

Land O'Lakes Opposes Proposal Six

Proponents to this proposal assert that an algebra mistake was made in the 2002 Final Decision that resulted in the undervaluing of butterfat. They state that the butterfat yield coefficient should have been 1.211 instead of the 1.2 factor. Additionally this Proposal would change the assumed butterfat recovery in cheddar cheese from 90 percent to 94 percent.

The language in the Final Decision (67 FR 67921) is ambivalent concerning the correct calculation of the butterfat portion of the farm to plant loss. In that Decision, the Secretary wrote:

The final decision incorporates an adjustment to the yield coefficients of each milk component. The adjustment is based on an overall factor of 0.025 percent loss of each milk component and an additional 0.015 pounds of butterfat lost between the farm and the receiving plant. (67 FR 67918)

From this passage it is unclear on which measurement of volume, pounds of butterfat or hundredweights of milk, the additional butterfat loss should be calculated.

Later in the Decision the Secretary again addressed the issue in the Butter Yield Section. He writes:

Testimony and comments indicate that farm to plant losses on all milk solids is .25 percent (0.0025) with butterfat incurring an additional loss of 0.015 pounds per hundredweight of milk. (67 FR 67920)

If the discussion stopped here, I would have to agree with the proponents' arithmetic, however in the explanation of the calculation the Secretary further wrote:

In addition, for every pound of butterfat, there is an additional 0.0150 farm-to-plant loss on butterfat solids ($0.9975 - 0.0150 = 0.9825$) pounds of butterfat. (67 FR 67920)

Here the Secretary clearly says that the additional loss is related to butterfat volumes, not hundredweights of milk. Quite frankly, it is unclear whether the additional butterfat loss related to a hundredweight of milk or on each

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pound of butterfat. It will have to be up to the Secretary to clear up that inconsistency in the next decision.

However, before the Secretary rules on the yield question, Land O'Lakes believes he should consider the butterfat price in its entirety. At the 2006 Make Allowance hearing, the witness from the Rural Cooperative Business Service testified that there was an inadvertent error in the reporting of butter and powder costs at the May 2000 hearing. The RCBS cost survey, on which the Department relied to set butter and powder make allowances, included two plants that were located in California. (NT, January 24, 2006, p 124) This error resulted in the two California plants being included in both the RCBS and California cost surveys. The consequence of this double-counting error was the understatement of the cost of manufacturing of butter. During the 2006 hearing, the Land O'Lakes' witness offered Exhibit 42, Page D (January 24, 2006 Hearing), which recalculated the butter make allowance using the corrected RCBS report. (January 24, 2006 Hearing, Exhibit 20) The result was that the make allowance for butter should have been \$0.1195 per pound of product. No one disputed this testimony at the hearing, in the briefing process or the Tentative Final Decision.

Using the average 2001 through 2006 NASS butter price (\$1.4044) as a constant, the following calculations illustrate the various costs per pound of butterfat.

1. Utilizing the 2001 make allowance and 1.20 yield:
Cost = $(\$1.4044 - \$0.115) \text{ times } 1.2$
\$1.5473
2. Utilizing the corrected make allowance and 1.20 yield:
Cost = $(\$1.4044 - \$0.1195) \text{ times } 1.2$
\$1.5419
3. Utilizing the TFD make allowance and 1.20 yield:
Cost = $(\$1.4044 - \$0.1202) \text{ times } 1.2$
\$1.5410
4. Utilizing the TFD make allowance and 1.211 yield:
Cost = $(\$1.4044 - \$0.1202) \text{ times } 1.211$
\$1.5552

The 2006 Tentative Final Decision (TFD) only restored the butter make allowance to a level it should have been in 2001. However, adopting

Proposal 6 would raise the cost per pound of butterfat to a level that exceeds the 2001 cost. In its Exceptions and Comments, Land O'Lakes objected to the use of the Cornell Survey of four butter plants as a representative proxy for the cost of manufacturing butter. However, almost all here agree that the California manufacturing cost survey is a highly regarded and audited survey of plant manufacturing costs. Exhibit 10 from this Hearing reports the weighted average cost of butter manufacture from 2000 through 2006 at California butter plants. CDFA reports that the cost of producing a pound of butter increased from \$0.0957 in 2000 to \$0.1408 per pound of butter in 2006, 47 percent increase.

The effect of the adoption of Proposal 6 would be increase in the price a plant pays for butterfat, in spite of the evidence of increasing plant costs.

Additionally, Land O'Lakes opposes changing the section in Proposal 6 that would change the cheese make allowance formulas by changing the assumption of 90 percent fat retention in cheese.

Land O'Lakes operates a cheddar cheese plant in Kiel Wisconsin. The plant receives producer milk. The plant's cheese formulation relies only on milk to produce cheddar cheese. Whey cream is not re-introduced to the cheese-making process, nor is NFDM or condensed skim. The plant was included in both the RCBS and Cornell surveys of plant costs.

Land O'Lakes' experience at Kiel does not support the change advocated by the proponents. The 2002 Final Decision uses a Van Slyke formula to estimate the cheese yield from a hundredweight of standard farm milk, containing 3.5 percent butterfat and 2.9915 percent protein. Assuming butterfat retention of 90 percent and casein to true protein ratio of 82.2 percent, the Final Decision estimates a yield of 9.6615 pounds of cheese from a hundredweight at 38 percent moisture. (67 FR 67929)

In a recent year, the Land O'Lakes plant at Kiel experienced a yield of 10.21 pounds of cheese per hundredweight of milk at average moisture of 38.19 percent. Additionally, the average test of milk at the plant silos that year was 3.6598 percent butterfat and 3.0131 percent protein.¹ Substituting the plant's actual butterfat, protein and moisture into the Final Decision Van

¹ Since the tests used were plant tests and not farm weights and tests, the farm to plant loss factors in the Van Slyke formulae at 67 FR 67929 were not used.

Slyke formula provides an estimated 10.16 cheese yield. The actual yield at Kiel is closely approximated by the Final Decision Van Slyke formula.

Land O'Lakes' real world plant experience validates the fat retention and casein to protein assumptions contained in the Final Decision Class III formula.

Land O'Lakes recommends that the Secretary reject Proposal 6.