade A price.

Secondly, Grade A premiums are built into the A/B price unless specifically deducted. This, too, results in an upward bias as premiums are added one month into the reported price and the same premium is then added in the second month to the already existing premium.

As a result of lack of justification for price enhancement in the evidentiary record, as well as the problems associated with the upward price bias, the proposals to replace the M-W price with an A/B price are denied. Potential solutions addressing the upward bias were not considered during this proceeding.

An exception filed by NFO supports the adoption of a competitive pay price to replace the current M-W price. This exception, as well as one filed by TAPP and FUMMC, strongly argue against the adoption of a competitive pay price based solely on Grade B milk marketings. The exceptions reiterated many of the points supporting the adoption of a competitive pay price based on both Grade A and Grade B pay prices. They contend that a Grade B only pay price series establishes too low of a price and does not reflect the true competitive national value for milk used for manufacturing purposes. NFO, TAPP and FUMMC take further exception to the conclusions in the recommended decision that the A/B price series does not represent a market clearing price and has an inherent "upward bias" due to the inclusion of premiums and the use of regulated plants reporting regulated pay prices for the Grade A portion of the milk included in the survey. They also object to the Department's discussion of the "revenue neutrality" or "revenue enhancing" effects of various proposals.

In addition to the above arguments, NFO requested that non-pooled Grade A milk be included in the base month survey and TAPP and FUMMC argued that all class prices should be considered simultaneously in order to obtain price levels that actually reflect supply and demand conditions. The TAPP and FUMMC exception contended that Class I differentials should be changed to offset an increase in the basic formula price.

The basic reasons for denial of the A/B price series stated in the recommended decision remain valid. NFO, TAPP and FUMMC reiterated the arguments advanced in the hearing and in post-hearing briefs and did not provide any new information supporting their positions. Furthermore, the NFO request that unregulated Grade A milk be included in the base month survey is denied. The evidentiary record of this proceeding did not address this issue; therefore, there is no basis at this time to allow the use of unregulated Grade A milk in the base month survey. With regards to the TAPP and FUMMC request to consider all class prices, the scope of this hearing was specifically limited to a replacement of the current M-W price; thus, the Department has no further opinion or conclusion regarding this issue.

A comparison of the survey size for May 1991 data demonstrates that the Ag Prices M-W survey included 131.6 million pounds of milk reported by 71 plants. The base month M-W price survey included 316.5 million pounds

of milk reported by 168 plants. Simply waiting a few additional days results in a sample size of milk which is 140 percent greater than the Ag Prices M-W. The base month M-W price sample size of milk is over four and one-half times greater than the current M-W price estimate survey, which included actual pay price reports on only 56.8 million pounds of milk reported by 69 plants. Thus, the base month M-W price best reflects the competitive pay prices of a much larger volume of milk and sample of plants and should be the primary component in the basic formula price.

The hearing record also supports the use of a product price formula to update the base month M-W price to the current month. The base month M-W price available on the 5th day of a month would represent milk prices for the second preceding month. For example the price announced March 5th would be based on January prices. A product price formula updater would enable the base month M-W price to reflect more accurately current supply and demand conditions taking into account price changes for wholesale manufactured products during the preceding month, in this example February. Although product prices do not translate directly into milk prices, the record indicates that the industry views these as a good indicator of changes in milk prices for updating purposes.

The price delay that would be created by adopting this proposal without an updating method would result in the minimum price required to be paid by regulated plants varying significantly from what unregulated plants were actually paying for milk for manufacturing uses in the same month. Because of this inequity, adoption of the base month M-W price without a product price updater cannot be justified as a replacement for the M-W price.

An analysis of the effects of various updating formulas on the competitive pay prices resulted in minor differences. Most hearing participants advocated the use of the change in gross values yielded by a product price formula between the preceding month and the current month. Only NFO advocated using 50 percent of this change, stating that producer prices and product markets do not change at the same rate. NFO claimed that using 50 percent would not reflect the volatility of product markets on a penny-for-penny basis and further lends a degree of stability to producer prices.

The NFO exception reiterated their argument that only 50 percent of the product price formula updater be used

when computing the updated base month M-W price. The recommended decision fully discussed the basis for using 100 percent of the product price formula adjuster to update the base month survey. This conclusion has not changed after full consideration of NFO's exception.

All hearing participants promoted the use of a butter/powder/cheese formula with minor differences expressed regarding the inclusion of specific by-products. After reviewing the various formulas, it is concluded the best updater would include the following products and representative price series: Grade AA butter, Chicago Mercantile Exchange (AAB); nonfat dry milk, Central States production area (NFD); dry buttermilk, Central States production area (DBM); Cheddar cheese, 40-pound block, National Cheese Exchange (NCE); and Grade A butter, Chicago Mercantile Exchange (AB). Dry whey is not included in the formula because not all cheese manufacturers process whey, and the disposal of it is a cost to many manufacturers. Furthermore, dry whey is no longer included in calculating the cheese purchase price under the dairy price support program.

The Coffee, Sugar and Cocoa Exchange, Inc. (CSCE), filed an exception supporting the use in the recommended decision of an updated base month M-W price to replace the current M-W price. However, CSCE did offer a modification of the updating formula. CSCE proposed replacing the average monthly NCE 40-pound block Cheddar cheese price used in the formula with an average of the NCE monthly cheese price and an average price for the spot CSCE Cheddar cheese futures contract for the month. Since this modification is beyond the evidentiary record of this proceeding, it cannot be considered at this time.

After further review of the production and market for the products included in the product price updating formula, the Department is revising this formula. The Western Nonfat Dry Milk price and Dry Buttermilk price will be used in the updating formula. The use of these product prices will be more representative in determining the price change in the overall market for these products because a larger proportion of actual movements of these products will be considered.

The updating formula in the recommended decision utilized both the Central States Dry Buttermilk price and Nonfat Dry Milk price as reported by the Department, typically in Dairy Market News (DMN). Both of these price series report the "spot" market for carlot/

trucklot quantities of dry buttermilk and nonfat dry milk, FOB Central States production area manufacturing plants.

"Spot" transactions are sales of product that have no regular or committed outlet and are sold on the open market for immediate delivery or delivery within a few days, also referred to as the "cash market." To the extent possible, both sellers and buyers are interviewed. The price carried each week in DMN is a range consisting of the low and high prices that are considered representative of the market for the entire week. Monthly averages are based on weekly prices and are time-weighted according to the number of workdays in the month. When market activity is very limited, the market may be reported "too few to report" (TFEWR) and no price information is provided. No monthly average is computed if one or more weekly prices is missing.

A review of the dry buttermilk values used in the updating formula revealed that for two months of 1992 and three months of 1993, a Central States Dry Buttermilk average price was not published by the Department. Consequently, the dry buttermilk prices used in the updating formula in the recommended decision for these months were equivalent prices determined by the Department. The use of an equivalent price for Central States Nonfat Dry Milk also occurred once during 1992 when DMN was unable to report a price.

Reviewing dry buttermilk production data as published in the "Dairy Products 1993 Summary" shows that the production and the number of manufacturers is declining in the Central States region. During 1993, seven plants were located in the Central States region manufacturing 7.1 million pounds of dry buttermilk, or 14 percent of the U.S. total production. In 1990, 14 plants reported 13 million pounds of production representing 23 percent of the U.S. total. This data represents the total market for dry buttermilk in the Central States region; thus, the potential spot market is significantly smaller. Due to the small market, there were six weeks during 1993 when the dry buttermilk powder price was TFEWR.

The Western dry buttermilk market statistics represent a greater amount of production. During 1993, dry buttermilk production in California alone accounted for 26.8 million pounds, or 53 percent of the U.S. total. Monthly production ranged from a high of 3.1 million pounds in January to a low of 1.6 million pounds in August. During the same period, the Central States production of dry buttermilk powder ranged from a high of 1.4 million

pounds in January to a low of 193,000 pounds in August and September. Western dry buttermilk production is over 275 percent greater than the Central States production. Due to the large volumes of dry buttermilk powder sold in the Western Region, the spot market is considered to be active since there has not been a period of time from 1990 through 1993 when there has been TFEWR compared with six weeks during 1993 for the Central States Dry Buttermilk price.

Reviewing the nonfat dry milk production data for the Central States region also reveals a decline in production and manufacturers. In 1990, 19 plants in the Central region reported 101.5 million pounds of production, representing 12 percent of the U.S. total. By 1993, the same comparison of Central region states shows 13 plants producing 42.4 million pounds of nonfat dry milk, or 4 percent of the U.S. total. The "Dairy Products 1993 Summary" does report data for the East North Central and West North Central regions in total. When combined, 23 plants in these two regions are producing 128.8 million pounds of nonfat dry milk, or 14 percent of the U.S. total.

Analysis of the Western nonfat dry milk production statistics also reveals an increasingly stronger market. During 1993, nonfat dry milk production by 11 plants in California accounted for 415.5 million pounds or 44 percent of the U.S. total. The total Western region production represented 20 plants producing 575.1 million pounds or 61 percent of the U.S. total. In 1990, 12 plants in California manufactured 321.6 million pounds.

As is evident from these statistics, the Western dry buttermilk and nonfat dry milk production represent a significantly larger volume of milk than does the Central States production. In cross examination, the Department's witness from the Agricultural Marketing Service agreed that in the Department's study, the focus was on the M-W replacement and since Minnesota and Wisconsin are in the Central States region, the Central States powder prices were used. The witness further stated that arguments could be made to use other prices. Specifically, the witness stated that "if the M-W price is considered as representing a national price series an argument can be made to use a nonfat dry milk price series that represents a larger proportion of nonfat dry milk." The witness went on to state that the Western Nonfat Dry Milk price series represented a larger amount of production than the Central States price.

The Department believes, based on the evidentiary record of this proceeding, that the base month M-W price represents national supply and demand conditions. Therefore, it is concluded that the larger production volumes and marketings of dry buttermilk powder and nonfat dry milk in the Western states will reflect changes in national market values more precisely than will the Central States prices. There is also concern about the use of equivalent prices that would need to be determined whenever a price or pricing constituent is not reported.

Consequently, the Department is revising the product price updating formula to use the Western Dry Buttermilk price and the Western Nonfat Dry Milk price. The Department concludes that the adoption of the Western prices in the updating formula will provide for a reliable measure of market changes for these two products.

Due to the fact that the updating formula measures only the changes in product prices and does not establish a price level, an analysis of the impact of substituting the Western powder prices shows that they have little effect on the updated base month M-W price. During

the four year period from 1990-1993, the updated price using Western prices yielded the same 12-month average as the recommended updating formula during 1990, 1992, and 1993. During 1991, the use of the Western prices would have resulted in an average price that was one cent less than the recommended M-W price.

The following table provides a comparison of the current M-W price, recommended decision updated base month M-W price, and the final decision updated base month M-W price:

MONTHLY PRICE COMPARISONS—1993

Month/year (col. 1)	Current M-W (col. 2)	Rec. deci- sion M-W (col. 3)	Final dec. M-W ¹ (col. 4)	Difference: rec dec. M- W—final dec. M-W (col. 5)	Difference: final dec. M- W—current M-W (col. 6)
Jan 93	\$10.89	\$11.02	\$11.02	\$0.00	\$0.13
Feb 93	10.74	10.72	10.72	0.00	(0.02)
Mar 93	11.02	11.19	11.19	0.00	0.17
Apr 93	12.15	12.61	12.61	0.00	0.46
May 93	12.52	12.37	12.37	0.00	(0.15)
Jun 93	12.03	11.82	11.82	0.00	(0.21)
Jul 93	11.42	11.30	11.31	0.01	(0.11)
Aug 93	11.17	11.18	11.17	(0.01)	0.00
Sep 93	11.90	12.29	12.29	0.00	0.39
Oct 93	12.46	12.19	12.19	0.00	(0.27)
Nov 93	12.75	12.62	12.62	0.00	(0.13)
Dec 93	12.51	12.44	12.44	0.00	(0.07)
Ave 93	11.80	11.81	11.81	0.00	0.01

¹ Uses Western Dry Buttermilk and Nonfat Dry Milk prices in the updating formula.

Most hearing participants advocated the use of either support price yield factors or annual yield factors in the formula. The study released by the Department developed and used annual yield factors for each month. These annual yield factors will be used in the updating formula. Basically these yields are those used under the price support program adjusted to milk containing 3.5 percent butterfat. The yields used in the formula are: butter—4.27 pounds per hundredweight of milk; nonfat dry milk—8.07 pounds per hundredweight of milk; dry buttermilk—.42 pounds per hundredweight of milk; Cheddar cheese—9.87 pounds per hundredweight of milk; and whey cream butter—.238 pounds per hundredweight of milk.

Hearing participants also advocated the use of factors to weight the butter-nonfat dry milk and cheese components of the formula. These weights are based on the proportion of milk used in the production of butter-nonfat dry milk and in the production of American cheese in the Minnesota and Wisconsin area. Nonfat dry milk is used to

compute the butter-nonfat dry milk weighting factor because significant proportions of butter are manufactured in Minnesota and Wisconsin from the butterfat that is in excess of fluid milk operations. Cheese accounts for about 95 percent of the milk used in these products in the two States and about 75 percent in the United States. The Minnesota and Wisconsin weights are being used in the product price formula because the competitive pay price adopted is a Minnesota and Wisconsin pay price series. The milk equivalent used will typically be for the second preceding month.

In their exception, WCMA requested that Grade A skim milk used to produce a Class III-A product be eliminated from the weighting calculation. WCMA believes that the use of this powder in the formula will lower the recommended replacement price.

Nonfat dry milk production is not divided into that produced from Grade A milk and that produced from Grade B milk. The nonfat dry milk price is based on the sales of all nonfat dry milk as described earlier. The weighting

percentages should continue to be based on the entire volume of milk used to make both cheese and nonfat dry milk regardless of the grade of milk used. The WCMA request to remove powder produced from Grade A milk from production data is denied.

The exception filed on behalf of CMPC strongly supported the recommended replacement for the current M-W price. In their exception, CMPC did express concern about the proposed weighting method used in the updating formula. CMPC pointed out that the section of the decision that contained the written computation (59 FR 40428) did not set forth a specific definition as to the month that will be used to weight the production of cheese and butter/nonfat dry milk in Minnesota and Wisconsin. However, the order language contains the phrase "most recent reporting period" to indicate the production data to be used. CMPC's concern regards exactly which monthly data will be used in the updating formula.

As is stated in the order language, the most recent reporting period data will

be used in the updating formula. The production data used in the formula is published by NASS in the monthly "Dairy Products" report. The "Dairy Products" report is released at the beginning of each month and contains data for the second preceding month. For example, the "Dairy Products" report issued on January 5, 1993, contained data for November 1992. The "Dairy Products" report is issued at 3:00 p.m. EST.

If a Dairy Products report is published on the same day as the M-W price is announced, that production data cannot be used in the updating formula because it is not known until after the release of the M-W price at 1:00 p.m. EST. Therefore, in most cases the most recent production data available for use in the updating formula is for the second preceding month from the month the M-W price applies. On occasion (typically about once per year), NASS will release the "Dairy Products" report prior to the announcement of the M-W price. In these months, the most recent data available to be used in the updating formula is for the preceding month and this data is used to determine the weighting percentages. Although this may result in production data for one month being used twice, stating that the most recent reporting period data will be used in the updating formula allows the Department to use the most current data available when calculating the M-W price.

The butter/powder/cheese formula recommended in this decision was developed and tested in the Department's study. The gross value change in the product price formula from the preceding month to the current month will be used to update the base month M-W price. The gross value change for each month will be computed as follows:

(1) Determine the gross value of milk used to manufacture Cheddar cheese and butter/nonfat dry milk:

(a) The gross value of milk used to manufacture Cheddar cheese equals $(9.87 \times \text{NCE}) + (.238 \times \text{AB})$; and

(b) The gross value of milk used to manufacture butter-nonfat dry milk equals $(4.27 \times \text{AA}) + (8.07 \times \text{NFDM}) + (.42 \times \text{DBM})$.

(2) Determine the amount by which these gross values exceed or are less than the respective gross values for the preceding month.

(3) Compute weighting factors to be applied to the gross value changes. The weighting factors will be calculated as follows:

(a) Determine the milk equivalent for the most recent reporting period for both American cheese and butter-nonfat

dry milk by using the American cheese production in Minnesota and Wisconsin divided by 9.87 to determine the cheese milk equivalent and the nonfat dry milk production in Minnesota and Wisconsin divided by 8.07 to determine the butter-nonfat dry milk equivalent;

(b) Add the cheese milk equivalent and the butter-nonfat dry milk equivalent together to calculate the total milk equivalent; and

(c) Divide the milk equivalent for cheese by the total milk equivalent to yield the cheese weighting factor and divide the butter-nonfat dry milk equivalent by the total milk equivalent to yield the butter-nonfat dry milk weighting factor.

(4) Use these weighting factors to compute a weighted average of changes in the gross values described above.

An analysis of the base month M-W price updated by the full gross value change in the butter/powder/cheese formula, as revised in this decision, and by 50 percent of the gross value change, revealed that using the full gross value change results in an updated base month M-W price which better reflects current price levels. During 1990 the full gross value change in the butter/powder/cheese updating formula resulted in an average updated base month M-W price eight cents greater than the current M-W price, and in 1991 the updated price averaged two cents less. During 1992 and 1993, the average updated base month M-W price was greater than the current M-W price by three cents and one cent, respectively. The base month M-W price updated by 50 percent of the same formula resulted in a 1990 average price which exceeded the M-W price by 31 cents, in 1991 the average price was 11 cents less, in 1992 the average price was seven cents greater, and in 1993 the average price was three cents less. Official Notice is taken of "Dairy Market Statistics", 1992 and 1993 Annual Summaries, Agricultural Marketing Service; and "Dairy Products", 1992 and 1993 Annual Summaries, National Agricultural Statistic Service. From evidence in the record, and the results of this analysis, it is concluded that the full value of gross change between the preceding month and the current month using the butter/powder/cheese formula described above results in an updated price that best reflects the current value of manufacturing milk.

Although the updated base month M-W price will result in annual price levels that nearly maintain the current annual price levels, the updated base month M-W price will not track the current M-W price precisely from month-to-month. This is because the

month-to-month price variability will increase as a result of the use of a product price formula that will allow the updated base month price to react quicker to marketing conditions both on the upside and downside of the market. Column six of the preceding table compares the monthly updated base month M-W price as modified in this decision to the current monthly M-W price for 1993. During this period, the greatest monthly differences occurred in April when the updated base month M-W price of \$12.61 per hundredweight, exceeded the current M-W price by 46 cents, and in October when the updated base month M-W price of \$12.19 per hundredweight, was 27 cents lower than the current M-W price. However, for the entire 12 month period the updated base month M-W price exceeded the M-W price by only one cent.

As previously indicated, the SBA objected to the certification that the proposed rule would not have a significant economic impact on a substantial number of small entities. The SBA contended that the certification was suspect as a result of an alleged previous finding "that the proposed modifications could result in wide swings in price for any given month."

First of all, the previous finding does not indicate that the modification could result in wide price swings. Wide price changes from month-to-month have occurred with the current M-W price. Over the last four years, the M-W price has increased by as much as \$1.13 from the previous month and decreased by as much as \$2.02 from the previous month. The findings in the recommended decision indicated that the modified price would be expected to be more variable from month-to-month than the current M-W price during periods of both increasing and decreasing prices. Over the last four years the modified price contained herein, which is almost identical to the price modification in the recommended decision, increased by as much as \$1.42 from the previous month and decreased by as much as \$2.03 from the previous month. These maximum month-to-month changes occurred during the same months that the M-W price registered its greatest month-to-month changes.

Over the long run, the modified price tracks the M-W price very closely, as previously stated, and thus reflects the same changes in supply and demand conditions that are represented by the current M-W price. The price modification represents the best alternative to the M-W price compared to other pricing options considered at the hearing. Since the continued

statistical reliability of the updating procedure used to determine the current M-W price has been questioned by many who are knowledgeable of the industry, a replacement is necessary to continue a milk order program that promotes the orderly marketing of milk by producers and handlers. Without a replacement at this time, in effect, there would be no pricing mechanism to carry out the program.

The new price modification has responded more quickly to changes in supply and demand conditions than the current M-W price; however, the record's price data for the analyzed period reveals that the price modification has not been more variable from month-to-month. In fact, over the 48-month period from 1990 through 1993, the modified price has changed by a lesser amount than the M-W price during 22 months, changed by the same amount during two months, and changed by a greater amount during 24 months. Over the entire period of the data, the modified price exhibited about the same month-to-month variability as the M-W price. All that can really be said is that the modified price tends to respond more quickly to changes in marketing conditions than the M-W price. As a result, there are months over the four-year period when the modified price would have increased when the M-W price decreased, and vice versa. Price movements in opposite directions, however, say nothing about the magnitude of the price change from the previous month.

The greatest increase in price variability on the upside between the modification and the M-W was 47 cents per hundredweight or 4.0 cents per gallon. This is relatively small compared to the greatest month-to-month increases in the M-W price, \$2.02 per hundredweight, or 17.4 cents per gallon.

The most important element of the price changes is that all fluid milk handlers, large and small alike, would know the magnitude of the price changes in advance of purchasing the milk and would have the opportunity to make any finished product pricing changes just as they do now. In addition, all Class II pricing changes would be known in advance. The Class II handlers, large or small, who are regulated would continue to compete on the same basis as currently. Class II processors who are not regulated would not be subject to any minimum order prices and would not be affected by the price modification. Likewise, manufacturing plants and handlers who divert milk to such plants would not be affected by the price modifications

unless they choose to be regulated or decide to associate milk with a Federal order pool for their own reasons. The manufacturing plants and the handlers who divert milk to such plants are not required to be regulated.

For the previous reasons, the price modifications will not have a significant economic impact on a substantial number of small entities. The price modifications will continue to apply to all handlers and processors in the same manner as current Federal order pricing. Although most of the regulated plants are considered to be small businesses, the price modifications should not affect small businesses differently than large businesses, or differently than the current price series.

This decision recognizes that the adoption of the base month M-W price, or any Grade B milk series, is only a short-term solution since the amount of Grade B milk production is expected to continue declining. This decision agrees with the MIF/IICA witness who stated that the adoption of a Grade B survey, although it would not be a long-term solution, would provide the industry with a reliable basic formula price for a few more years allowing the industry additional time to carefully consider longer-term solutions. Adoption of the base month M-W price will provide the Department and the industry with more time to jointly develop a viable, long-term solution.

Several exceptions were filed in support of the updated base month M-W price. Some of these exceptions reiterated the view expressed by the Department that this is only a short-term solution. The Department continues to recognize that this replacement is only temporary and alternative pricing options will need to be considered in the near future.

Several organizations made specific requests regarding the adoption of a M-W price replacement. National All-Jersey, Inc., a national dairy farmer organization, and the American Jersey Cattle Club, a breed registry association, requested that the Secretary continue adjusting the M-W replacement to a 3.5 percent butterfat standard, continue collecting and reporting the protein content of the milk in the survey, and adopt a price replacement which will not restrict the further implementation of multiple component pricing plans. The adoption of the base month M-W price will not change any of the adjustments and announcements that are currently reported and will not hinder adoption of multiple component pricing plans. The NFO and Cheese Makers further requested the continued

collection and possible publication of the hauling subsidies paid to producers by plants in Minnesota and Wisconsin. It is expected that this information will continue to be collected by NASS and published by NASS in their "Prices Received" publication.

Conforming Changes

As proposed in the Notice of Hearing, conforming changes are provided in the butterfat differential section to allow for the use of the updated base month M-W price in the butterfat differential calculation. To calculate a butterfat differential that will reflect the most current marketing conditions, the preceding month's base month M-W price at test, updated by the current month's product formula updater, will be used in conjunction with the current month's butter price. A comparison between the above butterfat differential and the current butterfat differential results in slight differences. This method of calculating the butterfat differential was supported in the CMPC and NFO briefs.

Additional changes have been made to the Black Hills, South Dakota, Pacific Northwest, Southwestern Idaho-Eastern Oregon, and Great Basin orders. One change has been made to the Black Hills order to provide for uniform implementation and use of the basic formula price in all Federal orders. This has been accomplished by removing the butter/powder formula price. One conforming change each has been made to the Pacific Northwest, Southwestern Idaho-Eastern Oregon, and Great Basin orders to provide for more uniform location of the butterfat differential provision within these orders.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions, and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the New England and other orders were first issued and when they were amended. The previous

findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing areas, and the minimum prices specified in the tentative marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, marketing agreements upon which a hearing has been held.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the orders regulating the handling of milk in the New England and other marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register**.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referenda be conducted and completed on or

before the 30th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300-311), to determine whether the issuance of the orders as amended and as hereby proposed to be amended, regulating the handling of milk in the New York-New Jersey, Georgia, Eastern Ohio-Western Pennsylvania, Alabama-West Florida, and Southwestern Idaho-Eastern Oregon marketing areas is approved or favored by producers, as defined under the terms of each of the orders, as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

The representative period for the conduct of such referenda is hereby determined to be June 1994 for the New York-New Jersey order; and November 1994 for the Southwestern Idaho-Eastern Oregon, Georgia, Eastern Ohio-Western Pennsylvania, and Alabama-West Florida orders.

The agents of the Secretary to conduct such referenda are hereby designated to be the respective market administrators of the aforesaid orders.

Determination of Producer Approval and Representative Period for All Other Orders

August 1994 is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the order, as amended and as hereby proposed to be amended, regulating the handling of milk in the New England marketing area; and November 1994 for orders regulating the handling of milk in all other marketing areas except those for which referenda are provided, is approved or favored by producers, as defined under the terms of each of the orders as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

List of Subjects in 7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1044, 1046, 1049, 1050, 1064, 1065, 1068, 1075, 1076, 1079, 1093, 1094, 1096, 1099, 1106, 1108, 1124, 1126, 1131, 1134, 1135, 1137, 1138, 1139

Milk marketing orders.

Dated: January 27, 1995.

Patricia Jensen,

Acting Assistant Secretary, Marketing and Regulatory Programs.

Order Amending the Orders Regulating the Handling of Milk in the New England and Other Marketing Areas

(This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.)

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the orders regulating the handling of milk in the New England and other marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure (7 CFR Part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas. The minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the New England

and other marketing areas shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the proposed marketing agreements and order amending the orders contained in the recommended decision issued by the Administrator, Agricultural Marketing Service, on August 3, 1994, and published in the **Federal Register** on August 8, 1994 (59 FR 40418), as modified herein, shall be and are the terms and provisions of this order, amending the orders, and are set forth in full herein.

Accordingly, this decision proposes 7 CFR chapter X be amended as follows:

PART 1001—MILK IN THE NEW ENGLAND MARKETING AREA

The authority citation for 7 CFR Parts 1001 through 1139 is revised to read as follows:

Authority: 7 U.S.C. 601-674.

1. Section 1001.51 is revised to read as follows:

§ 1001.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1001.76 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent reporting period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent reporting period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in

hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1001.76 is amended by revising paragraph (b) to read as follows:

§ 1001.76 Butterfat differential.

* * * * *

(b) Round to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1001.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1002—MILK IN THE NEW YORK-NEW JERSEY MARKETING AREA

1. Section 1002.51 is revised to read as follows:

§ 1002.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1002.81 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported

by the Department, for the most recent reporting period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1002.56 is amended by revising paragraphs (e), (f) and (g) and by adding a new paragraph (h), to read as follows:

§ 1002.56 Announcement of class prices and butterfat differential.

* * * * *

(e) The basic formula price for the preceding month, pursuant to § 1002.51, as reported by the United States Department of Agriculture.

(f) The average price per hundredweight for manufacturing grade milk, f.o.b. plants in Wisconsin and Minnesota, using the base month series, for the second preceding month, as reported by the United States Department of Agriculture.

(g) The average price per pound, of Grade A (92-score) butter, at the Chicago Mercantile Exchange, for the preceding month, as reported by the United States Department of Agriculture.

(h) The average price per pound, of nonfat dry milk f.o.b. Western Area, for the preceding month, as reported by the United States Department of Agriculture.

3. Section 1002.81 is revised to read as follows:

§ 1002.81 Butterfat differential.

The butterfat differential for the adjustment of prices as specified in this part shall be plus or minus for each one-tenth of one percent of butterfat above or below 3.5 percent by an amount computed as follows: Round to the nearest one-tenth cent, 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1002.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1004—MILK IN THE MIDDLE ATLANTIC MARKETING AREA

1. Section 1004.50 is amended by revising paragraph (d)(1) to read as follows:

§ 1004.50 Class and component prices.

* * * * *

(d) * * *

(1) Compute a butterfat differential per one percent butterfat, rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 1.38, and subtract from the result an amount determined by multiplying 0.028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1004.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

* * * * *

2. Section 1004.51 is revised to read as follows:

§ 1004.51 Basic formula prices.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1004.50(d)(1) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in

hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

PART 1005—MILK IN THE CAROLINA MARKETING AREA

1. Section 1005.51 is revised to read as follows:

§ 1005.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1005.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for

the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1005.74 is revised to read as follows:

§ 1005.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1005.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

1. Section 1006.51 is revised to read as follows:

§ 1006.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1006.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined

pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1006.74 is revised to read as follows:

§ 1006.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1006.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1007—MILK IN THE GEORGIA MARKETING AREA

1. Section 1007.51 is revised to read as follows:

§ 1007.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1007.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported

by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1007.74 is revised to read as follows:

§ 1007.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices for base and excess milk shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1007.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

1. Section 1011.51 is revised to read as follows:

§ 1011.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1011.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the

annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1011.74 is revised to read as follows:

§ 1011.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price(s) shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1011.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

1. Section 1012.51 is revised to read as follows:

§ 1012.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1012.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in

each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1012.74 is revised to read as follows:

§ 1012.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1012.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

1. Section 1013.51 is revised to read as follows:

§ 1013.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis

using the butterfat differential for the preceding month computed pursuant to § 1013.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to

manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1013.74 is revised to read as follows:

§ 1013.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1013.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

1. Section 1030.51 is revised to read as follows:

§ 1030.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1030.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile

Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1030.74 is revised to read as follows:

§ 1030.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1030.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A

butter price as reported by the Department.

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

1. Section 1032.51 is revised to read as follows:

§ 1032.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1032.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1032.74 is revised to read as follows:

§ 1032.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding

month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1032.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

1. Section 1033.51 is revised to read as follows:

§ 1033.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1033.73 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for

the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1033.73 is revised to read as follows:

§ 1033.73 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1033.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

1. Section 1036.51 is revised to read as follows:

§ 1036.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1036.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1036.74 is revised to read as follows:

§ 1036.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1036.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

1. Section 1040.51 is revised to read as follows:

§ 1040.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1040.51 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1040.74 is revised to read as follows:

§ 1040.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1040.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1044—MILK IN THE MICHIGAN UPPER PENINSULA MARKETING AREA

1. Section 1044.51 is revised to read as follows:

§ 1044.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1044.62 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to

paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota

and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1044.62 is revised to read as follows:

§ 1044.62 Butterfat differential.

The applicable uniform prices to be paid pursuant to § 1044.70 shall be increased or decreased, for each one-tenth of one percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1044.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

1. Section 1046.51 is revised to read as follows:

§ 1046.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1046.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to

paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of

this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1046.74 is revised to read as follows:

§ 1046.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform prices shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1046.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1049—MILK IN THE INDIANA MARKETING AREA

1. Section 1049.51 is revised to read as follows:

§ 1049.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department,

adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1049.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per

hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1049.74 is revised to read as follows:

§ 1049.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1049.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

1. Section 1050.51 is revised to read as follows:

§ 1050.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1050.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese

Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1050.74 is revised to read as follows:

§ 1050.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota

and Wisconsin, using the "base month" series, adjusted pursuant to § 1050.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

1. Section 1064.51 is revised to read as follows:

§ 1064.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1064.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1064.74 is revised to read as follows:

§ 1064.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent

butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1064.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

1. Section 1065.51 is revised to read as follows:

§ 1065.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1065.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average

for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1065.74 is revised to read as follows:

§ 1065.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1065.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

1. Section 1068.51 is revised to read as follows:

§ 1068.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1068.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in

hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1068.74 is revised to read as follows:

§ 1068.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1068.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1075—MILK IN THE BLACK HILLS, SOUTH DAKOTA MARKETING AREA

1. Section 1075.50 is amended by revising paragraph (c) to read as follows:

§ 1075.50 Class prices.

* * * * *

(c) *Class III price.* The Class III price shall be the basic formula price for the month.

2. Section 1075.51 is revised to read as follows:

§ 1075.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1075.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed,

using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

3. Section 1075.74 is revised to read as follows:

§ 1075.74 Butterfat differential.

The uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1075.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

1. Section 1076.51 is revised to read as follows:

§ 1076.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1076.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to

paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of

this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1076.74 is revised to read as follows:

§ 1076.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1076.51 (a) through (e), as reported by the Department. The basic formula price for the month computed pursuant to § 1076.51, as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1079—MILK IN THE IOWA MARKETING AREA

1. Section 1079.51 is revised to read as follows:

§ 1079.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for

manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1079.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry Buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1079.74 is revised to read as follows:

§ 1079.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1079.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

1. Section 1093.51 is revised to read as follows:

§ 1093.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1093.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese

Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1093.74 is revised to read as follows:

§ 1093.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota

and Wisconsin, using the "base month" series, adjusted pursuant to § 1093.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

1. Section 1094.51 is revised to read as follows:

§ 1094.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1094.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry

Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1094.74 is revised to read as follows:

§ 1094.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price

shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1094.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

1. Section 1096.51 is revised to read as follows:

§ 1096.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1096.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined

pursuant to paragraph (d) of this section.

2. Section 1094.74 is revised to read as follows:

§ 1096.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1096.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1099—MILK IN THE PADUCAH, KENTUCKY MARKETING AREA

1. Section 1099.51 is revised to read as follows:

§ 1099.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1096.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the

annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1099.74 is revised to read as follows:

§ 1099.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1099.51(a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

1. Section 1106.51 is revised to read as follows:

§ 1106.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1106.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the

annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1106.74 is revised to read as follows:

§ 1106.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1106.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

1. Section 1108.51 is revised to read as follows:

§ 1108.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1108.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in

each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1108.74 is revised to read as follows:

§ 1108.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1108.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

§ 1124.19 [Removed and Reserved]

1. Section § 1124.19 is removed and reserved.

2. Section 1124.50 is amended by revising the reference in paragraph (e) and paragraph (f)(2) from "§ 1124.19(e)" to "paragraph (f)(3) of this section" and adding a new paragraph (f)(3) to read as follows:

§ 1124.50 Class and component prices.

* * * * *

(f) * * *

(3) Compute a butterfat differential rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 0.138, and subtract from the result an amount determined by multiplying 0.0028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1124.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

* * * * *

3. Section 1124.51 is revised to read as follows:

§ 1124.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1124.50(f)(3) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined

pursuant to paragraph (d) of this section.

4. Section 1124.75 is amended by revising the reference in paragraph (a)(2)(i) from “§ 1124.19” to “§ 1124.50(f)(3)”.

PART 1126—MILK IN THE TEXAS MARKETING AREA

1. Section 1126.51 is revised to read as follows:

§ 1126.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the “base month” series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1126.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple

average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1126.74 is revised to read as follows:

§ 1126.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the

nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1126.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

1. Section 1131.51 is revised to read as follows:

§ 1131.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1131.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile

Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1131.74 is revised to read as follows:

§ 1131.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1131.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

1. Section 1134.51 is revised to read as follows:

§ 1134.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1134.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in

hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1134.74 is revised to read as follows:

§ 1134.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1134.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

§ 1135.19 [Removed and Reserved]

1. Section 1135.19 is removed and reserved.

2. Section 1135.50 is amended by revising the reference in paragraph (e) and paragraph (f)(2) from "§ 1135.19" to "paragraph (f)(3) of this section" and adding a new paragraph (f)(3) to read as follows:

§ 1135.50 Class and component prices.

* * * * *

(f) * * *

(3) Compute a butterfat differential rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 0.138, and subtract from the result an amount determined by multiplying 0.0028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1135.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

* * * * *

3. Section 1135.51 is revised to read as follows:

§ 1135.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1135.50(f)(3) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

4. Section 1135.74 is amended by revising the reference in paragraphs (b)(2)(i) and (b)(2)(ii) from “§ 1135.19” to “§ 1135.50(f)(3)”.

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

1. Section 1137.51 is revised to read as follows:

§ 1137.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the “base month” series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the

preceding month computed pursuant to § 1137.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the

current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1137.74 is revised to read as follows:

§ 1137.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the “base month” series, adjusted pursuant to § 1137.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

PART 1138—MILK IN THE NEW MEXICO-WEST TEXAS MARKETING AREA

1. Section 1138.51 is revised to read as follows:

§ 1138.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1138.74 and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

- (i) Multiply the Grade AA butter price by 4.27;
- (ii) Multiply the nonfat dry milk price by 8.07; and
- (iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

- (i) Multiply the Cheddar cheese price by 9.87; and
- (ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile

Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

2. Section 1138.74 is revised to read as follows:

§ 1138.74 Butterfat differential.

For milk containing more or less than 3.5 percent butterfat, the uniform price shall be increased or decreased, respectively, for each one-tenth percent butterfat variation from 3.5 percent by a butterfat differential, rounded to the nearest one-tenth cent, which shall be 0.138 times the current month's butter price less 0.0028 times the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1138.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A

butter price as reported by the Department.

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

1. Section 1139.50 is amended by revising the reference in paragraph (d) from "§ 1139.51(a)" to "paragraph (e)(1) of this section" and by revising paragraph (e), to read as follows:

§ 1139.50 Class and component prices.

* * * * *

(e) *Butterfat price.* The butterfat price per pound shall be the total of paragraphs (e)(2) and (e)(3) of this section computed as follows:

(1) Compute a butterfat differential rounded to the nearest one-tenth cent, by multiplying the current month's butter price by 0.138, and subtract from the result an amount determined by multiplying 0.0028 by the preceding month's average pay price per hundredweight, at test, for manufacturing grade milk in Minnesota and Wisconsin, using the "base month" series, adjusted pursuant to § 1139.51 (a) through (e), as reported by the Department. The butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade A butter price as reported by the Department.

(2) The skim milk value per hundredweight for the month, computed pursuant to paragraph (d) of this section, divided by 100; and

(3) The butterfat differential for the month computed pursuant to paragraph (e)(1) of this section multiplied by 10.

* * * * *

2. Section 1139.51 is revised to read as follows:

§ 1139.51 Basic formula price.

The basic formula price shall be the preceding month's average pay price for manufacturing grade milk in Minnesota and Wisconsin using the "base month" series, as reported by the Department, adjusted to a 3.5 percent butterfat basis using the butterfat differential for the preceding month computed pursuant to § 1139.50(e)(1) and rounded to the nearest cent, plus or minus the change in gross value yielded by the butter-nonfat dry milk and Cheddar cheese product price formula computed pursuant to paragraphs (a) through (e) of this section.

(a) The gross values of per hundredweight of milk used to manufacture butter-nonfat dry milk and Cheddar cheese shall be computed, using price data determined pursuant to paragraph (b) of this section and annual yield factors, for the preceding month

and separately for the current month as follows:

(1) The gross value of milk used to manufacture butter-nonfat dry milk shall be the sum of the following computations:

(i) Multiply the Grade AA butter price by 4.27;

(ii) Multiply the nonfat dry milk price by 8.07; and

(iii) Multiply the dry buttermilk price by 0.42.

(2) The gross value of milk used to manufacture Cheddar cheese shall be the sum of the following computations:

(i) Multiply the Cheddar cheese price by 9.87; and

(ii) Multiply the Grade A butter price by 0.238.

(b) The following product prices shall be used pursuant to paragraph (a) of this section:

(1) *Grade AA butter price.* Grade AA butter price means the simple average for the month of the Chicago Mercantile Exchange, Grade AA butter price, as reported by the Department.

(2) *Nonfat dry milk price.* Nonfat dry milk price means the simple average for the month of the Western Nonfat Dry Milk Low/Medium Heat price, as reported by the Department.

(3) *Dry buttermilk price.* Dry buttermilk price means the simple average for the month of the Western Dry Buttermilk price, as reported by the Department.

(4) *Cheddar cheese price.* Cheddar cheese price means the simple average for the month of the National Cheese Exchange 40-pound block Cheddar cheese price, as reported by the Department.

(5) *Grade A butter price.* Grade A butter price means the simple average for the month of the Chicago Mercantile Exchange Grade A butter price, as reported by the Department.

(c) Determine the amounts by which the gross value per hundredweight of milk used to manufacture butter-nonfat dry milk and the gross value per hundredweight of milk used to manufacture Cheddar cheese for the current month exceed or are less than

the respective gross values for the preceding month.

(d) Compute weighting factors to be applied to the changes in gross values determined pursuant to paragraph (c) of this section by determining the relative proportion that the data included in each of the following paragraphs is of the total of the data represented in paragraphs (d)(1) and (d)(2) of this section:

(1) Combine the total nonfat dry milk production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for nonfat dry milk, 8.07, to determine the quantity (in hundredweights) of milk used in the production of butter-nonfat dry milk; and

(2) Combine the total American cheese production for the States of Minnesota and Wisconsin, as reported by the Department, for the most recent preceding period, and divide by the annual yield factor for Cheddar cheese, 9.87, to determine the quantity (in hundredweights) of milk used in the production of American cheese.

(e) Compute a weighted average of the changes in gross values per hundredweight of milk determined pursuant to paragraph (c) of this section in accordance with the relative proportions of milk determined pursuant to paragraph (d) of this section.

[This marketing agreement will not appear in the Code of Federal Regulations]

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR Part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are

the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ _____¹ to _____, all inclusive, of the order regulating the handling of milk in the (_____ Name of order _____)

marketing area (7 CFR Part _____²) which is annexed hereto; and

II. The following provisions: § _____³ Record of milk handled and authorization to correct typographical errors.

(a) Record of milk handled. The undersigned certifies that he/she handled during the month of _____⁴, _____

hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ _____³ Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with Section 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

Signature

By (Name) _____

(Title) _____

(Address) _____

(Seal)

Attest

[FR Doc. 95-2448 Filed 2-6-95; 8:45 am]

BILLING CODE 3410-02-P

¹ First and last sections of order.

² Appropriate Part number.

³ Next consecutive section number.

⁴ Appropriate representative period for the order.