

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.